

Online advertising: the impact of targeted advertising on advertisers, market access and consumer choice

The [original full study](#)¹ provides a comprehensive overview of online advertising markets, with a particular focus on targeted advertising. It aims to inform the IMCO Committee about emerging challenges resulting from online advertising practices, as well as identifying potential areas where legislative proposals (i.e. Digital Services Act and Digital Markets Act) could be improved, or new initiatives taken.

Background



Online advertising is expanding at a significant rate², and the sector is expected to take on increased importance as progress towards digitisation accelerates in the wake of the COVID-19 pandemic. In this context, consumers and small and medium-sized enterprises (SMEs) as "end-users" of advertising are likely to become increasingly exposed to online advertising which

is targeted on the basis of behavioural patterns. Targeted advertisements can enable consumers to receive more relevant information, and can provide revenue opportunities for publishers and intermediaries (including potentially some SMEs). However, targeted advertising also raises important questions about privacy, discrimination, and the potential for misleading or exploitative marketing. It can also disadvantage smaller companies which may be seeking to provide or rely on these forms of advertising, but lack the relevant data to compete, or the required information and bargaining power to ensure that their products and/or services are fairly displayed.

The European Commission has recently released two legislative proposals, the Digital Services Act (DSA) and the Digital Markets Act (DMA), which include provisions that are relevant to online advertising. In addition, there are other legislative measures directed towards digital services³, as well as horizontal rules⁴ regarding consumer protection, privacy, and advertising which apply to the sector. Key findings from the study are summarised below.

Key findings

Targeted online advertising can generate benefits for both consumers and SMEs, specifically by tailoring advertisements to match consumers' interests. Targeting techniques can also enable the protection of certain consumers (e.g., by screening out advertisements which may be unsuitable for minors). However, targeted advertising can also raise a number of concerns. These include: a lack of understanding by consumers that their data are being used to target advertising; targeting which exploits the vulnerability of certain groups of consumers; design features which seek to steer consumers to make decisions against their interests (dark patterns); challenges to seek redress in cases where advertising or data collection/consent methods are inappropriate; and the potential for targeting to result in intentional or unintentional harmful discrimination. Meanwhile, the significant reach of the largest platforms, their access to extensive datasets (which enable targeting), and their participation at multiple levels of the advertising value

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chain (which can be associated with bundling or self-preferencing practices) can create challenges for SMEs seeking to advertise or develop a competing advertising platform.

Some of the issues not covered by existing EU legislation may be addressed within the proposed DSA and DMA, as well as within the proposed Artificial Intelligence Act (AIA). However, gaps remain, notably regarding the treatment of "dark patterns" and algorithmic discrimination, the issue of ensuring responsibility for content and targeting methods, and how to enable consumers to seek redress in an increasingly complex system. The DSA, the DMA, and the AIA do include provisions which aim to increase transparency towards consumers and purchasers of advertising. Nevertheless, these could be further strengthened and extended. Key recommendations from the study authors include:

1) Requiring that consumers are informed about the use of targeted advertising, and given an option to change the parameters used for targeting. If this proves insufficient, policy-makers could support the development of an opt-in approach via Codes of Conduct under Art. 36 DSA.

2) Addressing "dark patterns" through common design guidelines for consent forms which ensure that consumers can give meaningful consent.

3) Ensuring that minors are not subject to targeted advertising which exploits their vulnerabilities by extending rules in the Audiovisual Media Services Directive (AVMSD) (Art. 28b) on video-sharing platforms to all hosting platforms via the DSA.

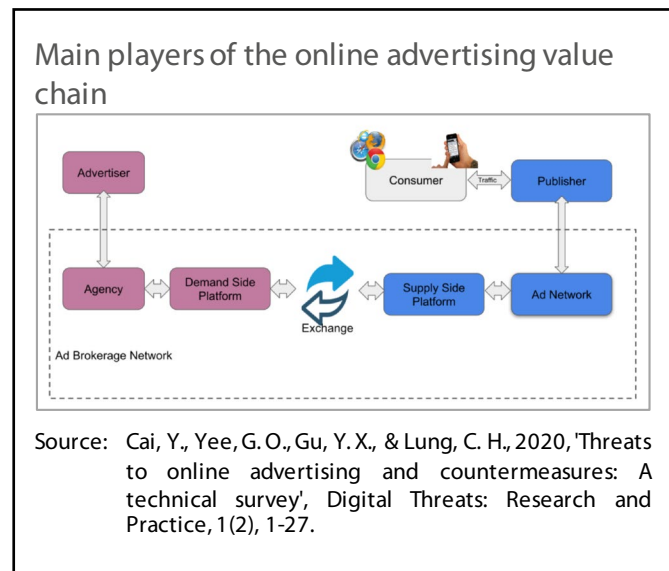
4) Clarifying that platforms should take responsibility for advertising content of third parties in cases where consumers reasonably believe that the advertising has been provided by the platform concerned (Art. 5.3 DSA).

5) Improving consumers' access to redress including explaining how sector specific rules interact with the DSA, and tasking Digital Service Coordinators with providing information to consumers on how to seek redress.

6) Improving transparency of the ad auction system by adding a requirement in the DMA mandating transparency of the auction criteria used by gatekeepers in ad-tech platform services.

7) Easing the functioning of the internal market by harmonising the definitions of concepts (e.g., targeted advertising) and limiting the potential for derogations by elaborating which types of national restrictions would be compatible with the internal market clause and/or setting conditions and deadlines for implementation of derogations.

The project was concluded with a presentation of the results and several rounds of questions and answers by Prof. Alexandre De Streel before the IMCO Committee of the European Parliament. In response to the questions of different Members of the European Parliament, Prof. De Streel highlighted that consumer choice is of high importance in the context of online advertising, but prohibiting behavioural advertising in general would go one step too far. Nevertheless, he highlighted that addressing the issue of dark patterns will require AI auditability and explainability, as well as sufficient expertise within the respective authorities.



¹ Fourberg, N., Taş, S., Wiewiorra, L., Godlovitch, I., De Streel, A., Jacquemin, H., Hill, J., Nunu, M., Bourguignon, C., Jacques, F., Ledger M. and Lognoul M., 2021, *Online advertising: the impact of targeted advertising on advertisers, market access and consumer choice*, Publication for the committee on the Internal Market and Consumer Protection, Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament, Luxembourg. Available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662913/IPOL_STU\(2021\)662913_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662913/IPOL_STU(2021)662913_EN.pdf).

² In 2019, Europe accounted for 19.9% of the global market for online advertising. Source: Statista, 2020, *Digital Advertising Report*.

³ For example, the Platform to Business Regulation, and ePrivacy Directive and its proposed successor for an ePrivacy Regulation.

⁴ These include the UCPD, Directive on misleading and comparative advertising, CRD, GDPR and Better Enforcement Directive.

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