A Children’s Rights Perspective on Self-Regulation of New Advertising Formats

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Context - New advertising formats
Societal impact
Children’s digital rights
Mapping of the existing regulatory framework
Conclusions of the mapping exercise
Recommendations
Context - New advertising formats

Children are an important target group for advertisers

- Primary market
- Parental market
- Future market
Context - New advertising formats

- Distributed through a variety of emerging platforms
- Highly sophisticated, interactive
- Advertising content integrated in the non-promotional content
- Collecting minors personal data, personalised
Societal impact

Children often do not recognise or understand the persuasive intent of new forms of commercial communication

- Difficulties applying their advertising literacy skills
- Manipulative effect
- Increased parent-child conflicts
Children’s (digital) rights

- Participation
- Children as rightsholders
- Protection
- Provision

(CONVENTION ON THE RIGHTS OF THE CHILD / THE EU CHARTER OF FUNDAMENTAL RIGHTS / European Convention on Human Rights)
Children’s (digital) rights

- Best interest principle

- Rights that enable children to reach their fullest potential, *inter alia*:
  - Protection against economic exploitation
  - Freedom of thought
  - Access to information
  - School and educational goals
  - Right to participation in leisure and play
  - ...

The regulatory framework on commercial communication aimed at children needs to be evaluated in light of children’s rights and principles!!
Mapping of the existing regulatory framework

Legislation at the international, European and national/regional level

Self- and co-regulation at the international, European and national level

Commercial communication aimed at children
Conclusions of the mapping exercise

Important rules and obligations for advertisers

→ *e.g. Identification principle, content rules, data protection rules, etc.*

Different rules for different formats

1. All advertising formats
2. Traditional formats (television and on-demand)
3. New formats (advergames, banners, social media, apps etc).
4. Personalised advertising (online behavioural ads)

Complaints: national level, different complaint mechanisms
Conclusions of the mapping exercise

Conclusions:

1. An extensive regulatory framework, however this does not automatically mean that children are empowered or protected!!
   - Rules are often abstract and vague ("identifiable")
   - No universal definitions

2. Up until now, little case law dealing with new advertising formats and minors
   - Uncertain cause
   - Result: less practical guidelines for advertisers
First recommendations

Raise awareness among consumers on:

- Complaint procedures
- Their rights, when is there an infringement?

Development of practical legal guides for different stakeholders:
- parents,
- children,
- advertisers
First recommendations

- Enhanced coordination between regulatory bodies
  - Self-regulatory bodies
  - Media regulators
  - Data protection authorities

- More concrete guidance and collaborative recommendations for advertisers.
- Clarification of the scope and application of the existing regulatory instruments to new advertising formats.
First recommendations

More empirical research is needed on the effect of advertising cues on minors, before any recommendations on the potential embedding of cues in the legislative or self-regulatory framework.

- Empirical research on the effect/technique/form
- Research on the potential implementation in the regulatory framework
Thank You!

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