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### **Use of Artificial Intelligence in Targeted Advertising and Consumer Manipulation**

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**ABSTRACT**

*AI has been quickly embraced by advertising, and this has fundamentally reshaped how brands connect with people. Now AI provides ways to aim ads at very specific people, create content tailored to each person, automatically make ad designs, and adjust ads as they are running, all to make brand interactions seem seamless and personalized. But paradoxically, AI is weakening people's ability to make their own choices and their right to privacy. A particularly concerning development is "dark patterns", which are designs of interfaces (websites, apps, etc) that use tricks and subtle suggestions to get you to decide to do something you might not otherwise do. These tricks have been around for a while, but AI makes them far more extensive, precise in their effect on your thinking and much harder to notice or control with the usual ways of policing them.*

*This sneaky influence happens in many different places online, and is more than what older regulations like stopping things before they happen, being obliged to be open about what you're doing and telling consumers what's going on can deal with. Because of this, new ways of regulating are being developed. Tools for consumers, such as programs to counteract algorithms or ad blockers, help people to avoid being manipulated. Also, companies are beginning to create internal guidelines, based on being a socially responsible business, so they can check and lower the dangers of their algorithms before they start using them. These approaches to self-regulation go with official legal oversight and help with the special problems AI causes<sup>1</sup>.*

*This article looks at both sides of AI in advertising, its ability to really improve how we experience brands and its power to get us to decide things in a systematic, manipulative way. By looking at these opposing forces, we'll show how important it is to have rules that can change as things evolve, and that both allow for new ideas and protect our ability to choose in a market that is run by AI.*

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<sup>1</sup> Marsili, Preserving Consumer Autonomy through European Union Regulatory Tools, 15 Eur. J. Risk Reg. 1 (2024), [https://www.researchgate.net/publication/372897013\\_Preserving\\_Consumer\\_Autonomy\\_through\\_European\\_Union\\_Regulation\\_of\\_Artificial\\_Intelligence\\_A\\_Long-Term\\_Approach](https://www.researchgate.net/publication/372897013_Preserving_Consumer_Autonomy_through_European_Union_Regulation_of_Artificial_Intelligence_A_Long-Term_Approach)

**KEYWORDS**

*Artificial Intelligence (AI), Targeted Advertising, Consumer Manipulation, Dark Patterns, Algorithmic Profiling, Behavioural Advertising, Consumer Autonomy, Data Privacy, Digital Personal Data Protection, Consumer Protection Law, Algorithmic Transparency, Online Platforms, Regulatory Frameworks, Self-Regulation, Ethical AI.*

## INTRODUCTION

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Digital advertising has changed so much with all these online platforms growing fast. It's not like the old ways of marketing anymore, where you just put up a billboard or something. Now everything is about using the internet to send advertisements that fit what people like, based on who they are or what they do online. Advertisers pull from such as, what sites they visit, or even what they buy to make those ads hit home better<sup>2</sup>. AI is a big part of why this works so well. However AI is basically computers trying to act like people, learning from data and making choices on their own<sup>3</sup>. That learning part, like machine learning, helps figure out what users want before they even say it<sup>4</sup>. Then there's natural language processing for understanding text, and predictions to guess future behavior. All this lets companies run ads automatically and tweak them right away based on how people react. It processes tons of data to get the targeting spot on, adjust bids in auctions, and even change the ad creative to match the moment<sup>5</sup>. Platforms like Facebook or Amazon use this everywhere, and sometimes tie it in with smart devices from the IoT to make ads feel even more personal, like knowing where you are<sup>6</sup>.

With AI digging into behavior so deeply, it can predict what you'll do and push you towards buying things you might not want. Some call it manipulation, especially with those tricky designs that trick you into clicking, and AI makes them sharper. It blurs the line between helpful suggestions and forcing your hand, which messes with privacy and just choosing for

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<sup>2</sup> David L. Rodgers & Thales S. Teixeira, *The New Science of Customer Emotions*, 95 Harv. Bus. Rev. 80 (2017).

<https://hbr.org/2015/11/the-new-science-of-customer-emotions>

<sup>3</sup> Ajay Agrawal, Joshua Gans & Avi Goldfarb, *Prediction Machines: The Simple Economics of Artificial Intelligence* 23 (2018).

