

**SIBR-Thammasat Conference on Interdisciplinary
Business & Economics Research
April 4-6, 2025, Bangkok**



PROCEEDINGS

Volume 15 (2025)

Issue 2 (April)

ISSN: 2223-5078

Online version: <http://sibresearch.org/past-2025-bangkok.html>
(password: sibr@2025bkk)

Published by:



**Society of
Interdisciplinary
Business Research**

PROGRAM* (Finalized Version)

DAY 1 (April 4th, 2025) In-person	DAY 2 (April 5th, 2025) In-person	DAY 3 (April 6th, 2025) Online
8:20 In-person presenters collect name badges from the service desk (11/F)		
8:30-11:00 Sessions A1 , B1	8:30-10:20 Sessions A2 , B2	9:00-11:00 Sessions A3 , B3 , C3
11:00-11:15 Coffee break	10:20-10:35 Coffee break	11:00-11:15 Break
11:15-11:45 Keynote Speech**	10:35-12:00 Sessions C2 , D2	11:15-13:15 Sessions D3 , E3 , F3
12:00-13:00 Lunch (Restaurant, L/F)	12:00-13:00 Lunch (Restaurant, L/F)	13:15-13:30 Break
13:00-15:00 Sessions E1 , F1	13:00-15:00 Sessions E2 , F2	13:30-15:30 Sessions G3 , H3
15:00-15:15 Coffee break	15:00-15:15 Coffee break	End of Program
15:15-17:00 Sessions G1 , H1	15:15-17:00 Sessions G2 , H2	

* **Time in the program is Bangkok Time** (<https://time.is/Bangkok>).

** **Venue: Orchid 4, 11/F; Zoom ID: [5847253394](#).**

Keynote Address: Prof. Peera Charoenporn, Dean, Faculty of Economics, Thammasat University.

Keynote Speech: Prof. Ricky Chan, Professor of Marketing and Associate Dean, CPCE, Hong Kong Polytechnic University; Honorary Adjunct Professor of Marketing, AUT Business School, Auckland University of Technology; Barrister, Honourable Society of Middle Temple.

Moderator: Prof. Tatre Jantarakolica, Director of Graduate Program & Director of Master of Business Economics Program, Faculty of Economics, Thammasat University.

Guide to Speakers and Session Chairs

- Please be ready in the session five minutes before the schedule.
- Each paper has **10 minutes for presentation + 3 minutes for Q&A**. The session chair should remind each speaker three minutes before the time he/she is expected to end the presentation. If a speaker goes beyond the time allotted, the session chair should remind him/her to end the presentation.
- SIBR assumes no responsibility if you are unable to finish your presentation in your assigned session for any reasons.
- **In-person presentation (Days 1-2):** LCD projector and computer will be provided in each conference room.
 - You should save your presentation file on your own USB drive.
 - You should not connect your own computer to the projector.
 - Wi-Fi will not be provided at the conference venue.
- **Online presentation (Day 3):** Download the Zoom Client from <https://www.zoom.us> and install it on your computer.
 - Before the conference, you should test your computer webcam and microphone in the Zoom waiting room. The password for entering the Zoom meeting rooms will be sent by email before the conference.

Online Conference Proceedings

- The conference proceedings will be published at <http://sibresearch.org/past-2025-bangkok.html>.

Conference Pack

- **In-person and online presentations:** you will receive by email a conference pack before the conference.
- **In-person presentations only:** On **either Day 1 or Day 2**, you will collect your name badge from the service desk. **The name badges will be sorted by the attending authors' first names. Collection of name badges will be self-service.** Non-registered guests (without a name badge) will not be admitted. *The service desk will be closed during lunch time.*

Conference Venue – Jasmine City Hotel (11th Floor)

- Visit <http://sibresearch.org/bangkok-venue.html> for more information and maps.

Session A1: ACCOUNTING & FINANCE (venue: Orchid 3, 11/F)

Chair: Dirk Baur (University of Western Australia)

Are Climate Bonds Hedgers for Stock Markets? New Insights from the Transfer-Entropy Approach (b25-023)

Speaker: Sónia R. Bentes (ISCAL)

Investment Companies in African Stock Markets: Do they Outperform? Evidence from the Stock Exchange of Mauritius (b25-024)

Speaker: Sunil Bundoo (University of Mauritius)

Director Interlocks and Banker-Directors' Board Advising Role on R&D Investment: Effect of Enforcement Actions (b25-025)

Speaker: Taufiq Choudhry (University of Southampton) **SIBR Best Paper Award**

Can Cryptocurrency or Gold Rescue BRICS Stocks Amid the Russia-Ukraine Conflict? (b25-032)

Speaker: Martin Enilov (University of Southampton)

The Effect of Mergers and Acquisitions (M&As) on ESG Performance, Firm Value, and Profitability: Evidence from the ASEAN-5 from 2011-2022 (b25-127)

Speaker: Arnel Onesimo Uy (De La Salle University)

Corporate Social Responsibility and CEO Discipline (b25-149)

Speaker: Dung Pham (Shippensburg University)

Technological Innovation Under Ambiguity and Climate Policy Risk (b25-156)

Speaker: Ariel Viale (Palm Beach Atlantic University) **SIBR Best Paper Award**

Tackling Climate Change - Investing to Strand Coal (b25-189)

Speaker: Dirk Baur (University of Western Australia)

Session B1: ECONOMIC, SOCIAL & GLOBAL DEVELOPMENT (venue: Orchid 4, 11/F)

Chair: Dennis McCornac (Georgetown University Qatar)

Convergence, Divergence, and Fiscal Equalization: Multilevel Fiscal Governance and the Impact on German Laender (b25-043)

Speaker: André W. Heinemann (University of Bremen - Institute Labour and Economy)

Beyond Nash Bargaining: Applying Alternative Solutions to Intra-Household Bargaining Power (b25-060)

Speaker: Sylvain Baumann (University of Le Havre Normandy)

At-Risk: A Brief Guide for Economists (b25-178)

Speaker: Jan Podivinsky (University of Southampton)

The Triangle of Love: Mental Well-Being and Perceived Stress (b25-186)

Speaker: Betül Ayça (Trakya University)

Scarcity and Urgency Messages in Online Advertisements and their Association with Attitudes for Functional and Symbolic Aspects of Vitamins and Supplements (b25-026)

Speaker: Joshua Fogel (Brooklyn College of the City University of New York)

Economic and Geopolitical Ramifications of Israel-Iran Tensions in 2024: A MENA and Global Market Analysis (b25-075)

Speaker: Dennis McCornac (Georgetown University Qatar) & Si Liu (Hamad Bin Khalifa University)

Session E1: MANAGEMENT & MARKETING (venue: Orchid 3, 11/F)

Chair: Beata Maria De Ocampo (De La Salle University)

Growth and Sustainability of Philippine Businesses (b25-105)

Speaker: Aida Velasco (De La Salle University; Manila Business College)

Quo Vadis, Philippine Innovation? (b25-135)

Speaker: Aida Velasco (De La Salle University; Manila Business College)

Empowering Micro-Entrepreneurs: Assessing the Moderating Effect of Access to Finance on the Relationship Between Myopic Decision-Making and the Business Performance of Low Income Household Micro-Enterprises Across the City of Manila (b25-081)

Speaker: Harvey Ong (De La Salle University)

Exploring Workplace Romance Dynamics in the Organizational Culture: A Study on How Workplace Romance Influences Social Impact on Organizational Performance in the Hospitality Industry in Metro Manila (b25-082)

Speaker: Harvey Ong (De La Salle University) **SIBR Best Paper Award**

Gen Z in the Mix: Leadership Theories Shaping Preferences in the New Workforce (b25-066)

Speaker: Anecito Jubac (Far Eastern University)

Are your Members on Board? How Leadership and Generational Diversity Drive Change Readiness (b25-145)

Speaker: Rocel Apolonio (Far Eastern University)

Eliminating Bias: The Role of Blind Hiring in Promoting Workplace Diversity (b25-019)

Speaker: Jessie Quierrez (Polytechnic University of the Philippines)

Click the Yellow Basket: How TikTok Influencer Marketing Affects Consumers' Purchase Intention (b25-016)

Speakers: Gianne Chelsea Hinolan, John Nelson Andaya, & Beata Maria De Ocampo (De La Salle University)

Session F1: MARKETING & CONSUMER BEHAVIOR (venue: Orchid 4, 11/F)

Chair: Manuel Tanpoco (De La Salle University)

Enhancing Consumer Experience in Food Halls: An Analysis of Satisfaction, Quality Attributes, and Behavioral Intentions in the Context of the Davao Region, Philippines (b25-068)

Speaker: Sharon Binoya (University of Southeastern Philippines)

Modeling Customer Satisfaction Using SERVQUAL: A Case of Accredited Hotels in Davao City (b25-125)

Speaker: Sharon Binoya (University of Southeastern Philippines)

The Influence of Service Innovation and Service Quality on Customer Satisfaction and Customer Loyalty in ABC Bank (b25-086)

Speakers: Jaylen Fampo & Kriza Airel Lat Carpio (De La Salle Lipa)

Final Farewell: Examining Customer Experience and Satisfaction at X Funeral Chapels in Davao City (b25-159)

Speaker: Roby Pagong (University of Southeastern Philippines)

Mental-Accounting-Based Consumer Spending Behavior (b25-196)

Speaker: Marcellia Susan (Maranatha Christian University)

(F1 continued on next page ...)

