



FROM PERSUASION TO MANIPULATION: A CONSTITUTIONAL ANALYSIS OF BEHAVIOURALLY TARGETED ADVERTISING ON SOCIAL MEDIA PLATFORMS IN INDIA

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ABSTRACT

Digital advertising has undergone a radical shift, with behaviourally targeted advertising being a key driver of this transformation, as the number of social media platforms and data driven technologies has grown so rapidly. The tracking capabilities allow advertisers to gather and study their users' online behavior, preferences, and interactions, which can then be used to send them highly targeted content that is able to impact consumer behavior. Such practices increase the effectiveness of advertising and the involvement of the consumer, but at the same time raise serious issues of privacy, autonomy, informed consent and freedom of expression. This study discusses the operation of behaviourally-targeted advertising on social media and the effect on user decision making and autonomy. It also examines the constitutional implications of such practices in India with regard to the right to privacy, autonomy of information, freedom of expression and right to dignity. The study also assesses the current state of laws and regulations in dealing with issues like algorithmic profiling, behavioural manipulation and data exploitation. This trend has left a space for fundamental rights to be compromised by the sophistication of targeted advertising, the findings show. In conclusion, the study argues that robust constitutional protections, transparency, meaningful consent processes and regulatory oversight are all required to ensure that digital advertising in line with the constitutional values and fosters innovation in the digital economy.

Keywords: Behaviourally Targeted Advertising, Social Media Platforms, Privacy, Informed Consent, Constitutional Rights, User Autonomy, Digital Advertising, Algorithmic Profiling.

1. INTRODUCTION

Digital technology and social media have had a huge impact on the advertising business¹. Unlike conventional advertising, where ads are displayed across newspapers, TV and radio, digital advertising is based on user data and

¹ BR, G. K., & Hanspal, M. S. (2025). A Critical Analysis of Advertisement Regulation in India: Does Advertisement Regulation Do Enough for the Citizen.

algorithmic systems that enable the personalization of content. One aspect of this shift is the rise of behaviourally targeted advertising, which relies on an analysis of user behaviour online, their preferences and interactions to understand what they are likely to want to see, and be able to promote accordingly. Social media can leverage AI and data analytics to anticipate consumer interests and provide targeted and effective ads.

Personalized advertising is a powerful tool that can help marketers engage consumers more effectively and maximize marketing effectiveness, but it also poses key questions about user autonomy and user decision-making². The use of personal data, which is gathered and processed without users being fully aware of the purposes for which it is used, is the foundation of behaviourally targeted advertising. Nowadays, advertisers are able to manipulate and promote content on a personal level, making the line between persuasion and manipulation difficult to draw. So, the question is, how much control over choices do people have in digitally curated spaces?

The growing importance of behaviourally targeted advertising in India has raised constitutional concerns, as the digital landscape and e-commerce continue to expand³. Personal information used for marketing purposes has privacy, freedom of expression, informed consent and autonomy issues. Meanwhile, under existing legal and regulatory frameworks, there are gaps in explaining how algorithms are used and work, in accountability, and in understanding how algorithms can manipulate behavior. In light of this, this study discusses how BT ads work, its constitutional implications, and the need for increased legal and constitutional protections in the digital world.

The study attempts to explore the operation of behaviourally targeted advertising on social media and its influence on the user's decision-making process and autonomy, examine the constitutional implications of advertising in terms of privacy, freedom of expression, informed consent and individual autonomy in India, and assess the impact of the existing legal provisions and recommend constitutional protection in relation to manipulative advertising practices.

2. LITERATURE REVIEW

Galli (2020) explored the connection between behavioural advertising through the internet and the practice of unscrupulous business manipulation within the context of data and consumer protection law. It explored how websites gathered information about consumers in order to deliver tailored advertisements. The research found that

² Galli, F. (2020). Online behavioural advertising and unfair manipulation between the GDPR and the UCPD. In *Algorithmic governance and governance of algorithms: legal and ethical challenges* (pp. 109-135). Cham: Springer International Publishing.