<https://www.perlego.com/ereader/837437>

<sup>4</sup> Stuart Russell & Peter Norvig, *Artificial Intelligence: A Modern Approach* 1 (4th ed. 2021),

[https://api.pageplace.de/preview/DT0400.9781292401171\\_A41586057/preview-9781292401171\\_A41586057.pdf](https://api.pageplace.de/preview/DT0400.9781292401171_A41586057/preview-9781292401171_A41586057.pdf)

<sup>5</sup> Bernard Marr, *Artificial Intelligence in Practice: How 50 Successful Companies Used AI and Machine Learning to Solve Problems* 112 (2019).

<https://www.perlego.com/book/991892/artificial-intelligence-in-practice-how-50-successful-companies-used-ai-and-machine-learning-to-solve-problems-pdf>

<sup>6</sup> John Deighton & Leora Kornfeld, *Interactivity's Unanticipated Consequences for Marketers and Marketing*, 27 J. Interactive Marketing 4 (2013),

[https://www.academia.edu/14439507/Interactivitys\\_Unanticipated\\_Consequences\\_for\\_Marketers\\_and\\_Marketing](https://www.academia.edu/14439507/Interactivitys_Unanticipated_Consequences_for_Marketers_and_Marketing)

yourself. People argue about whether it's really coercive or just smart marketing, but it seems like it could go too far.

This paper looks at how AI boosts ads for brands but also risks controlling people more than they realize. By breaking down the technicality behind it, the ethical problems that come up, and what rules might help, like those in Europe pushing for more openness and checks before things get out of hand. Balancing the smooth innovations with protecting users in this AI world is tricky, it is not totally sure how it all shakes out yet<sup>7</sup>. In my view AI makes advertising more efficient. However, AI can also manipulate consumers in ways that may not be fair or autonomous and that legislation doesn't yet cover,

## LITERATURE REVIEW

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The integration of artificial intelligence (AI) into digital advertising has fundamentally transformed marketing into a data-driven and algorithmically mediated system, enabling advertisers to deliver highly personalized content through behavioural profiling and predictive analytics. While existing scholarship largely points out these developments for augment efficiency and consumer engagement, a growing body of literature critically picks over the implications of such systems for privacy, consumer choice, and fairness. AI-driven targeted advertising operates through continuous monitoring and analysis of user behaviour, often within opaque algorithmic environments, thereby raising serious concerns regarding informed consent and transparency<sup>8</sup>. Although the regulatory frameworks such as the GDPR emphasize principles of lawfulness, fairness, and data minimization, scholars argue that these safeguards are often insufficient in practice due to the complexity and opacity of algorithmic ecosystems. This has led to an ongoing debate on whether personalized advertising represents legitimate market efficiency or a subtle form of behavioural influence.

A significant shift in recent scholarship is the focus on manipulative practices, particularly through the concept of “dark patterns,” which exploit cognitive biases to nudge users toward

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<sup>7</sup> European Commission, *Digital Services Act Package*, <https://digital-strategy.ec.europa.eu>

<sup>8</sup> Sandra Wachter, Brent Mittelstadt & Luciano Floridi, *Why a Right to Explanation of Automated Decision-Making Does Not Exist in the GDPR*, 7 *Int'l Data Privacy L.* 76 (2017).

[https://www.researchgate.net/publication/312597416\\_Why\\_a\\_Right\\_to\\_Explanation\\_of\\_Automated\\_Decision-Making\\_Does\\_Not\\_Exist\\_in\\_the\\_General\\_Data\\_Protection\\_Regulation](https://www.researchgate.net/publication/312597416_Why_a_Right_to_Explanation_of_Automated_Decision-Making_Does_Not_Exist_in_the_General_Data_Protection_Regulation)

decisions they may not have consciously intended to make<sup>9</sup>. While some scholars view such practices as extensions of persuasive advertising, others argue that AI amplifies these techniques to a level that can undermine consumer choice and distorts rational decision-making. This reflects a broader tension between consumer sovereignty and behavioural influence, with no clear consensus on where the legal boundary should be drawn. Furthermore, emerging technologies such as generative AI and emotionally adaptive content intensify this debate by enabling hyper-personalized and immersive forms of persuasion, which are bit by bit difficult to detect and regulate.