Green Human Resource Management Practices and Its Influence on Employee Green Behavior: A Systematic Literature Review (b25-017)

Speaker: Ann-Lyn Vinuya (Polytechnic University of the Philippines)

The Influence of Attractiveness, Familiarity, and Trustworthiness of Financial Advisors on Perceived Value and Decision to Purchase Insurance Products (b25-187)

Speaker: Manuel Tanpoco (De La Salle University)

Revolutionizing Urban Commutes: Assessing Factors Affecting Ride-Hailing Usage and Student Commuter Satisfaction (b25-188)

Speaker: Manuel Tanpoco (De La Salle University)

Session G1: ECONOMIC, SOCIAL & CULTURAL DEVELOPMENT (venue: Orchid 3, 11/F)

Chair: Euamporn Phijaisanit (Thammasat University)

Assessing the Importance of Indicators Related to Agriculture and Water Resources for Drought Prevention (b25-029)

Speaker: Li-Ren Yang (Tamkang University)

Tourist Village Digitalisation Practices: Systematic Review of Articles in SINTA Indexed National Journal of Tourism (b25-061)

Speaker: Antonius Budisusila (Sanata Dharma University)

Sustainable Tourism Development in The Menoreh Mountains Area from Yogyakarta International Airport to Borobudur Temple, Indonesia (b25-054)

Speaker: Victoria Sundari Handoko (Universitas Atma Jaya Yogyakarta)

The Influence of Local Food Consumption by Domestic Tourists in the Development of Sustainable Tourism in the Davao Region, Philippines (b25-065)

Speaker: Arggie Roy Busalla (University of Southeastern Philippines)

ESG Integration, Efficiency, and Innovation: Unveiling the Path to Carbon Reduction in G20 Countries (b25-053)

Speaker: Abhisek Mahanta (Indian Institute of Technology Bhubaneswar) **SIBR Best Paper Award**

Female Leadership in the Modern Workplace as Perceived by the Filipino Community (b25-020)

Speaker: Jennifer Munsayac (Polytechnic University of the Philippines)

The EU CBAM and the ASEAN Dilemma: A Game-Theoretic Analysis of Cooperation and Competition Among Member States (b25-206)

Speaker: Euamporn Phijaisanit (Thammasat University)

Session H1: EDUCATION & EDUCATIONAL MANAGEMENT (venue: Orchid 4, 11/F)

Chair: Maureen Gelle-Jimenez (University of Santo Tomas)

A Comparative Analysis of Students and Instructors Perceptions of E-Learning Quality (b25-011)

Speaker: Johan W de Jager (Tshwane University of Technology)

Optimization of Padlets as Student Triggers in the Creation of Kemis ngARTis (b25-012)

Speaker: Rizqi Maulana (Universitas Pendidikan Indonesia)

(H1 continued on next page ...)

A Feasibility on Establishing an Academy for Talents and Skills in the City of San Pedro, Laguna: A Case Study (b25-085)

Speaker: Gerald Sapinoso (De La Salle University)

Uncovering USEP's Core Competencies (b25-063)

Speaker: Stephanie Palconit (University of Southeastern Philippines)

Managing the Public University Position Promotion Process: Reducing Waste through Lean Principles (b25-176)

Speaker: Pathumkan Khaopanya (Khon Kaen University)

Onsite versus Online Application of Academic Records: Evaluating the Preference of Stakeholders of a Comprehensive Higher Education Institution (b25-157)

Speakers: Ferwin Jimenez & Maureen Gelle-Jimenez (University of Santo Tomas)

Session A2: ORGANIZATION & HUMAN RESOURCES MANAGEMENT (venue: Orchid 3, 11/F)

Chair: Norihiko Takeuchi (Waseda University)

The Effects of Socioemotional Wealth on Internationalization: The Moderating Role of Performance–aspiration Gap (b25-045)

Speaker: Yunshi Liu (National Yunlin University of Science & Technology)

Applying Artificial Intelligence to Effectively Manage and Reduce Medication Errors in Medical Institutions: A Case Study of Taichung City Pharmacy C (b25-076)

Speaker: Wei-yuan Ho (Feng Chia University)

Enhancing Collaboration in Community Pharmacies: Insights from Organizational Commitment (b25-106)

Speakers: Nami Shimada (University of Marketing and Distribution Sciences) & Toshimichi Homma (Osaka University of Economics)

Success and Failure of SMMES: What We Have Learned and What We Still Need to Know (b25-124)

Speaker: Edward Rankhumise (Tshwane University of Technology)

Comparison of Innovative Business Models in China's Pet Industry - Analysis Based on Business Model Diagram (b25-133)

Speaker: Mei Kuo Hua (Feng Chia University)

The Role of Affective States in Understanding Aging Workforce Motivation Management (b25-147)

Speaker: Norihiko Takeuchi (Waseda University)

Session B2: ACCOUNTING & FINANCE (venue: Orchid 4, 11/F)

Chair: Edna Delantar (De La Salle University)

Effect of Financial Ratios on Financial Distress of Industrial PLCs in the Philippines and the Moderating Role of Board Demographics and COVID-19 (b25-079)

Speaker: Lourence G. Delfin Jr. (University of the Philippines Visayas)

Logistic Regression and Random Forest Model Based Early Warning System Models for Assessing an Equity Market Crisis in ASEAN-5 + 3 Countries (b25-183)

Speaker: Tomas Tiu (De La Salle University)

(B2 continued on next page ...)

Predicting the Post-IPO Financial Performance of ASEAN - 5 Firms: A Class-Based Logistic Regression, XGBoost, and Support Vector Machine Approach (b25-184)
Speaker: Tomas Tiu (De La Salle University)

Comparison of Financial Decision Making Between Generation Z and Other Generations: A Mental Accounting Perspective (b25-191)
Speaker: Hamfri Djajadikerta (Parahyangan Catholic University)

The Effects of Corporate Green Bonds on Financial Performance of Domestic Universal Philippine Banks (b25-198)
Speaker: Ma. Lily Antonina Eres (University of Santo Tomas)

Does Going Green Pay Off? The Link Between ESG and Financial Health in ASEAN-4 (2018-2022) (b25-077)
Speaker: Edna Delantar (De La Salle University)

Weathering the Storms: Riding the Downturn: An Integrated GARCH Model Analysis of M&A Activity, Stock Returns, and Market Volatility in ASEAN-5 During the Period of 2010-2022 (b25-131)
Speaker: Edna Delantar (De La Salle University)

Session C2: ORGANIZATION, INNOVATION & FINANCIAL MANAGEMENT (venue: Orchid 3, 11/F)

Chair: Ria Satyarini (Universitas Katolik Parahyangan)

The Impact of Transformational Leadership on Service Performance: The Mediating Roles of Work Climate and Job Satisfaction in Taiwan and Indonesia (b25-117)
Speaker: Priscilla Valencia Yonathan (National Quemoy University)

Factors Influencing the Kitchen Staff Performance of Restaurants in Iloilo City (b25-146)
Speakers: Abigail Dondoyano, Hannah Angelika Iniego, Jose Frias III, Paultlyn Joyce Aguas, Shaira C. Taran, & Shazney C. Pormilos (University of the Philippines High School in Iloilo)

Knowledge Sharing Culture: A Systematic Literature Review (b25-035)
Speaker: Nabilah Ramadhan (Universitas Pendidikan Indonesia)

Report Mobile: An Innovation of Android-Based MSME Financial Reporting System Application to Support and Strengthen MSMEs in the Digital Economy Era (b25-137)
Speaker: Ayu Asari (Universitas Pendidikan Indonesia)

Exploring Model of Innovation in Modest Fashion Industry in Different Industrial Scales (b25-148)
Speaker: Ria Satyarini (Universitas Katolik Parahyangan)

Session D2: ACCOUNTING & FINANCE (venue: Orchid 4, 11/F)

Chair: I Putu Sugiarta Sanjaya (Universitas Atma Jaya Yogyakarta)

The Role of Green Bonds in Increasing Corporate Value and Sustainability in Indonesia (b25-111)
Speaker: Jessica Triardi (National Quemoy University)

Technology Momentum, Insider Trading, and Market Efficiency (b25-092)
Speaker: Yunju Cha (National Chengchi University) **SIBR Best Paper Award**

(D2 continued on next page ...)

Investigating Financial Statement Fraud: A Fraud Pentagon Analysis in Consumer Non-Cyclicals Firms in Indonesia (b25-193)

Speaker: Yohanes Mario Pratama (Universitas Atma Jaya Yogyakarta)

Enterprise Risk Management and Firm Value: The Case of Indonesian Infrastructure Sector (b25-192)

Speaker: Wimpie Yustino Setiawan (Universitas Atma Jaya Yogyakarta)

Investment Decision on ESG Mutual Fund in Thailand (b25-208)

Speaker: Atchayapa Keeratisontorn (Thammasat University)

Environmental, Social, and Governance on Firm Value (b25-197)

Speaker: I Putu Sugiarta Sanjaya (Universitas Atma Jaya Yogyakarta)

Session E2: SOCIO-ECONOMIC DEVELOPMENT & POLICY (venue: Orchid 3, 11/F)

Chair: Monthien Satimanon (Thammasat University)

Bridging the Gap: The Mediating Role of Financial Behaviour in Improving Financial Well-Being Among Youth in Sabah, Malaysia (b25-047)

Speaker: Avnner Chardles Wellfren (Universiti Malaysia Sabah)

An Analysis on the Impact of Social Influence and Financial Literacy on the Spending and Saving Habits of College Students Studying in Intramuros, Manila (b25-094)

Speaker: Lawrence Co (De La Salle University; Manila Business College)

Public-Private Partnerships in Renewable Energy Development: Socio-Cultural and Institutional Challenges in Indonesia (b25-116)

Speaker: Adinda Nur Safitri (National Quemoy University)

Personal Risk Management and Data Privacy Awareness in Indonesia: Challenges and Insights (b25-119)

Speaker: Amelia Setiawan (Parahyangan Catholic University)

