

POSITION PAPER

Rethinking Online Advertising

European Commission should lead the way in banning personalised advertising

Financing digital services almost exclusively through personalised advertising poses considerable risks to democracy, social cohesion, informational self-determination, climate and national security. The EU has established important cornerstones to protect online users in the shape of the Digital Services Act (DSA) and the General Data Protection Regulation (GDPR). At the same time, the reactions of large corporations to this legislation show that a paradigm shift in the online advertising market is still needed, as the advertising industry is persistently undermining efforts to prevent manipulative practices. The recently published Digital Fairness Check¹ also comes to the conclusion that EU consumer law is insufficient to address concerns about commercial personalization in the digital space. As part of the digital infrastructure, platforms should no longer be allowed to monitor individuals for marketing purposes. Alternative (e.g. contextual) advertising models create opportunities for reaching people beyond the omnipresent tracking and targeting, and thereby protecting them in data processing operations. To bolster alternative advertising models, the new European Commission should take digital fairness seriously and push for a ban on personalised advertising.

Tracking for personalised advertising: risky and even harmful for democracy and the environment

Personalised advertising funds the majority of online content today. Alphabet, Google's parent company, says it generates 76%² of its revenue from advertising, while the figure for Meta, the parent company of Facebook and Instagram, is 97%³. Online, individual behaviour is tracked in detail for advertising purposes⁴ to create advertising segments and profiles. These are used for behavioural prediction and personalised advertisement placement. Anyone who provides digital advertising space uses detailed information to assess the behaviour of individual users so they can offer advertisers precisely targeted marketing opportunities. As a rule, this personal information is collected across platforms, websites, apps and other online offerings, as well as across different devices and over long time periods, and is used as the basis for auctioning advertising space in real time bidding processes⁵. Tracking online behaviour to enable personalised advertising can be attractive from a marketing point of view, but carries high social risks.

Tracking-based personalised advertising ...

1. **... poses a threat to democracy and social cohesion.** Known risks and harmful effects range from discrimination⁶ through manipulation⁷ and disinformation⁸, down to hostility and hate speech⁹. A metastudy¹⁰ reveals that, in democracies, the use of (often advertising-financed) digital media correlates with social polarisation and a loss of trust in institutions. Moreover, spreading political messages through advertisements can influence the way people perceive the world and hence manipulate public discourse¹¹. A popular example of this is the Cambridge Analytica campaign on Brexit¹². So far, platforms such as TikTok have failed to implement the ban on political advertising, according to a study¹³. In addition, advertising target groups (segments) such as 'German military', 'female judges' or 'female decision-makers' can be used to specifically track and manipulate people in decision-making positions¹⁴, which poses an additional security risk¹⁵.

2. **... violates privacy and prevents informational self-determination.** Consumers can seldom escape the comprehensive surveillance¹⁶ that tracking involves. It is difficult to circumvent this strong encroachment on privacy without any loss of social participation. There is a massive information and power imbalance: users cannot trace where their data is being collected, stored and analysed, while a handful¹⁷ of tech companies dominate the market. At the same time, the online advertising industry consists of a diverse, fragmented ecosystem¹⁸ of actors such as advertisers, agencies, AdTech companies, platforms, advertising exchanges and networks. It is impossible to know where and which data is stored and processed in this labyrinth, and this undermines informational self-determination.
3. **... increases Europe's dependence on Big Tech and encourages monopolies.** Global tech companies control a large share of the online advertising market, allowing them to significantly influence practices and rules¹⁹. Last year, for example, 39% of the global digital advertising spend went to Google, which dominates the online advertising market along with other heavyweights such as Amazon and Meta²⁰. This long-established market concentration makes it difficult to make digital platforms sustainable and restricts democratic policy options²¹. The existing monopoly situation is hindering social innovation and the development of platforms focussed on the common good.
4. **... is harming the climate.** Collecting data for marketing purposes is driving a significant share of the rapidly increasing energy consumption attributable to the internet. Tracking, profiling, prediction models and data trading are continuously generating vast flows of data everywhere, and processing them requires computing power and generates carbon emissions. One research group estimates that, by 2016, online advertising was already consuming 107 terawatt hours of electricity every year²² – that is roughly twice the annual electricity consumption of Portugal²³. Another study²⁴ shows that third-party tracking accounts for over 30% of data traffic for gaming apps and 4% to 15 % for weather apps. Without the incentive to track online behaviour for marketing purposes, data flows that are harmful to the climate could be reduced. Moreover, the additional consumption they stimulate leads to further climate and environmental damage¹⁹. Precisely targeted advertising makes it more likely that internet users will be encouraged to consume more, resulting in higher emissions. There is also a risk that online dissemination of climate disinformation will hinder the implementation²⁵ of urgently needed transformation steps.

