
**Legal Study on the Interaction and Boundary between
Competition Law and Privacy Law**

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Abstract

In the digital economy, the flow of data facilitates competition among goods and services. The sharp increase in user privacy infringement has aroused the attention of those engaged in the enactment of personal data protection legislation. The proliferation of data privacy laws has in turn begun to impact the flow of data and has brought about a myriad of new interactions between the data privacy and antitrust law. When the data privacy law clashed at the margins with the antitrust law, both practical insights and theoretical discussions as to whether the competition analysis framework should take into account data privacy were both initially quite negative in the early stages. However, in recent years, major countries have affirmed that competition enforcement should consider the impact of data privacy since, among relevant theories, privacy as an “element of non-price competition” and as a dimension of quality has become increasingly popular. In order to resolve the possible ambiguity of privacy as a quality factor in competition analysis, in addition to past experiences of evaluating other non-price factors, scholars have also suggested that the proportionality between harm and benefit can be used as the evaluation standard. There are three related issues that should be considered regarding the interaction between data privacy and competition law, namely, (1) the possible handling mechanism after interest measurement; (2) the existence of “non-complementarity” between privacy protection and competition promotion or not; and (3) how to establish a coordination and cooperation mechanism between relevant regulatory authorities. On the last issue, a useful reference is the Digital Regulatory Cooperation Forum promoted by the United Kingdom. On the other hand, major countries are also considering the completeness of the domestic personal data protection law and the need to amend the law in order to avoid the so-called “competition first” perspective in practice. Finally, this paper compares the possible

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problems faced as a result of the current situation in Taiwan and puts forward suggestions for future development from the perspectives of competition and data privacy protection.

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