



Resolution on the need for enhanced cooperation in the field of data protection and competition law

SPRING CONFERENCE OF THE EUROPEAN DATA PROTECTION AUTHORITIES 10-12 MAY 2023

Budapest, Hungary

Sponsor: Bulgarian DPA, Hungarian DPA

Co-sponsors: European Data Protection Supervisor (EDPS), Norwegian DPA

The European Data Protection Authorities, assembled in their Spring Conference of 2023, adopt the following resolution:

Preamble:

Digital technology has transformed both the economy and social life. While the digital economy undoubtedly brings benefits, respect for the rights of individuals must also be ensured. In this regard, both data protection law and competition law have the mutual goal of supporting growth, innovation and the increase of welfare of individuals. Being aware of the complementary nature of data protection law and competition law is important. Both areas of law are rapidly evolving and are increasingly shaping our economy and society. It is also important to recognize that dynamic competition based on innovation is a strong driving force of digital markets, which can be facilitated by a well-functioning competition enforcement. Recognizing these factors, and being aware that this topic was also the focus of bilateral statements of cooperation and MOUs between European DPA's and their national competition authority counterparts, the Global Privacy Assembly's Digital Citizen and Consumer

Working Group¹ and of the European Data Protection Supervisor's Digital Clearinghouse initiative², the European Data Protection Authorities wish to acknowledge the importance of the need for enhanced cooperation in the field of data protection and competition law.

Having regard to the above, and noting that:

- technology enables use of personal data on an unprecedented scale, which may entail significant risks for the fundamental rights to privacy and to the protection of personal data;
- the accumulation and use of personal data has a significant economic impact and can provide an unfair competitive advantage, particularly when personal data are combined and used in an unlawful manner;
- network effects and data driven advantages may come with high barriers to entry;
- while data protection authorities and competition authorities have different tasks and mandates, increased coordination and cooperation between European Data Protection Authorities and competition authorities is necessary to ensure regulatory consistency;
- the new EU digital package – and the development of other data protection and digital market competition reforms – highlights the interplay between data protection and competition law and that enhanced cooperation is needed ;
- consistent efforts must be made for the establishment of a framework to enhance cooperation in the field of data protection and competition law, to ensure that data protection and competition law remain mutually reinforcing and to overcome potential tensions; and that
- increased cooperation and coordination between European Data Protection Authorities and competition authorities could lead to enhanced protection of the individuals concerned as well as help to promote fair and contestable markets.

The European Data Protection Authorities, assembled in their Spring Conference of 2023 hereby resolve:

- to be committed to act in a united manner and to reinforce cooperation to achieve progress both in the protection of the fundamental rights to privacy and the protection of personal data, as well as fair competition, for instance in the framework of the Case-handling workshop

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https://globalprivacyassembly.org/wp-content/uploads/2019/11/DCCWG-Resolution_ADOPTED.pdf;
<https://globalprivacyassembly.org/wp-content/uploads/2021/10/Privacy-and-data-protection-as-factors-in-competition-regulation.pdf>;
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3880737 (independent academic review commissioned by the DCCWG)

² https://edps.europa.eu/sites/edp/files/publication/16-09-23_bigdata_opinion_en.pdf;
<https://www.digitalclearinghouse.org/>

but also in other existing international fora such as the Global Privacy Assembly or regional fora active in the field;

- to affirm its ambition to strengthen cooperation and the exchange of information with competition authorities to reach this goal;
- to encourage data protection and competition authorities to promote a level playing field for competitors, which requires careful consideration of circumstances of the cases at hand, including the possible impact of the data processing on the rights and freedoms of the persons concerned, and to enhance cooperation between the relevant authorities with the creation of appropriate cooperation mechanisms;
- to ensure that controllers make sufficient, transparent and easily accessible information about the processing of personal data available and to verify the lawfulness of the processing as well as compliance with the principles of data minimisation, accuracy and purpose limitation;
- to be committed to ensure that data subjects are effectively empowered and can exercise control over their data, in an informed and transparent way, in all areas;
- to take competition perspectives into account wherever appropriate in order to ensure that common goals of competition law and data protection law are duly considered;
- to acknowledge that vast quantities of personal data may be processed not only in a way that is unlawful under data protection law, but also as means to achieve and abuse market power;
- to acknowledge that appropriate mechanisms to support access to personal data can be important tools to safeguard competition and to promote fair and contestable markets, provided it takes place in accordance with data protection law; and
- to strengthen independent oversight of the use of personal data by public authorities.

Budapest, 11 May, 2023