In the Indian context, judicial developments provide a constitutional and statutory foundation for addressing these concerns, though they remain fragmented. In *Justice K.S. Puttaswamy v. Union of India*<sup>10</sup> The Supreme Court recognized informational privacy and decisional autonomy as integral to Article 21, thereby establishing a normative basis to challenge intrusive data-driven advertising practices. However, these rulings do not directly address algorithmic manipulation, leaving a doctrinal gap in applying constitutional protections to AI-driven advertising. Consumer protection jurisprudence, such as *Common Cause v. Union of India* and *Pepsi Co. Inc. v. Hindustan Coca Cola Ltd*<sup>11</sup>, establishes that misleading advertisements are impermissible, yet these cases are rooted in traditional advertising models and do not account for the subtle and data-driven nature of modern manipulation. Similarly, in *Competition Commission of India v. WhatsApp LLC*<sup>12</sup> The Competition Commission of India acknowledged the coercive implications of data-sharing practices, but its analysis remains limited to market dominance rather than behavioural manipulation. This reflects a broader gap in Indian jurisprudence.

In contrast, the European Union has adopted a more structured regulatory approach through instruments such as the GDPR and the Digital Services Act, which impose obligations of transparency, accountability, and restrictions on targeted advertising. Judicial decisions

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<sup>9</sup> Harry Brignull, *Deceptive Patterns: Exposing the Tricks Tech Companies Use to Control You* 12 (2023), <https://www.scribd.com/document/764324712/Harry-Brignull-Deceptive-Patterns-Exposing-the-Tricks-Tech-Companies-Use-to-Control-You-Testimonium-Ltd-2023>

<sup>10</sup> *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1, <https://indiankanoon.org/doc/127517806/>

<sup>11</sup> *Pepsi Co. Inc. v. Hindustan Coca Cola Ltd.*, 2003 SCC OnLine Del 534, <https://indiankanoon.org/doc/924003/>.

<sup>12</sup> *Competition Commission of India v. WhatsApp LLC*, CCI Order (2021), <https://indiankanoon.org/doc/94382510/>.

further strengthen these protections<sup>13</sup>. In *Meta Platforms Inc. v. Bundeskartellamt*<sup>14</sup> The Court held that extensive cross-platform data aggregation without valid consent violates data protection principles, while in *Meta Platforms Inc. v. Schrems*, it emphasized limits on the use of personal data for advertising purposes. However, even within the EU framework, scholars debate whether consent-based models are sufficient to address manipulation, given that users often lack genuine choice in digital environments<sup>15</sup>. This has led to calls for moving beyond consent-based regulation towards more direct limits on manipulative practices, particularly in the context of dark patterns and algorithmic nudging. Despite extensive scholarship, several critical gaps persist. First, much of the literature is still rooted in marketing and technological perspectives, with limited integration of legal analysis, particularly regarding concepts such as coercion, consumer choice, and unfair trade practices. Second, while personalization is widely studied, the notion of consumer manipulation remains underdeveloped, with little clarity on when targeted advertising becomes unlawful influence. Third, emerging technologies such as generative AI and deepfake advertising raise new regulatory uncertainties regarding their regulation. Finally, enforcement challenges such as the difficulty of detecting manipulation and the lack of technical expertise among regulators further weaken the effectiveness of existing frameworks.

This study seeks to address these gaps by adopting an interdisciplinary approach that integrates legal, technological, and ethical perspectives to examine AI-driven targeted advertising through the lens of consumer manipulation. Unlike existing literature that primarily focuses on efficiency or privacy, this research emphasizes consumer autonomy as a central normative framework, critically evaluating how AI systems influence decision-making processes. It contributes to the discourse by bridging the divide between traditional consumer protection law and emerging AI-driven practices, while also assessing the adequacy of current regulatory mechanisms in India and the European Union. In doing so, it aims to develop a more coherent understanding of manipulation in the digital age and propose the need for adaptive legal frameworks capable of balancing innovation with effective consumer protection.

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<sup>13</sup> Regulation (EU) 2016/679 (General Data Protection Regulation).

<https://eur-lex.europa.eu/eli/reg/2016/679/oj>

<sup>14</sup> Case C-252/21, *Meta Platforms Inc. v. Bundeskartellamt*,

[https://eur-lex.europa.eu/legal\\_content/en/TXT/?uri=CELEX:62021CJ0252](https://eur-lex.europa.eu/legal_content/en/TXT/?uri=CELEX:62021CJ0252)

<sup>15</sup> Frederik Zuiderveen Borgesius, Improving Privacy Protection in the Area of Behavioural Targeting, 5 Int'l Data Privacy L. 45 (2015). <https://arxiv.org/pdf/2512.13405>

## RESEARCH METHODOLOGY

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In this study, I use both doctrinal and analytical research methods to look at how artificial intelligence shapes targeted advertising, especially when it comes to consumer manipulation.

