Background Paper for Panel Sessions
Workshop

"AI Technology – a source of empowerment in consumer protection"

Tags: "consumer protection", "misleading practices", "artificial intelligence", "algorithmic transparency"

Abstract:

Within the last few years, AI has been a growing phenomenon worldwide. It has become more and more prominent in various areas of daily life. We often hear various debates on the implications of AI; we are accustomed to questions such as "is AI putting people out of jobs", "is AI being used in ethical ways", "is AI becoming too advanced"? It is also not uncommon for this progression and use of AI to be met with skepticism and worry. In this workshop we want to focus on its impact on consumer protection agencies and achieve better understanding of the following: 1) the use of AI in the everyday work of consumer agencies to increase their effectiveness and efficiency 2) the use of AI by consumer agencies as a way to better understand the technology used by businesses and the risks to consumers. To narrow down the scope of these discussions, we will focus on the consumer group, and the workshop will be entitled: "AI Policy & Technology – a source of empowerment in consumer protection". The Workshop will embrace Artificial Intelligence (AI) & Emerging Technologies, as the main area of focus.

Main Body:

The ongoing advancement of AI fosters much discussion. The rapidity with which it becomes more and more prominent and self-sufficient causes concern for many. Although it would be folly to dismiss such worries, we want to shine a brighter light on AI usage. Our session seeks to give an example of AI policy and technology in action within the specific area of consumer law enforcement and addressing specific problems (including detection of wrong doing in unfair terms and dark patterns); the session will show how institutions and organizations within consumer protection can make use of AI, data science and IT to protect consumers from a range of online threats. Some of the most prominent threats that consumers face online are linked to data privacy, fair algorithmic treatment, algorithmic transparency, and misleading or aggressive practices and/or advertisement. Moreover, with data hungry AI meeting the data-abundant Internet, new issues and possibilities will continue to emerge with the advancement of technological science. Consumer protection organizations need to plan for new developments and a potentially widened field of intervention and action.

Often, to identify online consumer threats, enforcement organizations may require access to algorithms/data used by a particular software. Some organizations are taking this path and developing software that will help identify and deal with these challenges. Two such tools, will be discussed in this panel: the ARBUZ project and the Dark Pattern Project run by UOKiK. However, other organizations, such as Consumers International use AI in the form of chatbots to reach consumers and give helpful information on their rights and services available to them. Nonetheless, it seems that an effective way to combat these threats would be to fight fire with fire, in this case aggressive algorithms and software with safe algorithms and software in the form of AI. Such a discussion has been ongoing for a while and last year, the organizers of this panel held a session that focused on dark patterns as an online consumer threat. This year, we want to continue the conversation and discuss how AI, data science and IT is being used by consumer agencies to combat online dangers. We aim to run the panel in three parts. The first part will look at the current work (some examples mentioned above) that our panelists are engaged in, demonstrating how AI, data science and other technological use within our

organizations helps us improve consumer protection. The second part will discuss how the fact that we use AI helps us to better understand how other stakeholders, such as businesses, make use of it. It will highlight how this helps us identify trends and how it alerts us to what we need to look out for by providing some 'inside' information. This part will intertwine with the first, as apart from making use of the technology available to us, we need to also understand how businesses make us of it, in their methods of work in order to develop tools that can detect wrongdoing. The last part of the panel will be an open discussion, which will encourage the audience to get more actively involved and share their thoughts, ideas and work. Those discussions will lead us to the conclusion of the panel and help identify how AI can be further employed by consumer protection agencies and how to better understand the risks of AI to consumers.

To achieve a substantive and informative debate, we have secured panelists from different key groups: academic, governmental and international organizations are able to share their work and experiences. With a variety of speakers who are leading experts tackling the topic, the panel will be able to cover a multitude of aspects. Because the workshop will set out to explore the use of artificial intelligence by different institutions as a vehicle to protect consumers it will fall under the subtheme of Artificial Intelligence (AI) & Emerging Technologies.

