Guidelines on the protection of the online consumer

Boundaries of online persuasion
What are the guidelines?

What the guidelines aim for
• Promoting compliance with the rules, and compliance among businesses that offer products and services to consumers online

What the guidelines do
• Providing guidance to businesses on the application of the open standards of consumer rules to online choice architectures
• Showing how ACM interprets these standards

How the guidelines do that
• Many practical examples of various online phenomena
• A practical summary of the most important principles
Why guidelines on online commercial practices?

Characteristics of online choice architectures for consumers

- Economic value of personal data
- Personal or other data help predict behavior
- Personalized online offers
- Decision-making based on algorithms
- Direct results of A/B testing

Online persuasion can be data-driven, personalized, and dynamic. This may be advantageous to the consumer, but that is not always the case.
How rational are consumers (online or offline)?

- The first information that consumers get, becomes the ‘anchor’ for decisions later in the process (anchoring effect)
- Consumers are inclined to value something more highly because others value it (bandwagon effect)
- Consumers are inclined to attach greater value to things that appear to be scarce (scarcity bias)
- Consumers are inclined to continue an action if they have invested in it, even if the action has a negative effect on the result (sunk cost fallacy)
Abuse of automatic behavior

- Businesses must design their websites in such a way that during the customer journey, the texts, buttons, colors, and illustrations are consistent with their meaning. This is to prevent that consumers take the wrong decisions by automatic clicking behavior.
Personalization

- All different approaches to consumers must comply with the rules. This also applies if the approach is experimental (A/B-testing)
- Businesses cannot take advantage of specific vulnerabilities of the group of consumers they target
- Businesses must clearly state that the offer has been personalized and how that has been done
- Businesses cannot give a false impression that consumers are receiving a personalized offer that they will benefit from
Information on data protection

- Information on the use of personal and other data is essential, and, with an offer, businesses must therefore clearly inform consumers what will happen to their personal and other data.
Discussion

• From a prohibition of unfair commercial practices to a duty to use fair commercial practices?
• What can and cannot be solved by transparency?
• The average consumer and situational vulnerabilities: what are the relevant contextual factors?
• When does retaining the consumer’s attention become unfair?
Questions

• Click here for the full guidance document

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