

"Towards the Emergence of Neuro-ethical Law as a Counterpoint to Digital Technology Law? Reflections on Consumer Law

Page 1

Collective research under the scientific direction of
Sabine Bernheim-Desvaux, *Professor at the University of Angers*
and

Juliette Sénéchal, *Professor at the University of Lille*

NEUROTECH^{EU}

Under the aegis of the European network of legal experts *Trans Europe Experts* and in partnership with the Centre Jean Bodin (UAngers), the Centre de recherche Droit et perspectives du droit, éq. Demogue (ULille) and the DReDIS (Institut de recherche juridique de la Sorbonne)

Numerous recent French and European texts that are currently being drafted or have already come into force and/or been applied are revealing, in the context of the regulation of economic activities in the digital age, a common melody consisting of renewed consideration of the risk of manipulation of the user of digital services and intelligence systems. This risk of manipulation arises from algorithms or human/machine interfaces, either intentionally designed to induce behaviour below the user's threshold of awareness, or unintentionally inducing it.

This common melody, set up as a counterpoint to the rights revisited by digital technology, is reflected in an accumulation of new prohibitions or new obligations of diligence incumbent on digital operators with the aim of protecting users against these new risks of manipulation. In this respect, consumer law appears to be a particularly relevant observatory, since the number of rules aimed at controlling the influence and manipulation of the consumer, a natural person, is multiplying. Examples include, but are not limited to, the prohibition of certain categories of targeted advertising and the development of misleading interfaces or *dark patterns* in the Digital Services Regulation (DSA), the prohibition of unfair data processing techniques in the European Data Protection Regulation (RGPD), and the renewal of unfair commercial practices under the influence of digital technology, the emerging national regulation of influencers operating on online platforms, the prohibition of certain subliminal and manipulative practices by artificial intelligence systems or the regulation of deep fakes in the future regulation on artificial intelligence, not forgetting the obligation to prevent risks to mental health in the regulation on digital services.

On the basis of this observation, the aim of the research is to **draw up a summary, and then carry out a prospective analysis, of the techniques used to influence and manipulate consumers**. It will be divided into three stages.

First stage of reflection

Understanding the neuro-psycho-social mechanisms of consumer influence and manipulation

Page 2

First workshop: Neuroscience and neuropsychology approach - Thursday 21 September 2023 4pm-7pm – Institut de droit comparé (IDC) – 28 rue Saint Guillaume Paris (75007)

Registration for onsite attendance: <https://framadata.org/OccYhp3uwch86leg>

Registration for online webinar attendance:

https://univ-lille-fr.zoom.us/webinar/register/WN_v-xciehCRby3VnJMUSkaGA

Warning: check your spam folder for registration confirmation messages.

- **Grégoire BORST**, Professor of Developmental Psychology and Educational Cognitive Neuroscience at the University of Paris, Director of LaPsyDe (CNRS)
- **Dominique BOULLIER**, University Professor of Sociology, Sciences Po Paris
- **Philippe MENEI**, University Professor of Neurosurgery, Head of Department, Department of Neurosurgery, Angers University Hospital
- **Bernard SABLONNIERE**, University Professor of Biochemistry and Molecular Biology at the University of Lille **NEUROTECH^{EU}**

Second workshop: Computer translation of influence practices and digitalisation of the consumer market - Thursday 9 November 2023 3.30pm-7pm - Institut de recherche juridique de la Sorbonne (IRJS) – 4 rue Valette Paris (75005)

Registration for onsite attendance: <https://framadata.org/hsJjPUBRRzy1M5qI>

Registration for online webinar attendance:

https://univ-lille-fr.zoom.us/webinar/register/WN_PC9wrkf3QEm1jwbX_hT8hw

Warning: check your spam folder for registration confirmation messages.