The Interface between Competition and Data Protection Law: What Malaysia Can Learn from the Case of Facebook (b25-046)

Speaker: Nasarudin Abdul Rahman (International Islamic University Malaysia)

The Influence of Language Politeness on the Effectiveness of Student Communication in Academic Discussions (b25-164)

Speaker: Asep Hidayatullah (Universitas Pendidikan Indonesia)

The Impact of Carbon Tax on Thai Economy: The Analysis Using Computable General Equilibrium (b25-039)

Speaker: Panchanok Siripanich (Thammasat University)

Low Fertility in Thailand: Evidence from MICS 2022 Using a Control Function Approach (b25-205)

Speaker: Monthien Satimanon (Thammasat University)

Session F2: MARKETING & CONSUMER BEHAVIOR (venue: Orchid 4, 11/F)

Chair: Pensri Jaroenwanit (Khon Kaen University)

The Psychological Impact of College Students' Social Media Engagement: A Case Study of Instagram (b25-074)

Speaker: Yi Hao Kuo (National Quemoy University)

Analyzing Responses of Different Consumer Segments on Gamification to Foster Pro-Environmental Behavior and Green Purchase Intention (b25-112)

Speaker: Litanisa Putri Caesaria (National Quemoy University)

Exploring Effective Omnichannel Marketing Strategies for New Makeup Brands in the Indonesian Market (b25-113)

Speaker: Amalia Khoirunnisa (National Quemoy University)

The Impact of High Ethical Standards on Consumer Satisfaction in the Food and Beverage Industry : “A Business Owner Perspective” (b25-118)

Speaker: Virginia Clarissa Alexandry (National Quemoy University)

The Moderating Role of Gender on Product Quality, Service and Discount Factors on Consumer Repurchases on E-Commerce Platforms in 3T Regions (b25-138)

Speaker: Alfred Liubana (Universitas Pendidikan Indonesia)

Actual and Ideal Self-Congruence in Brand Relationships (b25-080)

Speaker: Pensri Jaroenwanit (Khon Kaen University)

Emotional Brand Attachment and Its Behavioral Outcomes in the Thai Aviation Industry: A Comparative Study of Full-Service Airlines and Low-Cost Airlines (b25-120)

Speaker: Pensri Jaroenwanit (Khon Kaen University)

Session G2: ECONOMIC, SOCIAL & CULTURAL DEVELOPMENT (venue: Orchid 3, 11/F)

Chair: David Kongpiwatana Narong (Mahidol University; Thammasat University; California Institute of Advanced Management)

The Impacts of the COVID-19 Pandemic on Suicide Rate in Thailand (b25-115)

Speaker: Arunee Punyasavatsut (Kasetsart University)

Forecasting of Natural Gas Demand in Thailand (b25-107)

Speaker: Dollada Promli (Khon Kaen University)

Forecasting Tourism Revenue in Thailand: A Machine Learning Framework (b25-036)

Speaker: Rapeeporn Santimalai (Thammasat University)

The Economic Burden Assessment on Non-Communicable Diseases in Thailand: A Spatial Investigation of Provincial Impacts (b25-207)

Speaker: Wimon Siri Kachantorn (Thammasat University)

Beyond GDP: Exploring the Relationship between Economic Indicators and Undernourishment in Indonesia, Malaysia, Philippines, and Thailand (b25-163)

Speaker: Marycris Albao (De La Salle University)

A Bibliometric Review of Circular Economy Research in Higher Education (2009 – 2024) (b25-095)

Speaker: David Kongpiwatana Narong (Mahidol University; Thammasat University; California Institute of Advanced Management)

Session H2: MARKETING, ORGANIZATION & FINANCE (venue: Orchid 4, 11/F)

Chair: Dioscoro Baylon (De La Salle University)

Financial Distress Prediction of Philippine Food Manufacturing Companies: The Emerging Market Score Model (b25-167)

Speaker: Liberty Patiu (De La Salle University)

Risk-return Trade-off on Foreign Exchange and Stock Market Connectedness: Does Investor Sentiment Matter? (b25-168)

Speaker: Liberty Patiu (De La Salle University)

The Mediating Role of Innovation in High-Performance Human Resource Management Practices and Firm Performance: The Case of Cottage Enterprises in the Philippines (b25-067)

Speaker: Karl Campos (University of Southeastern Philippines)

Consumer Buying Habits and Preferences Towards Green Skincare Products (b25-051)

Speakers: Kyraphielle D. Fortaleza, Maria Mariella E. Eclar, & Rexes C. Mombay Jr. (University of the Philippines High School in Iloilo)

Firm Characteristics and Debt Financing: The Case of Listed Property Firms in ASEAN4 (b25-169)

Speaker: Dioscoro Baylon (De La Salle University)

Impact of ESG Scores on Market Value of Utility Companies in Asia: The Role of Financial Performance as a Mediator (b25-195)

Speaker: Dioscoro Baylon (De La Salle University)

Session A3: ECONOMIC, SOCIAL & CULTURAL DEVELOPMENT (Zoom: [5847253394](#))

Chair: Fatemeh Alimohammadi (University of Southeastern Philippines)

Discussing the Willingness of Kinmen Residents to Open the Jinxia Bridge (b25-071)

Speaker: Tseng Wei Chi (National Quemoy University)

Inequality, Human Development Index, And Economics Growth: A Panel Data Study of Indonesian Provinces (b25-084)

Speaker: Nur Ellyanawati Esty Rahayu (Universitas Islam Indonesia)

Global Research Trends in Digital Financial Literacy: Insights from Bibliometric Analysis (b25-121)

Speaker: Stella (Bina Nusantara University)

Dynamic Interactions Between Residential Real Estate Price Index, Inflation, and Economic Growth in the Philippines: A Vector Autoregression Approach (b25-128)

Speaker: Estephany Gerona (De La Salle University)

Socio-Economic Determinants of Smallholder Farmers' Access to Microcredit in West Java, Indonesia (b25-129)

Speaker: Iin Aulia Syafira Syafa'at (Universitas Padjadjaran)

The Estimation of Illegal Cigarette Consumption and Trade in Thailand (2018-2023) (b25-209)

Speaker: Chalita Chayutrakorn (Thammasat University)

(A3 continued on next page ...)

Factors Affecting Oral Health-related Quality of Life (b25-211)

Speaker: Trin Phacharatechavanich (Rajamangala University of Technology Rattanakosin)

The Economics of Healthcare Access: Market Dynamics, Public-Private Balance, and Maternal Health in the Philippines (b25-170)

Speaker: Fatemeh Alimohammadi (University of Southeastern Philippines)

Session B3: MARKETING & CONSUMER BEHAVIOR (Zoom: [7783114694](#))

Chair: Dimas Hendrawan (Yuan Ze University; Universitas Brawijaya)

The Influence of Game Streamers' Source Credibility on Perceived Value and Purchase Intention (b25-070)

Speaker: Bo An Hsieh (National Quemoy University)

The Impact of Relationship Benefits on Parent Satisfaction and Loyalty in Children's English Cram Schools (b25-073)

Speakers: Hui Min Chuang & Hui Chen Chen (National Quemoy University)

The Behavioral Intentions and Continuity Drivers for Subscription-Based Generative AI Tools: An Application of the UTAUT Model (b25-091)

Speaker: Yu Hsuan Kuo (National Quemoy University)

Influence of Social Media on Impulsive Buying (b25-109)

Speaker: Kendrew Gian Widjaja (National Quemoy University)

Exploring the Co-Branding Effects of TSMC and Apple on Brand Value and Their Impact on Consumer Behavior in the B2B2C Model (b25-142)

Speaker: Tzu-Ying Chou (National Quemoy University)

Student's Perception on Leadership Obligation and Financial Commitment for CSR in China (b25-055)

Speaker: Daisy T. Besing (University of Southeastern Philippines)

Factors Influencing Internationalization of Digital Firms: A Review of Recent Studies (b25-093)

Speaker: Sri Dharwiyanti (Universitas Katolik Parahyangan)

Extended Theory of Planned Behavior in Investigating Behavioral Intentions on Green Restaurants among Indonesian Consumers (b25-101)

Speaker: Dimas Hendrawan (Yuan Ze University; Universitas Brawijaya)

Session C3: ACCOUNTING & FINANCE (Zoom: [3277392296](#))

Chair: Yingying Feng (Thammasat University)

AI-Driven Financial Analysis for Turnaround Strategies: Detecting Financial Stress Signals and Forecasting Recovery Paths (b25-058)

Speaker: Zi Yuan Wang (New York University)

Personality Traits, Self-Control, and Financial Behavior of Policyholders in Tarlac (b25-132)

Speaker: Sherwin John Gragasin (Tarlac State University)

(C3 continued on next page ...)

