



PROTECTING
CONSUMER'S
AUTONOMY IN
THE BIG DATA
AND ARTIFICIAL
INTELLIGENCE
AGE

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AUTONOMY

Autonomy is that the ability to think for oneself freely and independently, ability and competence to decide on his own behalf of his own free will and to act on the basis of this decision.



THE CONCEPT OF AUTONOMY

AUTONOMOUS INDIVIDUAL / AUTONOMOUS THINKING

- ❑ Autonomous individual is an individual who is able to make rational and free choices and actions in accordance with the conditions, while preserving his own beliefs, values and life goals.
- ❑ Autonomous thinking is thinking for oneself, making decisions, making aesthetic choices, believing and making moral evaluations.

AUTONOMOUS ACTION

- ❑ It is an action that the person consciously and willingly takes in accordance with his thoughts and wishes.

AUTONOMOUS CHOICE / AUTONOMOUS WILL

- ❑ It is an autonomous choice or will; it is the choice he has made in his decisions and actions, in realizing what he thinks within his own conditions of competence and freedom.

AUTONOMY IS NOT ABSOLUTE

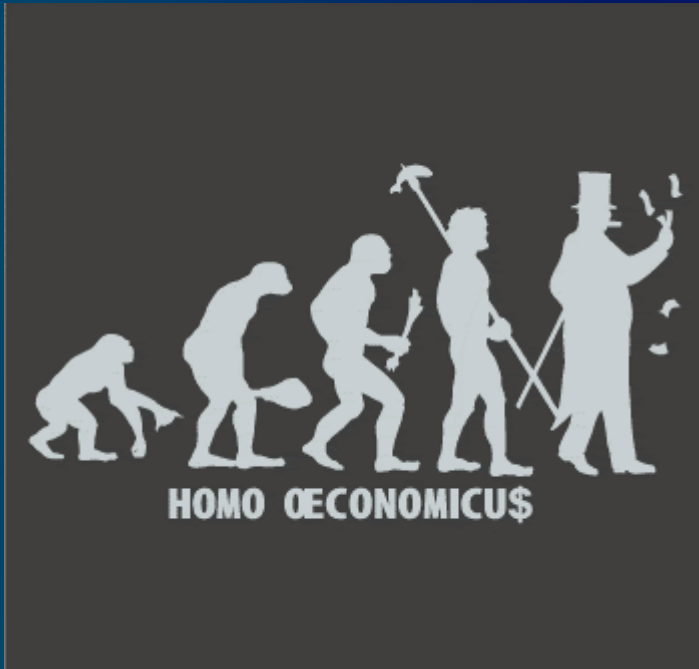
The individual's ability to be autonomous depends on internal and external factors.

INTERNAL FACTORS

- Competence
- Decision-Making Capacity

EXTERNAL FACTORS

- Relationship (Ex: Consumer – Saller, Doctor – Patient etc.)
- Effect of Family and Social Bubble
- Legal Boundaries



IS AUTONOMY A FAIRYTAILE?

Are we homo economicus?

New understandings?



FREEDOM TO

AUTONOMY IN CONTRACT LAW

FREEDOM OF CONTRACT / PARTY AUTONOMY

CONTRACT OR NOT

CHOOSE THE OTHER
PARTY

DETERMINE TYPE
AND CONTENT OF
THE CONTRACT

DETERMINE FORM
OF THE CONTRACT

MODIFY AND
TERMINATE THE
CONTRACT

CONTRACTUAL AUTONOMY

BARGAINING
POWER

the freedom to bargain
contract terms.

BARGAINING
POWER

the freedom to select among
several contract types.
bargaining power not to
choose the contract types.



CONSUMER LAW DOCTRINE

THE DOCTRINE OF INEQUALITY OF BARGAINING POWER

Standart contract terms.

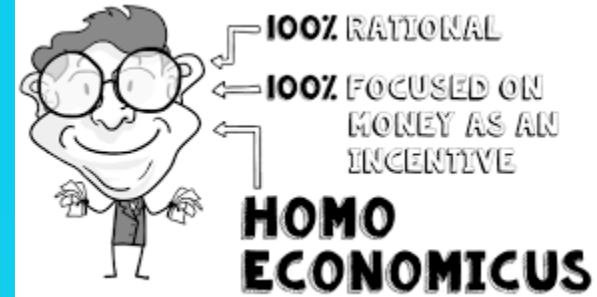
Professionals vs. view of advertised information.

