

Change is inevitable with the evolution of technology

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Vision without action is merely a dream. Action without vision just passes the time. Vision with action can change the world ~Joel A. Barker

The intersection of big data, privacy and competition law has become increasingly important in the digital age, where data-driven practices and digital platforms play a central role in the economy.

Privacy is one of the most significant concerns considering big data. Technology affords companies the ability to collect and analyse vast amounts of data from various sources. When the data collected and analysed includes personal information, there is a risk of individuals' privacy being compromised. Unauthorised access to personal information and data can lead to various damaging consequences such as identity theft, active surveillance since the proliferation of big data technologies enables pervasive surveillance and monitoring of individuals' activities, both online and offline, amongst other privacy violations.

Securing personal information is not only a legal requirement but an imperative. Big data increases the risk of data breaches and cyberattacks. The reason for this is that big data usually requires that large volumes of data across multiple platforms and locations be stored. If data security measures are inadequate, valuable information can be compromised, leading to financial losses, reputational damage, and legal liabilities.

In many industries, access to data can provide a significant competitive advantage. Companies that collect vast amounts of consumer data can use it to improve their products and services, target advertising more effectively, and personalise user experiences. However, concerns arise, both in terms of privacy as well as competition law in this regard. Big data analytics can uncover patterns and correlations in data that may not be immediately apparent. However, if these analyses are not conducted in a responsible manner, they can perpetuate biases and discrimination. For example, biased algorithms may lead to discriminatory outcomes in areas such as hiring. It can also create a risk that companies abuse their access to data to gain an unfair competitive edge or engage in anti-competitive behaviour.

In terms of competition law, competition authorities will be concerned when companies leverage their access to large amounts of data to maintain their market dominance. This can occur through practices such as exclusive data agreements, acquisitions of potential competitors for their data assets, or leveraging data to engage in anti-competitive behaviour, such as predatory pricing or discriminatory practices.

We are reminded that competition laws aim to promote fair competition and protect consumer welfare. Therefore, in the context of big data, it should be expected that regulators will scrutinise whether the use of data by a company, enhances or diminishes competition in the market. For example, if a dominant player in a digital market collects extensive user data that gives it an unfair advantage over competitors, regulators may intervene to ensure a level playing field and prevent harm to competition and consumers.

The intersection of big data, privacy and competition law underscores the importance of balancing innovation and competition with the protection of privacy rights.

Innovation and competition can thrive alongside the protection of privacy rights, but it requires a delicate balance and thoughtful regulations. Focus areas, in order to achieve a positive outcome, would include privacy by design, transparency, user control, data minimisation, strong regulation and international cooperation. By implementing these measures, innovation and competition can be encouraged, while safeguarding individuals' privacy rights.

This is a complex challenge, but one that is essential for creating a digital world that is both innovative and respectful of privacy.



Ahmore Burger-Smidt

Head of Regulatory

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