The Relationship Between Corporate Social Responsibility Disclosure and Financial Performance - A Case Study of Textile and Footwear Enterprises in Vietnam (b25-143)

Speaker: Nguyen Thanh Thuy (National Economics University, Vietnam)

Application of Artificial Intelligence-Genetic Algorithms for Portfolio Optimization on the ESG 45 Kehati Index of the Indonesia Stock Exchange (b25-180)

Speaker: Jemima Marsha (Universitas Pasundan)

Balancing Financial Strategies and Sustainability: The Role of CSR in Shaping Firm Value Amid the COVID-19 Crisis (b25-185)

Speaker: Agrianti Komalasari (Universitas Lampung)

A Conceptual and Systematic Literature Review of the Nature, Value, Function, and Form of Money in Islamic Perspective (b25-150)

Speaker: Tsumma Imamia (Universitas Brawijaya)

Creating Best Practices and Strategies for Incorporating Artificial Intelligence in the Decision-Making Process in Today's Evolving Workplace Environment (b25-190)

Speaker: Bob Barrett (University of Maryland Global Campus)

The Impact of Financial Incentive on Customers' Intention to Use Mobile Payment in China and Thailand (b25-210)

Speaker: Yingying Feng (Thammasat University)

Session D3: ACCOUNTING & FINANCE (Zoom: [5847253394](#))

Chair: Adrie Putra (Universitas Esa Unggul)

The Effect of Overconfidence Bias, Loss Aversion, Underwriter Quality, and Short-Term Return on IPO Investment Decisions: The Mediation of Financial Literacy with Age and Investment Proportion as Control Variables (Case Study in Yogyakarta, Indonesia) (b25-160)

Speaker: Aditya Wardana (UPN Veteran Yogyakarta)

Survival Analysis of Indonesian Companies Post-IPO (2012-2022): The Impact of IPO Proceeds and Key Influencing Factors (b25-161)

Speaker: Aditya Wardana (UPN Veteran Yogyakarta)

Behavioral Model of Privacy Concern, Trust, and Self-Disclosure on Purchase Intention in Online Transactions in Indonesia (b25-069)

Speaker: Jatmiko (Universitas Esa Unggul)

Enhancing Company Value in Islamic Banking: The Role of Intellectual Capital and Islamic Corporate Governance (b25-100)

Speaker: Abdurrahman Hasan (Universitas Esa Unggul)

The Role of Capital Adequacy Ratio (CAR) in Moderating the Determinants of Net Interest Margin (NIM) in Regional Development Banks (BPD) in Indonesia (b25-110)

Speaker: Chajar Matari Fath Mala (Universitas Pembangunan Jaya)

Disjunction Behaviour : The Role of Information Content, Unsystematic Risk, and Environmental Uncertainty on Belief Revisions (b25-130)

Speaker: MF. Arrozi Adhikara (Universitas Esa Unggul)

(D3 continued on next page ...)

Enhancing MSME Growth through Technology Frames, E-Commerce, and Social Media Marketing (b25-139)
Speaker: R.A. Nurlinda (Universitas Esa Unggul)

Empowering Change: The Role of Fintech, Financial Literacy, and Inclusion in Alleviating Poverty (b25-089)
Speaker: Adrie Putra (Universitas Esa Unggul)

Session E3: MARKETING, MANAGEMENT & TECHNOLOGY (Zoom: [7783114694](#))

Chair: Henry Rufino (Tarlac State University)

Nifty Aviation: Revolutionizing Trippers Encounter amid AI-powered Chatbots (b25-037)
Speaker: Cristina Teresa N. Lim (De La Salle University)

The Mediating Effects of Adaptive Selling on the Relationship Between Market Orientation and Business Performance: PLS-SEM Analysis (b25-052)
Speaker: Dina Prasetyaningrum (Widyatama University)

Bridging Sustainability and Practicality: The Role of Push and Pull Factors in Generation Z's Attitude Toward Plant-Based Meat Alternatives (b25-144)
Speaker: Nancy Bartolome (University of Santo Tomas)

Consumer Perception of Platform-based Factors, Trust and Its Impact on Continuance Intention in the Sharing Accommodation (b25-153)
Speaker: Elisabet Septiari (Universitas Atma Jaya Yogyakarta)

Firm-Created and User-Generated Social Media Communication: A Path to Stronger University Brand Equity (b25-158)
Speaker: Phuong Tran (International University, Vietnam National University HCMC)

Factors Affecting Intention to Follow Skincare Product E-commerce Influencer (b25-212)
Speaker: Poori Kulanuwat (Rajamangala University of Technology Rattanakosin)

Antecedents on Trusting Cryptocurrency: Social Influence as a Moderating Variable (b25-087)
Speaker: Henry Rufino (Tarlac State University)

Reprogram: Why Do Accounting Students Shift to Other Program? (b25-088)
Speaker: Henry Rufino (Tarlac State University)

Session F3: MANAGEMENT, CSR & SUSTAINABILITY (Zoom: [3277392296](#))

Chair: HN Hartikayanti (Universitas Jenderal Achmad Yani)

Does Transformational Leadership and Organizational Culture Affect Employee Performance: Religiosity as a Mediator (b25-172)
Speaker: Muhammad Ali Fikri (Universitas Ahmad Dahlan, Yogyakarta)

Role of Green Entrepreneurial Orientation on Environmental Performance: Green Innovation as Mediator (b25-173)
Speaker: Muhammad Ali Fikri (Universitas Ahmad Dahlan, Yogyakarta)

(F3 continued on next page ...)

The Influence of Green Leadership on Green Employee Behavior: A Study of the Mediating Role of Moderation (b25-199)

Speaker: Muafi Muafi (Universitas Islam Indonesia)

The Role of Digital Leadership on Employee Voice Behaviour through Psychological Empowerment and Employee Commitment (b25-200)

Speaker: Muafi Muafi (Universitas Islam Indonesia)

The Effect of Human Resource Development and Organizational Commitment on Work Productivity in Cooperatives in West Java (b25-174)

Speaker: Herwan Abdul Muhyi (Universitas Padjadjaran)

Implementation of the Healthy Living Community Movement Policy in Bandung Regency, West Java Province, Indonesia (b25-175)

Speaker: Herwan Abdul Muhyi (Universitas Padjadjaran)

Factors that Influence Environmental Management Performance (Case Study in Cimahi City Government) (b25-097)

Speaker: HN Hartikayanti (Universitas Jenderal Achmad Yani)

The Factors that Influence Environmental Management Awareness (b25-098)

Speaker: HN Hartikayanti (Universitas Jenderal Achmad Yani)

Session G3: ORGANIZATION & SUPPLY CHAIN MANAGEMENT (Zoom: [5847253394](#))

Chair: Helen Grace Legorio (University of Southeastern Philippines)

Commercial Bank's Determinants of Talent Retention towards an Enhanced Succession Management (b25-015)

Speaker: Jose Varona (De La Salle - College of Saint Benilde)

How Workplace Spirituality Mediates the Relationship Between Workplace Friendship and Employee Engagement (b25-057)

Speaker: Dani Rizana (Universitas Islam Indonesia)

Unlocking Global Trends and Future Research Agenda on Ambidexterity at the Employee Level: A Bibliometric Analysis (b25-103)

Speaker: Anis Apriliawati (Bina Nusantara University)

Influence of Information Sharing, Trust and Long-term Relationships on Business Sustainability: Supply Chain Agility as Mediation Variable (b25-122)

Speaker: Sinta Putri Anggraini (Universitas Pembangunan Nasional "Veteran" Yogyakarta)

The Effect of Information Sharing on Supply Chain Performance with Collaboration and Supply Chain Agility as Mediators (b25-171)

Speaker: Sinta Putri Anggraini (Universitas Pembangunan Nasional "Veteran" Yogyakarta)

Examine the Influence of Immunization, Fiscal Policy and Education on Indonesian Life Expectancy (b25-201)

Speaker: Sony Kristiyanto (Universitas Airlangga Surabaya)

Innovation Resistance and Behavioral Intention Perspective: A Comprehensive Understanding of UTAUT and Barriers in Indonesia's E-Commerce Industry (b25-202)

Speaker: Sony Kristiyanto (Universitas Airlangga Surabaya)

(G3 continued on next page ...)

Cooperative Leaders Entrepreneurial Skills and Members' Satisfaction of Selected Teachers Cooperative (b25-123)

Speaker: Helen Grace Legorio (University of Southeastern Philippines)

Session H3: ECONOMIC & FINANCIAL DEVELOPMENT (Zoom: [7783114694](#))

Chair: Shri Dewi Applanaidu (Universiti Utara Malaysia)

Research on the Impact of the Taiwan Government's Implemented the "Long-term Retention of Skilled Foreign Workers Program" on Taiwan Enterprises (b25-114)

Speaker: Suriani Soeharsono (National Quemoy University)

The Good, the Bad, and the Ugly: A Philippine Peso-denominated Sustainability Funds Battle Royale (b25-181)

Speaker: Tyrone Panzer Chan Pao (De La Salle University)

Behavioral Effect on Investment Decision-Making for Generation Z in Indonesia, Japan, and Thailand (b25-213)

Speaker: Deddy Marciano (Universitas Surabaya)

Generation Z and Financial Markets: How Behavioral Psychology Shapes Investment Strategies in Indonesia (b25-214)

Speaker: Deddy Marciano (Universitas Surabaya)

Infographics in the Food Business as Predictor of Consumer Buying Decision (b25-018)

Speaker: Estelita Medina (Polytechnic University of the Philippines)

Artificial Intelligence in AgriTech: Driving Technology Readiness and Adoption for Future Agriculture (b25-194)

Speaker: Dyah Sugandini (Universitas Pembangunan Nasional Veteran Yogyakarta)

Personal Innovativeness: Can It Make Farmers Experts in AI? Acceptance of AI in the Agricultural Sector (b25-215)

Speaker: Dyah Sugandini (Universitas Pembangunan Nasional Veteran Yogyakarta)

Analyzing Export Trends of Malaysian Palm Oil Main Markets: Incorporating Structural Breaks in ARDL Approach (b25-126)

Speaker: Shri Dewi Applanaidu (Universiti Utara Malaysia)

~ End ~

List of Delegates (Sorted by First Name)

