

Cite as: 13 TECH. L. REV., Dec. 2016, at 95.

A Study on the Regulation of Data Brokers in the U.S. under the Trend of Data Economics

Huei-Ying Hsu^{*}, Chih-Liang Yeh^{**}

Abstract

Nowadays the development of analytics and applications of big data is booming. The data that are being generated, transferred and utilized via many online/offline activities have become the critical economic resource as the same as the substances and energy resources. “Data Economics” has become the most important issue that everyone discusses. However, the difference between data and other economic resources is that the data are not exhaustive and can be reassembled and reused. The more the data are used, the more value the data become. Thus, the one who controls more data or more sources of data has the more dominant position than others. Data Brokers are mainly engaged in reselling the products or services of data. They control a large amount of original data and the channels of data, including the public records, data generated from the dealers or consumers in

^{*} Assistant Professor, Department of Law, Chinese Culture University, Taiwan; S.J.D., School of Law, Golden Gate University, U.S.A.

^{**} Assistant Professor, Department of Information Communication, and Innovation Center for Big Data and Digital Convergence, Yuan Ze University, Taiwan; S.J.D., Maurer School of Law, Indiana University-Bloomington, U.S.A.

the daily life. The data products and services that brought by data brokers can promote the development of the entire information economy. By the emerging analytics of big data, the original data industry has reformed. However, the data brokers' acts on the profiling among different data may become a great concern on the personal data and privacy protection. Thus, the questions of how to make a balance among various stakeholders and how to regulate the data broker industry are crucial subjects for an in-depth study. This paper examines recent cases of breaches of personal data by the data brokers in the U.S., the reports prepared by the Federal Trade Commission and the Government Accountability Office, proposed legislation by Congress, and the self-regulation by the data brokers. By analyzing the modes of regulating the data industry in the U.S., this paper argues that Taiwan's legal framework should be adjusted to the development of data industry and considered how to get out of the difficult position of current data protection laws.

Keywords: Big Data, Data Broker, Information Privacy, Personal Information Protection Act, Breach of Personal Data