To ensure focus within this area, we will seek to discuss and possibly answer the following questions:

- How to use AI to increase the efficiency and effectiveness of protecting consumers by enforcement agencies?
- How can consumer policy enforcers better understand use of AI by businesses and their impact on consumer behavior through their own use and work with AI tools?
- How can businesses use AI to do so and what are their responsibilities and risks they pose?
- How to increase the inclusion of AI tools in the work of consumer protection agencies?
- To what extent is human involvement necessary in AI?
- How can we incorporate human involvement so that the efficiency of AI is maximized?
- What risks do consumer agencies need to be alive to? Are there any ethical issues that cause AI to be insufficiently ready for use?

The ambition of this workshop is to foster conversation on artificial intelligence and the benefits that it can bring in protecting consumers online, through the examination of different practitioners' views on its use. It will encompass a practical point of view, by answering questions regarding the necessity of human involvement and incorporation in AI, ethics in AI and how its policy can be improved. Despite the topic being focused on consumer protection, we want to use the opportunity of the presence of a variety of IGF participants, online and offline, to collect new inputs into the debate both during the panel and as a follow-up – hoping to alert the wider Internet community on the opportunities and risks as well as the necessity of protecting consumers from AI online.

To introduce the topic, it is important to note work that is currently in the works or has already been done, to set a foundation for upcoming discussion. Examples of such work are as follow:

- OECD Roundtable on Dark Commercial Patterns Online: https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DSTI/CP(2020)23/FINAL&docLanguage=En

- Digital platform services inquiry: https://www.accc.gov.au/system/files/DPB%20-%20DPSI%20-%20September%202021%20-%20Full%20Report%20-%2030%20September%202021%20%283%29_1.pdf
- OECD AI Policy Observatory: https://oecd.ai/en/

- Consumer law and the Internet: http://centaur.reading.ac.uk/109665

- Towards fairness in digital influencers: http://centaur.reading.ac.uk/102564

- Trust in Technology: AI, Freedoms and Harms: https://www.institute.global/insights/tech-and-digitalisation/tbi-globalism-study-tech-technology

- Regulating AI to protect the consumer: https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-088_regulating_ai_to_protect_the_consumer.pdf

- For a Technological Approach to Consumer Law Enforcement and Policy
- Making in the Digital Age: https://unctad.org/system/files/non-official-document/ccpb_IGECON2022_present_financial_keynote_riefa_digital_en_0.pdf

- Cross-border enforcement of consumer law: Looking to the future: https://unctad.org/system/files/information-document/ccpb_WG_e-commerce_cross-Border_Riefa_en.pdf

- OECD.AI Policy Observatory

The OECD.AI Policy Observatory enhances dialog and allows for multidisciplinary, evidence-based policy analysis and data on AI's areas of impact. "It is a unique source of real-time information, analysis and dialogue designed to shape and share AI policies across the globe." Its country dashboards allow the viewer to browse and compare hundreds of AI policy initiatives in over 60 countries and territories. The Observatory also hosts the AI Wonk blog, an area where the OECD Network of Experts on AI and guest contributors share their experiences and research.

- OECD.AI Network of Experts

This network supplies AI-specific policy advice for the OECD's work on AI policy and assists the OECD Policy Observatory on AI. The network provides the OECD with a practical perspective on AI and is a forum where the OECD can share information with other international initiatives and organizations. The network highlights issues about trustworthy AI and other policy initiatives with the OECD, especially in the international context. The network is a place for the international community discuss in-depth the shared AI policy opportunities and challenges.

One of the outputs this network has produced was the OECD Framework for the Classification of AI Systems which aids in classifying systems to help policy makers, regulators, legislators and others to assess the opportunities and risks that different types of AI systems present, to inform their AI strategies and ensure policy consistency across borders.

