

Consumer Protection and Artificial Intelligence. Between Law and Ethics

The purpose of the project is to investigate the challenges which the growing use of artificial intelligence (AI) in the market practice presents to consumers and consumer law. AI is no longer merely an idea from science fiction books and movies – it is already here and its practical importance keeps growing. Oftentimes, however, it does not come in shape of humanoid robots and autonomous vehicles, which tend to capture public attention, but rather underlies a variety of consumer products and services. Self-learning algorithms organising our daily lives (from news feeds and product recommendations to personalised prices or others personalised conditions of access), image recognition functions and voice assistants embedded in our smartphones (and growingly in self-standing smart devices), automatic translation tools, and suggested responses in our mailboxes are only some notable examples.

In this project we would like to focus on some of the challenges brought about by AI, which do not necessarily add up to the perspective of human extinction. It is our view, however, that the deployment of AI in consumer markets can result in far-reaching outcomes, which call for a serious reflection. More specifically, AI-powered applications can: exert a profound influence on consumer choices, based on insights not only about consumer preferences but also about their vulnerabilities, significantly affect consumer access to a variety of offers available on the market, as well as to the goods and services as such, and diminish consumers' conscious decision-making due to delegation of an increasing number of decisions to machines. Focusing on the extremes takes attention away from the more direct concerns, like the ones described above, and risks making them appear less urgent and even trivial. In this project we would like to challenge this perception.

One of the key features of the project is its interdisciplinary approach. While its principal focus remains on consumer law and policy, the legal analysis carried out throughout the project will be supported by an ethical assessment performed by an experienced ethicist. Only such a combined reflection will allow us to determine what public authorities (lawmakers, courts) and other relevant stakeholders (AI programmers, consumer organisations) can and should do in order to ensure that consumer interests are appropriately safeguarded in the AI age.

The first stage of the project will cover an empirical assessment of market practice, on the bases of which we will identify main risks to consumer interests stemming from the use of AI. We will then move to an analysis of the roots and fundamentals of consumer law in the light of potential infringements related to the use of AI. A comprehensive, comparative analysis of the core consumer protection rules in selected national jurisdictions (Poland, Germany, France) and at the European Union level, in particular the provisions on unfair commercial practices, unfair terms in consumer contracts and information requirements, will follow. Having identified the protection gaps, we will move to an analysis of key neighbouring domains, such as data protection and antidiscrimination law, in order to assess whether, and if so, to what extent, responses can be found there. The project will conclude with a formulation of short-, medium- and long-term recommendations forming the new model of consumer law.

Expected results of this pioneering research project will contribute to the development of the legal scholarship, both by clarifying the application of existing legal frameworks to the new, AI-driven practices observed in consumer markets and by showing areas for improvement. The importance of the topic is reflected in a position of the EU institutions and a growing number of Member States, which recognize AI as a strategic priority. The project ensures an adequate representation of consumers' perspective in discussions about the appropriate growth model for the AI age. Therefore, the findings of the project are expected to be of great relevance for the future policy deliberations.