RESPONSE TO CALL FOR EVIDENCE ON THE REVIEW OF ONLINE TARGETING BY THE CENTRE FOR DATA ETHICS AND INNOVATION

Introduction

We welcome the opportunity to respond to the Centre's call for evidence on the review of online targeting.

Digitisation is remodelling consumer markets, and the use of data about our consumer lives has already brought huge benefits and great potential for empowerment. However there are a range of fast evolving challenges and problems that come from data use and the Centre has a crucial role to play in ensuring that people understand and trust data-enabled technologies. The ethics of targeting need to be judged with an understanding of its impacts on consumers, but currently there is too little transparency about the impacts of data use both on society and for the individual. The consumer benefit from this digital transformation is at risk of being stifled if people do not feel the system is acting in their interest.

Our response focuses mostly on what we believe to be the benefits and harms to consumers from targeted advertising, drawing on our research of the use of consumer data in online markets and consumer attitudes towards this. We recognise that many of the issues raised here will similarly apply to the targeting of content, and that this may also create a further set of societal harms which we have not explored.

Targeting in practice

The targeting of advertising has long been a feature of both offline and online markets as businesses have tried to make their advertising reach the consumers to whom it will be most effective. However, the availability of rich, individual-level data about consumers' socio-economic characteristics and their behaviour in online markets is increasingly enabling advertisers to micro-target advertising at individual consumers.[1]

In our report '*Control, Alt or Delete? The future of consumer data*', we undertook an initial examination of the commercial methods of data collection used to profile and target consumers.[2] We found that 'Data Profiles' based on browsing history are compiled for almost all consumers to enable individual-level targeted advertising and marketing messages. These profiles are used to target information and to provide personalised recommendations, and could also be used to target prices. 'People based marketing', introduced by Facebook in 2014, is a key manifestation of this. Typically this involves following a consumer's engagement with a product, from initial interest through to purchasing, in order to measure effectiveness and to improve targeting in the future.

Additionally, 'data brokers' store very detailed profiles of information about most individual consumers.[3] They look to combine information on individuals from a variety of sources in order to

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[1] See, for example, Goldfarb (2014) '*What is different about online advertising?'* in Review of Industrial Organization.
[2] Which? (2018) *Control, Alt or Delete? The future of consumer data*
[3] For a more detailed discussion of data brokers, see Frontier (2018) *Platforms, brokers and connected devices: an economic review prepared for Which?*

build profiles that can be sold to advertisers. Different companies then link the data from the various sources and assign unique identifiers to the profiles, which can often be re-identified with a minimal number of variables.

Of course, this is just a snapshot of how targeting works in practice, and the industry and technology is fast moving so it is likely that other techniques and practices will emerge to enable even finer profiling and targeting of consumers. It is therefore essential that the Centre works with tech companies, academics and consumer groups to fully understand how targeting works in practice and its impact upon consumers.

Consumer benefits from targeted advertising

The benefits to consumers of targeted advertising are primarily through the improved matching of consumers with products and services.[4] Better matching can mean that consumers discover a product that better suits their preferences or it can reduce the time consumers spend searching for a product. The ability to better target marketing at consumers could reduce the customer acquisition costs for firms, which if the market is sufficiently competitive will pass through as lower prices for consumers. Further, improved targeting could encourage firms to develop new products and services that more closely meet consumer preferences.

Our *Control, Alt or Delete?* report included a comprehensive programme of qualitative and quantitative research to explore consumers' knowledge and attitudes towards data collection and use.[5]

We found that consumers recognise and value the greater convenience, innovation, and choice that the commercial application of personal data enables. They accept the need to share data in return for a clear benefit. But there is limited awareness of the full range of ways data is collected and used.

