

UNETHICAL ADVERTISING PRACTICES IN THE FINANCIAL MARKET AND COUNTERACTION TOOLS

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Abstract

The purpose of the article/hypothesis. Paper highlights certain crucial aspects of misleading and deceitful advertisements of banking and financial products and services, its effects, and the necessity to ban and/or restrict some of professionals' misbehaviours. Many research evidence shown how an endless amount of information and specific advertisements can influence consumers' financial decision-making. This concern was intensified by the impact of COVID-19 on the financial situation of many households. **Methodology.** Author has conducted extensive research using national and international literature, public reports, legal cases, administrative proceedings, national and international legislations. There are presented some national examples, good principles and suggestions of what should be done to better protect the customers on the banking and financial market. **Results of the research.** The study revealed that the misleading, abusive conducts and numerous sales strategies of professionals operating on the markets at issue may regard almost any individual. Unethical advertising practices may intensify because of ever-increasing technology and new advertising techniques. As described, both the type and the timing of the advertising can also greatly influence consumers' choice. The policy makers shall be determined, decisive and fast in order to assure that financial products and services are safe and law-compliant, to raise standards in advertising sector, to prevent defaults, irresponsible borrowing, loss of privacy, discrimination, failures and predatory practices. The measures shall prevent the frauds and the marketing and sales strategies of a set of unrealizable promises or products unsuited to the needs of customers on the financial advertising market.

Keywords: financial advertising, financial consumer protection, advertising restrictions, small-dollar loans, advertising good practices.

JEL Class: K20, K23, K42, M37, M38.

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INTRODUCTION

The advertising of banking and financial products and services represents a sector which highlights and generates several consumers' vulnerabilities. In times of global pandemic and ongoing war, such sector is susceptible to become particularly dangerous. Due to the increasing poverty and financial hardship of many households, the demand for financial products and services significantly grows. In the light of these particular circumstances, numerous potential risks may arise that can highly influence the financial future of many consumers.

We can easily imagine that the financial consequences of the acquisition of an unnecessary or wrong toothbrush or a frozen pizza are significantly different from those related to a high-cost loan, a high-risk investment product or a complex cryptocurrency financial service. Thus, the lack of sufficient awareness, financial illiteracy or other fundamental elements can be costly, as well as the violation of legal norms and regulatory requirements by financial institutions and advertising providers.

For these reasons, the author analyses how an endless amount of information and specific advertisements can influence consumers' financial decision-making. In addition, there are presented some suggestions of what should be done or improved in order to prevent the marketing and sales strategies of a set of unrealizable promises or products unsuited to the needs of customers.

1. THE ADVERTISING IMPACT "IMMUNITY"

The Financial Services Consumer Panel stressed a potential consumer harm related to "digital advertising of financial services and the use of advertising technology or 'adtech' to create" individual and personalized consumers' profiles. They noted that such techniques are able to "create an environment for discrimination, manipulation and exploitation" (Financial Services Consumer Panel, 2020).

It is already well-known that advertising heavily influences consumers when making purchasing decisions. We are also aware that, because of the different values of products and services available on the market, some of such decisions can assume more (or less) relevance than others.

Many people believe they are immune to the influence of advertising messages¹, nevertheless several scholars and studies confirm that adverts can be very persuasive working below the conscious awareness, and therefore they can have a great impact also on the "immune" ones.

¹ As well as, in more general terms, "people tend to think they are invulnerable. They expect others to be victims of misfortune, not themselves. Such ideas imply not merely a hopeful outlook on life, but an error in judgment that can be labeled *unrealistic optimism*" (Weinstein, 1980: 806).

Moreover, Nagler (1993: 360) pointed out that “consumers do not always make decisions as carefully as economists assume: sometimes they make intuitively, rendering themselves vulnerable to the deception of advertisers and other salesman”.

Lastly, increasing competitiveness and knowledge among society obligate banks and other financial institutions to adopt numerous sales strategies to remain in business. Several financial entities, in order to reach new clients and attract their savings, implement various aggressive, abusive and unethical techniques which in many cases constitute unlawful and dangerous conducts highly detrimental to the costumers.

2. ADVERTISING INFLUENCE

Generally, in an average banking relationship, the advertisements constitute a first step between a financial institution and its clients and potential clients. Professionals use advertisements in order to attract consumers to a particular product or service, highlighting just the most attractive side of a product’s key features.

The power of advertising to influence the customers’ purchase decisions is incredibly incisive, especially in the Digital Era, where the ads are placed laterally everywhere. Advertising “surrounds us no matter where we turn, intruding into out communication media, our streets, and our very homes. It is designed to attract attention, to be readily intelligible, to change attitudes, and to command our behavior” (Pollay, 1986: 18).

