

The AdTech sector (*advertising technology*) is one of the fastest growing areas in which user data is the main trading means (also referred to as “currency”¹). According to the expectations² of the European Commission, the market value of online data processed in the European Union in 2020 will be at least EUR 739 billion.

User's activity on the Internet, thanks to tools dedicated to behaviour tracking (e.g. cookies, behavioural biometry), **allows the creation of consumer profiles**. The collected information becomes the subject of the ad exchange, which enables offering personalized advertising content. The effect of these mechanisms is the displayed content personalisation both in terms of advertisements and the results of search engines (e.g. Google), which in the applicant's opinion, among others in the light of the emerging postulates of understanding the right to privacy as a human right³ or the concept of digital privacy [Brumis, 2016]⁴ violates that privacy. **Such market activity may result in price discrimination⁵, exclusion, emotions manipulation^{6,7} or misinformation, e.g. user's electoral misinformation⁸.**

The problem of respecting the right to privacy is more intense, because nowadays it is not enough for the user to be restrained before sharing data about himself. Data is collected automatically, regardless of the will, and often the awareness of users.

It is important that the user does not work in isolation. Collecting data about one user, information about other people with whom the user communicates is also automatically collected. As a result of this observation, it should be stated that the Internet user, regardless of his will and consciousness, may be profiled, even if he deliberately avoids providing his data, as he participates in a global network of connections.

The process of selecting advertising content for a profiled user lasts a fraction of a second, less than a blink of an eye - it happens during the auction, in which many entities participate. Auctioning takes place during the ad exchange - **through the intermediary software in advertising transactions between the publisher of the website and the advertiser**.

The source of knowledge about users is their profiling using an automated process of user behaviour analysis (using, among others, large data sets - Big Data or artificial intelligence algorithms). Data about the user become the subject of the auction - they turn into currency, where the dependence applies: the more information about the user, and thus the possibility of better selection of advertising content, the higher the probability of clicking on the advertisement and profit.

The national and European regulations in an insufficient way protect the users' privacy, because currently functioning standards collide internally in relation to technical capabilities, despite the adopted technological neutrality. Moreover, national regulations have low effectiveness in protecting privacy in the digital economy, due to the lack of attachment to the territoriality of data transmission and the nature of the IT tools used.

The objective of the project is to create a model of the functioning of the right to privacy and the right to be forgotten in the process of selecting internet advertising via the ad exchange involving entities of different territorial origin.

The project provides the analysis of legal regulations of the national and the European Union law (issued regulations and directives), taking into account the legislation of the Federal Republic of Germany on the protection of privacy in the advertising sector, with particular emphasis on digital advertising tools on the example of the auction process using the ad exchange.

As part of the research, US law will also be taken into account through the prism of California state law.

¹ The European Commission, *European Data Market Study*.

² *Ibidem*.

³ *Is Internet Privacy A Human Right?*, online: <https://secureriswssdata.com/internet-privacy-human-right/>

⁴ Also: W. Lis, *Zjawisko profilowania jako przejaw naruszenia prawa do prywatności w środowisku cyfrowym* [in:] *Prawo do prywatności jako reguła społeczeństwa informacyjnego*, [ed.] K. Chałubińska-Jentkiewicz, K. Kakareko, J. Sobczak, C.H.Beck, Warsaw 2017, s. 175.

⁵ Raport Executive Office of the President of the United States, *Big Data and Differential Pricing*.

⁶ D. Dudek, *Jak znaleźć zadłużonego właściciela mieszkania, który chce je sprzedać? Możliwości ultraprecyzyjnego targetowania reklamy na Facebook*.

⁷ Fundacja Panoptykon, *Prześwietleni przez algorytm*.

⁸ Fundacja Panoptykon, *Polityczny marketing – nieoczekiwane zagrożenie dla demokracji?*