

The End of the Consumer – PI Katarzyna Wiñiewska

Consumers in the third decade of the twenty-first century may have no more in common with their counterparts of a few decades ago than the name itself. Today's consumers, using big data analytics and machine learning, can optimise everything for themselves – from what they eat and how they spend their time to what contracts they enter into, with whom and how. At the same time, recent economic changes have led to the emergence of new actors in private law, whose bargaining power, economic position, information deficit and lack of experience in the market are non-negligible. In these circumstances, the existing consumer protection mechanisms have ceased to fulfil their basic function – protecting the weaker party of the contractual relationship.

The scientific goal of 'The End of the Consumer' Project is to critically evaluate whether the notion of the 'consumer' currently used in consumer law sufficiently captures the socioeconomic reality in the digital economy. Currently, a plethora of consumer-related questions remains unanswered. Is it possible to be a consumer of LinkedIn? What if someone uses Facebook for both personal and work-related purposes? Existing legal frameworks do not embrace non-consumers, such as freelancers or small and medium enterprises, who are often in a similar legal position to 'ordinary' consumers.

This project aims to answer whether and to what extent special protection should be granted to divergent parties to new contractual relationships, as yet unaddressed by national or EU legislation. However, the protection of the weaker party to the contractual relationship is only one of the many functions of consumer law. What are these other functions, and would extending consumer protection to other entities conflict with them? Just because at a particular historical moment, in a particular socio-political-economic situation, the European Union decided to achieve a specific goal (protection of the weaker party to a contractual relationship) by particular means (consumer contract law) does not mean that this solution will remain valid in a changed situation. It also does not mean that analogous situations should always be resolved in the same way. What is the objective of consumer law today, then? Do we continue to set ourselves this goal as a society? Moreover, are the means chosen then still the 'most effective' way of achieving that goal?

'The End of the Consumer' Project combines the dogmatic analysis of the legal acts with an empirical analysis of online platforms' terms of service contracts. Moreover, the project acknowledges intellectual diversity and reflects on the different goals of consumer law in different jurisdictions. As private law, especially considering the digital market, is increasingly internationalised and crosses national borders, establishing how different legal systems deal with the phenomenon of contractual imbalance will allow for a robust examination of this issue, common to all participants of the global marketplace.

Undertaking a discourse on the project's title issue will create an opportunity for a significant modernisation of Polish civil law, increasing its adaptation to trading challenges on the digital market. This modernisation should be dictated by a need to repair the imbalance between parties in contractual relationships. After all, the role of civil law is not to guard the rigid framework of ancient transactions but to provide vital answers to contemporary problems in relationships between private parties. In this respect, this project will be of fundamental importance.