Moreover, as it has been noted by Nair (2020: 1) “an advertisement can make either a rational appeal or an emotion appeal. Advertisements using rational appeal try to influence consumers by providing information about and advantages of the product concerned while advertisements using emotional appeal focus on the emotional side of using the product and feel of the product”.

Nonetheless, modern advertisements appeal more to emotion rather than to reason, attempting, firstly, to “seduce” consumers and only after that they tend to receive their rational submission.

Furthermore, the advertisings seek to promote self-doubt rather than self-confidence, creating more needs than satisfaction. They generate the false perception that consumption can be a cure to the unhappiness and various personal and professional failures. The issue is too important to be ignored or tolerated. And in the pandemic situation it has become even more relevant, because the consumers are at their heightened vulnerability due to the “COVID-19 crisis”.

Consequently, the rule of self-limitation and self-regulation (cited above) may appear not only insufficient or unsuccessful, but it can also become highly inadequate.

In addition, the rapid expansion of the financial products/services and the advertising industry makes these sectors very complex² to consumers, and thus dangerous, especially in these particularly arduous economic times. Therefore, consumers should be protected against unfair, deceitful or misleading practices of advertising and should be able to compare different offers available on the market (Recital 37 of Directive 2014/17/EU: 34–85). Moreover, the information given to consumers shall be streamlined and reflect the growing use of digital devices.

For this reason, care should be taken to guarantee appropriate regulations, restrictions, strong supervision (including the use of technology³) and enforcement provided by competent authorities in order to protect consumers and prevent deceitful, misleading, false, unlawful, unethical and unfair comparative⁴ advertising.

On the one hand, there must be assured the protection of consumers against misselling of financial products/services (more information: Mazur, 2021) and practices of predatory selling and marketing, and on the other hand the governs must prevent also the dangerous Moral Hazard of banks and other financial institutions which is susceptible to trigger their defaults, and consequently the public financial scandals.

The public governance must safeguard the trust in financial system, guarantee the stability, integrity, and good functioning of the public economy and administration, as well as the fair competition on the market⁵. In this regard, a certain normative, legally binding standards should be set. However, they should not be neither too strong nor too weak. The overprotection may encourage “mental laziness in the consumer” (Attas, 1999: 56) leading to the potential abuses by consumers of their *status* of weaker party in the contractual relationships with professionals⁶. Moreover, “an overprotective standard also fails to treat the consumer with the respect due to an autonomous subject” (Attas, 1999: 56). Consumers should be responsible for their own mistakes and pay the price for their errors.

² On the one hand, incomplete information may be detrimental to the customers leading to many poor, uninformed or inadequate purchase decisions, but on the other hand, too much, too complex or too detailed information could be confusing and overwhelming.

³ It means SupTech which consists of the use of the technology by supervisory organs in order to make the supervisory system more effective, flexible and responsive and RegTech as well.

⁴ In accordance with Article 2 of the Directive 2006/114/EC: 21–27, “comparative advertising means any advertising which explicitly or by implication identifies a competitor or good or services offered by competitor”. See also: Art. 4 of the Directive.

⁵ Although the present paper is focused primarily on the protection of consumers’ economic interests, it must be kept in mind that unfair advertising indirectly also harms the economic interests of legitimate competitors (Recital 6 of the Directive 2005/29/EC: 22–39).

⁶ For a more accurate analysis of the abuse of a *status* of a weaker party by consumers, see: Mazur (2022a).

3. DIFFERENT KINDS OF ADVERTS

As it has been already mentioned, advertising is a key component in the marketing of financial products and services that enable financial entities the publication, promotion and sale of their offered products to a wide audience, often beyond the targeted market. Through adverts professionals try to draw customers' attention on their most recent and/or attractive commercial offer.

Many studies have shown that the advertisements can significantly influence the consumer's process of decision-making, through intensive persuasion reducing people in the role of irrational consumers (MacBride, 1980).

The financial adverts may assume many different forms. They can consist of a simple text, be accompanied by pictures and/or video and/or audio. They can be placed online⁷, in television⁸, on the radio, in press, on the social networks, on the screens of the mobile devices, on the billboards, on the t-shirts, shorts and other pieces of sport clothes, on the moving vehicles (such as public transport) and sport vehicles (i.e., Formula 1), on the football, basketball, tennis and any other sport camp, in the cinema, on the tickets, leaflets, and so on. Nowadays, ads can be incorporated into almost everything. As it has been reported by the President of the Polish Office of Competition and Consumer Protection, ads can illegally use the image of celebrities in order to mislead or deceive consumers to invest their savings in highly risky financial products or services (see: [www1](#)).