Paper ID	Delegate	Affiliation
b25-100	Abdurrahman Hasan	Universitas Esa Unggul
b25-053	Abhisek Mahanta	Indian Institute of Technology Bhubaneswar
b25-146	Abigail Dondoyano	University of the Philippines High School in Iloilo
b25-116	Adinda Nur Safitri	National Quemoy University
b25-160, b25-161	Aditya Wardana	UPN Veteran Yogyakarta
b25-089	Adrie Putra	Universitas Esa Unggul
b25-185	Agrianti Komalasari	Universitas Lampung
b25-105, b25-135	Aida Velasco	De La Salle University; Manila Business College
b25-138	Alfred Liubana	Universitas Pendidikan Indonesia
b25-113	Amalia Khoirunnisa	National Quemoy University
b25-119	Amelia Setiawan	Parahyangan Catholic University
b25-043	André W. Heinemann	University of Bremen - Institute Labour and Economy
b25-066	Anecito Jubac	Far Eastern University
b25-103	Anis Apriliawati	Bina Nusantara University
b25-017	Ann-Lyn Vinuya	Polytechnic University of the Philippines
b25-061	Antonius Budisusila	Sanata Dharma University
b25-065	Arggie Roy Busalla	University of Southeastern Philippines
b25-156	Ariel Viale	Palm Beach Atlantic University
b25-127	Arnel Onesimo Uy	De La Salle University
b25-115	Arunee Punyasavatsut	Kasetsart University
b25-164	Asep Hidayatullah	Universitas Pendidikan Indonesia
b25-208	Atchayapa Keeratisontorn	Thammasat University
b25-047	Avnner Chardles Wellfren	Universiti Malaysia Sabah
b25-137	Ayu Asari	Universitas Pendidikan Indonesia
b25-016	Beata Maria De Ocampo	De La Salle University
b25-186	Betül Ayça	Trakya University
b25-070	Bo An Hsieh	National Quemoy University
b25-190	Bob Barrett	University of Maryland Global Campus
-	Bruno Sergi	University of Messina & Harvard University
b25-110	Chajar Matari Fath Mala	Universitas Pembangunan Jaya
b25-209	Chalita Chayutrakorn	Thammasat University
b25-037	Cristina Teresa N. Lim	De La Salle University
b25-055	Daisy T. Besing	University of Southeastern Philippines
b25-057	Dani Rizana	Universitas Islam Indonesia
b25-095	David Kongpiwatana Narong	Mahidol University; Thammasat University; California Institute of Advanced Management
b25-213, b25-214	Deddy Marciano	Universitas Surabaya
b25-075	Dennis McCornac	Georgetown University Qatar
b25-101	Dimas Hendrawan	Yuan Ze University; Universitas Brawijaya
b25-052	Dina Prasetyaningrum	Widyatama University
b25-169, b25-195	Dioscoro Baylon	De La Salle University
b25-189	Dirk Baur	University of Western Australia
b25-107	Dollada Promli	Khon Kaen University
b25-149	Dung Pham	Shippensburg University
b25-194, b25-215	Dyah Sugandini	Universitas Pembangunan Nasional Veteran Yogyakarta
b25-077, b25-131	Edna Delantar	De La Salle University
b25-124	Edward Rankhumise	Tshwane University of Technology

b25-153	Elisabet Septiari	Universitas Atma Jaya Yogyakarta
b25-018	Estelita Medina	Polytechnic University of the Philippines
b25-128	Estephany Gerona	De La Salle University
b25-206	Euamporn Phijaisanit	Thammasat University
b25-170	Fatemeh Alimohammadi	University of Southeastern Philippines
b25-157	Ferwin Jimenez	University of Santo Tomas
b25-085	Gerald Sapinoso	De La Salle University
b25-016	Gianne Chelsea Hinolan	De La Salle University
b25-191	Hamfri Djajadikerta	Parahyangan Catholic University
b25-146	Hannah Angelika Iniego	University of the Philippines High School in Iloilo
b25-081, b25-082	Harvey Ong	De La Salle University
b25-123	Helen Grace Legorio	University of Southeastern Philippines
b25-087, b25-088	Henry Rufino	Tarlac State University
b25-174, b25-175	Herwan Abdul Muhyi	Universitas Padjadjaran
b25-097, b25-098	HN Hartikayanti	Universitas Jenderal Achmad Yani
b25-073	Hui Chen Chen	National Quemoy University
b25-073	Hui Min Chuang	National Quemoy University
b25-197	I Putu Sugiarta Sanjaya	Universitas Atma Jaya Yogyakarta
b25-129	Iin Aulia Syafira Syafa'at	Universitas Padjadjaran
b25-178	Jan Podivinsky	University of Southampton
b25-069	Jatmiko	Universitas Esa Unggul
b25-086	Jaylen Fampo	De La Salle Lipa
-	Jayson Puri	De La Salle Lipa
b25-180	Jemima Marsha	Universitas Pasundan
b25-020	Jennifer Munsayac	Polytechnic University of the Philippines
b25-111	Jessica Triardi	National Quemoy University
b25-019	Jessie Quierrez	Polytechnic University of the Philippines
b25-011	Johan W de Jager	Tshwane University of Technology
b25-016	John Nelson Andaya	De La Salle University
b25-146	Jose Frias III	University of the Philippines High School in Iloilo
b25-015	Jose Varona	De La Salle - College of Saint Benilde
b25-026	Joshua Fogel	Brooklyn College of the City University of New York
-	Ju-Ming Cheng	Yuan Ze University
b25-067	Karl Campos	University of Southeastern Philippines
b25-109	Kendrew Gian Widjaja	National Quemoy University
b25-086	Kriza Airel Lat Carpio	De La Salle Lipa
b25-051	Kyrapielle D. Fortaleza	University of the Philippines High School in Iloilo
b25-094	Lawrence Co	De La Salle University; Manila Business College
b25-167, b25-168	Liberty Patiu	De La Salle University
b25-029	Li-Ren Yang	Tamkang University
b25-112	Litanisa Putri Caesaria	National Quemoy University
b25-079	Lourence G. Delfin Jr.	University of the Philippines Visayas
b25-198	Ma. Lily Antonina Eres	University of Santo Tomas
b25-187, b25-188	Manuel Tanpoco	De La Salle University
b25-196	Marcellia Susan	Maranatha Christian University
b25-051	Maria Mariella E. Eclar	University of the Philippines High School in Iloilo
b25-032	Martin Enilov	University of Southampton
b25-163	Marycris Albao	De La Salle University
b25-157	Maureen Gelle-Jimenez	University of Santo Tomas
b25-133	Mei Kuo Hua	Feng Chia University
b25-130	MF. Arrozi Adhikara	Universitas Esa Unggul

b25-205	Monthien Satimanon	Thammasat University
b25-199, b25-200	Muafi Muafi	Universitas Islam Indonesia
b25-172, b25-173	Muhammad Ali Fikri	Universitas Ahmad Dahlan, Yogyakarta
b25-035	Nabilah Ramadhan	Universitas Pendidikan Indonesia
b25-106	Nami Shimada	University of Marketing and Distribution Sciences
b25-144	Nancy Bartolome	University of Santo Tomas
b25-046	Nasarudin Abdul Rahman	International Islamic University Malaysia
b25-143	Nguyen Thanh Thuy	National Economics University, Vietnam
b25-147	Norihiko Takeuchi	Waseda University
b25-084	Nur Ellyanawati Esty Rahayu	Universitas Islam Indonesia
b25-039	Panchanok Siripanich	Thammasat University
b25-176	Pathumkan Khaopanya	Khon Kaen University
b25-146	Paullyn Joyce Aguas	University of the Philippines High School in Iloilo
-	Peera Charoenporn	Thammasat University
b25-080, b25-120	Pensri Jaroenwanit	Khon Kaen University
b25-158	Phuong Tran	International University, Vietnam National University HCMC
b25-212	Poori Kulanuwat	Rajamangala University of Technology Rattanakosin
b25-117	Priscilla Valencia Yonathan	National Quemoy University
b25-139	R.A. Nurlinda	Universitas Esa Unggul
b25-036	Rapeeporn Santimalai	Thammasat University
b25-051	Rexes C. Mombay Jr.	University of the Philippines High School in Iloilo
b25-148	Ria Satyarini	Universitas Katolik Parahyangan
b25-012	Rizqi Maulana	Universitas Pendidikan Indonesia
b25-159	Roby Pagong	University of Southeastern Philippines
b25-145	Rocel Apolonio	Far Eastern University
b25-146	Shaira C. Taran	University of the Philippines High School in Iloilo
b25-068, b25-125	Sharon Binoya	University of Southeastern Philippines
b25-146	Shazney C. Pormilos	University of the Philippines High School in Iloilo
b25-132	Sherwin John Gragasini	Tarlac State University
b25-126	Shri Dewi Applanaidu	Universiti Utara Malaysia
b25-122, b25-171	Sinta Putri Anggraini	Universitas Pembangunan Nasional "Veteran" Yogyakarta
b25-023	Sónia R. Bentes	ISCAL
b25-201, b25-202	Sony Kristiyanto	Universitas Airlangga Surabaya
b25-093	Sri Dharwiyanti	Universitas Katolik Parahyangan
b25-121	Stella	Bina Nusantara University
b25-063	Stephanie Palconit	University of Southeastern Philippines
b25-024	Sunil Bundoo	University of Mauritius
b25-114	Suriani Soeharsono	National Quemoy University
b25-060	Sylvain Baumann	University of Le Havre Normandy
-	Tatre Jantarakolica	Thammasat University
b25-025	Taufiq Choudhry	University of Southampton
b25-183, b25-184	Tomas Tiu	De La Salle University
b25-106	Toshimichi Homma	Osaka University of Economics
b25-211	Trin Phacharatechavanich	Rajamangala University of Technology Rattanakosin
b25-071	Tseng Wei Chi	National Quemoy University
b25-150	Tsumma Imamia	Universitas Brawijaya
b25-181	Tyrone Panzer Chan Pao	De La Salle University
b25-142	Tzu-Ying Chou	National Quemoy University
b25-054	Victoria Sundari Handoko	Universitas Atma Jaya Yogyakarta

b25-118	Virginia Clarissa Alexandry	National Quemoy University
b25-076	Wei-yuan Ho	Feng Chia University
b25-207	Wimonsiri Kachantorn	Thammasat University
b25-192	Wimpie Yustino Setiawan	Universitas Atma Jaya Yogyakarta
b25-074	Yi Hao Kuo	National Quemoy University
b25-210	Yingying Feng	Thammasat University
b25-193	Yohanes Mario Pratama	Universitas Atma Jaya Yogyakarta
b25-091	Yu Hsuan Kuo	National Quemoy University
b25-092	Yunju Cha	National Chengchi University
b25-045	Yunshi Liu	National Yunlin University of Science & Technology
b25-058	Zi Yuan Wang	New York University