³ Gulia, K., & Kumar, P. (2025). Social Media As A Weapon of Unethical Political Marketing: Examining The Impact of Misinformation And Emotional Manipulation on Voter Behaviour. *Interdisciplinary Journal of Information, Knowledge, and Management (IJKM)*, 20(2), 814-826.

while some of this behaviour was simply persuasion, other instances may be considered manipulation, especially in light of issues surrounding user autonomy, transparency, and informed consent⁴.

Sartor et al. (2021) examined the issue of regulating targeted and behavioral advertising within digital services in regard to the issue of consent and user rights. The research highlighted the difficulties in ensuring that consent was adequately given by users, especially in light of the complexity of privacy policies which users tended to accept despite not comprehending the terms. It was found that the existing methods of ensuring user consent were insufficient.

Rubin (2022) discussed the issues related to the manipulation of marketing, advertising, propaganda, and public relations. It was stated that manipulation is present in these areas due to the application of certain methods, which affect the decision-making process of people. Moreover, the development of digital advertising technologies led to an increased role of psychological profile usage and prediction of behavioral patterns⁵. Thus, the line between persuasion and manipulation became less clear.

Kaushik et al. (2025) addressed privacy perceptions and behavioral aspects towards targeted advertising among social media users using a cross-national comparative approach. It was observed that users had serious worries about data mining, surveillance, and personal information usage in online advertisements. In this study, the role of culture and society in shaping privacy perceptions was identified; nevertheless, issues related to transparency, protection of privacy, and information control still appeared to be prevalent among users in many situations.

3. BEHAVIOURALLY TARGETED ADVERTISING AND USER AUTONOMY

The emergence of social networking sites has changed advertising from a general mass communication strategy into an increasingly personalized one. Behavior-based advertisement takes advantage of data mining, prediction algorithms, and other forms of data analytics to present personalized advertisements according to user behavior and interests. Although such a strategy increases the efficacy of advertisement, it also presents ethical issues in relation to autonomy and decision-making. Understanding how such a practice works is key to comprehending its legal and constitutional considerations.

⁴ Kaushik, S., Sharma, T., Yu, Y., Ali, A., Knijnenburg, B. P., Wang, Y., & Zou, Y. (2025). Privacy perceptions and behaviors towards targeted advertising on social media: A cross-country study on the effect of culture and religion. *Proceedings on Privacy Enhancing Technologies*.

⁵ Kudur, A. J. (2025). Children, Digital Identity, and Manipulative Design: Tort Law Responses to Data Exploitation and Behavioural Profiling in Algorithmic Advertising Ecosystems. *Digital Identity, and Manipulative Design: Tort Law Responses to Data Exploitation and Behavioural Profiling in Algorithmic Advertising Ecosystems* (October 10, 2025).

3.1 Concept and Mechanisms of Behavioural Targeting

Behavioural advertising is an advertising technique that shows individuals personalized ads, based on their internet behavior. Social media sites track information using cookies, device tracking, browsing history, location, searches, and interactions. The data is analyzed through sophisticated algorithms to build robust consumer profiles, which enable advertisers to understand preferences and anticipate future behaviors⁶.

The main purpose of behavioral targeting is to make ads more relevant to the individual for a particular person. In comparison, traditional advertising is a one-size-fits-all approach, and targeted advertising provides the opportunity to engage a segment of the audience with relevant messages. This personalized approach boosts engagement rates and enhances the efficiency of marketing efforts⁷.

Behavioural targeting benefits have also been further improved by the use of AI and machine learning. These technologies help advertisers to discover behavioral trends, predict consumer buying habits and fine-tune the delivery of ads in real time. This has led to more predictive advertising tactics, and a better way to shape consumer behavior than ever before.

Table 1: Key Characteristics of Traditional and Behaviourally Targeted Advertising

Parameter	Traditional Advertising	Behaviourally Targeted Advertising
Audience Reach	Broad and generalized	Individualized and personalized
Data Usage	Limited demographic information	Extensive personal and behavioral data
Message Delivery	Uniform for all viewers	Customized for individual users
Timing	Fixed scheduling	Real-time optimization
User Profiling	Minimal	Extensive algorithmic profiling
Consumer Engagement	Relatively passive	Highly interactive
Strategic Focus	Mass promotion	Behavioral influence

⁶ Kumar, J. R., Ghouse, S. M., & Reddy, T. N. (2021). Influence of social media on voter behaviour. *Asian Journal of Management*, 12(4), 367-374.

