

Unclassified

English - Or. English

25 May 2020

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Consumer data rights and competition – Note by TUAC

12 June 2020

This document reproduces a written contribution from TUAC submitted for Item 3 of the 133rd OECD Competition Committee meeting on 10-16 June 2020.

More documents related to this discussion can be found at
<http://www.oecd.org/daf/competition/consumer-data-rights-and-competition.htm>

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TUAC

1. On the occasion of a roundtable on “consumer data rights and competition”, the OECD Competition Committee will discuss the ways in which businesses collect and use consumer data and the role of competition enforcement. In [a background note](#), the OECD describes the increasing use of consumer data in a digitalised economy. Potential harm to competition may arise where firms are unwilling (data capture) or unable to share their data (insufficient interoperability may hinder market entries). Furthermore, the substantial economic value of consumer data has to be balanced with the risks to consumer’s privacy.
2. Overall, TUAC agrees that achieving interoperability of platforms, processing and sharing systems is important to achieve markets that are more competitive. This is also in the interest of job creation and the ability of individuals to handle data across sectors and applications. The trade union movement is indeed very concerned about the market power of highly digitalized businesses.
3. This contribution seeks to bring the attention of competition authorities to the workplace dimension of data and to call for appropriate competition enforcement.
4. The risks associated with consumer and personal data are an important topic and an array of protective regulations is being put in place at national and regional level (e.g. GDPR). In contrast, the abusive collection and use of workers’ data is gathering less recognition. Yet, their impact on individual liberties (including the privacy of workers) and unbalanced labour relations is undeniable.

1. What are the risks associated with workers’ data?

5. In many sectors, we are seeing increased surveillance, work intensification, de-personalization of work and hyper connectedness. Information is collected at the workplace, while teleworking or on labour online platforms. Personal and meta-data are collected from the use of machinery or office software via applications, fingerprints, wearables and sensors amongst other indicating in real time the location and work pace of employees and storing this data (in most cases). Some of this data captures the speed of work (meta data), emotions (facial recognition) and all elements attached to the work flow and process.
6. In one sector, an analytics software measured performance upon the friendliness of the employees’ tone. In the care sector, workers can be monitored and their routes tracked as they make visits from home to home.
7. The collection and use of data often occur without consent of workers, in particular when the data is captured or processed by a third party and not the direct employer. The quality of work is affected by heightened control and less transparency regarding the collection of information on employees. Workers lose control over their data and their employability (reclaim ranking or performance scores for example).
8. For firms, the ability to capture, own, and control the data is an enormously valuable asset. By controlling their data, some of the largest corporations have gained control over workers and SMEs. Workers’ data is an asset that determines productivity and helps the optimisation of processes.

9. The unregulated use of workers' data is as a result feeding into labour market monopsonies. Where labour relations are deeply unbalanced, employers are able to lower wages and degrade working conditions without losing their workforce. This results in wage stagnation, degrading working conditions and lower levels of employment. As TUAC has denounced in [previous contributions](#), this phenomenon is particularly pronounced for online platforms.

2. Competition enforcement

10. TUAC urges competition authorities to extend to workers their considerations on data privacy, data collection and any type of monitoring. Transparency frameworks need to apply to workers in the same way as to consumers.

11. Furthermore, some anti-competitive practices seeking to strengthen employers' power over individual worker should be banned altogether. This should be for instance the case of algorithms marking workers as they have the same effects as no poaching agreements and abusive non-compete clauses. Workers need to regain control over their data and employability (reclaim ranking or performance scores for example).

12. More broadly, competition authorities must take a more proactive stance on workers' bargaining power. All mergers should be checked against trade union friendly policies, collective bargaining coverage and the presence of instances for workers' representation.