



The Protean Consumer: Exploring Competing Visions of Consumption and Consumerism

Max Weber Programme Multidisciplinary Research Workshop

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Description

The idea for this workshop stems from the observation that, across disciplines, a shift of focus from production to consumption typically comes with a reframing of ideas and narratives central to our understanding of economic life. The reframing extends to concepts such as the nature of capitalism, the functions of markets, the drivers of change in market societies, as well as the determinants of personal and group identities. In contexts where social organization is based explicitly on citizens' relationship to the means of production, such as under socialism, the disruption is potentially even greater.

Yet, despite decades of scholarship of growing nuance and sophistication in sociology, history, political science, law, and economics, the consumer is still a polarizing character. Most literature oscillates between portrayals of the consumer as vulnerable, victim of brands and advertising, and passive performer of choices scripted elsewhere on the one side, and the consumer as creative user, re-user, interpreter and re-assembler of products and representations, agent of change and even resistance, on the other side. This opposition has tended to be distributed along disciplinary lines. For lawyers, and perhaps economists, especially after the behavioral turn, it has been difficult to think of consumers outside of the framework of protection. Historians and social scientists have tended to emphasize consumption as the site of positional, expressive and relational behavior.

Rather than simply exposing these contradictions as disciplinary biases, the workshop embraces the complexity they reveal about consumption. In so doing, the workshop aspires to "pluralize" consumerism, and the consumer, by emphasizing roles that have so far been marginalized in both academic and popular discourse. The consumer ceases to be understood as either vulnerable or resistant and takes on new, more finely defined, roles. The papers in this workshop will illuminate the complexity of such roles in different geographical and historical contexts, as well as different ideational contexts, from law to economics to popular culture and the arts. Understanding such roles



seems important because different visions and representations of the consumer are mobilized towards different social and political ends.

The workshop will be an opportunity for cross-disciplinary training and contamination of perspectives that will enrich individual research agendas as well as point to further opportunities for collaboration.

Location: Zoom.us (the link will be disseminated by email to registered participants).

Format: Each individual presentation will last 10 minutes, followed by 5 minutes comments by an assigned commentator and 10 minutes Q&A; Keynote will last 35 minutes, followed by 15 minutes of Q&As.

Program

14.00 - 14.10 Welcome and introduction by **Giacomo Tagiuri (EUI)**

14.10 - 15.00 Paper Session 1: Consumption's Contribution to Social Inclusion and Exclusion
This panel reflects upon how consumers contribute and/or react to the social and legal "regulation" of consumption, with an emphasis on social inclusion and exclusion. Who can be a consumer of what? How does public display v. domestic behavior contribute to these processes? How are consumers empowered by the State and how they may empower themselves, including as political actors?

Gasper Jakovac (EUI): *Elite Catholic Consumption and Equestrian Sports in Post-Reformation England.*

Commentator: Xiaoren Wang (EUI)

Viola Müller (EUI): *Immobile Consumers? The Material World of Free African Americans in Antebellum Southern Cities.*

Commentator: Johannes Kniess (EUI)

15.00 - 15.50 Keynote Session

Roberta Sassatelli (Professor of Sociology, University of Milan): *Promises of Authenticity. Deconstructing Choice in Everyday Consumption*

15.50 - 16.05 *Break*

16.05 - 17.20 Paper Session 2: Constructing Quality

What are the social, cultural and legal strategies through which quality is socially constructed, and what is the role of consumers in these processes? How do these processes fit in with broader political developments?

Xiaoren Wang (EUI): *Shape the Color—An Empirical Study on Consumer Memories (the secondary meaning) of Color Trademarks.*

Commentator: Mateusz Grochowski (EUI)

Pauline Trouillard (EUI): *Competition and the Quality of Television Programmes in the EU.*

Commentator: Takuya Onoda (EUI)

Olav Hofland (EUI): *Destalinization and Consumer Services in the USSR: The Development of a New Policy on the Socialist Foodservice Industry, 1953-1956.*

Commentator: Giacomo Tagiuri (EUI)

17.20 - 17.30 *Break*

17.30 - 18.20 Paper Session 3: Blurring the Lines between Consumers and Producers

This panel explores the blurring of the lines between production and consumption, which the digital economy exacerbates, but which may be a pervasive feature of our economic lives in different historical contexts. What are the political and social implications of this blurring?

Giacomo Tagiuri (EUI): *Problematizing the Distinction Between Producerist and Consumerist Regimes.*

Commentator: Gasper Jakovac (EUI)

Mateusz Grochowski (EUI): *Online Platforms as Creators of Consumer Law.*

Commentator: Viola Müller

18.20 - 18.50 Concluding remarks and Discussion

Giorgio Riello (Professor of Early Modern Global History, EUI)

Paper Abstracts

Gasper Jakovac (MWF HEC): *Elite Catholic Consumption and Equestrian Sports in Post-Reformation England*

In the decades following the Elizabethan religious settlement (1559), England became a Protestant nation. The marginalized and persecuted Roman Catholic minority, which at the end of the sixteenth century amounted to about two percent of the national population, became officially excluded from political life and mainstream culture. In order to survive in hostile environment, Catholics employed a number of survival strategies. In this paper, I am going to discuss whether and how we can consider the consumption of race-horses (their buying, breeding, selling, and matching) by the English Catholic elites as an important strategy in their perpetual struggle for respectability and acceptance.

