

Competitive Evaluation of Abuse of Dominant Position by the Use of Cookies: Comparative Study in European Union and Iranian Law

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Abstract

With the increasing advancement of digital technology, cookies have become an efficient tool for collecting user data and targeted marketing. The data tracked and collected through cookies enables businesses to provide more precise and efficient services and can pave the way for creating or stabilizing a dominant position in the market. In addition to disrupting the flow of fair competition, these actions seriously threaten the dynamism and innovation of data-oriented markets. Therefore, the research seeks a clear answer to the fundamental question of how firms with a dominant position can resort to abusive behavior and influence the competitive structure of digital markets by using cookies. This research employs an analytical-descriptive method to examine the approach of European Union law and analyze the position of Iranian competition law. In European Union law, this issue is assessed with a flexible approach based on protecting personal data and ensuring fair competition, but in Iranian law, due to the lack of comprehensive legal frameworks and weak supervisory mechanisms, the dimensions of this issue are still unclear. The findings from the comparative study show that a general rule is not available to determine the competitive fate of these actions, and careful analysis is possible according to the requirements of modern technology and the continuity of creative activity. Therefore, it is proposed that, to strike a balance between maintaining competition in the market and the legitimate rights of service providers, specific competition regulations be enacted regarding the interests of innovation and technology markets so that they remain under the supervision of the Competition Council.

Keywords: abusive practices; competition law; cookies; dominant position.

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