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Ban on surveillance-based ads? Important vote in the European Parliament next week

“We don’t have to manipulate our customers or exploit their vulnerabilities to scale up” – European entrepreneurs and social organizations appeal to the MEPs to put an end to invasive and privacy-hostile practices related to surveillance-based advertising and thus open the market to ethical and innovative online ads, which respect users’ rights and their choices. On the opposite bench – the Big Tech lobby fights for the status quo to remain – despite the well-documented social and individual harms caused by the current ads ecosystem.

A number of entrepreneurs have spoken against surveillance-based ads. They do not like to be tracked themselves, and do not wish to expose their customers to it. They would be happy to use alternative forms of online advertising – if only it was more accessible. Their joint statement was presented to the MEPs who are about to take an important decision for the future of online advertising in the coming days – and vote on Digital Services Act – the law currently proceeded in the EU. The statement was signed by DuckDuckGo, Piwik PRO, Kobler, StartPage, Tutanota – and others.

“We propose banning surveillance-based ads, including in particular the most intrusive forms of behavioural advertising, using the data that was inferred about the users in the process of profiling – based on the observation and analysis of their online activity” – says Dorota Głowacka, lawyer at Panoptykon Foundation, one of the signatories for the CSO sector. “This data is usually collected or generated without users’ awareness and control while it may lead to revealing and exploiting their vulnerabilities and sensitive attributes”.

However the big tech lobby has been pushing the narrative that targeted ads are essential to small and medium enterprises (SMEs) and therefore banning or limiting them will adversely affect EU businesses. Unfortunately many important figures of the EU politics have been echoing those slogans. For example, Margrethe Vestager, Executive Vice-President of the European Commission, stated that the ban on tracking ads could “make life difficult” for the SMEs. Former Vice-President of the EC Věra Jourová expressed her worry that such ban could “destroy the existing online advertising system”.

“But in fact the ban on surveillance-based advertising will affect mainly a few dominant actors, namely US-based large online platforms, that specialise in behavioural tracking and allow themselves to integrate data from across websites, often in violation of EU data protection rules” – says Głowacka. At the same time small and medium-sized businesses do not need to rely on such intrusive advertising practices as targeted digital ads can be delivered both effectively and with respect for users’ choice and privacy. Moreover, the ban on surveillance-based ads will likely stimulate innovation and open the market for new initiatives, including European start-ups, making ethical forms of online advertising more accessible.

Benefits of surveillance-based advertising are often overstated. There is evidence that contextual ads – profiled versus the content rather than the user – are equally – or more – efficient. It is also more profitable to publishers. In 2016 the Guardian found that in some cases only 30 p out of every 1 £ spent on online ads reached the pocket of the publisher. Other research showed that between 35% and 70% of the money spent by the advertisers goes to the intermediaries. According to the report by the Irish Council for Civil Liberties (ICCL) publishers from the Netherlands and Norway noted between 1.5 to 4 times higher income from the contextual ads than from surveillance-based ads.

Clearly, surveillance-based ads are not the only option. “It also is not necessarily the cheapest one – especially if you consider that advertisers pay for the ads shown to... bots” – says Głowacka. “Facebook removed 5.6 billion fake accounts in the last 12 months – almost twice Facebook’s monthly active users (2.9 billion)” – claims ICCL in its report. There is also a long list of individual and societal harms caused by tracking ads: from exploiting users’ vulnerabilities to make profit (confirmed in academic research as well as in the experiment carried out by Panoptykon Foundation, and documents published by ex-Facebook analyst Frances Haugen) to negative influence on democracy.

The European Parliament will vote on its report on Digital Services Act on the session planned for January 17-20, 2022.

SOURCES:

- [Joint statement on surveillance-based advertising \[PDF\]](#)
- Panoptykon & Global Witness: [Would a Ban on Tracking Ads Really Damage Small Businesses in Europe?](#)
- ICCL: [The economics of online publishing](#)
- Panoptykon: [Algorithms of trauma: new case study shows that Facebook doesn’t give users real control over disturbing surveillance ads](#)

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