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An impulse to exploit: the behavioral turn in data-driven marketing

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ABSTRACT

Industry advocates argue that by tailoring services and commercial solicitations to match media users' personal interests, data-driven marketing benefits both consumers and businesses. This article shows, however, that advertisers and marketers who are taking up ideas and techniques from behavioral economics tell their clients a very different story about the aims and use of digital marketing and consumer surveillance. Listening in on this discourse demonstrates that some digital marketers conceptualize their own practices as forms of social control, appropriating concepts from behavioral economics to identify consumers' cognitive and affective biases and target their vulnerabilities. Behavioral economics recognizes that economic decisions are not simply dictated by rational self-interest; rather, such choices depend on cognitive heuristics and habits, and can be manipulated through the design of "choice architecture." This article discusses implications of the behavioral turn in data-driven marketing for critical advertising scholars, public advocates, and regulators.

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Does an efficient market need consumer research? Advertising and promotion? Segmentation and targeting? Or are these activities incompatible, mutually inconsistent, contradictory, and antagonistic to the notion of free acting, fully informed rational producers and consumers? (Gandy, 1993a, p. 227)

With the accelerating shift toward data-driven digital advertising, marketers and advertising firms are once again trying to assure policymakers and publics not to sound alarms about the types of questions raised by Gandy. These firms have been making the case that both companies and consumers stand to benefit from digital marketing practices that rely on information about consumers to execute various marketing functions, including targeted advertising, customized service provision, issuance of rewards based on "loyalty" or momentary geo-locational variables, and a host of similar strategies. Critical scholars, however, warn that consumer surveillance and data-driven advertising pose serious threats, including exacerbating market discrimination and intensifying marketers' capacity for social control through their asymmetrical power over consumer data (e.g. Andrejevic, 2002; Gandy, 1993a, 1993b; Turow, 2011).

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In this paper, we detail how *marketers themselves conceptualize the capacities of digital marketing as forms of social and behavioral control*. This has received little attention, as the public rationales digital marketers present to users and regulators contradict the reasoning they present in the trade literature and to their clients. Speaking to consumers, regulators, and privacy advocates, digital marketing proponents argue that by tailoring services to match media users' personal proclivities, digital marketing awards consumers improved value and convenience. This proposition is distilled in the shorthand "relevance"—advertisements and commercial offers will be relevant to consumers' interests and current circumstances. Yet, many marketers and advertisers tell a much different story to clients and among fellow marketers. To demonstrate this, we follow how marketers are appropriating the language and techniques of behavioral economics (BE) to explicitly target what behavioral scientists identify as cognitive and affective vulnerabilities in rational decision-making. The justification for digital marketing practices rests on the assumption of perfectly informed, rational consumers exchanging personal information for "relevance." Yet, certain marketing strategies assume that consumers are impulsive and susceptible to manipulation, and that behavioral science and data analytics provide powerful tools for influencing purchase-decisions. The value proposition for consumers requires them to be sovereign and utility-maximizing; the proposition for businesses requires that shopping behavior can be predicted and manipulated.

This paper is a response to those who shrug at critical analyses of digital marketing and accept that consumers are simply leveraging their assets to gain market power. We demonstrate that prominent digital marketers and analysts are building a repertoire of tactics for targeting what they perceive as vulnerabilities in consumers' decision-making processes. They draw on theories developed by behavioral economists, who suggest that human behavior is "predictably irrational" (Ariely, 2008b) and prone to systematic errors and misperceptions. Instead of merely seeing data gathered about consumers as a guide to their product preferences and interests, such data is being used to refine mechanisms of shaping decisions, behaviors, and habits. Martin (2009), tells digital advertisers to "think of your database as a record of customer behavior, capturing the influence of both the executive and habitual minds." Through a selective uptake of behavioral science, such a data-trail can be used to zero in on situational factors that influence consumer decisions, regardless of rational interests, and controlled to modify or reinforce behavior. Martin (2009, p. 147) offers a nugget of crass wisdom, advising marketers to "treat your customers like dogs" by designing interventions based on a scientific approach to "behavioral conditioning."