Some of the advertising techniques may be particularly annoying and invasive, especially when the messages and other promotional practices are unsolicited⁹, continuous and difficult to avoid.

They can be targeted and personalised to specific groups of consumers, based on the age, gender, nationality, religion, incomes, preferences, consumption habits, employment, ZIP Code, financial experience, education level and so forth.

The practices of personalisation and targeting very often depend on artificial intelligence and automated decision-making that keep track of consumer behaviours, preferences and location. The objective is to focus the clients' attention on particular products and their characteristics. However, consumers should be aware of the broad range of products and services available and not only of some specific ones.

⁷ As stated by the BEUC (2010: 3) "The Internet has turned out to be a true gold mine for advertisers".

⁸ According to the British Office of Communications report from 2020, in the U.K. the television advertising totalled £4.5 bn in 2019, down from £4.8bn in 2018. The continued growth of online advertising is still very visible, which increased from £13.9bn to £15.7bn.

⁹ "[In] Belgium, unsolicited marketing is strictly regulated – it is forbidden, among others, to set up credit sales desks in public places such as railway stations, shopping centers" (FSUG, 2019: 11).

The situation becomes even worse when adverts are targeted on vulnerable group of consumers. In fact, several researchers found out that many television advertisements are targeted at people without job and short of money (BIS, 2013).

They can appear on specific tv channels, such as gambling channels, lottery, horse racing, astrology, teleshopping channels and so forth. In this manner they might constitute a temptation in front of televiewer who may consider the opportunity to borrow some money. It could be almost like putting alcohol in front of an alcohol addict.

The intent of the advertising is to make available goods or services desired by consumers and make them considered as “the path to happiness and the solution to virtually all problems and needs” (Pollay, 1986: 21).

And in these specific cases, the particular attention should be paid on unsecured financial products/services, such as small-dollar loans which are short-term, high-cost, easily and quickly to obtain¹⁰. These two last characteristics (which make loans particularly dangerous) are viewed favourable and considered a key advantage by borrowers, especially those in need. Thus, we can imagine that the final result may be tragic, leading to addictive consumption, risky spiral of debts, financial hardship, over-indebtedness, shame, family troubles, ever-rising number of suicides, public disorders and crimes.

Moreover, it must be kept in mind, that the fact that consumers do not pay for the advertised content it does not mean that they get information for free. In the online environment “web users are paying for content indirectly through the data that they, often unknowingly, supply to advertisers” (BEUC, 2010: 3).

There is another problem of Data Collection, as reported by Wall Street Journal “high-cost lenders also buy data on Facebook users who have been identified as people in financial distress from third-party companies that compile the information without Facebook’s involvement. Chicago-based Exact Data sells marketing list titled *People Struggling With Bills and Get Me Out of Debt!* that purport to offer millions of Facebook address for struggling consumers. The price is as little as \$249 for more than 10 million names” (www2).

3.1. Some selected examples of regulations on advertising and marketing of financial products

a) National legally binding regulations

In many countries particular competent authorities supervise and enforce legally binding regulations related to the financial advertising.

In **Spain** the competent authority which supervises the financial advertising is the *Banco de Espana*. The Spanish regulatory model is based on the

¹⁰ For more detailed information see: Mazur (2022b); Miller Jr. (2019).

responsibility of the professionals who place the adverts and on the *ex post* control of the advertising activity conducted by the *Banco de Espana*. On June 26, 2020 the Bank of Spain published a new Circular No. 4/2020 on advertising of banking products and services. In addition, there are other rules that govern the specific aspect of financial product advertising, such as Law n. 16 of 24 June 2011 on consumer loan agreements or the Order ECC/2316 of 4 November 2015 on information obligations and classification of financial products.

The Polish Competition Authority (UOKiK)¹¹, the Italian Competition Authority (AGCM)¹², the Italian Authority for Communications Guarantees (AGCOM).

In **Australia** there is the Australian Securities and Investment Commission (ASIC) which regulates and supervise the sector of financial advertising. The Australian regulator in 2012 issued a “Good Practice Guidance” (Regulatory Guide 234) that contains all the information, advice and guidelines for advertisers of financial products and services, however, with no legally binding character. The Australian Competition and Consumer Commission (ACCC) governs the content of television commercials and advertising generally.