The Interface Between Competition and Data Protection Law: What Malaysia Can Learn from the Case of Facebook

Nasarudin Abdul Rahman*

Ahmad Ibrahim Kuliyah of Laws, International Islamic University Malaysia
nasarudin@iium.edu.my

Sonny Zulhuda

Ahmad Ibrahim Kuliyah of Laws, International Islamic University Malaysia
sonny@iium.edu.my

Ria Setyawati

Faculty of Law, Airlangga University
ria.setyawati@fh.unair.ac.id

*Presented at: SIBR-Thammasat 2025 Conference on Interdisciplinary
Business and Economics Research, 4th - 6th April 2025, Bangkok.*

Abstract

This paper aims to explore the interaction between competition and personal data protection law in the light of the Bundeskartellamt's decision against Facebook for abusing its dominant position through unfair terms relating to personal data processing. Specifically, this paper tries to discuss when breach of data privacy raises competition law concerns. This paper will discuss what Malaysia can learn from the case of Facebook and whether competition law can intervene in the area of data privacy given that competition law applies to all economic sectors and the concept of abuse of dominant position is wide enough to catch various forms of conduct including those that relates to unfair personal data processing. This paper mainly employs a doctrinal legal approach relying on both primary data (such as competition law legislations and cases) and secondary data such as journal articles, competition law guidelines¹ Among important findings from this research are: competition law can be used to prevent unfair terms in relation to personal data processing despite the existence of data protection laws. The competition authorities may also refer to data protection principles in establishing an infringement under the competition law due to commonalities of principles in the two legislations, provided that the core element of abusive conduct can be established and there should be close consultation between the two regulators.

Keywords: Competition Law; Personal Data Protection; Data Privacy; Abuse of Dominant Position.

¹ This research also refers to some theories found in other disciplines such as social science where relevant to analyze the interaction between competition law and data protection law. However, no empirical studies or fieldwork were undertaken to answer the research objective.

Introduction

The Bundeskartellamt's decision against Facebook.com had triggered a wide range of debates on the interplay between competition law and data privacy law. The Bundeskartellamt had found Facebook liable for abusing its dominant position in the German social network market through unfair terms related to personal data processing.² This decision contrasts with the EU Commission's stance in the Facebook/WhatsApp merger case, where the EU Commission rejected applying competition law to data privacy, stating that privacy concerns fall under EU data protection rules.³

There have been a lot of concerns from legal fraternity that the Facebook's decision may have the risk of broadening the scope of competition law and blur the boundaries between competition law and data privacy law.

This paper explores the intersection of competition law and data privacy law, examining the extent to which antitrust law can address competition issues arising from breaches of data privacy. It presents a conceptual framework covering the importance of data in the digital economy, potential competition concerns related to data concentration, and privacy considerations in antitrust analysis, including privacy policy and consumer disclosure behavior. The paper also outlines the structure of competition law and data protection law in Malaysia and Germany/EU, highlighting their goals and mechanisms. Analyzing the Bundeskartellamt's decision against Facebook, it assesses the courts' responses and their implications for the interplay between competition and privacy law. Additionally, the paper explores the interaction between competition law and privacy law in Malaysia, drawing insights from the German experience in the Facebook case, and investigates the possibility of establishing competition law infringements based on data privacy breaches.

The Conceptual Framework

The Importance of Data

Data is considered as a new "oil" in the age of data-driven economy (Newman, 2014)⁴. Even though data is still being collected via offline transaction (Lerner, 2014)⁵, the emergence of online platform through which digital transaction can be performed, increases the transaction velocity of the data to be collected by the platform.⁶ Data can be collected directly from customers⁷ or be bought from third parties.⁸ In the context

² Federal Cartel Office v. Facebook (Bundeskartellamt v. Facebook) Case No. KVR 69/19 (ECLI:DE:BGH:2020:230620BKVR69.19.0)

³ Case No COMP/M.7217 (2014) para 164

⁴ Nathan Newman, "Search, antitrust, and the economics of the control of user data," *Yale J. on Reg* 31 (2014): 401. Available at SSRN: <https://ssrn.com/abstract=2309547> or <http://dx.doi.org/10.2139/ssrn.2309547>

⁵ Andres V. Lerner, "The role of 'big data' in online platform competition," Available at SSRN 2482780 (2014).

⁶ Lina M. Khan, "Amazon's antitrust paradox," *Yale LJ* 126 (2016): 710; Maurice E. Stucke, "Should we be concerned about data-opolies?," *Geo. L. Tech. Rev.* 2 (2017): 275

⁷ Lerner, *The role of 'big data,'* supra note 5, 9.

⁸ Condorelli & Padilla, *Harnessing Platform*, supra note 9, 23

of online platform data can be collected when users visit a platform, or collected from other platform, third party's website or application.

Why do firms collect data? Firms collect data to enhance service efficiency and generate revenue, primarily through selling ad inventory to advertisers.⁹ The data is leveraged for personalized advertising, interest-based profiling, frequency capping, and retargeting. Additionally, data tracking aids in measuring ad success and attributing user interactions. Improved targeting and measurement increase the ad inventory's value, enticing advertisers and boosting revenue.¹⁰ This incentive prompts online platforms to enhance product quality and offer low or zero-cost services.¹¹

Data and Competition Concern

The competition concern is rooted from the fear from the concentration of market power by a firm due to the merger and acquisition that could take advantage of the combined data between the merging parties which has the ability to restrict the entry and expansion for new firm in the market, refusal to allow access to data, discriminatory refusal and vehicle to facilitate price discrimination, all by the dominant firm¹². In addition, the concentration of data towards several firms raises potential competition harm such as degradation of the quality including the reduction of privacy protection, the risk of surveillance and security, the wealth transfer to the dominant firm by extracting the wealth of the users, loss of trust, significant costs to the third parties, less innovation, less autonomy and political risk.¹³

Contrary views by Lerner (2014) and Sokol and Comerford (2016) suggest low possibilities of foreclosing rivals through data collection, as data is non-rivalrous and lacks exclusivity.¹⁴ Antitrust intervention may harm competition, and some companies may mutually exchange data to enhance information levels.¹⁵¹⁶ Although data is ubiquitous, key considerations for determining competition issues include data substitutability, the scale of collection, the barrier to entry based on data volume, the impact of technology on data quality, and the persistence of data value over time.

Data and Privacy Concern

Privacy Calculus

According to privacy calculus theory, consumers' decision to disclose their personal information is based on costs and benefits analysis that they will gain from revealing the data. In other words, it is a trade-off between costs and benefits that influence consumers' behavior and reaction toward their data privacy. Since privacy

⁹ CMA & ICO, *Competition and Data Protection*, supra note 8, 15.

¹⁰ Lerner, *The role of 'big data'*, supra note 5; Dimakopoulos and Sudaric, *User Data*, supra note 13; Frank, Nagle, Robert Seamans, and Steven Tadelis, *Transaction cost economics in the digital economy: A research agenda*, (Harvard Business School Strategy Unit Working Paper 21-009, 2020).

¹¹ Lerner, *The role of 'big data'*, supra note 5, 15

¹² Bruno, Lasserre and Andreas Mundt, "Competition law and big data: The enforcers' view," *Antitrust & Public Policies* 4, no. 1 (2017).

¹³ Stucke, *Should we be concerned*, supra note 6.

¹⁴ Lerner, *The role of 'big data'*, supra note 5.

¹⁵ Sokol and Comerford, *Antitrust*, supra note 24.

¹⁶ Autorité de la concurrence & Bundeskartellamt, *Competition Law and Data* (10th May 2016) 43.

calculus involves “a trade-off”, “it is assumed that individuals decide to disclose personal information when potential gains surpass expected losses.”¹⁷

The shortcoming of the privacy calculus is that people must be aware of the risk of sharing their personal data, assess it, and finally accept the risk. People who are ignorant about the perceived risk do not expect any reward thus are less motivated to disclose their personal data. In reality, people are not capable of assessing risks due to many reasons such as incomplete information and bounded rationality. If people do not have complete awareness of the perceived risks of the data disclosure, the information made is not based on privacy calculus but other factors.¹⁸

Privacy Paradox

Relevant to the issue of privacy concern is a phenomenon known as “privacy paradox”. Privacy paradox is explained as the gap or inconsistency between consumer’s attitude toward privacy and his actual disclosure behavior. The privacy paradox phenomena informed that consumers who are concerned about their data privacy always take little step to protect it and end up disclosing their personal data.¹⁹ Solove categorized responses to the phenomena of ‘privacy paradox’ into two groups²⁰: First, a group that advances behavior evaluation argument and second, a group that favors behavior distortion argument. The proponents of behavior evaluation argument see actual behavior as a more reliable indication of how people value their data privacy than the stated attitude. According to this view, the fact that people are willing to trade data privacy even with small benefits shows that they did not care about or give little value to their data privacy. Since users did not give high priority to their own data privacy, regulatory intervention may not be necessary.