Critical scholars have raised many concerns about digital consumer monitoring and the dynamics of power it implies (e.g. Cohen, 2013; Gandy, 1993a; Turow, 2011). What we add to this critique is an explication of how marketers themselves figure digital marketing practices as forms of behavioral control in trade literature and when addressing clients. We trace the logic of what some call a "behavioral turn" that is making its way into marketing and advertising. Under the influence of the model of human agency proposed by BE, at least some industry leaders are advocating a shift away from primarily aiming to influence the *meanings* consumers associate with brands and products, and instead focusing fundamentally on influencing consumer *behavior* and *decisions*. With this behavioral emphasis, marketers strive to steer consumer behavior through interventions aimed at decision-making foibles; they apply tactics that behavioral economists refer to as designing

“choice architecture” (Thaler, Sunstein, & Balz, 2013). Behavioral economists use choice architecture to influence behavior through manipulating the contexts in which decisions are made. However, thinkers such as Thaler and Sunstein (2009) pitch choice architecture as a tactic that should be used openly and transparently by policymakers to promote the public good. Marketers, by contrast, seek control over choice architecture to promote their clients’ interests. What remains continuous in strategies that focus either on meaning-making or choice architecture is that marketers and advertisers are following their impulse to exploit structural advantages they possess—which may now include the ability to systematically exploit consumers’ cognitive biases and impulses.

Adopting the technique of “listening in,” we turn to conversations about digital marketing and behavioral science happening within the industry. We first noticed marketers’ interests in behavioral economics through immersing ourselves in marketing literature for ongoing research. For this project, we searched for topics relating to behavioral economics and associated themes in leading marketing research and trade journals, influential marketing books, consulting reports, reports and newsletters from trade associations, and the websites of leading advertising agencies that had created behavioral units. Our survey is not exhaustive or necessarily representative of all marketing discourse. Rather, we bring to light major narratives, which have received little critical attention thus far, about digital marketing and behavioral science told across these influential marketing outlets. Such outlets, of course, are not without their own propensity for spin and exaggeration. They also tend to avoid revealing specific campaign strategies, presumably to both withhold proprietary information to protect clients from negative publicity surrounding questionable tactics. Nonetheless, we show how a set of influential architects and administrators of digital marketing speak about their practices. Our analysis demonstrates these discourses on behavioral economics and marketing are logically inconsistent with the industry’s public rationales. This discourse selectively frames consumers as rational and predictably irrational for different audiences. It is true that people are both rational and impulsive, but recognition of this fact—and, more importantly, recognition that marketers deliberately exploit impulsivity—requires that we reconsider how digital marketing should be regulated.

Consumer sovereignty vs behavioral economics

In testimony for a subcommittee hearing on behavioral advertising before the U.S. House of Representatives, Charles Curran (2009), the Executive Director of the National Advertising Initiative (N.A.I.), representing advertising networks and data and analytics service providers, neatly conveyed the intellectual case for digital marketing “Not only do more relevant advertisements generate greater user response and revenue for the publisher; greater ad relevance enhances the user experience and avoids the potential nuisance effect to users from less customized marketing. (p. 3)” Such a vision justifies control of data in the hands of marketers, suggesting that consumer monitoring acts like a cybernetic system maximizing everyone’s interest. The promise of more relevant ads has been echoed again and again to garner support from the public and regulators. The N.A.I. also makes this appeal on their website, assuring the public “by keeping ads relevant to you, advertisers aren’t wasting your time with intrusive and annoying ads.” Another trade organization, the Digital Advertising Alliance (n.d.), commissioned a survey claiming that 68% of respondents “prefer to get at least some Internet ads directed at their interests.”

D.A.A. spokespeople have widely referenced this study to argue against government-enforced regulation.

Countering these claims, critical researchers argue that marketers' capacities to collect, analyze, and leverage insights from consumer data aggravate power asymmetries (e.g. Andrejevic, 2014; Gandy, 1993a; Turow, 2011). Such critiques of digital advertising dovetail with the broader arguments by critics like Pasquale (2015) and O'Neil (2016) who warn that concentrated control over digital infrastructure exacerbates social inequality and threatens democratic governance. With the condition of nearly ubiquitous connectivity (McGuigan & Manzerolle, 2015), marketers confront potential consumers with persuasive missives and increasingly purchase-opportunities at almost any time (Turow, 2017). As a precondition for rational consumption, a sovereign consumer decides when and how to enter a market context. But, increasingly, marketers can activate the marketplace capacities of digital media at the time of their own choosing. As marketers and data brokers employ sophisticated techniques for circumventing individuals' privacy and ad-blocking preferences, and with many "nonnegotiable" terms of service effectively coercing disclosures of personal information (Gandy, 1993a), behavioral targeting is, as Hoofnagle, Soltani, Good, and Wambach (2012) put it, "the offer you can't refuse" (p. 278). People become "resigned" to surrender control over their data and the conditions of entry into digitally-mediated marketplaces (Turow, Hennessy, & Draper, 2015).