- **Nataliia BIELOVA**, Researcher at the French National Institute for Research in Computer Science and Control (INRIA), Grenoble Alpes University
- **Claude CASTELLUCCIA**, Director of Research at the French National Institute for Research in Computer Science and Control (INRIA Grenoble), member of the French Data Protection Authority (CNIL)
- **Oana GOGA**, CNRS Research Fellow in the INRIA CEDAR team at the Ecole Polytechnique Computer Science Laboratory .../...
- **Ludovic HOYET**, Research Fellow at the French National Institute for Research in Computer Science and Control (INRIA Rennes), qualified to direct research.
- **Hakim SI-MOHAMMED**, Senior Lecturer in Computer Engineering, Automation and Signal Processing, University of Lille **NEUROTECH^{EU}**

Third workshop: Impact on consumer behaviour - Thursday 7 December 2023 16:00-19:00 - Institut de droit comparé (IDC) – 28 rue Saint Guillaume Paris (75007)

Registration for onsite attendance: <https://framadate.org/4tNNODodL9UnkzJs>

Registration for online webinar attendance:

https://univ-lille-fr.zoom.us/webinar/register/WN_hn4Tla9mQgS6Wwn98MeeRw

Page 3

Warning: check your spam folder for registration confirmation messages.

- **Caroline CUNY**, Professor of Marketing, Grenoble École de Management
- **Marie DANET**, Senior Lecturer in Psychology at the University of Lille **NEUROTECH EU**
- **Luc GRYNBAUM**, Professor at the University Paris Cité, Chief of Department Law Economics and management at the University Sorbonne Abu Dhabi
- **Béatrice ROUSSILLON**, Senior Lecturer in Economics at the University of Grenoble Alpes

Second stage of reflection

Mapping the regulation of consumer influence and manipulation

Fourth workshop: A look at various regulated processes - Thursday 18 January 2024 4pm-7pm – Institut de droit compare (IDC) – 28 rue Saint Guillaume Paris (75007)

Registration for onsite attendance: <https://framadate.org/yf1gMG2pA8LfzXTD>

Registration for online webinar attendance:

https://univ-lille-fr.zoom.us/webinar/register/WN_JbJKeIHkRLa_Cfm1x3Ph-A

Warning: check your spam folder for registration confirmation messages.

- **Linda ARCELIN**, Professor of Private Law and Criminal Sciences at the University of La Rochelle
- **Marylou LEROY**, Doctor of Law in private law and criminal sciences, postdoctoral researcher at the University of Paris I Panthéon-Sorbonne
- **Grégoire LOISEAU**, Professor of Private Law and Criminal Sciences at the University of Paris I - Panthéon Sorbonne
- **Marc LOLIVIER**, General Delegate of the French E-Commerce and Distance Selling Federation (FEVAD)
- **Marie-Amandine STEVENIN**, President of UFC Que choisir

Fifth workshop: Crossed perspectives on *dark patterns* - Thursday 29 February 2024 3pm-7pm - Institut de droit comparé (IDC) – 28 rue Saint Guillaume Paris (75007)

Registration for onsite attendance : <https://framadate.org/mukklJzmYschMI4F>

Registration for online webinar attendance :

https://univ-lille-fr.zoom.us/webinar/register/WN_VUi4AlmkTUSkL3fd-FgJhg

Warning: check your spam folder for registration confirmation messages.

- **Carole AUBERT DE VINCELLES**, Professor of Private Law and Criminal Sciences at CY Cergy Paris Université, Director of the *Consumer Law Chair*, Co-founder of *Trans Europe Expert*
- **Christine BARATELLI**, Deputy Director - Legal, CSR and Corporate Governance Department MEDEF
- **Alexandre BIARD**, Senior Lawyer at the European Consumers' Organisation (BEUC)
- **Marianne LEFORT**, Assistant to the Head of the Consumer Law Office at the Directorate-General for Competition, Consumer Affairs and Fraud Control (DGCCRF)
- **Benoît LOUTREL**, Member of the Arcom College and Chairman of the "Supervision of online platforms" working group
- **Nathalie MARTIAL-BRAZ**, Professor of Private Law and Criminal Sciences at Université Paris-Cité, on secondment to Sorbonne University Abu Dhabi
- **Célia ZOLYNSKI**, Professor of Private Law and Criminal Sciences at the University of Paris I Panthéon-Sorbonne, Member of the National Digital Ethics Committee (CNPEN)

Page 4

Sixth workshop: A look at various processes currently being regulated - Thursday 4 April 2024 16:00-19:00 - Institut de droit comparé (IDC) – 28 rue Saint Guillaume Paris (75007)

Registration for onsite attendance : <https://framadata.org/BITNagRMVVgkGTRS>

Registration for online webinar attendance :

https://univ-lille-fr.zoom.us/webinar/register/WN_EN4UIU7tTJyOc2rqMMbh1g

Warning: check your spam folder for registration confirmation messages.