⁷ McBride, C., Costello, N., Ambwani, S., Wilhite, B., & Austin, S. B. (2019). Digital manipulation of images of models' appearance in advertising: Strategies for action through law and corporate social responsibility incentives to protect public health. *American journal of law & medicine*, 45(1), 7-31.

Source: Compiled by Author.

3.2 Influence on Consumer Decision-Making

Behavioural advertising has a significant impact on consumer decision making, as it is able to present content that is relevant to their interests and preferences. Personalized ads capture attention because they feel more targeted to the individual than that of a generic ad. Frequent exposure to these kinds of content can start to influence perceptions in a gradual way, and increase the association to a product or service⁸.

Social media sites use a range of social engineering cues, such as personalized suggestions, social evidence indicators, urgency cues, and customized promotional offers. The techniques are intended to evoke emotions and prompt immediate actions. This means that users might not be able to evaluate all of the available alternatives but rather make their purchases based on the information that has been algorithmically selected.

Behavioural targeting is more than just a product promotion. Over time, the digital platforms can influence consumer preferences by continually monitoring users and optimizing ad campaigns. Such tactics increase the effectiveness of marketing, but they also stir up questions about the freedom and knowledge consumers have in making decisions.

3.3 From Persuasion to Manipulation

Persuasion has been seen as an acceptable activity in advertising due to the fact that it is designed to change the decision of the consumer by providing information as well as promotional messages. But when the methods used in advertising affect the individual's ability to make independent decisions, then it is manipulation. In digital environments, persuading and manipulating has become more and more blurred, with the sophistication of targeting technologies.

A number of psychological imperatives and vulnerabilities including impulsiveness, emotional distress, fear of missing out, and cognitive biases can be targeted for behaviourally targeted advertising⁹. The detailed behavioral profiles used to customize ads means that ads can be crafted to have maximum impact on individual persons. This opens the possibility of directing users towards decisions done more for commercial reasons than their own.

The lack of transparency around data collection and decisions based on algorithms only adds to the concerns about manipulation. Users are unaware that their personal information is collected, processed, and used to create advertising based on their personal information. This shift from persuasion to manipulation issues challenges the

⁸ Poornima, A., M, S., & Selvi A, J. A. (2025). Digital seduction: When personalized marketing blurs into personal manipulation—A consumer behavior analysis. *Journal of Information Technology Teaching Cases*, 20438869251394039.

⁹ Quinelato, P. D. (2024). Consumer manipulation through behavioral advertising: regulatory proposal by the data services act. *Brazilian Journal of Law, Technology and Innovation*, 2(1), 1-24.

autonomy, fairness, accountability and protection of individual rights in the digital marketplace, hence the importance of ethical, legal and constitutional issues that emerge from this shift.

4. CONSTITUTIONAL DIMENSIONS OF BEHAVIOURALLY TARGETED ADVERTISING IN INDIA

The rising trend of behavioral advertising poses critical constitutional issues in India with respect to the safeguarding of fundamental rights in cyberspace. The social media sites analyze and utilize huge amounts of personal information in order to manipulate the users' behavior. As the above measures promote the development of the digital economy, there are some issues concerning privacy, freedom of speech, informed consent, and personal autonomy. In this regard, the legitimacy and legality of behavioural advertising should be considered using the constitutional approach to maintain equilibrium between innovation and human rights.

4.1 Right to Privacy and Data Protection

The inclusion of privacy as a fundamental right enshrined in the Constitution has broad implications for behaviourally targeted advertising. Privacy is not just physical, it also applies to informational privacy, where individuals are shielded from unnecessary gathering and/or inappropriate use of personal information¹⁰. With the advent of the digital era, personal information is an economic asset and thus privacy protection becomes more important.

Continuous data extraction and profiling are key components of behaviourally-targeted advertising. Users tend to give their personal data when they don't really know what it will be used for or how it will be used. These practices bring issues related to surveillance, use of data for commercial purposes, unauthorized information sharing, and the development of detailed behavioral profiles, all of which pose concerns.