In the **United Kingdom** the competent organs are:

- the Financial Conduct Authority which regulates advertising for most financial products and services, such as loans, investments, cash saving and bank accounts, pension, mortgages, payment services and e-money, and so forth. The FCA issues and enforces various rules and guidance¹³;
- the Advertising Standards Authority (ASA) – the UK’s independent advertising regulator which controls advertisements across UK media. The ASA monitors ads and conducts research both on its own initiative and after receiving consumers’ and businesses’ complaints. The Authority takes action to ban non-compliant advertisings. When a marketer is unwilling or unable to follow the rules supervised by ASA, or when a market continues to fail, the ASA can ask for support the Trading Standards (www5) or Ofcom (www6) (the UK communications regulator);

¹¹ For the very recent pecuniary sanction of 170.000 PLN issued by the Polish Authority in relation to the misleading advertising (see www3). In the case in question, consumers were misled by informing that the company offered bonds or social bonds. The company did not provide any information on investment risk. Moreover, “The entrepreneur did not decide to voluntarily abandon the practice despite a provisional decision. Therefore, the Office has taken action which led to closing the website where the misleading content was presented” (www4).

¹² Competition Authorities supervise and enforce, *inter alia*, the legal rules set out by the Unfair Commercial Directive, and the Directive on misleading and comparative advertising, both in the collective interest of consumers and other competitors.

¹³ For the purpose of the present article, it means for financial promotion see Chapter 4 of the Conduct of Business Sourcebook (COBS); Chapter 3 of the Consumer Credit Sourcebook (CONC); Chapter 3 of the Mortgage and Home Finance: Conduct of Business Sourcebook (MCOB).

– the Committee of Advertising Practice (CAP) – the organisation responsible for writing and maintaining the Advertising Codes where we can find several rules regarding advertisement practices for financial product and services (www7). It also provides authoritative advice and guidance for advertising industry, agencies and single advertisers.

Beside several specific legal norms, there are some interesting examples of national practices. In the United Kingdom, it is worthily notice that there are no adverts on the public service TV¹⁴ and radio broadcaster BBC, for this reason, online advertising industry is particularly interesting in the online advertisements (Fuchs, 2018) becoming a dominant sector of the ad market.

In Australia, both the Corporations Act and the National Credit Code prohibit canvassing techniques of financial products selling. The hawking prohibitions ait to prevent predatory and unsolicited selling of credit products and services to retail clients. During the COVID-19 emergency, ASIC paid a particular attention to any warning, disclaimer and advert regarding wide range of financial products and services across a broad range of any kind of media. The regulator exercised several powers, such as issuing public warning notice¹⁵, issuing a stop order¹⁶, seeking an order for redress¹⁷, cancelling an advertiser’s Australian Financial Services licence or credit licence¹⁸, making a temporary or permanent banning order¹⁹, and so forth.

b) National non-legally binding rules

There are also many specialised independent bodies that control advertising across national media²⁰. These bodies supervise and enforce rules set forth in non legally binding advertising standards and rules, such as the Italian Codes of Advertising Self-Regulation, the Code for Financial Advertising (www8) in the New Zealand, ecc.

In some countries, these organs can take action to ban non-compliant advertisings. For example, in the UK, when a marketer is unwilling or unable to follow the rules supervised by ASA, or when a market continues to fail, the ASA can ask for support the Trading Standards (www5) or the UK communications regulator (Ofcom).

¹⁴ Similar prohibition is in Sweden. The two public TV stations (SVT1 and SVT2) are not allowed to advertise (Anderson, 2005).

¹⁵ Regulatory Guide 234.182.

¹⁶ Regulatory Guide 234.172.

¹⁷ Regulatory Guide 234.176.

¹⁸ Regulatory Guide 234.190 and 234.191.

¹⁹ Regulatory Guide 234.192.

²⁰ For instance, the Advertising Standards Authority (ASA) and the Committee of Advertising Practice (CAP) in the UK, the European Advertising Standards Alliance (EASA) which is the single authoritative voice on advertising self-regulation issues in Europe, the Italian Advertising Standards Authority (*Istituto dell’Autodisciplina Pubblicitaria*, IAP) and others.

c) **BigTech companies' self-regulations**

Online advertising of financial products and services is one of the largest and the most lucrative advertising categories on the Internet. Most legally binding regulations apply to such sector. However, the BigTech companies have developed their own advertising policies with 'self'-restrictions regarding financial products and services.

As an example, Google (www9) bans ads for short-term, high-cost loans with Annual Percentage Rate (APR) above 36% and which require repayment in full in 60 days or less.