Doctrinal analysis sits at the heart of this research. I dig into existing legal frameworks, court rulings, and regulatory instruments that deal with digital advertising, data protection, and consumer rights. My focus is on primary legal sources, statutes like the Consumer Protection Act, 2019 and the Digital Personal Data Protection Act, 2023, along with European Union regulations, the GDPR and the Digital Services Act. I examine key judicial precedents, including Justice K.S. Puttaswamy v. Union of India and Meta Platforms Inc. v. Bundeskartellamt, to track how courts are interpreting privacy, consent, and data usage in the context of targeted advertising. This doctrinal analysis helps pin down the legal principles relevant to AI-driven advertising practices, and lets me judge how well these laws address new issues like dark patterns or algorithmic manipulation.

Alongside doctrinal analysis, I take an analytical approach to assess how well current legal and regulatory frameworks actually work. I pull in secondary sources scholarly articles, research papers, policy briefs, and guidelines to weigh different perspectives on AI-driven advertising. This analytical method helps me explore major questions: Where does personalization cross over into privacy concerns? How do we distinguish between persuasion and manipulation? What makes regulating opaque algorithmic systems so tricky? I also compare Indian and European regulatory approaches, looking at differences in legal standards, enforcement methods, and consumer protection tactics.

Throughout, I keep a critical perspective, scanning for gaps in both literature and law. One major gap is the lack of clarity around consumer manipulation, and how traditional models built around consent fall short when dealing with AI-driven practices. By bringing together legal, technological, and ethical analysis, I aim to offer a well-rounded view and argue for smarter, more interdisciplinary approaches to regulating this fast-changing space.

## TRANSFORMATION OF ADVERTISING THROUGH AI: LEGAL AND STRUCTURAL IMPLICATIONS

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The integration of artificial intelligence (AI) into digital advertising has reconfigured the structure of modern markets by enabling real-time behavioural tracking, predictive analytics, and automated decision-making<sup>16</sup>. Unlike traditional advertising models that relied on static demographic segmentation, AI-driven systems operate through continuous data extraction and algorithmic processing, thereby creating dynamic consumer profiles. These profiles allow advertisers to anticipate preferences, tailor content, and influence decision-making processes with a level of precision that was previously unattainable.

From a statutory standpoint, such practices fall within the ambit of data protection regulation. In India, the Digital Personal Data Protection Act, 2023 (DPDP Act)<sup>17</sup> establishes a foundational framework governing the processing of personal data. Section 4 mandates lawful processing, while Sections 5 and 6 emphasize purpose limitation and consent. However, a critical issue arises where AI systems rely on inferred or derived data, which may not be explicitly provided by users. The Act does not clearly address whether such inferred data falls within the scope of consent, thereby creating a significant regulatory ambiguity. This gap becomes particularly problematic in targeted advertising, where predictive algorithms generate insights that extend beyond the original data provided.

Judicial interpretation of digital rights further contextualizes these concerns. In *Faheema Shirin R.K. v. State of Kerala*<sup>18</sup> The Court recognized access to the internet as part of the right to education and privacy, highlighting the increasing centrality of digital spaces in individual autonomy. While not directly addressing advertising, the case exposes the constitutional dimension of digital interactions, suggesting that intrusive data practices may indirectly infringe fundamental rights. However, Indian jurisprudence has yet to directly confront the implications of AI-driven profiling, leaving a doctrinal vacuum in addressing algorithmic influence.

## **AI, BEHAVIOURAL MANIPULATION, AND THE EVOLUTION OF CONSUMER LAW**

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<sup>16</sup> Id. at 2.

<sup>17</sup> Digital Personal Data Protection Act, 2023,  
<https://www.indiacode.nic.in/handle/123456789/22037?locale=en>

<sup>18</sup> *Faheema Shirin R.K. v. State of Kerala*, 2019 SCC OnLine Ker 1733,  
<https://www.casemine.com/judgement/in/5d919b2f714d583211e7ff62>

A defining feature of AI-driven advertising is its ability to engage in behavioural manipulation rather than mere persuasion. Through techniques such as micro-targeting, real-time bidding, and adaptive content delivery, AI systems can influence consumer decisions in subtle and often imperceptible ways<sup>19</sup>. This has led to the widespread use of dark patterns, which exploit cognitive biases such as urgency, scarcity, and default preferences<sup>20</sup>.