The current rules are inadequate and are being bypassed

Previous attempts at regulation have not been enough to adequately address the social risks outlined above. They are based on the principle of 'transparency and consent'. This shifts **responsibility onto individuals** and does not guarantee adequate protection. According to the GDPR, user consent to data processing and transfer must be informed, voluntary, specific and unambiguous. This is currently practically impossible and is regularly being bypassed²⁶ due to the high complexity, lack of transparency and lack of control in the online advertising market. It has now been supplemented by the DSA. However, this **only regulates narrowly defined areas of application** and relies on **platforms to make voluntary commitments**. It does stress the risks posed by personalised advertising, and prohibits profiling using particularly sensitive data (e.g. of minors). Indirectly, however, all internet users are exposed to societal risks. In our opinion, tracking-based personalised advertising poses a systemic risk as defined in Article 34(1)(b) and (c) of the DSA: as described above, it can negatively impact the exercise of fundamental rights such as the protection of personal data, the right to non-discrimination and extensive consumer protection (Articles 8, 21 and 38 of the EU Charter of Fundamental Rights). It can also have negative consequences for debate in society, electoral processes and public safety.

The EU should examine the reports by the very large platforms for systemic risks and respond to them with appropriate measures (Article 35 of the DSA). However, we fear that platforms will not voluntarily abandon their core business model. This is shown by the **fallback strategy used by large companies to bypass the legal requirements** by means of ‘pay-or-okay’ models²⁷ (also known as PUR subscription models), an issue that has recently come in for increasing discussion. These models grant users tracking-free access for a fee. However, since trusted communication infrastructures are essential in everyday life, corresponding services should be freely accessible to everyone. This is also confirmed by a decision of the European Data Protection Authority, which has classified pay-or-okay models as unlawful because of a lack of real choice for users²⁸. The knowledge that even the tiniest amounts of money will persuade 99.9%²⁹ of users to ‘agree’ to tracking for advertising purposes is being exploited by providing pay-or-okay access to legitimise further financing through personalised advertising. Moreover, the **DSA only applies to platforms**, while the advertising data market brings together many actors (e.g. AdTech companies, publishers, advertising agencies and data brokers).

Bringing alternatives out of their niche

The EU should continue its efforts to strengthen consumer- and climate-friendly online services and platforms. As part of the social infrastructure, digital platforms should be based on privacy-by-design approaches. This can be done by using contextual advertising instead of personalising advertisements based on personal and behavioural analysis, which relies on comprehensive and very close tracking of the online behaviour of their users. Ending these practices within the EU could break down filter bubbles, make disinformation more difficult and severely curtail the systematic manipulation of individual groups of people. **Contextual advertising is one of many suitable alternatives.** Strengthening it can be an effective lever for freeing small and medium-sized enterprises (e.g. media and press organisations) from their dependency on the very large tech companies that currently dominate the advertising market and drive forward advertising practices in their own interests. However, platforms that are not funded by personalised advertising have little chance of survival in the current monopolistic structures.

Ban personalised advertising

A ban on tracking-based personalised advertising will provide an incentive to reinforce sustainable alternative models and, in fact, will be a condition for making them viable. The advertising industry already has sustainable, proven concepts for effective online advertising that do not require targeted tracking and personalisation (e.g. contextual advertising). By requiring alternative advertising models to replace personalised advertising, the Commission can support the online advertising market in transforming and modernising itself, and strengthen its commitment to climate change mitigation and digital fundamental rights. We are therefore calling on the European Commission to propose **legislation that would ban personalised advertising**. The recently announced Digital Fairness Act can build momentum for this.

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Authors: Lena Steltzner, Frieder Schmelzle, Johanna Graf, Lukas Probst, Jan-David Franke

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Chaos Computer Club, Forum InformatikerInnen für Frieden und gesellschaftliche Verantwortung, Germanwatch e.V., Konzeptwerk Neue Ökonomie, Wikimedia Deutschland

Contact:

Constanze Kurz, presse@ccc.de, Chaos Computer Club

Rainer Rehak, rainer.rehak@fiff.de, Forum InformatikerInnen für Frieden und gesellschaftliche Verantwortung

Johanna Graf, graf@germanwatch.org, Germanwatch e.V.

Anja Höfner, a.hoefner@knoe.org, Konzeptwerk Neue Ökonomie

Jan-David Franke, jan-david.franke@wikimedia.de, Wikimedia Deutschland