To make use of the explosion of consumer data in the digital world, advertisers and marketers need resources for interpreting that data and strategies for leveraging it to advance their interests. The advertising industry's public conversations construe digital marketing as if their only strategy is to match advertisements with users' pre-existing interests. Yet, in other discourses, prominent digital marketers have turned toward BE research for guidance in using detailed knowledge of consumers' behavior to influence their choices. While BE has proven highly influential in areas of policy, jurisprudence, economics, and design, it has received little attention from critical media scholarship or the humanities.

Behavioral economists examine economic behavior with "the conviction that increasing the realism of the psychological underpinnings of economic analysis will improve economics *on its own terms*" (Camerer & Loewenstein, 2004, p. 3). For many marketing and advertising strategists, BE serves as a nexus where various types of research—most prominently cognitive psychology, evolutionary psychology, and neuropsychology—are brought together to develop models that explain and predict patterns of economic decision-making. Behavioral economics has developed a model of the economic mind that represents a significant break from the *homo economicus*—the central agent of neoclassical economics driven solely by rational calculation of utility.

Applying BE models of mind to marketing

Behavioral economics proposes a model of human agency that emphasizes the crucial role of contextual factors and cognitive biases, challenging the assumption that rational choice theory best explains the decisions of economic actors (Sent, 2004). Humans are not atomistic self-optimizers here; rather, we are creatures who must react to the demands of our environments with limited mental processing capacities, relying on habits and sometimes faulty heuristics to make speedy decisions. Much of the inspiration for BE comes from the

work of two cognitive psychologists: Nobel Laureate Daniel Kahneman and his late collaborator Amos Tversky. Kahneman and Tversky launched a subfield of cognitive research by setting out to study “the systematic biases that separate the beliefs that people have and the choices they make from the optimal beliefs and choices assumed in rational-agent models” (Kahneman, 2003, p. 1449). Kahneman, Tversky, and their followers in psychology and BE have performed a myriad of experiments investigating how human decision-making diverges from rational choice predictions. At the heart of this research is a general theory of cognition that divides the human mind into a dual-system composed of two types of cognitive activity that Kahneman (2011) calls “System One” and “System Two.”

System One makes judgments quickly in ways that are experienced as effortless and mostly automatic. In contrast, System Two is slower, experienced as more effortful, and quite limited in terms of how much incoming information it can process at any given time. System Two handles the most complex and mentally taxing operations, but System One serves as the most pervasive, default mode for making decisions. Behavioral economists largely focus on how elements of System One processes lead to decision outcomes that diverge from the optimal outcomes predicted by a rational choice perspective. Psychologists and behavioral economists have identified dozens of particular cognitive biases and heuristic devices that can lead to decisions contrary to rational choice models under certain conditions (Kahneman, 2003; Thaler & Sunstein, 2009).

Behavioral economics not only attempts to predict and explain seemingly irrational aspects of economic behavior, it also yields strategies for intervention. Thinkers such as Thaler and Sunstein (2009) argue that policymakers should use the knowledge of cognitive biases to subtly influence individuals’ choices for their own benefit or for the public good. They refer to this as the use of “nudges” or “choice architecture” when institutions design choice-settings to influence outcomes—such as placing healthy items strategically in school food lines or making IRA contributions opt out rather than opt in.

