



# Value and Personal Data in the Digital Environment

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Personal Data = Value? Commodity?



# However, ...

*2008; European Commission; Case No COMP/M.4854 –  
TomTom/TeleAtlas*

- *TeleAtlas/TomTom Merger*
- The Commission recognized the relevance of “data” as a competition parameter: it defined a narrow product market for navigable digital maps, acknowledging data as a differentiating factor between digital maps and maps more broadly.

*2008; European Commission;  
Decision in Google/DoubleClick*

The determining factor in noting **the lack of a network effect** of the merger both on the advertisers' and publishers' sides was the fact that DoubleClick **was "contractually prohibited"** to use the data it has collected in the past "to offer better targeting to new advertiser customers". (paras 183 and 184)

## *2012; European Commission; Decision in Telefonica UK/Vodafone UK/Everything Everywhere*

- When looking specifically at “targeted advertising”, the Commission mentioned that “customers generally tend to give their personal data to many market players, which gather and market it. Therefore, **this type of data is generally understood to be a commodity**”. Para 543
- The Decision goes into sufficient detail to take into account real time geo-targeting, as well as the use of social media profiles or browser histories. It concludes that, “on all possible sub-markets, the JV Co would indeed be able to collect a broad range of consumer information, which **will be very valuable for its (mobile) data analytics services** and advertising services. However, many other strong and established players are also able to offer comparable solutions to the JV Co.” para 557

- “historically, MNOs’ [Mobile Network Operators] **terms and conditions** (?) have only allowed the MNOs to send their own offers to their customers. Therefore, the Notifying Parties will have to build a largely new base of opt-in users **for the purpose of data analytics** and for JV Co’s [Joint Venture] advertising activity ... **Obtaining opt-ins** outside the framework of new contracts requires a campaign and positive responses (opt-ins) as a result of such campaigns” para. 542

- *Facebook/WhatsApp:*
- The Commission pointed out that “even if the merged entity were to start collecting and using data from WhatsApp users, the **Transaction would only raise competition concerns if the concentration of data within Facebook's control were to allow it to strengthen its position in advertising.**” para 187

*Autorité de la Concurrence, Avis no 18-A-03 portant sur  
l'exploitation des données dans le secteur de la publicité sur internet  
(6 March 2018)*

- “the best performers are companies that have access to vast sets of high-quality personal data and have the ability to exploit them in the best possible way”. P. 11
- this confirms that “access to personal data in large numbers and with high added value, as well as the control of the technological tools making it possible to use and to valorize them are from now on determining competitive advantages.” p.11

*(unofficial translation)*