The Consumer Protection Act, 2019 provides a statutory basis for regulating such practices. Section 2(47) defines “unfair trade practice” to include deceptive methods and misleading representations. The Guidelines for Prevention and Regulation of Dark Patterns, 2023 further expand this framework by explicitly prohibiting manipulative design practices that impair consumer choice<sup>21</sup>. These developments signify a shift from regulating misleading content to addressing behavioural manipulation as a legal harm.

Judicial precedents provide insight into the evolution of consumer protection principles. In *Laxmi Engineering Works v. P.S.G.<sup>22</sup> Industrial Institute*, the Supreme Court emphasized the need to protect consumers from unfair practices and recognized the imbalance between consumers and service providers. Although the case predates digital advertising, its reasoning remains relevant in addressing power asymmetries in AI-driven markets.

Similarly, in *Havells India Ltd. v. Amritanshu Khaitan<sup>23</sup>* The Court held that advertisements must not create confusion or mislead consumers. However, such cases primarily address explicit misrepresentation rather than implicit manipulation. AI-driven systems often influence decisions without making false claims, thereby operating outside the traditional scope of consumer protection law.

This raises a critical doctrinal question: Can manipulation without deception be regulated under existing legal frameworks? While traditional law focuses on false or misleading

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<sup>19</sup> Ryan Calo, Digital Market Manipulation, 82 Geo. Wash. L. Rev. 995, 1003 (2014), <https://digitalcommons.law.uw.edu/faculty-articles/25/>

<sup>20</sup> Harry Brignull, *Deceptive Patterns: Exposing the Tricks Tech Companies Use to Control You* 12 (2023). Consumer Protection Act, 2019, 2(47) (India), <https://www.deceptive.design/book/contents/chapter-1-10>

<sup>21</sup> Central Consumer Protection Authority, *Guidelines for Prevention and Regulation of Dark Patterns, 2023*, [https://consumeraffairs.gov.in/public/upload/admin/cmsfiles/whatsnews/Draft\\_Guidelines\\_for\\_Prevention\\_and\\_Regulation\\_of\\_Dark\\_Patterns\\_2023\\_whatsnews.pdf](https://consumeraffairs.gov.in/public/upload/admin/cmsfiles/whatsnews/Draft_Guidelines_for_Prevention_and_Regulation_of_Dark_Patterns_2023_whatsnews.pdf)

<sup>22</sup> *Laxmi Engineering Works v. P.S.G. Industrial Institute*, (1995) 3 SCC 583, <https://indiankanoon.org/doc/1433560/>

<sup>23</sup> *Havells India Ltd. v. Amritanshu Khaitan*, 2015 SCC OnLine Del 12192, <https://indiankanoon.org/doc/91815858/>

statements, AI introduces a new paradigm where influence occurs through personalization and behavioural nudging. This suggests the need to expand legal definitions to include covert forms of influence that undermine consumer autonomy.

## **DATA CONCENTRATION, ALGORITHMIC POWER, AND COMPETITION LAW**

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AI-driven advertising is inherently linked to the accumulation and control of large datasets, which raises significant competition law concerns. Digital platforms that possess extensive user data gain a competitive advantage, as they can refine their algorithms and improve targeting accuracy<sup>24</sup>. This creates a feedback loop where data accumulation leads to increased market power, further reinforcing dominance.

Under the Competition Act, 2002<sup>25</sup> Section 4 prohibits abuse of dominant position, including the imposition of unfair conditions and denial of market access. In *XYZ v. Alphabet Inc. (Google Android Case)*<sup>26</sup> The Competition Commission of India found that Google abused its dominant position by imposing restrictive conditions on device manufacturers. Although the case primarily addressed app ecosystems, its implications extend to advertising markets, where dominant platforms control access to user data and advertising infrastructure.

Another important decision is *Federation of Hotel & Restaurant Associations of India v. MakeMyTrip India Pvt. Ltd.*<sup>27</sup>, where the Commission examined the conduct of online platforms in restricting market access. This case highlights how digital platforms can leverage their position to influence both market dynamics and consumer behaviour.