For marketers and advertising strategists, BE offers the promise of revealing the processes that drive consumers’ purchasing decisions—especially those less deliberative decisions. Marketers have taken three types of inspiration from BE. First, they have sought to make use of specific biases and heuristics that experimenters have discovered drive speedy, System One decisions. Much of the literature in marketing reports and trade magazines focuses on explaining cognitive biases identified by psychologists and behavioral economists, showing how they might be used by marketers to advance their clients’ interests (e.g. Bulik, 2010; Johnson, 2006; Robinson, 2010). For example, one of marketers’ favorite biases is *anchoring*—a tendency to make judgments about price or quantity relative to a recently introduced reference point. Duke economist Dan Ariely conducted an experiment on anchoring by first asking participants the last two digits of their social security number and then to estimate the price they would be willing to pay for different commodities. According to a report by BEWorks (2015), a marketing consultancy firm co-founded by Ariely, the experiment showed “fascinatingly, those with higher social security numbers were willing to pay as much as 320% more than the group with lower numbers” (p. 4). Such research can help marketers develop tactics for contextualizing price information. Another bias frequently mentioned in the marketing literature is *loss aversion*—the tendency to place greater value on avoiding losses rather than receiving gains. A report by the Institute of Advertising Practitioners (Southgate, 2014), Britain’s major marketing trade association, suggests the loss aversion bias can be exploited by

giving away free trials of products or services thus making consumers perceive a loss if they do not make the purchase at the end of the trial period.

The second type of inspiration marketers take from BE is to adapt its experimental techniques and concepts in applied research. The digital environment creates endless opportunities for real world experiments through A/B testing and other means without the oversight of institutional review boards. Marketing firms can use A/B testing to discover how to structure digital environments to optimally activate consumers' cognitive biases. Since these experiments are proprietary, it is difficult to know what experiments are being conducted or their findings. Rapperport (2015), C.E.O. of the analytics firm Eversight, offers an example to potential clients of an A/B testing experiment in which "a leading consumer goods manufacturer found that for one of its most popular products, 4 for \$5 was, surprisingly, more appealing than the \$3 for 3 promotion, which it had been running for years." From a rational choice perspective, of course, this finding would appear absurd, suggesting as it does that consumers perceive a higher unit price as a more enticing deal. Yet, the BE paradigm suggests, "how price is communicated can influence choice over and above the influence of price itself" (Wyner, 2016). As the former Chief Research Officer of the Advertising Research Foundation Robinson (2010) argues, if market researchers are going to advance their ability to predict and influence consumer behaviors, they "need to think more like behavioral economists" (p. 116). He offers market researchers a breakdown of several characteristics of the cognitive experiments associated with BE that should be integrated into marketing research.

Marketers may also use applied behavioral experiments not just to identify general cognitive biases; they may also identify specific individuals most prone to particular biases or specific contexts that maximize consumers' vulnerability to such biases. Companies and marketers will try to keep these approaches secret, but journalists have exposed some cases. The *Atlantic's* Rosen (2013) pointed to a marketing study advising that advertisements for beauty products should "concentrate media during prime vulnerability moments" when women are assumed to feel least happy with their body image. The study suggested Monday mornings would be a particularly opportune time for such targeting. Reporter Duhigg (2012) detailed how Target Corporation combed through troves of consumer data to predict pregnancies, apparently with stunning accuracy, sending special coupons to expecting families (disguised among other offers). Target's strategy was based on behavioral research and the assumption that consumers' habits are most vulnerable to intervention during a major life change. Target was betting that bringing sleep-deprived new parents into the store for a few deals could set habits for years to come.

Other marketer efforts rely on different ways to identify consumers' vulnerable moments for situational targeting. In 2014, Facebook started allowing advertisers to target users based on recent changes to their relationship status (Entis, 2014). In *Advertising Age*, Brennen (2017) surveyed the rise of a new BE-informed model for a "Behavioral Emotion Moments" (BEM) approach to advertising that "allows planning and buying teams to improve targeting and tailored messaging by combining programmatic buying with new data sources and triggers including conversation scrapes, content emotion analysis and real-world factors." While withholding details, Brennen discusses one example of a New Balance campaign that used "emotional targeting to increase brand awareness levels in Japan by targeting video to consumers exhibiting pre-set emotional receptivity signals."

A *New York Times* investigator found Uber developed a powerful choice architecture scheme through “an extraordinary behind-the-scenes experiment in behavioral science to manipulate [its drivers] in the service of its corporate growth” (Scheiber, 2017). Their interface was designed to prod drivers to work longer during less profitable hours through gamification and a system of goals and worthless badges. This included sending nudge messages just as drivers tried to log out.