Microsoft (www10) prohibits various financial products and services advertisements, such as Binary Options, services which facilitate illegal purposes, Ponzi schemes, pyramid schemes, etc. Then there are identified specific policies regarding different countries.

Financial advertisements policy of Facebook appears very vague. The company prohibits (www11) expressly just three financial products/services, such as Initial Coin Offerings, Binary Options, Contract for difference Trading. While LinkedIn (www12) restricts ads related to financial services and short-term loans (payday loans and similar).

As we can notice, the ad restrictions vary by tech company, nonetheless almost all of them impose restrictions or bans on adverts for binary options, services in cryptocurrencies, short-term loans²¹ with repayment period no longer than 90 days, ads for loans with APR higher than 36%, and so on. Someone could say that it seems a good sign, however many studies shown that financial product providers exploit still existing "loopholes", in other words, they find numerous methods for getting around advertising restrictions of BigTech companies, for instance through "redirection" to another page with non-compliant product²².

3.2. Review sites

However, consumers can also try to protect themselves by using the Internet in their favor, and in particular review sites. These websites can improve the knowledge about available products and services and thus reduce the information asymmetry between buyer and seller, thereby mitigating the issues of moral hazard.

Since many professionals may care about their reputation which influence their future business, being aware of the online reviews, they would tend to provide good products and services. Previously, we could communicate only with

²¹ As reported by the Wall Street Journal, those bans were applied about five years ago because of the pressure from public regulators and consumer advocates (see www2).

²² For more information see: www13.

small group of people (generally family and friends), nowadays, with the access to the Internet, we are able to reach a much larger audience. Although the information can be still asymmetric, an incentive to exploit that imbalance will be certainly lower.

Obviously, we have to be aware that the market is constantly evolving, and some professionals try to fight back by issuing fake or manipulating reviews or ratings. The scale of this problem grows continuously. To make the problem even worse, the fake online review is becoming a new business by assuming different levels of sophistication they generate huge volumes of false, both positive and negative, reviews²³ and profiles.

Competent authorities should continue to invest in SubTech and RegTech that can identify false and/or cloned firms and online frauds and scams.

4. SOME RECOMMENDED GOOD PRACTICES FOR FINANCIAL ADVERTISING

In order to provide comprehend, not misleading and ethically correct financial adverts there are some recommended good practices that can be used by advertising providers. The following recommendations are applicable to different kinds of advertising of financial products or services, including but not limited to television, radio, print, online ads, adverts placed out of home (public transports, billboards) and so forth.

- The adverts shall be clear, comprehensible (using simple and understandable language), not misleading, truthful, complete, accurate and objective;

- Information provided should be current, easily legible or clearly audible (www8) as appropriate, in accordance with the medium used for advertising. The speed of reading should be comprehensible to an average consumer. Furthermore, they should not be undermined by distracting sounds, dense block of text or images;

- Expressions “that may create false expectations for a consumer regarding the availability or the cost of a credit” shall be prohibited²⁴;

- The adverts must be clearly identifiable. They should be easy distinguished from a non-promotional content;

- The advert must provide clear disclosure of all the fees and extra costs;

- The advertiser should take reasonable steps to ensure that any illustration and communication provided are fair, clear²⁵ and not misleading;

- Should well-define all characteristics, advantages and associated risks;

²³ For more information see: European Parliamentary Research Services, EPRS (2015).

²⁴ Article 10 of the Directive 2014/17/EU.

²⁵ In particular cases, competent authorities can oblige firms to use some specific expressions, see: Restrictions on use of terms.

- The principles of fairness, good conducts and transparency should be granted;
- In particular cases, both product and related advert, should be, *ex ante*, verified and approved by a competent authority²⁶;
- record-keeping all the advertising information and documents;
- Advertising message should not create a misleading impression (www14) and unrealistic expectation about what a financial service can achieve;
- Ad should not present that a product or its provider has an approval, affiliation or license which does not actually have;
- Messages should not contain polysemic words, such as “easy”, “simple” or “secure” investment;
- They should not overstate the safety of the product or service or understate risks;
- Advertising materials should include some specific claims, such as “before acceptance, read carefully prospectus”, warnings, such as “borrowing money costs money”²⁷, “are you able to repay this loan in time?”, or indication of the consequences of default, as it occurs in the case of drug adverts;
- A dual control system for advertising elements and self-regulation may be provided, which consists of (i) an external control, and (ii) an internal review by one or more internal department of the financial institution.

