BEHAVIOURAL ADVERTISING IN ELECTRONIC COMMUNICATIONS
A benefit to electronic communication development and an intrusion of individual's right to privacy and data protection.

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Abstract

Online behavioural advertising enables tracking of internet user activity and delivering only relevant advertisements, based on the data collected and analysed over a period of time. Its potential in terms of advertising efficiency and user experience enhancement is vast however users, privacy pressure groups, specialists, and regulatory bodies have expressed many concerns about user privacy and data protection.

Up to date coherent regulation of behavioural advertising is a non-solved issue. The main issue to start with is user consent to collection of his/her data for the purpose of behavioural advertising. The regulators and the industry are still negotiating ways to obtain consent, causing legal uncertainty for the companies conducting behavioural advertising and the individuals, concerned about their privacy and data protection. The EU and the US have presented different solutions: US places more emphasis on industry self-regulation, whereas EU insists on guidance in statutory regulation, possibly backed up by self-regulation.

This paper argues that a mix of regulatory approaches (statutory regulation and self-regulation) is necessary for better balancing the potential behavioural targeting has for development of electronic communications with an adequate privacy and data protection. The regulators and the industry need to cooperate in developing privacy friendly solutions that will foster innovation and development of electronic communications market. Crucial concepts for the future regulation are Privacy by Design, Privacy Enhancing Technologies and Privacy Impact Assessments.

Author’s bio

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Jelena Burnik graduated at the Faculty of Social Sciences in Ljubljana (Bachelor in Marketing and Marketing Communications). She finished postgraduate studies at London School of Economics and Political Science (MSc in Communication Regulation and Policy). Since 2008 she has been employed by the Information Commissioner of Slovenia, as a researcher, working primarily in the field of data protection in electronic communications. She is a member of Article 29 Working Party. Her main field of interest are the new media, new emerging technologies and data protection issues they engage.