Calo (2014) argues marketers’ uptake of behavioral economics indicates that digital advertising is increasingly concentrated on “persuasion profiling” (p. 1017). He contrasts this approach, which focuses on finding “the exact right *pitch*” to match with consumers’ inclinations and vulnerabilities, with the industry’s talk of “relevance,” which points only to matching targets with products that fit their pre-existing interests. Calo suggests marketers may develop experiments that identify particular cognitive biases most pronounced in specific people and create targeted lists of such groups, a move he likens to the creation of “sucker lists” that identify consumers vulnerable to scams. Marketing research is already underway into online banner ads that morph features based on predictive estimations of individual users’ cognitive habits; so users believed to be “impulsive” may see different ads from those presumed to be “deliberative” (Urban, Liberali, MacDonald, Bordley, & Hauser, 2013).

These examples point to a third inspiration BE offers to marketers. Not only does BE provide a stock of already-identified cognitive biases to exploit and techniques for identifying more through experimentation, it also offers a broad theory of the human mind. BE’s dual-system theory of human cognition may prove to be as generative, perhaps through unpredictable appropriations, for developing marketing tactics as the Freudian unconscious. Several recent popular marketing books barely mention behavioral economics directly (Eyal, 2014; Lindstrom, 2008; Martin, 2009), but they draw from the same mental model by charting how marketers can tap into consumers’ automatic processing and decision-making. The key emphasis here is that consumers’ minds rely on shortcuts and habits to make decisions as a matter of conserving the energy reasoned deliberation would entail. BE, of course, has not introduced an entirely new conception of the consumer mind to marketers. Advertisers and marketers have long intuited that consumers rely on habits and mental shortcuts. What BE research and theory does, however, is refine and selectively emphasize marketers’ existing conceptions of human nature. BE organizes those conceptions in ways that allow the systematic development of techniques, refined through experimentation, designed to put knowledge produced by consumer surveillance in the service of advertisers.

The recent surge of interest in BE does not represent the first time advertisers have appropriated innovative ideas from psychology. Ewen (1976) famously detailed how business leaders and advertisers sought to build off of emerging psychological models of the early 20th century to mobilize mass consumption. The influence of Freudian theory on advertising in the post-war years, especially by way of Dietcher’s motivational advertising, has been carefully historicized (Samuel, 2010) and critiqued (most famously, Packard, 1957). Yet, others have been cautious about crediting shifts in advertising practices to psychological models. Schudson (1984) argues that advertising “employs a vast array of notions of the consumer and ideas of human nature in an utterly ad hoc and opportunistic way” (p. 65). Psychological theories, applied behavioral science, and variably crude and elaborate methods for verifying success of ad campaigns have been used to

satisfy clients, deflect blame, dazzle competitors, and justify expenditures on costly personnel and procedures. The developments we describe here may conform to this pattern. BE provides intellectual support for marketers who need to justify their services to clients as they gain new capacities related to data assets, predictive analytics, and big data. Yet, BE also helps steer marketing firms' investments in their own capacities. While marketers' uptake of BE principles may be inconsistent, their selective embrace of BE still contradicts the reassuring rationale provided by marketers to justify unregulated data collection. Consumers are assumed to be rational and self-interested when they consent to exchanging their personal data for services. Yet, advertisers invest in BE-influenced campaigns that assume vulnerable consumers who might not have the capacity to realize their rational interests.

Investing in the mundanity of selling

Behavioral economics provides valuable insights for understanding digital marketplaces, but its application to those marketplaces has been *opposite* to what consumer rights protection would suggest. Consumer vulnerability is acknowledged and pinpointed by marketers but relatively ignored in setting the conditions for collecting the information, and designing the platforms that allow for these vulnerabilities to be pinpointed and exploited. It is difficult to predict the future of digital advertising but as industry analysts urge an intensification of strategies driven by intimate customer data, marketing firms are investing in BE units and expertise. Along with trade literature suggesting BE should play a key role in digital advertising (e.g. Bulik, 2010; Johnson, 2006; Rubinson, 2010; Southgate, 2014), these investments suggest BE is likely more than a fad.