The principle of the dignity of the individual included in the constitution must be respected in the management of personal data, which should not intrude into private life unless this is necessary. It is therefore important to consider the practices of targeted advertising within constitutional principles of proportionality and necessity, transparency and accountability in the implementation of these methods, so that the commercial interests do not prevail over the individual rights.

¹⁰ Rubin, V. L. (2022). Manipulation in marketing, Advertising, propaganda, and public relations. In Misinformation and disinformation: Detecting Fakes with the eye and AI (pp. 157-205). Cham: Springer International Publishing.

Table 2: Constitutional Concerns Arising from Behaviourally Targeted Advertising

Constitutional Principle	Potential Risk from Targeted Advertising	Desired Safeguard
Privacy	Excessive data collection and profiling	Strong data protection measures
Freedom of Expression	Algorithmic influence on information access	Transparency in content targeting
Informational Autonomy	Selective exposure to information	User control over personalization
Informed Consent	Complex and unclear privacy policies	Simplified consent mechanisms
Human Dignity	Exploitation of personal vulnerabilities	Ethical advertising standards
Equality and Fairness	Discriminatory profiling practices	Non-discriminatory algorithmic systems

Source: Compiled by Author.

4.2 Freedom of Expression and Informational Autonomy

Free speech encompasses the ability to obtain information and to be able to have opinions without being influenced by other people. Diverse views and information sources are essential to democratic society if people are to make informed decisions. These information environments are becoming more and more defined by the use of social media¹¹.

Algorithmic advertising systems have the potential to influence public discourse by promoting certain messages over others in the profile of each person. This can lead to informational imbalances and help sustain current tastes and preferences by means of custom-tailored content feeds. These practices can influence political opinions, consumer choice and social attitudes, as well as help to limit exposure to alternatives.

Informational autonomy is about giving people an effective level of control over the information they receive and about the choices they can make. This autonomy can be undermined by over-personalization, which could restrict exposure to a variety of opinions and have a non-transparent impact on individual decisions. Therefore, technological systems must not be permitted to affect independent thinking and democratic participation, which should be guaranteed by the constitution.

¹¹ Sartor, G., Lagioia, F., & Galli, F. (2021). Regulating targeted and behavioural advertising in digital services: How to ensure users' informed consent (pp. 1-134). Policy Department for Citizens' Rights and Constitutional Affairs European Parliament.

4.3 Informed Consent and Individual Autonomy

The notion of consent is considered one of the key tenets in the context of both constitutional law and data management laws. In order for consent to be considered meaningful, individuals should be aware of the purpose and implications of data processing before giving their approval to such actions.

The reality is that many users of social media sites accept the long privacy policy without knowing the uses of their data at all. Informed consent is not achieved in this way. Behaviorally targeted advertising usually takes advantage of the situation by collecting data and personalizing ads for users who have no idea of what is being done¹².

User autonomy is diminished when the users lack effective control over their personal information and Internet experience¹³. Thus, it is necessary to have methods that ensure transparency, user autonomy, access, and accountability in the practice of online advertising. Improving such methods is crucial for ensuring that users remain autonomous agents of decision-making rather than mere subjects of algorithms.

5. LEGAL FRAMEWORK AND CONSTITUTIONAL SAFEGUARDS

The rapid development of social media advertisements has led to the realization that the current legal frameworks face several limitations when it comes to solving problems associated with technology. Behaviorally targeted advertisements are dependent on massive amounts of data gathering, profiling algorithms, and analytical tools, resulting in legal issues that go beyond what the regular advertising laws can handle. Despite the presence of regulations regarding consumer rights, privacy, and online communications within India, the growing intricacy of behaviorally targeted ads poses questions regarding the adequacy of the present measures. It is important to evaluate the present legal structure to formulate constitutional provisions for the future.

5.1 Existing Regulatory Framework in India

There have been many measures formulated in India in connection with digital privacy and data governance. Legal measures include provisions for the regulation of digital communication, consumer protection, and digital transactions. There are also regulatory guidelines for misleading advertisements, fraudulent trading, and ethical behavior in digital markets.