THE PROBLEM OF THE INFORMATION ASYMMETRY

Educated workers, professionals vs. advertised information vs miserable consumer

THE IDEA OF PROTECTING CONSUMER

Consumer is the weak party. Consumer law is rooted in the idea of protecting consumer.



AUTONOMY IN CONSUMER LAW

INFORMATION ASYMMETRY

The consumer contracts have two parties: the party of contract the companies has lots of information, while not only being part of the market but also has a professional workers. The other party of the contract the consumer has no weapon except the information which is gaining amateurly or giving by the companies.

BARGAINING POWER

Consumer law is rooted in the doctrine of inequality of bargaining power. The traditional consumer protection idea depends on restricting the huge companies' monopoly power and the potential negative effects on consumer's autonomy via advertising.

AUTONOMY

Autonomy requires freely and independently make-decision process. A consumer whose autonomy is protected is the one who does not have information asymmetry problems and has bargaining power.

SOLUTION SUGGESTION

Thal's solution suggestion is that the bargaining procedure should be focused on and the different types of bargaining weaknesses that require an examination of the adequacy of the assessment should be clearly identified .

CONSUMER LAW

Consumer law protect the consumer's autonomy via mandatory disclosure of information, granting of cooling-off periods, substantive quality regulation : standard-form contracts, mandatory legal warranties, legal paternalism.



THE BIG DATA AND AI TECHNOLOGY





BIG DATA AND AI AFFECT

BIG DATA

Big data is a combination of structured, semistructured and unstructured data collected by organizations that can be mined for information and used in machine learning projects, predictive modeling and other advanced analytics applications.

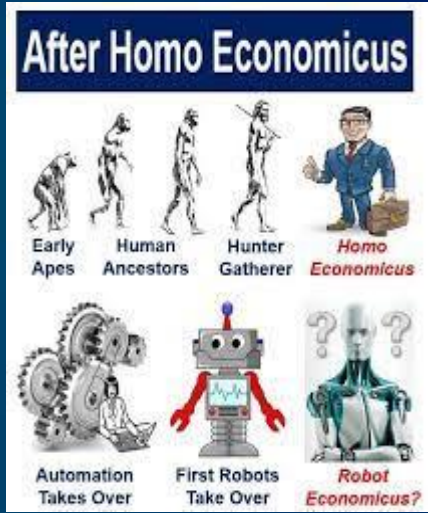
Big data, especially by examining the customer behaviour of companies, makes important contributions to making the right decisions and developing strategies. After the data at hand is made the simplest and most workable, the relations between these data are examined by using the comparison method, and the connections between them are revealed. In this way, it is possible to predict the consequences of the decisions to be taken. With the simulations created by changing the places of various points in the data, the reactions to different decisions can be seen.

AI AFFECT

AI comment the all data.

AI technologies are using to discover patterns and correlations hidden in massive collections of data.

For using Big Data Analytics (BDA): commonly refers to large volumes of data that can be generated, processed and increasingly used by digital tools and information systems for making predictive, descriptive and prescriptive analysis. This capability is driven by the increased availability of structured data, the ability to process unstructured data, increased data storage capabilities and advances in computing power.



THE BIG DATA AND AI
MAKE DECISION INSTEAD
OF US...



CONSUMER'S AUTONOMY

Psychological technics for advertising.

External factors- Social bubble – Influence marketing.

Analyzing the details (spending time, clicks and the other information).

The Big Data gives power weapon to companies.

AI helps the analyze all details rapidly.

PSYCHOLOGIC EFFECT

FOLLOWING CLICKS, USING DATA ETC.

Companies can reach the some details about consumers via big data and AI technology. EX: In what time period are consumers more likely to shop? Special days, some emotional affections etc.

PERSONALISING ADVERTISEMENT

showing crowd-themed product promotions during times that often feel lonely.

BREAKING THE AUTONOMY

Social bubble influence consumers to buy something. – It's mostly related to influence marketing. But, not always.



REGULATIONS

(In force)

CONSUMER LAW REGULATIONS

DIRECTIVE 2005/29/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

Influence consumer's behaviour without impairing the consumer's ability to make an informed decision is acceptable.

Protect the consumer's ability to make an informed decision.