The behavior distortion argument suggests that relying on actual behavior is unreliable for assessing privacy value, as various factors can distort people's actions. These factors include “bounded rationality,” making it challenging for individuals to make rational choices, especially in complex situations involving costs, benefits, and risks. Even informed users may struggle to understand complex data practices, leading them to neglect privacy measures like reading policies or adjusting settings. Inertia, friction, misunderstanding, and lack of knowledge contribute to users ignoring privacy-protective measures. Firms can manipulate consumer agreement by designing privacy notices and technology that hide concerning practices, unilaterally amending privacy terms, and implementing dark patterns. Lack of transparency by online platforms hinders users' understanding of terms, data use, and the consequences of disclosing personal information.

Interplay Between Data, Privacy, and Competition

Privacy is a sweeping concept, encompassing, among other things, freedom of thought, control over one’s body, solitude in one’s home, control over personal information, freedom from surveillance, protection of one’s reputation, and protection

¹⁷ Spyros Kokolakis, “Privacy attitudes and privacy behaviour: A review of current research on the privacy paradox phenomenon,” *Computers & Security* (July 2015), DOI: 10.1016/j.cose.2015.07.002.

¹⁸ Kruthoff, *Privacy Calculus*, supra note 30.

¹⁹ Aline Blankertz, *How competition impacts data privacy And why competition authorities should care* (Think Tank für die Gesellschaft im technologischen Wandel, September 2020)10.

²⁰ Daniel J. Solove, “The Myth of the Privacy Paradox,” *THE GEORGE WASHINGTON LAW REVIEW*, Vol. 89, No. 1 (January, 2021).

from searches and interrogations.²¹ Privacy is also “the desired absence of tracking of an individual’s activities and/or the degree of control that individuals have over the extent and form of tracking”²². In the digital services market, privacy policy and consent are closely linked, serving as an indirect means for online platforms to obtain user consent for personal data collection and processing. The privacy policy outlines how personal data is managed—collected, stored, used, and shared with third parties. Users, upon providing consent during sign-up or service usage, are expected to read and understand the privacy terms in the policy. Once consent is secured, a contractual relationship is established, and the data processing is deemed legal. However, two questions should be asked: do consumers really read the privacy policy? Or do users really understand the content of the privacy policy to render the consent is freely given in relation to their personal data?

Privacy policies, often integrated into platform usage terms, create a 'take it or leave it' scenario, especially with dominant platforms, leaving users to accept terms without fully understanding the associated privacy policy. This approach, combined with bundling digital services with mandatory personal data provision, can be exploitative and exclusionary, resulting in a market failure.²³ Users may not be fully compensated for providing data to platforms offering free services, and the bundling practice enhances the platform's market power by selling data to advertisers for funding digital services.²⁴

A dominant platform employs "privacy policy tying" to bolster its market power in the original platform. This involves linking privacy policies, enabling the platform to combine user data from various platforms without additional consent.²⁵ As part of terms and services to use the original platform, users need to accept privacy policies which allows the original platform to collect and combine data across platforms for better and detailed user profiling. For example, by tying its privacy policy, Google is able to combine data from Google Search histories and combine them with those data collected from other platforms (Android location data). While this strategy fosters pro-competitive effects by enhancing competition and offering personalized products, it can also be used to monetize cross-platform data, increase revenues, and potentially establish monopoly power in the long run.²⁶

The Legal Frameworks on Competition and Personal Data Protection in Europe and Malaysia

The German Act Against Restraint of Competition (GWB)

The objective of German competition law (Act against Restraint of Competition) is "to guarantee freedom of competition and to prevent the emergence of economic power where it might impair the effectiveness of competition."²⁷ This follows ordo-

²¹ Daniel J. Solove (2008), *Understanding Privacy*, at 1.

²² Aline Blankertz, *supra* note 43, 8.

²³ Nicholas Economides & Ioannis Lianos, Restrictions on Privacy And Exploitation In The Digital Economy: A Market Failure Perspective (2021) *Journal of Competition Law & Economics*, 00(00), 1–83

²⁴ *Ibid.*

²⁵ Condorelli & Padilla, *Harnessing Platform*, *supra* note 9.

²⁶ *Ibid.*

²⁷ OECD, *Germany - The Role of Competition Policy in Regulatory Reform* (2003) 11.

liberalism school which views that the protection of market structure produces better economic outcomes including to ensure consumer interest is guaranteed.²⁸ The Act prohibits a wide range of anti-competitive behavior including abuse of dominant position. The abusive conduct the Act seeks to prevent covers both exclusionary as well as exploitative conduct. The Act does not specifically deal with exploitative unfair terms and condition. However, the Act prevents a dominant firm from demanding business terms which differ from those which would very likely arise if effective competition existed. The competition authority will consider the conduct of undertakings in comparable markets where effective competition exists.²⁹

The General Data Protection Regulation (GDPR)

The GDPR aims to safeguard individual fundamental rights regarding personal data processing, emphasizing the need to balance this protection with other fundamental rights in a proportional manner. Compliance with the principles of 'lawfulness, fairness, and transparency'³⁰ is essential for fair data processing, which should adhere to the principles of purpose limitation³¹ and data minimization.³² Article 4 defines key terms, and Article 6 outlines lawful data processing situations, including consent, contractual necessity, and legitimate interests. Article 7 addresses effective consent, considering its validity, withdrawal rights, and conditional aspects, especially in contractual performance. To uphold data subject rights, transparent disclosure of essential information, such as processing purpose, legal basis, and data recipients, is crucial.³³

The Malaysia Competition Act 2020 (712)

The Malaysian Competition Act 2010 (CA 2010) largely borrows the European Treaty on competition law. The aim of the Act as set in the pre amble is “to promote economic development by promoting and protecting the process of competition, thereby protecting the interests of consumers”. The competition law itself is not a consumer protection dealing directly with interest of end consumers. Rather, it regulates the behavior of firm in the market to ensure that firms compete on the level playing field. Competition then “encourages efficiency, innovation and entrepreneurship, which promotes competitive prices, improvement in the quality of products and services and wider choices for consumers”.

The CA 2010 aims to prevent anti-competitive practices, addressing both anti-competitive agreements and the abuse of dominant positions. Dominance itself is not a violation, but dominant firms bear a special responsibility to avoid conduct harming competition. Section 10(2) outlines non-exhaustive categories of abusive conduct, classified as exploitative and exclusionary. Exploitative behavior, such as unfair pricing

²⁸ Ignacio Herrera Anchustegui, “Competition Law through an Ordoliberal Lens,” *Oslo Law Review*, 139-174, 2 (2015) :159-160

²⁹ GWB, Section 19 (2) 2

³⁰ Article 5, GDPR.

³¹ The collection of data must be for a specified, explicit and legitimate purpose and the processing of personal data must be in the manner consistent with the purpose: Art 5 (1) (b), GDPR.

³² Personal data must adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed: Art 5 (1) (c), GDPR.

³³ Any information relating to processing to the data subject in a concise, transparent, intelligible, and easily accessible form, using clear and plain language. The information shall be provided in writing, or by other means, including, where appropriate, by electronic means: Article 12, GDPR.

or trading conditions, is covered by Section 10(2)(a). While MyCC Guidelines focus on unfair excessive pricing, Section 10(2) also encompasses non-price abuses, applicable to both B2B and potentially B2C relationships. Despite no precedent on unfair trade conditions, enforcement aligns with the CA's goal of promoting market competition rather than solely consumer protection.

The Malaysia Personal Data Protection Act 2010 (709)

The Malaysian Personal Data Protection Act (PDPA), effective from 2013, regulates the processing of personal data in commercial transactions. It specifically addresses "personal data," encompassing information related to commercial transactions processed by means of equipment that directly or indirectly links to an identified or identifiable data subject. This includes sensitive personal data.³⁴ The PDPA outlines seven principles governing data processing, emphasizing legality, fairness, proportionality, and transparency. Data users bear the responsibility of justifying compliance with the PDPA's principles, covering aspects like consent, data minimization, notice, choice, disclosure, security, retention, integrity, and access.

Under the PDPA 2010, consent is a crucial aspect for justifying personal information processing. Section 6(1)(a) stipulates that personal data cannot be processed without the data subject's consent, which can be withdrawn. However, Section 6(2) outlines exceptions, such as processing for contractual performance, legal compliance, vital interests, administration of justice, or statutory functions. Even with consent, processing must be lawful, necessary, and proportional. The PDPA emphasizes transparency, requiring data users to describe data processing details and offer choices to limit processing. It also imposes purpose limitation, data retention, and grants various data subject rights. In *Genting Malaysia Bhd v Pesuruhjaya Perlindungan Data Peribadi & Ors*, the High Court emphasizes that the PDPA aligns with the fundamental right to privacy under Article 5 of the Federal Constitution, emphasizing the right to life and liberty.

The Interface Between Competition and Privacy Concern : The Facebook Case *Overview of The Decision*

In the case of Facebook³⁵, The Federal Cartel Office of Germany (FCO) assessed whether Facebook's breach of data privacy constituted abusive conduct under section 19 GWB (German competition law). The FCO determined that Facebook.com imposed unfair terms by requiring private users to consent to extensive data processing, collecting information from various sources, including corporate services like WhatsApp and third-party websites. This data was used for comprehensive profiling. The FCO concluded that users suffered harm by losing control over their personal data. Facebook.com was prohibited from using unfair terms and conditions and from implementing data processing for business and marketing purposes outside its social network platform(via Facebook Business Tool).³⁶. Although Facebook.com initially

³⁴ Section 4, PDPA 2010, sensitive personal data includes physical or mental health or condition of a data subject, political opinions, religious belief, criminal records etc.