Most consumers have some awareness that the adverts they see and services they use are targeted, tailored or personalised to them based on their information. For example, they recognise that they are being provided with personalised recommendations on services such as Netflix or Spotify and targeted advertising online, in particular on services such as Facebook. Consumers are accepting of this. For many, targeted advertising is seen as preferable to non-targeted advertising because it reflects their interests, and personalised discounts tend to be preferred to generic ones because consumers feel that they are more likely to use them. Generally, people felt that targeted adverts and recommendations wouldn't restrict choice, as there were other sources of insight into the products and services available to them such as recommendations from family, friends and the media.

However, whilst targeted advertising can lead to benefits for consumers, the consequences of targeting are poorly understood by consumers and there is increasing scrutiny on harms that might arise from the commercial use of data in this way. Our research has identified categories of potential and actual harms that might arise through data collection and its use in the targeting of advertising. These are both financial harms and non-financial harms, and include foregone benefits.

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[4] See Oxera (2018) *Consumer data in online market - A report for Which?*
[5] This included a segmentation of the population by their attitudes towards data collection and use and their digital behaviour, developed from a nationally representative phone survey. See the full report here: *Control, Alt or Delete? Consumer research on attitudes to data collection and use*

Financial harm from targeted advertising

Targeting could lead to consumers suffering financial harm through higher prices if online markets are insufficiently competitive. As more businesses adopt targeting, it may be that it becomes necessary to advertise in this way to reach consumers, but if advertising markets are insufficiently competitive then the cost of this advertising will increase and could pass through into higher prices for consumers.

Google and Facebook have a pre-eminent position in the number and depth of consumer profiles. They own billions of 'persistent identifiers' (email addresses or accounts of users etc) that follow consumer behaviour, not only on their own sites and services, but across the internet, as people tend to stay logged in. This helps them create data-rich individual profiles which can be used to appeal to advertisers.

The current empirical evidence on consumer harm from higher prices for advertised goods is limited. However, the risk of harm from the concentration of digital advertising with Facebook and Google[6] is great enough that we called for the CMA, in conjunction with the ICO, to conduct a market study on digital advertising. Our call has recently been echoed by the Cairncross Review and the Furman Review. We are pleased that the CMA has responded positively and look forward to working with them on these issues.

Non-financial harms from targeting

Our primary research found that consumers were concerned that the collection, processing and sharing of data have negative impacts on autonomy, with many telling us that they felt powerless to understand the growing commercial observations or the effect that accelerating data collection is having on their lives.[7] Our wider review of the digital landscape identified two particular non-financial consumer harms that arise from targeting and the collection and use of personal data to enable targeting: a loss of privacy and a distorting impact on preferences.

Loss of privacy

Individuals often have difficulty in conceptualising the detriment they experience from the widespread use of their personal data meaning they are often primed to accept their data being collected and used, as the benefits are so clear to them and the detriment not. Additionally, consumers experience a sense of "rational disengagement" due to the lack of alternatives, leaving them no choice but to accept. However, various research has found that consumers are nonetheless concerned about their privacy in online markets. For example, Consumers International and the Internet Society found that 64% of UK consumers are concerned about connected devices collecting and using personal data.[8]

Consumers are concerned about the degree of transparency and the lack of control they have over their data profile. Our research found that:

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[6] Google and Facebook had an estimated 61% share of UK online advertising revenue in 2018. Ofcom (2019) Online Nation.

[7] Which? (2018) *Control, Alt or Delete? Consumer research on attitudes to data collection and use*

[8] The Internet Society (2019) The trust opportunity: Exploring Consumers' Attitudes to the Internet of Things.

- Consumers feel a lack of control over their data and uncertainty about how personal information would be used in the context of data profiles being created about them. Some consumers see such profiles as a violation of their privacy.
- The majority (81%) of the population are concerned more generally about the flow of data between different companies, specifically organisations selling anonymised data to third parties. People are often surprised that the regulation of data collection and use is not stronger.
- When consumers are given information about the data ecosystem they realise that their data is being collected and used in a breadth and depth of the practices that they weren't aware of. With this realisation often comes concern that they are unable to control the collection and use of their data, but do not feel they can realistically take action to avoid these practices.
- Consumers are concerned about inferences made about them by organisations, particularly computer-driven algorithms failing to recognise individuality, nuance and subtlety and taking information at face value. There is widespread dislike of the fact that personal data and profiles could be used to target them in potentially harmful ways without their knowledge.