Viola Müller (MWF HEC): *Immobile Consumers? The Material World of Free African Americans in Antebellum Southern Cities*

In the antebellum period (c. 1800-1860), Americans of African descent lived in disproportionately large numbers in the cities and towns of the southern states. Most of them had no opportunity to leave the cities because purchasing land was almost impossible. Additionally, a significant share did not possess freedom papers and could not move freely outside the cities without the risk of being apprehended as slaves. These people were, hence, immobilized in the urban South. This paper will examine the consumption choices and the material possessions of black urban residents as a physically largely immobile population. What did they aspire to possess and why? How did they spend their leisure time? Which products circulated within larger society and which within more closed circles? Which material goods were they barred from purchasing? Answering these questions will shed light on how African Americans used consumption for their identity construction, social mobility, and resistance.

Xiaoren Wang (MWF LAW): *Shape the Color—An Empirical Study on Consumer Memories (the secondary meaning) of Color Trademarks*

An abstract color trademark refers to a sign consisting exclusively of a single color / a combination of colors without contours. Both EU law and US law allow trademarking an abstract color. However, do these doctrines make sense from a trademark law perspective? To answer this question, one should ask how consumers identify a brand through colors. Do consumers identify a brand relying on colors in the abstract without contours or shapes such as T-Mobile's magenta, or, on the association of color and shape like Louboutin red-bottom shoes? This study investigates this issue through an experiment that manipulates the shapes and colors of 9 brands. The results indicate that consumers rarely rely on color in the abstract to identify brands. This finding provides solid evidence to deny abstract color trademarks and to support that color trademark protection should be restricted within specified contours and products.

Olav Hofland (PhD Researcher, EUI HEC): *Destalinization and Consumer Services in the USSR: The Development of a New Policy on the Socialist Foodservice Industry, 1953-1956*

Historians working on the USSR commonly claim that the death of long-time dictator Joseph Stalin in March 1953 caused a re-evaluation and partial reform of the Soviet economic system by the politicians that succeeded him. This process is often referred to as de-Stalinization. This paper — which is a draft chapter for my dissertation — is an analysis of the post-Stalin Soviet leadership’s assessment of the socialist foodservice industry (*obshchestvennoe pitanie*) in the country after Stalin’s death in March 1956, and the subsequent formulation of a new decree on foodservice, passed in March 1956. It relies on the documents kept in the archive of the Council of Ministers, the Ministry of Trade and the Ministry of State Inspection, that shed a light on how state planners “read” the situation on the work floors of the over one hundred thousand foodservice establishments that were operating throughout the USSR. Doing so, the paper demonstrates that the Soviet government made a great effort to gather vast amounts of information and was willing to act upon it. This analysis thus supports an argument that many historians have made before me. One of the direct effects of de-Stalinization, those historians argue, was that Soviet authorities started giving more priority to consumer goods and services over heavy industry. However, it remains unclear on what grounds the Soviet government assessed the situation, and why it made specific choices with regards to the policies that were to improve it. Moreover, we do not know very well what role the Soviet consumers themselves played in shaping new policies.

Pauline Trouillard (MWF LAW): *Competition and the Quality of TV Programmes in the EU*

Following the recognition that funding by advertisers can have a negative impact on the content and quality of TV programmes, a protocol annexed to the Amsterdam Treaty recognized the freedom of EU Member States to fund their public service broadcaster as an explicit exemption to the prohibition of state aids (Article 107 TFUE). The European Commission subsequently adopted several Communications to explain how it would ensure that this funding is proportionate and not contrary to the interests of the Union. This article outlines the economic and sociological consequences of the rules set out by the Commission. I argue that the control carried out by the European Commission regarding the proportionality of the funding granted to the Member States seeks to secure the profits of large private firms and has no positive impact on the public interest. This raises the issue of the goals and implementation of competition law rules in the sector, especially regarding the quality of TV products that will be consumed by viewers.

Giacomo Tagiuri (MWF LAW): *Problematizing the Distinction Between Producerist and Consumerist Regimes*

An influential distinction in legal scholarship and political economy contrasts a producerist and a consumerist legal orientation. On this distinction, producerism is protective of, or redistributive in favor of, producers – workers and business-owners, typically small businesses, while consumerism is protective of consumers and chiefly the consumer interest to competitive prices. Producerist law would restrict competition in order to protect the livelihood of business-owners and their workers – e.g. through licensing schemes or practices constraining certain forms of business behavior such as discounting, while consumerist law would enlarge competition through robust consumer-welfare-oriented antitrust. The paper wishes to problematize the distinction by showing how certain policies that may intuitively fit into the definition of producerist law, such as legal interventions aimed to assist the livelihood of small businesses may be defended in the name of a consumer interest, reinterpreted as an interest in plurality rather than simply price and quality.

Ultimately the distinction between producerism and consumerism, and even producers and consumers, may emerge as increasingly untenable.

Mateusz Grochowski (MWF LAW): *Online Platforms as Creators of Consumer Law*

The paper builds on the observation that online platforms (such as Amazon, eBay and Uber) introduce in their internal rules (User Agreements etc.) regulatory schemes that protect buyers of goods and services who conclude contracts via the platforms. In some instances the rules in question provide classic instruments of consumer law protection (such as the right to withdrawal), in others they offer novel solutions (centered e.g. around facilitating trust between contractors). The paper delves into the array of instruments created by online platforms that – directly or indirectly – provide protection to non-professional users of the platform market. It attempts to recognize any recurring patterns and to understand the reasons that incentivize platforms to create rules of this kind. Within this framework the paper also seeks to reassess the strength-weakness relationship, which typically justifies consumer law, in the platform economy, and in particular in relation to more blurred interchangeable relations between consumers and suppliers. Against this background, the text tries to address a more general issue: does the existence of protective rules validate a claim that private enterprise may address effectively certain market dysfunctionalities and contribute hence to fulfilling (or expanding) the standard of consumer protection established in EU law. With this in mind, the text will ultimately try to contribute to the question of to what extent platforms may operate as "regulatory intermediaries" and co-creators of EU consumer law.