YOUR PRIVACY IS IMPORTANT TO U$!

Restoring Human Dignity
in Data Driven Marketing

With a foreword by Eric K. Clemons

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Preface

When I was in my early teens, I spent countless hours programming Commodore 64 assembly language. The codes were published in my column in a national computer magazine, *IC RUN*, and at the time I thought that I would earn my living as a programmer. My technical skills and technological curiosity were revitalised when I studied law in the period 1992–1997, which coincided with the transformative period when the internet had its popular and commercial breakthrough.

Since then I have come to realise that people, too, can be programmed (through psychology/marketing), and have explored the role that technology, much like a computer code, plays in designing our behaviour. While I was writing this preface it struck me that by becoming an educator, I have actually ended up earning my living as a programmer.

I remain fascinated by technology, including the social, societal and economic progress that it has to offer. However, growing surveillance and manipulation capabilities have made me question whether society benefits sufficiently from the democratisation of information that is spurred and facilitated by the internet. Similarly, learning about bounded rationality and persuasive technology has made me question whether data protection law and consumer protection law really deliver the empowerment and transparency they are meant to provide.

As lawyer and legal scholar, I have for more than two decades focused on the regulation of information, particularly in the context of marketing law and data protection law, without initially realising the

now-obvious convergence between these two legal disciplines in the context of the data-driven marketing that is now a dominant revenue model for data-driven business models.

This book is about predatory business models that distort and manipulate human agency. The predatory aspects of these business models thrive in the modern information society, where technology is (also) used to observe and influence human behaviour. This is to emphasise that the negative aspects of technology I focus on stem from its application, and not from technology as such.

Writing this book has been a long process. It builds on and is reflected in most of the research listed under my name in the Bibliography. I am also pleased to have drawn inspiration from the other literature mentioned there. In line with legal traditions, I use footnotes allowing for expedient identification of references.

Most of the issues dealt with in this book are not new, but their importance is still growing. It is important for me to think of solutions to these challenges, and my main hypothesis is that most of the legal solutions presented in this book can be achieved by means of holistic and teleological interpretation of existing laws. I hope to inspire both the judiciary and the legislature, as well as other people with stakes or interest in the legal ecosystem.

My goal is to inform and amplify ongoing debates pertaining to data-driven business models by providing a coherent framing of data-driven marketing in the context of law, psychology, technology and society.

Being programmable is not the characteristic of human beings that sets us apart from other animals. With this book, I hope to also subtly emphasise the importance of social skills, which are best learned in interaction with other human beings—including through technological means—preferably without Big Brother (in whatever shape or form) as facilitator.

I look forward to discussing the ideas presented in this book with a view to building more robust arguments to ensure human dignity in markets and elsewhere. The book is meant as a source and inspiration for further research, including my own, and it is in itself a hypothesis that I hope will be debated and challenged.

Thank you for reading thus far. I hope that you will find your attention well spent and that this book will resonate with, challenge and inspire your adaptive chemical wiring.

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