From an analytical perspective, competition law addresses structural issues such as dominance and market distortion but does not directly engage with consumer-level manipulation. While it can limit anti-competitive practices, it does not regulate how AI

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<sup>24</sup>Maurice E. Stucke & Allen P. Grunes, *Big Data and Competition Policy* 34 (2016).  
<https://academic.oup.com/oxford-law-pro/book/57680?login=false>

<sup>25</sup> Competition Act, 2002, 4 (India),  
[https://www.indiacode.nic.in/show-data?abv=CEN&statehandle=123456789/1362&actid=AC\\_CEN\\_22\\_29\\_0005\\_200312\\_1517807324781&sectionId=641&sectionno=4&orderno=4&orgactid=AC\\_CEN\\_22\\_29\\_00005\\_200312\\_1517807324781](https://www.indiacode.nic.in/show-data?abv=CEN&statehandle=123456789/1362&actid=AC_CEN_22_29_0005_200312_1517807324781&sectionId=641&sectionno=4&orderno=4&orgactid=AC_CEN_22_29_00005_200312_1517807324781)

<sup>26</sup> <https://www.scribd.com/document/834711212/XYZ-Confidential-v-Alphabet-Inc>

<sup>27</sup> *Federation of Hotel & Restaurant Associations of India v. MakeMyTrip India Pvt. Ltd.*, CCI Case No. 14 of 2019, <https://www.casemine.com/judgement/in/5e3136bb46571b5557cd4c6fd>

systems influence individual decision-making processes<sup>28</sup>. This creates a regulatory gap where market-level interventions fail to address behavioural harms.

## EUROPEAN UNION: A MORE ADVANCED REGULATORY MODEL

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The European Union provides a comparatively advanced framework for regulating AI-driven advertising. The General Data Protection Regulation (GDPR) establishes comprehensive rules governing data processing, including principles of transparency, accountability, and data minimization. Article 22 provides individuals with the right not to be subject to decisions based solely on automated processing, including profiling.

In *Wirtschaftsakademie Schleswig-Holstein GmbH v. ULD*<sup>29</sup> The Court held that administrators of Facebook fan pages are jointly responsible for data processing, thereby expanding accountability in digital ecosystems. This decision underscores the shared responsibility of platforms and advertisers in ensuring compliance with data protection laws. Similarly, in *Orange România SA v. ANSPDCP*<sup>30</sup> The Court emphasized that consent must be freely given, specific, informed, and unambiguous. This has direct implications for targeted advertising, where consent mechanisms are often embedded within complex user interfaces.

Despite these protections, the EU framework is not without criticism. Scholars argue that consent fatigue undermines the effectiveness of GDPR, as users frequently accept terms without fully understanding them. Moreover, the focus on procedural compliance may not adequately address substantive issues such as manipulation and behavioural influence. This has led to calls for a shift toward risk-based regulation, where certain high-risk practices, such as dark patterns and manipulative targeting, are explicitly restricted<sup>31</sup>.

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<sup>28</sup> Ariel Ezrachi & Maurice E. Stucke, *Virtual Competition: The Promise and Perils of the Algorithm-Driven Economy*, 49 *Harv. J. on Legis.* 177 (2016).

<https://www.jstor.org/stable/j.ctv24w63h3>

<sup>29</sup> Case C-210/16, *Wirtschaftsakademie Schleswig-Holstein GmbH v. ULD*, <https://iabeurope.eu/data-privacy-hub/wirtschaftsakademie-schleswig-holstein/>

<sup>30</sup> Case C-61/19, *Orange Romania SA v. ANSPDCP*, <https://www.dpcuria.eu/case?reference=C-61/19>

<sup>31</sup> European Data Protection Board, *Guidelines on Dark Patterns in Social Media Platform Interfaces* (2022), [https://www.edpb.europa.eu/system/files/2022-03/edpb\\_03-2022\\_guidelines\\_on\\_dark\\_patterns\\_in\\_social\\_media\\_platform\\_interfaces\\_en.pdf](https://www.edpb.europa.eu/system/files/2022-03/edpb_03-2022_guidelines_on_dark_patterns_in_social_media_platform_interfaces_en.pdf)

## ETHICAL DIMENSIONS AND THE LIMITS OF EXISTING LEGAL FRAMEWORKS

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The ethical implications of AI-driven advertising extend beyond legal compliance, raising fundamental questions about autonomy, fairness, and human dignity. AI systems are capable of identifying and exploiting individual vulnerabilities, including emotional states, cognitive biases, and socio-economic conditions<sup>32</sup>. This raises concerns about exploitation and digital coercion, particularly where consumers are unaware of the mechanisms influencing their decisions. A key challenge is the opacity of algorithmic systems, often referred to as the “black box problem.” Even when legal frameworks require transparency, the technical complexity of AI systems limits meaningful disclosure. This creates an accountability gap, where neither regulators nor consumers can fully assess the functioning of these systems. Another limitation is the fragmentation of legal frameworks, particularly in jurisdictions like India. While data protection, consumer protection, and competition law each address specific aspects of AI-driven advertising, there is no unified framework that comprehensively addresses the issue<sup>33</sup>. This leads to regulatory overlaps and gaps, reducing the effectiveness of enforcement. Furthermore, the global nature of digital advertising creates jurisdictional challenges. Platforms operate across borders, making it difficult to enforce national laws<sup>34</sup>. While the EU has adopted a relatively robust approach, other jurisdictions are still developing their regulatory frameworks, leading to inconsistencies in protection.