The violations of the advertising restrictions can lead to:

- Temporary suspension of the advertising account;
- Temporary or permanent suspension of the diffusion of the advertisements;
- Refusal, revocation or suspension of licences;
- Prohibition of the diffusion of the ads, in particular situation even before their publication;
- All the advertisings considered as unfair commercial practices should be automatically banned, in accordance with the Unfair Commercial Practices Directive;
- Imposition of the sanctions²⁸, or even imprisonment²⁹;
- Confiscation of financial assets;
- Compensation for victims of the professional misbehaviours must be provided.

²⁶ See art. 94, 94-*bis*, 101 of Legislative Decree of 24 February 1998, No. 58 “Testo Unico della Finanza (TUF)”.

²⁷ See for instance www15.

²⁸ In the UK, the Trading Standards can impose an unlimited fine.

²⁹ In the UK, the prison sentences of the Crown of Magistrates’ Court are usually up to two years. As an example, see the case of Copycat Websites (www16); also, the section s1041E of the Australian Corporations Act 2001 imposes imprisonment up to 10 years, as well as the section s33 of the Australian National Credit Act (max. 2 years).

CONCLUSIONS

Thus, as we could see, the advertisements are omnipresent, unavoidable and often very intrusive. As it has been noted by Jeffrey Schrank “advertising has taken quiet away from us, has made the choice impossible. Our minds become jammed with bits and pieces of jingles, buzz words, products, ad images, brand names, and slogans so there is no room for meditation and little room for self-confrontation” (Schrank, 1977: 90). Moreover, they strategically distort our perception and vision of many things, they constantly try to demonstrate that the grass is greener elsewhere. In the case of banking and financial products and service these practices are able to produce very serious and disastrous financial and behavioural consequences. The proliferation of frauds and unfair conducts make all of us a potential victim.

Choosing banking/financial products and services can be a complex process which requires attention and knowledge. In this regard, advertising can help, but it can also make all the procedure more complicated, especially in case of non-real time financial promotion, it means when a financial promotion is not made in the course of a personal visit, telephone conversation or other interpersonal and interactive dialogue. There must be kept in mind that information held by sellers (*here* advertisers) and potential buyers are imperfect and unequal³⁰.

In the time of the pandemic and the ongoing military conflict, the adverts of the “perfect PC”, the “perfect home”, the “perfect life”, become little less attractive when people face a serious financial distress due to joblessness, reduction of working hours, illness, increase interest rates, etc. The issue may become even more serious as long as the professionals’ objectives are profits only in monetary terms.

Although the present paper is focused primarily on the protection of consumers, especially on vulnerable segments of them, it must be stressed that the misleading and unfair comparative advertising can be, and very often do, detrimental also to the fair competition between competitors presented on the market³¹.

Consequently, the adverts, not only financial but also those considered more widely, constitute very important, private and public issue which should be adequately regulated and carefully supervised by several different regulators.

³⁰ In this regard see the “lemons model” provided by Akerlof (1970).

³¹ About the recent investigation opened by Italian Competition Authority against Google see [www17](#).

The complete ban³² may be counter-productive, as it “can have much the same effect by making it more difficult for smaller firms and entrants to inform customers of the existence of their brands and products” (Nelson, 2004). Moreover, the ban on particular kind of media might lead to a substitution pushing advertisers towards other forms of promotion. Nevertheless, the free, unregulated advertising market can quickly trigger over-advertising detrimental to the consumers. A well-adjusted combination of advertising and other promotional strategies is needed to make consumers aware about the products and services available on the market.

For these reasons, policy actions should be balanced and prudential providing strong enforcement measures and available technology for supervision activities (so-called SupTech).

Nevertheless, it must be highlighted that advertising alone cannot be responsible for all bad decisions taken by customers. There are numerous other elements and circumstances which can easily affect a final decision, such as rush, stress, naiveté, irresponsibility, irrationality³³, risk-assessment biases, disinterest in available alternatives, over-self-confidence³⁴ in own ability to repay a loan, overoptimism, personal preferences, financial illiteracy, social/historical context, temporary financial hardship, emergency, misfortunes, and other particular situation.

For such a reason, instead of completely recriminate advertising practices, the public organs should also continue to provide, “Public Warnings” (www18; www19) and “Awareness Campaigns”³⁵ which contain warnings and offer advice to consumers about the main financial products/services and the financial frauds, scams and so forth, as the issue is too relevant to be ignored, especially in nowadays.

DISCLOSURE STATEMENT

The author reports no conflicts of interest.

³² And also as noted by Attas (1999: 49) “(...) the harmful, but contingent, consequences of behavior influenced by a deceptive advertisement cannot provide reasons for condemning it in and of itself”.