Art. 6 : Misleading actions

1. A commercial practice shall be regarded as misleading if it contains false information and is therefore untruthful or in any way, including overall presentation, deceives or is likely to deceive the average consumer, even if the information is factually correct, in relation to one or more of the following elements, and in either case causes or is likely to cause him to take a transactional decision that he would not have taken otherwise:



CONSUMER LAW REGULATIONS

DIRECTIVE 2005/29/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

Art. 7 : Misleading omissions

1.A commercial practice shall be regarded as misleading if, in its factual context, taking account of all its features and circumstances and the limitations of the communication medium, it omits material information that the average consumer needs, according to the context, to take an informed transactional decision and thereby causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise.



CONSUMER LAW REGULATIONS

COMMERCIAL ADVERTISING AND UNFAIR COMMERCIAL PRACTICES
REGULATION (TURKISH)

Art. 29: Misleading actions
Art. 30: Misleading omissions



AI ACT

Art. 5/1: «The following artificial intelligence practices shall be prohibited:

(a) the placing on the market, putting into service or use of an AI system that deploys subliminal techniques beyond a person's consciousness in order to materially distort a person's behaviour in a manner that causes or is likely to cause that person or another person physical or psychological harm;

(b) the placing on the market, putting into service or use of an AI system that exploits any of the vulnerabilities of a specific group of persons due to their age, physical or mental disability, in order to materially distort the behaviour of a person pertaining to that group in a manner that causes or is likely to cause that person or another person physical or psychological harm;

(c) the placing on the market, putting into service or use of AI systems by public authorities or on their behalf for the evaluation or classification of the trustworthiness of natural persons over a certain period of time based on their social behaviour or known or predicted personal or personality characteristics, with the social score leading to either or both of the following:

(i) detrimental or unfavourable treatment of certain natural persons or whole groups thereof in social contexts which are unrelated to the contexts in which the data was originally generated or collected;

(ii) detrimental or unfavourable treatment of certain natural persons or whole groups thereof that is unjustified or disproportionate to their social behaviour or its gravity;»

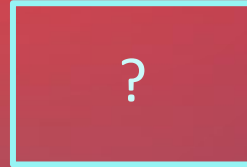
SANCTION?

Art. 71: «The following infringements shall be subject to administrative fines of up to 30 000 000 EUR or, if the offender is company, up to 6 % of its total worldwide annual turnover for the preceding financial year, whichever is higher:

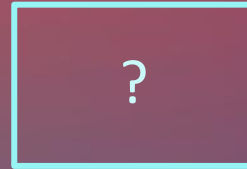
(a) non-compliance with the prohibition of the artificial intelligence practices referred to in Article 5;»



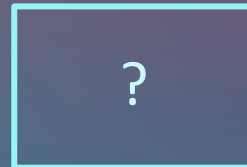
PROTECTING AUTONOMY



Misleading actions



Misleading omissions



AI ACT

BEUC – THE EUROPEAN CONSUMER ORGANISATION

- AI and consumer law – Addressing digital asymmetry
- AI systems are instrumental in creating and perpetuating an ongoing state of asymmetry in the digital consumer-trader relationship. AI leads to further consumer disempowerment.
- The trader has a real-time influence on the environment the consumer finds himself, including its choice architecture. Traders also have access to the consumer's detailed personal profiles, including decision-making biases and pressure points.



BEUC – THE EUROPEAN CONSUMER ORGANISATION

- AI and consumer law – Addressing digital asymmetry
- AI-driven algorithmic personalisation of interfaces and content adds a level of efficiency to user monetisation and conversion rates. This translates into a new position of vulnerability for consumers that is both structural (owing to the structure of digital markets which prevents consumers from interacting with market players on an equal footing) and architectural (due to the way interfaces are designed and operated). This imbalance of power and the embedded vulnerability are referred to in current academic debate as digital asymmetry and must be addressed through a review of the EU consumer law acquis.
- A review must introduce new measures such as a modernisation of the concepts of ‘fairness’ and ‘vulnerability’, the expansion of blacklisted practices to include ‘digital’ practices and the introduction of a reversal of the burden of proof, placing the onus on the trader to prove their compliance with relevant legislation.



CODE VS. LAW

CODE IS LAW

CODE SHAPED LAW

LAW REGULATIONS

LAW'S CODE



THANK YOU

**for Questions and Contrubltions,
please don't hesitate to reach
me.**

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