

Digital vulnerability

- The vulnerable consumer is no longer the exception, neither is the average consumer the rule
- Every consumer has a persuasion profile built around data driven profiling, dark patterns and default settings
- Digital vulnerability a universal state of defenselessness and susceptibility to (the exploitation of) power imbalances
- Result of the increasing automation of commerce, datafied consumer-seller relations and the very architecture of digital marketplaces
- Every consumer is *dispositionally* vulnerable

Empirical evidence

- A growing body of empirical research
- Traditional tools of consumer empowerment (attention – neoliberal language) – transparency and informed choices – are looking good on paper
- but
- in practice do little to truly support users vis-à-vis data-driven marketing practices and powerful algorithms
- Digital turn has created structural power asymmetries

“No human can avoid vulnerability” (Fineman, 2008)

- Art. 5 (3)’s vulnerability concept is not sufficiently informed by the insights from behavioural research, it is unnecessarily stigmatizing, patronising and disconnected from social reality
- *Calo* digital marketing strategies “tend [] to collapse the ethical and legal distinction between the ordinary and vulnerable consumer”
- Martha Finneman - being vulnerable is essentially a consequence of human embodiment, of what it means to be human
- Every human is potentially vulnerable to harm, misfortune or injury - No individual can avoid vulnerability – it is part of the universal human condition
- Digital markets a space where commercial transaction become a matter of communication between man vs machine, making it impossible to correctly assess persuasion strategies
- Sophisticated machine learning techniques can ultimately be used to discover hidden biases, insecurities and even fears and thereby render consumers vulnerable
- Even those that do not fall under the legal categories of vulnerable consumers

Digital vulnerability is..

- Architectural
- Relational
- Data-Driven

Architectural and data driven

- commercial messages can no longer be separated from the technical infrastructure that generates it
- systemic set-up and technology shapes the relationship between consumer and advertiser
- digital vulnerable is the result of architectural choices
- transactions take place in digital choice architectures: which essentially describe the design of the digital market place
- data driven choice architectures collects user data continuously, engaging in A/B testing, optimisation strategies, learning ever more about the consumer, and with that increases the manipulation potential
- the better choice architects know the consumer, the better they are able to optimize their choices, the more profound the change in the relationship between consumer and seller

Relational and data driven

- Relationality the second characteristic of digital vulnerability
- Apps and digital platforms are built for lasting relationships with consumers
- Asymmetry between consumers and sellers is growing
- The longer the relation between a consumer and a digital service or app persists, the more the app or service establishes a position of power as a result of the growing trust of users and the increased knowledge about its users
- The power can be used to identify (or even evoke) and exploit vulnerabilities

Consequences for consumer policy

- Digital market places are characterized by structural power imbalances and choice architectures that are explicitly designed for building lasting relationships with consumers and optimized for the potential to exploit individual differences and biases.
- The universal vulnerability perspective teaches us that attempts of empowering users vis-a-vis digital platforms are futile
- They are futile as long as regulators do not tackle the structural power imbalances and inequalities that allow these players to render consumers vulnerable in the first place