

## Consumer Law and the Attention Economy (CLAE)

The **scientific goal** of the CLAE project is to **formulate a theory explaining the consumer law's role** in the emergence, governance, and the (potential) regulation of the attention economy.

The **problem** that CLAE addresses is twofold. On the socio-economic level, consumers currently participate in the markets where their **attention is treated as a resource to be harvested and monetized**. The business model of companies like Google, Meta, or Twitter – offering “free” services – is to collect consumers' data, use it to “addict” consumers to their platforms and display personalized ads. During this process, the project hypothesizes (building on research in psychology), **consumers incur various harms to their mental health**, ranging from experiencing unwanted emotions and behaviors, over lowered cognitive abilities, to chronic pathological states like depression or eating disorders. This situation is a political challenge for the policymakers and a scientific problem to be solved by normative scholars like lawyers.

On the level of legal scholarship, CLAE asserts, the **problem** is that the **existing conceptual and normative frameworks do not allow legal scholars to fully understand** the specificity of the attention economy. Concepts and ontologies forged before mass-digitization and the emergence of the new, data-driven business models are ill-suited to explain this new reality (how can civil law even begin to think of attention as an economic resource?). Further, the service-for-data optic introduced by the Digital Content Directive assumes that once a consumer has provided her data, the market exchange is complete. However, data is valuable only because it allows businesses to reach consumers with further commercial communications. The **transfer of personal data is not the end but the beginning of such a B2C relationship**. Moreover, CLAE hypothesizes, the normative commitments of consumer law – the American focus on lower prices and market efficiency and the European goal of protecting the weaker party's autonomy and socialization of risk – have unintendedly **contributed to the emergence of the attention economy**. By treating consumers as “optimization machines,” focusing on their **behavior**, and protecting their **physical health and safety**, consumer law paved the way for the attention economy. If consumers' privacy is not breached, their behavior not affected, and physical health not endangered, consumer law sees no harm. There are neither regulations nor standards for mental-health-related safety of online products. Consequently, any (potential) legal intervention cannot limit itself to on-the-surface reform of specific norms but must also include **a critical self-reflection upon the goals of consumer law, especially regarding mental health**.

To solve the problems mentioned above, the CLAE project will address four research questions:

**RQ1:** What harms do consumers suffer while interacting with services designed explicitly to harvest their data and attention and while being exposed to a constant stream of marketing communications?

**RQ2:** What is the consumer law's position (conceptual and normative, both explicit and implicit) regarding the mental health impacts of various aspects of socio-economic life?

**RQ3:** How to reconceptualize the consumer law's assumptions, categories, and rules, to increase its explanatory and regulatory power regarding mental-health-related impacts of commerce in the attention economy?

**RQ4:** What regulatory options are available to lawmakers wishing to respond to the harms present in the attention economy, and how should the law address these harms under various normative theories?

By answering these questions, CLAE will produce four innovative scientific outcomes:

**O1:** A theory of “mental harms,” building upon research in marketing and psychology, exploring the specific negative impacts that the attention economy presents to consumers' mental health.

**O2:** An account explaining how the normative commitments of consumer law unintendedly contributed to the emergence of the mental harms present in the attention economy, exposing the law's implicit assumptions.

**O3:** A novel legal ontology and conceptualization of various kinds of relations, subjects, objects, and costs, enabling legal scholars and policymakers to comprehend the attention economy better.

**O4:** A regulatory playbook discussing the possible reform pathways, accompanied by the normative evaluation of these options under consequentialist, deontological, and eudemonic theories.