## TOWARD AN ADAPTIVE AND INTEGRATED REGULATORY APPROACH

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The limitations of existing frameworks highlight the need for a more adaptive and interdisciplinary regulatory approach. This requires integrating principles from multiple areas of law, including consumer protection, data protection, and competition law, to address the multifaceted nature of AI-driven advertising<sup>35</sup>.

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<sup>32</sup>OECD, *Artificial Intelligence, Consumer Policy and Protection* 10 (2019), <https://oecd.ai/en/assets/files/OECD-LEGAL-0449-en.pdf>

<sup>33</sup>NITI Aayog, *Responsible AI for All: Strategy for India* 27 (2018), <https://cerai.iitm.ac.in/projects/responsible-ai-policy/>

<sup>34</sup>United Nations Conference on Trade and Development (UNCTAD), *Digital Economy Report 2021* 15, [https://unctad.org/system/files/official-document/der2021\\_en.pdf](https://unctad.org/system/files/official-document/der2021_en.pdf)

<sup>35</sup>World Economic Forum, *Global Future Council on Artificial Intelligence: A Framework for the Governance of AI* (2020), <https://www.weforum.org/stories/2025/11/trust-ai-global-governance/>

In India, this could involve expanding the scope of the DPDP Act to explicitly address algorithmic profiling and inferred data. Introducing provisions on algorithmic accountability, auditability, and explainability would enhance transparency and enforcement<sup>36</sup>. Additionally, strengthening the Consumer Protection Act to include explicit provisions on manipulation and dark patterns would provide greater doctrinal clarity. At the international level, there is a need for harmonization of legal standards to address cross-border challenges. The EU framework provides a useful model, but it must evolve to address the limitations of consent-based regulation<sup>37</sup>. A shift toward substantive restrictions on manipulative practices, rather than reliance on disclosure and consent, may be necessary.

## DISCUSSION

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Targeted advertising through artificial intelligence exists in a sort of grey area between technological advancement and regulatory gap. In many ways, technology has far surpassed the legislature. While AI allows for maximal efficiency in advertising and personalization, it also poses threats to consumer autonomy through manipulative practices. Present concerns regard more surreptitious forms of manipulation. The issue at hand is not solely the harvesting of data, but also AI's ability to predict, influence, and alter consumer behaviour unbeknownst to them. Therefore, the question lies in whether any legislature can realistically combat clandestine and algorithmic manipulation. Current standards focus on deception and false representation.

In India. Indian consumer law is fairly progressive, with both the Consumer Protection Act of 2019 and the Digital Personal Data Protection Act of 2023 serving as a foundation to combat unlawful trade practices and data harvesting. Yet, most laws fall into the traditional conceptualization of consent and disclosure. Meaning, current discourse surrounds the presentation of clear options and the choice to opt-in or out of data collection. With consumers often ill-equipped with the technical expertise to make such decisions, consent

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<sup>36</sup> Organisation for Economic Co-operation and Development (OECD), *OECD AI Principles* (2019), <https://oecd.ai/en/ai-principles>

<sup>37</sup> European Commission, *Proposal for a Regulation Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act)*, <https://www.europeansources.info/record/proposal-for-a-regulation-laying-down-harmonised-rules-on-artificial-intelligence-artificial-intelligence-act-and-amending-certain-union-legislative-acts/>

merely serves as a way to seem compliant<sup>38</sup>. Regulations like the Dark Patterns Guidelines of 2023 set precedent in recognizing manipulation as a regulatable aspect. But enforcement remains an issue, as algorithmic manipulation is difficult to prove if there is no tangible evidence.

