

Is Online Shopping a Virtual Lord of the Rings Battle? How Can the Law Protect Us?

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The online shopping market is set to grow significantly as we continue to increase and diversify our online purchases. Despite the conveniences of online shopping, the threat of being monitored is imminent. It is progressively worrying that monitoring consumers online could determine the prices we pay for goods.

In the Lord of the Rings, Frodo was tracked and controlled by Sauron and his spies through the One ring. Similarly, consumers are tracked and passively controlled by algorithms that online retailers deploy. These algorithms legally extract our personal data; they determine what is displayed when we search for products, the types of discounts retailers make available to us and sometimes even the prices of goods. Unlike brick-and-mortar stores, consumers are no longer visiting the same storefront.

I argue that the law is currently ineffective in protecting us from these fluctuations.

Recently, Competition law has been used to scrutinise Big Tech and their data collection practices. Despite the growing trend to turn to Competition law, I highlight that relying on it would overlook holding the intermediaries involved in enabling these price and search-result fluctuations accountable.

Moreover, traditional Competition law remedies are counterintuitive to consumer privacy; this might include requiring merchants to share consumers' personal data with each other.

I contend that Competition law's nature of addressing harms emanating further up the supply chain demonstrates the need to reform Data Protection law instead. Reforming Data Protection law tackles the root cause. It would require merchants to adopt an ethical approach to data collection.