- EnfTech

EnfTech (which stands for Enforcement Technology) is a project that focuses on a technological approach to consumer enforcement and policy making. The project investigates innovations in enforcement technologies, and supports dialogue and dissemination to increase stakeholder knowledge, skills and strategies. It is funded by the UK Research and Innovation Policy fund at the University of Reading. Several consumer advocates are engaged in this project with the aim of enhancing the enforcement of consumer rights in line with the development of technology. The project seeks to foster fair and safe consumer and digital markets.

The EnfTech project hosted an international event with UNCTAD, introducing the concept and is carrying out further research on the potential use of AI and other advanced technologies for consumer protection enforcement. Some of this work which will form part of the forthcoming book 'AI and Consumers' edited by Larry A. DiMatteo, University of Florida, Cristina Poncbò, University of Torino and Geraint Howells, University of Galway to be published by Cambridge University Press. A report is also to be released shortly.

- ARBUZ

In 2020-2022, UOKiK carried out a EU-funded project aimed at automating the process of analysing standard contracts. The system that was created as a result of the initiative is based on artificial intelligence and uses databases created over the years of the Office's work. The program called ARBUZ was created by an external contractor selected in an open competition. Employees dealing with the detection of prohibited clauses can log in to ARBUZ and use it as an aid in their daily work. It is equipped with a crawler that allows you to search selected Internet domain in search of standard contracts. Already at this stage, it uses artificial intelligence to assess whether the found document qualifies for this category. The program can also be fed with contracts received along with consumer complaints or obtained from other sources, for example, submitted by the investigated company at the request of UOKiK. ARBUZ is equipped with an OCR system, which allows you to work not only on editable documents, but also on pdfs, graphic files and scans in various formats. In order for the system to work, it was necessary to clean and supplement the databases held by the Office. First and foremost, it was a register of court judgments officially recognizing clauses as violating consumer interests, consisting of several thousand entries. Each judgement listed in the register was annotated by UOKiK's officers on a separate form, which also included the industry in which it was used, keywords, and - if possible - the most important passage from the judgment justifying why the clause was deemed unfair. ARBUZ does not just make a simple comparison of the provisions of contracts with database entries, but uses intelligent algorithms to recognize the meaning of complex sentences written in legal language. At the end of the process, however, it is a human case handler who decides how to deal with the results of the ARBUZ's work. He or she may recommend bringing charges against the entrepreneur or sending a letter requesting a change in the standard contract.

- Dark Patterns Tool

UOKiK has taken up an EU-funded project to develop a methodology for conducting proceedings on dark patterns and explore AI deployment opportunities for consumer protection authorities through the delivery of a Proof of Concept of an AI-powered tool for detecting dark patterns as well as the research on the latest AI and machine learning trends. The 3-year project implementation (May 2023-April 2026) will begin with open source intelligence activities, including Internet sweep. Websites of online stores and other online service providers will be screened and specific online market sectors with the highest dark patterns occurrence will be selected for further analysis. Explanatory proceeding will be initiated on the basis of the findings of an open source intelligence. In the course of administrative proceedings, UOKiK plans to organize an IT analysis of websites, delivered by external experts, and conduct a consumer survey about online purchase experience and the influence of certain dark patterns. As part of the explanatory proceedings, neuromarketing tests will also be carried out to examine neurobiological human reactions while being exposed to dark patterns. In the next stage, the results of IT website analysis, consumer survey, and neuromarketing tests will be used as input data in the Proof of Concept process of a dark patterns AI-detector. The project team will also prepare the main assumptions of the AI tool and an open idea competition will be organized. The contest formula stimulates innovation and allows for the selection of the best contractor on the basis of their real competences rather than experience or market position. The results of the project will be presented in the form of guidelines for conducting proceedings on dark patterns and a white paper on practical, legal, and ethical aspects of using AI by a public body enforcing consumer law.

Last but not least, many other consumer agencies worldwide are employing AI tools and learning how to increase their effectiveness and efficiency in consumer protection. They are also taking stock of how it can help them understand AI technologies deployed by businesses and more acutely understand their risks to consumers. We will inquire into the experience of other advanced agencies in this matter to further explore this issue.