Similar issues occur within European frameworks. The General Data Privacy Regulation, and Digital Services Act both outline rules regarding transparency, accountability, and individual agency. Yet, issues like ‘consent fatigue’ and information disparity allow for users to consent to privacy regulations they may not fully understand<sup>39</sup>. Calling into question if informed consent is even a realistic form of regulation. Additionally, while the system regulates platforms through penalties and guidelines, it doesn’t take full accountability for how platforms capitalize on behavioural manipulation. Meaning, current regulations don’t punish the act of knowing

Another interesting recent development that may set precedent in this sphere was with *Lloyd v. Google LLC*<sup>40</sup>. The Court recognized the lack of precedent when it came to “billions” of users affected by unfair and deceptive practices. Meaning, the court deemed traditional legal remedies, such as refunds and individual lawsuit damages as infeasible solutions. Although this case was ruled in a different jurisdiction, the main idea came from the notion that current legislation cannot support the scope of technological ramifications.

Policy Recommendations Based on this information, my primary recommendation is to shift legislative approaches from procedural regulation to direct regulation. Meaning, instead of operating on an institutional level that allows for data collection through consent and disclosure. Legislation should take direct action towards manipulative practices. Banning algorithmically based activities that hold the potential to cause severe harm, such as targeting minors or employing deceptive design. Additionally, enacting legislation requiring accountability through monitoring algorithmic audits and impact assessments. Another interesting aspect to consider is institutional collaboration. Monitoring AI-assisted

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<sup>38</sup> Solon Barocas & Helen Nissenbaum, *Big Data’s End Run Around Procedural Privacy Protections*, 57 *Comm. ACM* 31, (2014)  
<https://nissenbaum.tech.cornell.edu/papers/Big%20Datas%20End%20Run%20Around%20Procedural%20Protections.pdf>

<sup>39</sup> Daniel J. Solove, *Privacy Self-Management and the Consent Dilemma*, 126 *Harv. L. Rev.* 1880 (2013),  
<https://harvardlawreview.org/print/vol-126/introduction-privacy-self-management-and-the-consent-dilemma/>

<sup>40</sup> *Lloyd v. Google LLC*, [2021] UKSC 50,  
<https://www.bailii.org/uk/cases/UKSC/2021/50.html>

advertisement fits into fields like data protection law, consumer law, and competition law. Enforcement in these areas will probably be inconsistent and lacking without cooperation between regulatory agencies. Self-regulation within the industry through codes of ethics and corporate social responsibility programs can supplement traditional legislation, particularly in rapidly evolving technological environments. While existing laws offer a framework for regulating AI-enhanced advertising, they fall short of addressing the challenges posed by algorithmic manipulation. We need a more agile and interdisciplinary approach: one that recognizes manipulation as a specific wrong and equips us with regulatory tools to address harms unique to AI.

## CONCLUSION

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This paper has examined the transformative role of artificial intelligence in targeted advertising and its implications for consumer manipulation, demonstrating that AI-driven systems have fundamentally altered the nature of market interactions. While AI has significantly enhanced the efficiency, precision, and personalization of advertising, it has also enabled sophisticated forms of behavioural influence that challenge traditional legal concepts of consent, autonomy, and fair choice. The analysis highlights that modern advertising is no longer limited to persuasive communication but operates through predictive analytics and algorithmic decision-making, often shaping consumer behaviour in subtle and imperceptible ways. A key finding of this research is that the central concern is not merely the collection or use of personal data, but the ability of AI systems to exploit behavioural patterns and cognitive vulnerabilities. This creates a tension between technological innovation and consumer protection, as existing legal frameworks remain rooted in addressing overt deception rather than covert manipulation. The study has shown that while Indian laws such as the Consumer Protection Act, 2019 and the Digital Personal Data Protection Act, 2023 provide an essential statutory foundation, they primarily rely on consent and disclosure-based mechanisms, which are demonstrably inadequate in the context of complex AI systems. Similarly, the Dark Patterns Guidelines, 2023 represent a legislative milestone toward recognizing manipulative practices, yet challenges of enforcement and detection persist.

The comparative analysis with the European Union further reveals that even advanced regulatory frameworks such as the GDPR and the Digital Services Act, despite their emphasis

on transparency and accountability, are constrained by practical limitations such as consent fatigue and the data gap between platforms and users. This indicates that the shortcomings are not jurisdiction-specific but are inherent in the current regulatory paradigm, which prioritizes procedural compliance over substantial consumer protection. This study identifies its emphasis on reconceptualizing consumer protection in the age of AI. It importantly moves beyond traditional frameworks and recognizes manipulation as a distinct legal harm that requires direct regulatory attention. Ultimately the stasis balance between innovation and consumer protection requires an adaptive and interdisciplinary approach, one that integrates a fusion of software engineering, jurisprudence, and moral philosophy to ensure that the benefits of AI-driven advertising do not come at the cost of consumer autonomy and market fairness.