However, these measures do not sufficiently cover the peculiarities and complexities involved in behaviorally targeted advertising. Problems such as algorithmic profiling, psychological manipulation, automated decision-making, and behavioral prediction require further legislative action.

¹² Sayyed, H., Kasture, J., & Prasad, K. D. V. (2023). Exploring the interplay between advertisements, media law, and society in INDIA. *Lex Humana* (ISSN 2175-0947), 15(4), 347-363.

¹³ SHARMA, A. (2025). From Click to Contract: The Legal Validity of Consent in India's Social Media Data Ecosystem.

The lack of a dedicated framework leads to ambiguity in terms of the obligations of social media sites and advertisers in the online environment. This explains why regulations usually concentrate on broader issues of data privacy or consumer protection, as opposed to the particular dangers posed by behavioral advertising technology¹⁴.

Table 3: Stakeholders and Their Roles in Regulating Behaviourally Targeted Advertising

Stakeholder	Primary Responsibility	Relevance to Targeted Advertising
Legislature	Enact digital and data protection laws	Establish legal standards and rights
Regulatory Authorities	Monitor compliance and enforcement	Ensure accountability of platforms
Social Media Platforms	Manage data collection and advertising systems	Implement privacy and transparency measures
Advertisers	Design and deliver targeted campaigns	Follow ethical and legal advertising practices
Judiciary	Interpret constitutional and statutory provisions	Protect fundamental rights in digital spaces
Consumers	Exercise informed choices and rights	Participate in responsible data governance

Source: Compiled by Author.

5.2 Regulatory Gaps and Emerging Challenges

There are certain challenges that affect the efficiency of the existing regulation methods. To begin with, algorithms work on little transparency basis, which makes it hard to comprehend the nature of targeting used. This lack of transparency brings about accountability issues and leaves users powerless while making decisions regarding their personal data.

¹⁴ Singh, D. P. (2025). An Analysis of the Article 19 (1)(a) and Article 19 (2) of the Indian Constitution and Distorting Form of Freedom of Speech and Expression in the Era of Social Media in India. Available at SSRN 5100601.

Secondly, cross-jurisdictional transfer of data creates complications for regulation and accountability measures. Social media companies often have cross-border operations that make it difficult to determine jurisdiction, and compliance with national laws becomes problematic. This problem is heightened when data on individuals are collected and stored abroad.

Third, fast-paced technology tends to outstrip the pace of development in law, thereby creating gaps in regulation¹⁵. The use of artificial intelligence in advertising exacerbates problems concerning algorithmic decision-making, behavior prediction, and manipulation. These issues point to the need for a dynamic legal framework that takes into account developments in technology.

5.3 Constitutional Safeguards and Future Directions

A constitutional framework for the regulation of behavioral targeted advertisements must focus on principles such as transparency, accountability, proportionality, and empowerment of the users. The social media site must be compelled to disclose what principles underlie the targeting of advertisements, and must offer an opportunity to users for control over their personal data.

Better mechanisms for obtaining consent must be such that they ensure that users are aware about how their data is being collected, used, and analyzed. Regulatory measures may help promote better accountability and prevent exploitation through advertising. Likewise, obligations of transparency and regular analysis of algorithms can be employed to mitigate the potential harms of profiling and manipulation.

Regulatory changes in the future should aim at finding the right balance between technological innovation and the advancement of the economy, while upholding individual rights under the Constitution. A constitutionally-based approach that gives weight to individual rights like privacy, autonomy, dignity, and informed consent ensures that digital advertising serves as an instrument of persuasion rather than manipulation.

6. CONCLUSION

Behavioral targeting advertising has revolutionized digital marketing, as it allows social media platforms to serve up personalized content through data collection and behavioral analysis. Though this may increase effectiveness, there are ethical issues surrounding privacy, autonomy, informed consent, and freedom of speech that emerge with such methods. With the growing importance of algorithms for targeting consumers, the line between persuasion and manipulation has become blurred, which poses a threat to basic human rights. While current laws in India may offer some protection, there is still a need for more constitutional rights, transparency, consent, and regulation to preserve individuals' rights while still promoting technological advancement and development.

¹⁵ Spencer, S. B. (2020). The problem of online manipulation. U. Ill. L. Rev., 959.

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