³³ As to the theory of bounded rationality, Simon (1957) noted that every day individuals have to face a great amount of decisions, consequently it is almost impossible for them to devote their mental energies necessary to behave rationally.

³⁴ And also “people tend to overestimate typical results as well as their own likely results from using the advertised product” (Taha and Petrocelli, 2020: 83).

³⁵ Such as “Check, read, ask!” launched by the President of the Polish Office of Competition Authority, see www20; or “Sprawdź, zanim podpiszesz” (www21), which informs consumers about every relevant information regarding financial products.

REFERENCES

- Akerlof, G.A. (1970). The Market for ‘Lemons’: Quality Uncertainty and the Market Mechanism. *Quarterly Journal of Economics*, 84.
- Akerlof, G.A. and Shiller, R. (2015). *Phishing for Phools. The Economics of Manipulation and Deception*. Princeton: Princeton University Press.
- Anderson, S.P. (2005). *Regulation of television advertising*. <https://core.ac.uk/download/pdf/7191685.pdf> [Accessed 20.01.2022].
- Attas, D. (1999). What’s wrong with “Deceptive” Advertising. *Journal of Business Ethics*, 21.
- Banco de Espana (2018). *The Advertising Activities of banking products and services of the entities supervised by Banco de Espana*. https://www.bde.es/f/webbde/Secciones/Publicaciones/PublicacionesAnuales/MemoriaServicioReclamaciones/17/The_advertising_activity_of_banking_products_and_services_of_the_entitie.pdf [Accessed 10.01.2022].
- Bulgarea, C.N. (2010). Distribution of Banking Products and Services. *Annals of Faculty of Economic*, 1(2).
- Bureau European des Unions de Consommateurs – BEUC (2018). *Automated Decision Making and Artificial Intelligence – A consumer perspective*. BEUC Position Paper.
- Bureau European des Unions de Consommateurs – BEUC (2010). *Online Advertising – Impact on Consumers*. BEUC Reflection Paper.
- Department for Business, Innovation and Skills – BIS (2013). *Making Consumer Credit Markets Fair. Payday lending advertising research conducted for BIS by Ipsos MORI Social Research Institute*.
- European Parliamentary Research Services – EPRS (2015). *Online consumer reviews. The case of misleading and fake reviews*, PE 571.301.
- Financial Services Consumer Panel (2020). *Discussion Paper on Digital Advertising in Financial Services*. https://www.fs-cp.org.uk/sites/default/files/fscp_final_digital_advertising_discussion_paper_20200630.pdf [Accessed 25.07.2022].
- Financial Services User Group – FSUG (2019). *Responsible consumer credit lending. FSUG opinion and recommendations for the review of the Consumer Credit Directive*. https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/fsug-opinions-190408-responsible-consumer-credit-lending_en.pdf [Accessed 10.03.2022].
- Fuchs, C. (2018). *The Online Advertising Tax as the Foundation of a Public Services Internet: A CAMRI Extended Policy Report*. London: University of Westminster Press.
- Legislative Decree of 24 February 1998, No. 58 “Testo Unico della Finanza (TUF)”.
- Lindholm, O. (2008). *The Influence of Sales Promotion on Consumer Behavior in Financial Services* (Master’s Thesis). Helsinki: Helsinki School of Economics.
- MacBride, S. (1980). *Many Voices, One World: Communication and Society, Today and Tomorrow*. New York: Unipub (UNESCO).
- Mazur, Z.M. (2021). Where is the limit of Misselling. *The International Review of Financial Consumers*, 6(1).
- Mazur, Z.M. (2022a). Sulla tutela del consumatore volutamente disinformato. A proposito dell’ordinanza della Corte (Settima Sezione) in causa C-198/20 del 10.06.2021. *Rivista di diritto dell’impresa* (forthcoming).
- Mazur, Z.M. (2022b). The Consumer Lending Protection. How to prevent the predatory lending and “debt slavery” on the small-dollar lending market during and after the COVID-19 emergency. (manuscript submitted for publication).
- Miller, Jr. T.W. (2019). *How do small-dollar, nonbank loans work?* Arlington, Virginia: The Mercatus Center at George Mason University.
- Nagler, M.G. (1993). Rather bait than switch. Deceptive advertising with bounded consumer rationality. *Journal of Public Economics*, 51. [https://doi.org/10.1016/0047-2727\(93\)90071-Z](https://doi.org/10.1016/0047-2727(93)90071-Z)