Proprietary consultancies, such as Forrester Research, see data-driven strategies as central to marketing's present and future. On the premise that new technologies have empowered consumers, analysts advocate investments in data-based marketing capacities, and a "customer-obsessed" orientation, as necessary defenses against "digital disruption" (Bernoff, 2011; Cooperstein, 2013). One report begins: "Empowered customers are disrupting every industry; competitive barriers like manufacturing strength, distribution power, and information mastery can't save you. In this age of the customer, the only sustainable competitive advantage is knowledge of and engagement with customers (Bernoff, 2011, p. 1)." Another report advises marketers to build a "platform relationship" that measures and reacts to customers' habits. "Companies," the report suggests, "will insert themselves into consumers' daily routines with services targeting specific emotional, physical, or social needs" (McQuivey, 2014, p. 3). In the contemporary competitive environment, "a relationship devoid of continuous data collection and analysis is not only limiting but also impossible to maintain" (p. 6). Investments in data mining are characterized as essential since, as another report puts it, "a prerequisite to winning in the age of the customer is a deep and almost uncanny knowledge of customers and prospects" (Heffner, 2014, p. 1). Forrester Research advises, "Spend less on brand advertising, product distribution, and supplier lock-in. Invest in real-time actionable data, contextualized customer experiences, sales methods tied to buyers' processes, and content-led marketing" (Cooperstein, 2013, p. 1). Businesses seem to be following this advice; a recent report estimates that outlays on data storage and infrastructure will double from current levels to \$72 billion by 2020 (LaRiviere, McAfee, Rao, Narayana, & Sun, 2016).

To apply BE-informed, data-driven strategies, major advertising firms have undertaken significant investments and created new departments. In 2012, Ogilvy & Mather launched Ogilvy Change, a unit specializing in behavioral economics that describes itself as a team of “Choice Architects” who “apply principles from cognitive psychology, social psychology and behavioural science to create measurable behaviour change in the real world” (Ogilvy Change, [n.d.](#)). This unit has a global presence with 10 offices worldwide and boasts of working with marquee firms such as American Express, Nestlé, British Airways, Starbucks, and many more. Along with organizing an annual festival called “Nudgestock,” Ogilvy Change publishes a monthly BE-focused newsletter, *O Behave!*, featuring a “bias of the month.” Ogilvy Change founder Rory Sutherland served as President of the Institute of Practitioners in Advertising and advocated for a behavioral revolution across marketing. Another advertising giant, Foote, Cone & Belding (FCB), created the “Institute of Decision Making,” which partners with academics and focuses on delivering clients insights derived from BE, neuroeconomics, and evolutionary psychology. In 2011, Leo Burnett—inventor of such brand icons as the Marlboro Man and the Pillsbury Doughboy—declared it was moving away from “considering itself a ‘brand-centric’ agency” to one focused instead on something it calls “HumanKind” (Wipf, [2011](#)). Whatever else HumanKind may mean, it is clear that this shift involves a major emphasis on behavioral research. One study commissioned by this initiative catalogued 1,500–1,800 types of behavior and generated an analysis of “behavioral archetypes” for understanding consumers’ decision-making. Other advertising agencies affiliated with the industry’s major conglomerates have also promoted specialties in behavioral science and economics, such as Pattison Horswell Durden (Omnicom) and Isobar Marketing Intelligence (Dentsu). While it is difficult to discern exactly how much these firms are investing in BE infrastructure, they are hiring specially trained staff and partnering with academic experts. There is also a boom of upstart agencies and consultancy firms specializing in BE-inspired marketing, such as BEworks, Behavioral Economics Consulting Group, TriggerPointDesign, and Irrational Labs. BE techniques have even made their way to the industry’s most high-proliferate and expensive showcase—Super Bowl advertising. After the 2015 Super Bowl, *Advertising Age* gushed about the use of BE principles in ads for McDonald’s, T-Mobile, and others (Fabrizi, [2015](#)).

