



Consumer empowerment: the need for consumer trust and transparency in online advertising

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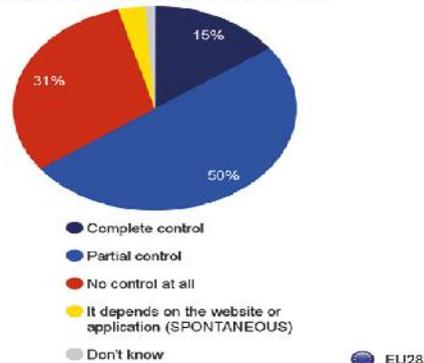
Consumers and online advertising

- More than 80% of EU consumers are going online and are exposed to advertising in their online activities.
- More than 60% of EU consumers who used the internet in 2014 made online purchases in the last 12 months. Safe to assume that in many cases online advertising influenced their decision-making process.
- Online advertising: at the crossroads between data protection and consumer policy.
- EU has just finalised an ambitious reform of our data protection rules. It is key that this leads to more control for consumers on the way their data is collected, shared and used.



Online advertising: Consumer issues

- Some findings: Data protection Eurobarometer, June 2015: Q84. How much control do you feel you have over the information you provide online, e.g. the ability to correct, change or delete this information?



Online advertising: Consumer issues (II)

- Data protection Eurobarometer (June 2015) also shows:
- A large majority of people (71%) say that providing personal information is an increasing part of modern life and accept that there is no other alternative than to provide it if they want to obtain products or services.
- People most commonly provide personal information online in order to make a payment or to have a purchase delivered.
- A majority of people are uncomfortable about Internet companies using information about their online activity to tailor advertisements.



DG JUST study: Impact of marketing through social media, online games and mobile applications on children's behaviour

- Many companies use sophisticated online marketing techniques, creating situations where children are particularly vulnerable and unprotected.
- Children find it difficult to detect sophisticated forms of marketing and to activate conscious defence mechanisms.
- Children's choices and behaviour are clearly affected by such online marketing practices.
- Parents find it hard to regulate their children's online activities. They think that stricter regulation of businesses and more education for children would be the most effective measures to reduce children's vulnerability to problematic marketing practices



Other DG JUST studies showing consumer problems

- Study on consumer vulnerability across key markets:
 - Consumers are confused by commonly used unfair marketing practices (such as drip pricing and prices that are not real).
 - More transparent advertisement has clear positive effects for the consumers since it helps them select the best deals.
- Study on malpractices in relation to free trial offers:
 - Free trial offers may trap consumers into subscriptions. Advertising highlights offers for 'free' sample etc., while hiding the fact consumers really enter into subscriptions.





The Unfair Commercial Practices Directive

- The most relevant Directive for online B2C marketing:
 - Main body of EU legislation on business-to-consumer commercial practices, such as misleading advertising.
 - Technology neutral – applies both offline and online and to both goods and services.
- Main principles of the UCPD:
 - Traders must provide consumers with all information that is necessary to take informed decisions.
 - Misleading consumers is prohibited.
 - Whether a practice is misleading must usually be established on a case-by-case basis.



The Unfair Commercial Practices Directive (II)

- Annex I: Lists 31 commercial practices which are unfair in all circumstances and prohibited per se.
- An example: No 20 of ANNEX I:

"Describing a product as 'gratis', 'free', 'without charge' or similar if the consumer has to pay anything other than the unavoidable cost of responding to the commercial practice and collecting or paying for delivery of the item."
- 2009 Commission UCPD Guidance:
 - Revised Guidance currently under preparation, adoption planned for first half of 2016: Will address new challenges arising from the evolution of business models, especially on-line, and new forms of advertising.





Role of self-regulation under the UCPD

- UCPD recognises self-regulation mechanisms and clarifies the role that code owners and self-regulatory bodies can play in enforcement.
- Member States may encourage code owners to check for unfair commercial practices, in addition to enforcing the UCPD.
- When self-regulatory codes are strict and rigorously applied by code owners, they may reduce the need for administrative or judicial enforcement action.
- When the standards are high and industry operators largely comply with them, such rules may be a useful reference point for national authorities and courts in assessing whether a commercial practice is unfair.
- UCPD includes several provisions which prevent traders from unduly exploiting the trust which consumers may have in self-regulatory codes.

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The general role of self-regulation

- The Commission's Better Regulation Package (May 2015): acknowledges the role that self-and co-regulation can play in EU policy contexts.
- We welcome business initiatives that seek to ensure compliance of traders with existing rules and to improve transparency towards consumers.
- Our studies show: concerns relating to online advertising are about the means used to reach consumers and about the advertising as such: There is a role here for advertisement agencies to take legal requirements better on board when designing campaigns etc.
- EDAA could assist its members in this task and spread the message among its members that an essential element to build consumer trust is compliance with legal requirements.

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The Misleading and Comparative Advertising Directive

The MCAD is a horizontal instrument which applies to all B2B advertising. It

- provides a minimum legal standard of protection across the EU against misleading advertising
- also lays down uniform rules on comparative advertising
- ensures that comparative advertising compares "like with like", is objective, does not denigrate or discredit other companies' trademarks and does not create confusion among traders.

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Fitness Check of EU consumer law

In January 2016, in the framework of its "Regulatory Fitness and Performance" Programme (REFIT) the European Commission launched a Fitness Check of the main (horizontal) EU Consumer and Marketing law Directives

WHAT IS A FITNESS CHECK?

It is a comprehensive, evidence-based policy evaluation **assessing** whether EU legislation is "**fit for purpose**".

It provides a basis for **future policy considerations**.

A **Fitness Check** is part of the regular EU policy cycle.



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Directives subject to Fitness Check

A common EU legislative framework sets the standard of **consumer protection and marketing** across the European Union.

Six key pieces of legislation are subject to the Fitness Check:



LEGAL AND GOVERNANCE



Objectives of the Fitness Check

Assess the overall effectiveness, efficiency, coherence, relevance and EU added value of the existing regulatory framework.



LEGAL AND GOVERNANCE



Thank you for your attention !

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