- Nair, D. (2020). Affective Priming Technique in Advertising – An Empirical Study With Reference to Fast Moving Consumer Goods Sector. *Academy of Marketing Studies*, 24(3).
- Nelson, J. (2004). *Advertising Bands US*. EH.Net Encyclopedia, <https://eh.net/encyclopedia/nelson-adbans/> [Accessed 25.07.2021].
- Ofcom (2020). *The Communication Market Report 2020*. https://www.ofcom.org.uk/_data/assets/pdf_file/0026/203759/cm-2020.pdf [Accessed 12.03.2022].
- Pollay, R.W. (1986). The Distorted Mirror: Reflections on the Unintended Consequences of Advertising. *Journal of Marketing*, 50(2). <https://doi.org/10.2307/1251597>
- REFIT Platform Opinion on the submission by 5 organisations on the consumer Credit Directive 2008/58/EC. <https://ec.europa.eu/info/sites/default/files/vi4afccd.pdf>.
- Regulatory Guide 234. <https://static1.squarespace.com/static/52b5f387e4b08c16746b6b70/t/59d87b77e45a7c0ce23b1222/1507359611940/rg234-published-27-september-2017.pdf> [Accessed 09.04.2021].
- Restrictions on use of terms. <https://www.handbook.fca.org.uk/handbook/MCOB/3A/2.html> [Accessed 29.03.2021].
- Schrank, J. (1977). *Snap, Crackle, and Popular Taste: The illusion of Free Choice in America*. New York, Delacorte: Dell Pub. Co.
- Simon, H.A. (1957). *Models of man*. New York: John Wiley.
- Taha, A.E. and Petrocelli, J.V. (2020). Advertising Options. *Tulsa Law Review*, 56(1).
- Weinstein, N.D. (1980). Unrealistic optimism about future life events. *Journal of Personality and Social Psychology*, 39(5). <http://dx.doi.org/10.1037/0022-3514.39.5.806>
- (www1) https://www.uokik.gov.pl/news.php?news_id=16999 [Accessed: 06.10.2021].
- (www2) <https://www.wsj.com/articles/how-payday-lenders-target-consumers-hurt-by-coronavirus-11591176601> [Accessed 20.10.2021].
- (www3) https://uokik.gov.pl/aktualnosci.php?news_id=18764 [Accessed 03.11.2022].
- (www4) https://uokik.gov.pl/news.php?news_id=18786&news_page=3 [Accessed 03.11.2022].
- (www5) <https://www.asa.org.uk/uploads/assets/uploaded/5b773c7e-0e04-41bd-b09b30a440d44fd4.pdf> [Accessed 20.10.2021].
- (www6) <https://www.ofcom.org.uk>.
- (www7) <https://www.asa.org.uk/uploads/assets/7f8b2737-2876-489f-a553f655c4fd8f07/BCAP-Code-14-Finance.pdf>.
- (www8) <https://cdn.asa.co.nz/wp-content/uploads/2021/11/Financial-Advertising-Code-November-2021.pdf> [Accessed 03.11.2022].
- (www9) https://support.google.com/adspolicy/answer/2464998?hl=en&ref_topic=1626336.
- (www10) <https://about.ads.microsoft.com/en-us/resources/policies/financial-products-and-services-policies> [Accessed 08.08.2022].
- (www11) <https://www.facebook.com/policies/ads/prohibited-content/prohibited-financial-products-and-services> [Accessed 08.08.2022].
- (www12) <https://it.linkedin.com/legal/ads-policy> [Accessed 08.08.2022].
- (www13) <https://searchengineland.com/payday-loan-ads-still-showing-google-ban-258945> [Accessed 20.10.2021].
- (www14) <https://www.cpc.ie/consumers/shopping/misleading-advertising/> [Accessed 03.11.2022].
- (www15) <https://www.afm.nl/en/nieuws/2009/feb/waarschuwingszin> [Accessed 03.11.2022].
- (www16) <https://www.asa.org.uk/news/asa-welcomes-sentencing-of-criminals-behind-fraudulent-copycat-websites.html> [Accessed 08.09.2021].
- (www17) <https://en.agcm.it/en/media/press-releases/2020/10/A542> [Accessed 12.09.2021].
- (www18) https://www.knf.gov.pl/dla_konsumenta/ostrzezenia_zagranicznych_organow_nadzoru [Accessed 10.12.2021].

(www19) https://www.knf.gov.pl/en/CONSUMERS/Information_for_the_financial_market_consumers/Public_warnings [Accessed 10.12.2021].

(www20) https://www.uokik.gov.pl/news.php?news_id=16629

(www21) <https://www.zanim-podpiszesz.pl>

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