In line with Forrester Research’s advice to “spend less on brand advertising,” advocates of BE-informed marketing suggest that marketing needs to refocus on changing consumer behavior rather than building brands. Willcox ([2015](#)), the founder of FCB’s Institute for Decision Making (I.D.M.), argues that brands have become “significantly less trusted, liked, and respected and salient” since the mid-1990s (p. 6), and he cites evidence for this from Gerzema and Lebar’s ([2008](#)) study of declining brand values and attitudes. BE advocates tend to deemphasize the kind of marketing approach Jenkins ([2006](#)) recognizes as “affective economics.” Inspired by super-brands such as Nike and Starbucks, the aim of this marketing approach is to build deep emotional attachments, even love, between communities and brands. From a BE perspective, establishing emotional connections with a particular brand may sway decisions through what Kahneman ([2011](#)) calls the “affect heuristic” in which “judgments or decisions are guided by feelings of liking and disliking, with little deliberation” (p. 12). However, some BE-influenced marketers see it as rare that brands actually achieve deep emotional investments (see Martin, [2009](#); Robinson, [2009](#); Willcox, [2015](#)). Instead of focusing primarily on branding, BE marketers suggest branding

serves as only one among many shortcuts consumers may use to make decisions easier. Robinson (2009) argues that consumer loyalties are not “manifestations of attachment to brands,” but instead “brands function as simplifying heuristics that let us get through shopping trips in a fraction of the time that full consideration would demand” (p. 260).

The strategies promoted by BE-inspired marketing aim not for inciting swells of feeling or stirring stories imbuing brands with cultural meaning. Rather, they aim to influence consumers at a mundane, and sometimes microscopic, level of habits and cognitive shortcuts that humans rely on to cope with the endless decisions necessary in daily life. Marketers’ uptake of BE principles may be unlikely to gain widespread, public attention because it focuses on subtle influences deeply integrated into their ordinary routines. This also presents a challenge to critical advertising scholars who, justifiably, have focused much of their attention on analyzing the semiotic and meaning-making sides of advertising. Such an approach has been coupled with a pedagogical goal of advertising literacy primarily aimed at enabling citizens to be sophisticated in decoding advertisements’ meaning systems. Yet, since BE-inspired strategies do not primarily work through creating meanings, such individualized critical literacy may not act as an effective counterforce. Some BE tactics may not be able to be defused by raising users’ awareness or knowledge of how they operate. Kahneman (2011) uses the Müller-Lyer illusion to demonstrate the difficulty of overcoming the biases of automatic processing even when we are aware of its fallibility (pp. 26–27) (Figure 1).

The two horizontal lines here are of equal length, although the fins prompt our perceptual impulses to see the bottom one as longer. This is difficult to “unsee” even once the trick is revealed. Airely (2008a) tested a marketing example bearing similarities to the Müller-Lyer illusion—a technique that manipulates comparative context to affect consumers’ perceptions of price and value. He found that when *The Economist* created a decoy one-hundred twenty five dollars option for a print-only subscription, this likely nudged significantly more consumers to purchase the one-hundred twenty five dollars print-plus-digital option over the cheaper digital-only option, than would have made that choice without the decoy.

From privacy to exploitation in the critique of consumer monitoring

According to Stole (2014), “The surreptitious collection of data on consumers to make it possible for advertisers to better manipulate them is not a product of the internet; it is deeply embedded in the very nature of modern advertising” (p. 131). As Schiller (1999) points out, “there is plenty of evidence that advertising seizes and reorients the social

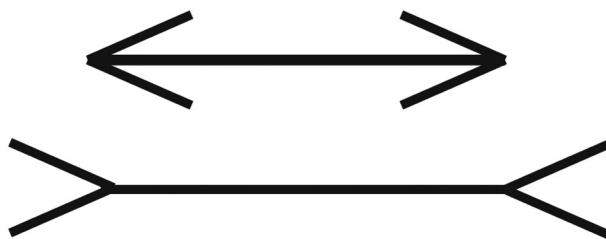


Figure 1. Müller-lyer illusion. Image from wikimedia commons: <https://commons.wikimedia.org/wiki/File:PoggZoelMuel.png>

purpose of any media it can make dependent on it, substantially affecting their organization, content, and relationships with audiences” (p. 124). What is novel, then, is not the application of data analytics toward influencing consumers—though the systematic personalization achievable through digital media may constitute a qualitative change in “market manipulation” (Calo, 2014). What we are pointing to are the ways in which the affordances of digital media, expressed through data-based marketing techniques, have been given powerful intellectual support by behavioral economics. This articulation of digital marketing and BE helps to justify investments in these services and their supportive infrastructures—to guide marketing strategy and the cybernetic structure of media environments—but it should also justify scrutiny of these practices.