Of course, the level of concern that consumers feel varies across individuals and contexts. Our research found that different types of consumers have different preferences for privacy.[9] Segmentation analysis of consumer attitudes to the use of data found that some consumers adopt a 'Liberal' or 'Tolerant' approach to data collection and use, others are either 'Concerned' or 'Anxious'. The 'Concerned' tend to be worried about having inferences made about them, but feel confident they know how to control what data they share, while the 'Anxious' are worried about what organisations collect and do with data about them, and less likely to feel confident that they know how to control what they share. Our most recent research suggests that people who we identify as concerned or anxious could be increasing. Compared to our analysis in 2018, the proportion of people in 2019 who are "Anxious" or "Concerned" rose from 23% to 33% and from 29% to 38% respectively.[10]

We also found that vulnerable consumers were more likely to express concerns relating to a loss of privacy from targeting, with a worry that sensitive information that they would rather keep private (even from family and friends) might be revealed to others using the same device through targeted advertising. Examples included receiving adverts for sensitive health conditions or adverts based on reductive assumptions such as sexuality.

In terms of differences across contexts, recent research has found that individuals most value types of data that they can more easily conceive could be used to cause them harm, such as financial or medical records data, and are less concerned about sharing personal data on, say, physical exercise data or loyalty cards data.[11]

In addition to the direct harm in the form of anxiety and unease, there is also potential harm in the form of foregone benefits if privacy concerns lead to a lower uptake of digital services, which may be

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[9] ibid
[10] Find out more about our Consumer Data segmentation here: https://consumerinsight.which.co.uk/data-dozen
[11] Skatova, A., McDonald, R. L., Ma, S., & Maple, C. (2019, May 12). *Unpacking Privacy: Willingness to pay to protect personal data*. https://doi.org/10.31234/osf.io/ahwe4

happening as a lower than expected number of consumers are using services such as open banking and smart metering.

Distorting consumer preferences

Advertising is typically either informative, meaning it conveys information to a consumer about a product or service, or persuasive, meaning that it seeks to change a consumer's preferences to increase their demand for a product. There is concern that sophisticated and intense targeting of persuasive advertising can induce consumers to make transactions that they want at that moment, but which they subsequently regret.

Again, our research found that vulnerable consumers were more likely to conceive of this type of harm from targeted advertising and recommendations. Concerns were expressed that addictions, such as gambling or alcohol addictions, might be manipulated by cynical advertisers. While others were worried that consumers with some mental health conditions or learning disabilities may not be able to recognise and 'filter out' targeted adverts and recommendations. One participant recounted an example of a family friend who had got into debt after regularly exceeding her credit limit when shopping online, and who she believed had suffered as a result of 'irresponsible' advertising.

Going forward

It is important that the Centre continues to engage with consumer groups, and draws on primary research to ensure digital innovation continues to bring benefits to consumers and their experience is at the heart of any policy recommendations or proposals. We are currently creating a consumer panel building on our previous research with the aim of testing consumer attitudes against proposed interventions. We would welcome the chance to discuss how this could be applied to the Centre's work on targeting and algorithm bias.

The transformation of consumer markets through digitisation is an ongoing priority area for Which?. We look forward to working with the Centre and others, to ensure proposals or recommendations in this space reflect and address real consumer concerns and expectations.

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About Which?

Which? is the largest independent consumer organisation in the UK with more than 1.3 million members and supporters. Which?'s purpose is to tackle consumer harm and help individuals to be as powerful as the organisations they deal with in their daily lives. Which? empowers consumers to make informed decisions and campaigns to make people's lives fairer, simpler and safer.