- **Alexandra BENSAMOUN**, Professor of Private Law and Criminal Sciences at Université Paris Saclay
- **Patricia FOUCHER**, Head of the Legal, Economic and Documentation Department of the French National Consumer Institute (INC)
- **Magali JALADE**, Director of Public and Legal Affairs at the French Advertising Standards Authority (ARPP)
- **Marie MALAURIE**, Professor of Private Law and Criminal Sciences at the University of Paris-Saclay Versailles - Saint Quentin en Yvelines
- **Félicien VALLET**, Head of Artificial Intelligence, CNIL

Third stage of reflection

A forward-looking approach and reflection on the desirability of enshrining neuro-ethical law

Page 5

Seventh workshop: Classic legal tools for regulating new processes and ensuring their effectiveness - Thursday 23 May 2024 10 a.m. to 6 p.m. - Institute of Comparative Law (IDC) – 28 rue Saint Guillaume Paris (75007)

Registration for onsite attendance (morning and/or afternoon) :
<https://framadata.org/GgYSW337GQxY7A38>

Warning: check your spam folder for registration confirmation messages.

Theme 1: The challenges of effectiveness: 10am - 1pm

Registration for online webinar attendance :
https://univ-lille-fr.zoom.us/webinar/register/WN_Gw79CO75S6ypj54sklpr-w

Warning: check your spam folder for registration confirmation messages.

- **Rafael AMARO**, Professor of Private Law at the University of Caen Normandy
- **Martine BEHAR-TOUCHAIS**, Professor of Private Law and Criminal Sciences at the University of Paris I Panthéon-Sorbonne
- **Nataliia BIELOVA**, Researcher at the National Institute for Research in Computer Science and Control (INRIA), Grenoble Alpes University and **Cristiana TEIXEIRA SANTOS**, Assistant Professor, Utrecht University
- **Marion HO-DAC**, Professor of Private Law and Criminal Sciences at the University of Artois and **Cécile PELLEGRINI**, Senior Lecturer in Private Law and Criminal Sciences at the Catholic University of Lyon (UCLy)

Theme 2: Substantive rules: 3pm - 6pm

Registration for online webinar attendance :
https://univ-lille-fr.zoom.us/webinar/register/WN_8m_NDuWfQc-gd3G84QUjBw

Warning: check your spam folder for registration confirmation messages.

- **Adrien BASDEVANT**, Partner, Basdevant Avocats
- **Xavier DELPECH**, Associate Professor at the Université Jean Moulin Lyon 3, Editor-in-Chief of the Revue trimestrielle de droit commercial .../...
- **Zoé JACQUEMIN**, Professor of Private Law and Criminal Sciences at the University of Toulouse Capitole, President of *Trans Europe Expert*

- **Yannick MENECEUR**, Magistrate on leave, Head of the Central Division (Directorate General of Human Rights and the Rule of Law) at the Council of Europe, Associate Lecturer at the University of Strasbourg

Eighth workshop: Should a neuroethics law be established? - Thursday 20 June 2024 4 pm to 7 pm – Institut de droit comparé (IDC) – 28 rue Saint Guillaume Paris (75007)

Registration for onsite attendance : <https://framadata.org/1QzNCyLUAYbCL1C3>

Registration for online webinar attendance:

https://univ-lille-fr.zoom.us/webinar/register/WN_OaraMEq-RKKxs5HQxIBoBw

Warning: check your spam folder for registration confirmation messages.

- **Lucien CASTEX**, AFNIC Public Affairs Representative, researcher at the University of Paris Sorbonne nouvelle, member of the National Consultative Commission on Human Rights (CNCDH)
- **Sonia DESMOULINS-CANSELIER**, Doctor of Private Law, CNRS Research Fellow, University of Nantes
- **Claude KIRCHNER**, Emeritus Director of Research at INRIA, Director of the National Digital Ethics Steering Committee
- **Judith ROCHFELD**, Professor of Private Law and Criminal Sciences at the University of Paris I Panthéon-Sorbonne
- **Elsa SUPIOT**, Professor of Private Law and Criminal Sciences at the University of Angers
- **Laure THOMASSET**, Senior Lecturer in Private Law at the Institut Catholique de Paris