Law and policy scholarship suggests that consumer vulnerability may be a structural outcome of behavioral targeting in technologically-mediated marketplaces (Calo, 2014; Stevenson, 2015; Turow, Feldman, & Meltzer, 2005). According to Calo (2014), “the digitization of commerce dramatically alters the capacity of firms to influence consumers at a personal level ... Firms will increasingly be able to trigger irrationality or vulnerability in consumers” (p. 999). Consumer vulnerability is not an enduring characteristic unique to specific individuals or groups (e.g. children, elderly people, etc.); it is a contextual condition of powerlessness arising in consumption situations (Baker, Gentry, & Rittenburg, 2005). The systemic cognitive biases identified by BE contribute to conditions of vulnerability, as do “life-event triggers” like marriage or divorce that may induce time scarcity or temporary emotional states which, as discussed above, marketers track and try to exploit (Beckett, 2014).

Building on precepts of BE, such as consumers’ propensities to ignore or become overwhelmed by details that would support better decisions, Thaler and Tucker (2013) propose the expansion of “choice engines.” Choice engines are platforms that let users harness aggregate data and computing power to approach ideal economic behavior—rational calculations based on comprehensive market information. Despite many reasonable suggestions, this plan, which implies deepening the collection and analysis of transaction-generated data, does not confront Calo’s (2014) abiding concern about digital market manipulation: “trouble arises when firms start looking at the consumer behavior dataset to identify consumer vulnerabilities” (p. 1010).

BE demonstrates empirically the contours of consumer vulnerability; it provides supporting evidence for an assumption that has sustained advertising since it embraced psychology around the turn of the 20th century: persuasive communication can manipulate consumer attitudes and behaviors. But this recognition, which gives impetus to expansion of data-based marketing, has not penetrated our framing of the contractual basis surrounding the collection of personal information and the regulatory conditions of its application. Consumers are assumed to be predictably irrational in response to marketing situations, but they are treated as rational and sovereign in consenting to the terms of use in digital environments. They make a conscious decision to surrender personal information, and control over the mutable design of digital platforms, in exchange for benefits determined at the discretion of the service provider leveraging that personal information. The perception of consumer behavior that condones the collection and use of personal data—that consumers act freely and can resist coercive persuasion—disguises the psychology that informs advertising practice.

“Public policy,” Baker et al. (2005) suggest in regard to marketplace conditions in general, “should focus on empowering consumers and facilitating movement away from

vulnerability” (p. 136). Against arguments that individuals be held responsible for personal disclosures and digitally mediated consumption decisions, Acquisiti, Brandimarte, and Loewenstein (2015) assert that “regulatory intervention may be needed to balance the interests of subjects of data against the power of commercial entities and governments holding that data” (p. 509). Furthermore, as lessons from behavioral economics indicate, even “regulations that assume rational behavior may be doomed to fail” (Calo, 2014, p. 1000). Faced with a complex and dynamic media environment, an individual’s data disclosure behaviors reflect uncertainty about the scope and consequences of data collection; furthermore, privacy preferences respond to specific contexts and are malleable to the extent that, especially on digital platforms, contexts can be manipulated to suit predictive inferences about the individual (Acquisiti et al., 2015). This casts serious doubt on any argument or policy regime positing that consumers enter freely into a mutually beneficial exchange of personal information for customized service. Acknowledging for the purposes of regulation what is taken for granted by the marketers using that data—consumers are vulnerable to manipulation by digital marketing techniques—will begin to remedy this imbalance.

Given current political realities, it is uncertain whether public advocates highlighting contradictions in the digital advertising industry’s claims will effectively lead to regulatory responses. Still, raising awareness of the doublespeak of the digital advertising industry and its efforts to systematically target consumer vulnerability may also incite public action. If user ambivalence about digital monitoring morphs into more pointed antagonism, not only will there be more pressure on regulators, but users may also intensify practices—like the use of Tor and ad blocking—that threaten to destabilize digital advertising business models. Hence, raising this awareness may serve as a form of critical media literacy, one oriented not to the goal of savvy interpretative skills but to resistant user practices.

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