³⁵ *Federal Cartel Office v. Facebook* (Bundeskartellamt v. Facebook) Case No. KVR 69/19 (

³⁶ Similar decision also issued by the Italy Competition Authority against WhatsApp for forcing "the users of its service WhatsApp Messenger to accept in full the new Terms of Use, and specifically the provision to share their personal data with Facebook, by inducing them to believe that without granting

appealed to the Düsseldorf Court of Appeals, the Federal Court of Justice later set aside the COA's decision on June 23, 2010.

Facebook's Business Model

Facebook.com, the main addressee in this case provides social network service for private users in German which connect users to people whom they are close with such as friends and acquaintances. The key objective of social networks is finding and networking with people the users already know, and exchanging daily experience, opinions and contents among specific contacts which the users define based on identity.³⁷ As a start, Facebook users need to sign up on Facebook and create a personal Facebook account which contains personal profile, picture, and some other personal information.³⁸ The main features of Facebook.com is a personal homepage which contain news feed which allows users to see recent post from contacts or third parties to which user has subscribed and to update status. According to FCO, Facebook.com offers a service which is different from other social media such as YouTube, WhatsApp, Instagram, LinkedIn³⁹

Facebook.com is considered as a multi-sided platform which provides services to different group of users (internet users, advertisers, publishers etc.) and involves in different type of markets. For an example, Facebook.com can also be used by companies or association who can set up their own pages to publish their contents on them.⁴⁰

Facebook's large users-based creates indirect network effects as the more users use Facebook.com the more advertisers will also come on board. The large user network that Facebook.com enjoys creates economies of scope which make entry into social network market rather difficult as the news suppliers "must be successfully in entering at least two sides of the market".⁴¹ New operator must achieve "a critical mass of users representing an attractive target group for advertisers" "in order to be able to monetize a product through advertising".⁴²

Even though social network service can be used by users free of charge, the service is in fact funded by advertising. The Facebook does only collect users' data on its platform but also data from outside Facebook.com to be combined with data collected while using Facebook.com. User's data can be collected outside

such consent they would not have been able to use the service anymore." <<https://en.agcm.it/en/media/press-releases/2017/5/alias-2380>> ICA decision No 26597 of 11 May 2017

³⁷ The decision of Federal Cartel Office (FCO) (*Bundeskartellamt v. Facebook* (Case KVR 69/19) IIC (2020) para 249.

³⁸ Federal Court of Justice (FCJ), Decision KVR 69/19 on 23/06/2020, para 2.

³⁹ LinkedIn is used for fostering the users' careers (FCO, para 278). WhatsApp provides messaging services which are mostly used in addition to social networks to complement their range of services and does not allow the creation of a virtual social space in which users have an intensive social experience by being able to exchange opinions, experience, and messages (FCO, para 287). YouTube does not work like a virtual social space digitally reflecting the user's social relationships. Many users mostly use YouTube for "entertainment and pastime (FCO, para 312). Instagram provides a medium for "sharing" photos and short video clips (Court of Appeal, VI-Kart 1/19 (V), page 2).

⁴⁰ Court of Appeal, VI-Kart 1/19 (V), page 2.

⁴¹ FCO, Para 443

⁴² FCO, Para 443

Facebook.com platform using various technologies such as cookies and interfaces⁴³ for the purpose of personalized and targeted ads (users will be shown with relevant ads according to their preference), to measure the performance of advertisement campaign across several channels (attribution tool)⁴⁴ or to analyze on how users interact with services across several devices, platform, and websites (Facebook analytical tool).⁴⁵

Data and Competition Concerns – Market Power

Market power or dominant position is an important factor to establish exploitative conduct under the competition law as only firm with significant market power is able to impose conditions unilaterally in a way that harms competition and consumers. The FCO was satisfied that Facebook enjoys a dominant position in the market of social network for private users in Germany based on its daily active users.⁴⁶ One of the many factors that contribute to market dominance is the ability of Facebook.com to collect detailed data from various sources which make Facebook.com an attractive platform to advertisers.

Facebook.com has competitive advantage over its competitors due to the fact that with the development of technology such as AI and algorithm, large volume of data will be used to further improve products, R&D and innovation.⁴⁷ The attractiveness of a platform in the eyes of advertisers depends on the quality and quantity of the data on users generated by the platform. The collected data can be monetized and is influential in determining the price that can be demanded by Facebook from advertisers.

Having considered the importance of data and the need to maintain its market power, Facebook has an incentive to exploit its scope of action by increasing the amount of data generated on the user's side to attract more business users on the other side (e.g. advertisers).⁴⁸ The importance of data to business users (e.g. advertisers) also means that data itself has economic value even though it is non-rivalrous in that data users are not prevented from providing the same data to other third parties including Facebook's competitors in the social network service market. The fact that data pool created is only available to Facebook and its business users and is beyond the control of the private users means that they cannot make it equally available to third parties.⁴⁹

⁴³ For example, Facebook provides Facebook Business Tools service for free which allows third party websites or apps (business partners) to connect to access to Facebook pages via various interfaces (APIs). Among examples of the APIs are social plugin (extension on websites or apps) and Facebook Login. By integrating the APIs into websites or apps, Facebook users can express their interest in the sites or certain contents from the sites ('like button or 'share' button). Users' reactions can be displayed in the newsfeed of their Facebook Friend, see FCJ, para 3; Via Facebook Login functions, users can log in Facebook.com from third party websites or apps using their registered Facebook user data. Facebook places cookies (site-related pieces of text information) on the user's device that enable Facebook to collect data when users visit third party websites or apps without any further action by the users, FCJ, para 4.

⁴⁴ FCO, para 70

⁴⁵ FCO, para 72. There are other objectives of this data collection exercise as stipulated by Facebook in its terms of services such as to promote and protect integrity and security, to communicate with user and to carry on research and innovate for social good.

⁴⁶ Daily active users is used as the main indicator since the success of social network depends on the intensity of the use and activities in term of time spent and daily interaction such as exchange of content and experience (FCO, para 407)

⁴⁷ FCO, Para 493

⁴⁸ FCJ, para 43

⁴⁹ FCJ, para 62

Data and Privacy Concern – Privacy Paradox and Privacy Calculus

Facebook faced allegations of abusing its dominant position under German Competition Law (GWB) by imposing unfair conditions. The unfairness stems from users being required to consent to unlimited data collection for Facebook's social network service, even when unnecessary for its use. As Facebook holds a dominant position with no effective alternatives in the German social network market, the Federal Cartel Office (FCO) determined that making service provision contingent on unlimited data processing consent would eliminate freely given consent due to the imbalance of power.⁵⁰ This imbalance, or market power, results in forced consent and a loss of user control over data handling. The "privacy paradox" arises from the inconsistency between user privacy concerns and actual data disclosure, attributed to market opacity and exacerbated by Facebook's market power.⁵¹ Users' lack of engagement with terms and conditions, as they must accept them regardless, further indicates the influence of market power.

The Court of Appeal (COA) dismissed the loss of control claim, asserting that data processing occurs with the user's full knowledge and consent. The court found no evidence of Facebook obtaining consent through unfair means or violating terms and conditions. The FCO's decision did not indicate a failure in Facebook's Terms of Service to inform users adequately. Instead, the disclosure of personal data is based on "privacy calculus," allowing users to weigh the benefits of using a free, advertising-financed social network against the associated consequences of additional data use by Facebook.⁵² Users have the freedom to decide based on personal preferences and values.

Furthermore, according to the COA, the consent given by users is neither influenced by Facebook nor by the outflow of Facebook market power. The voluntariness of the user's decision is further confirmed by the fact that some users decided not to register with the Facebook.⁵³ The COA in disagreement with the FCO was also of the view that blindly acceptance of terms and conditions (without reading it) is not the result of the user's dependent on Facebook market power but simply by the user's lack of interest in the Facebook's processing of additional data for advertisement purposes⁵⁴ and individual consideration that participation in social network is more important than expansive processing of additional data. More importantly, the decision is based on consideration of a trade-off between the benefits of using Facebook.com free of charge and consequence of registering Facebook.com with extensive data processing (privacy calculus).

⁵⁰ FCO, para 645

⁵¹ FCO, para 384

⁵² COA, p 9

⁵³ COA, p 23

⁵⁴ COA, p 27

The Federal Court of Justice (FCJ) argues that while users may join Facebook.com primarily for social networking, market power forcing consent limits data users' choices. The FCJ asserts that, in a competitive environment, diverse offers for social networks, considering user preferences, would provide more autonomy in data disclosure decisions.⁵⁵ Facebook's failure to offer choices between personalized user experiences and limited data processing on its platform indicates a lack of consideration for user preferences in a competitive market, potentially stemming from market power.⁵⁶

Data, Privacy and Competition Concerns – Privacy Policies Tying

The terms and conditions which are considered 'unfair' mainly contain in the Facebook's Terms of Services and complemented by Data Policy and Cookies Policy. Facebook's Terms of Service contain general and broad regulation for the processing of each user's personal data⁵⁷ and the general use of social network. This is further explained by privacy policy in the form of Facebook Data Policy and Cookies Policy and any comparable contractual terms. For instance, Facebook Data Policy informed type of data and how the data is processed and shared and the purpose for which the data is collected. The relevant provisions on data processing contained in Facebook's Term of Service, Data Policy and Cookies are considered terms and condition within the meaning of section 19 GWB.⁵⁸ Since privacy policies are part of the terms and conditions for the use of Facebook social network, Facebook is able to engage in privacy tying which allows it to collect and use the data across platforms without the need to obtain separate consents from users. Furthermore, Facebook platform envelopment strategy through the integration of functionalities between Facebook.com platform and Facebook-owned services and ability to transfer user data across Facebook products involves the risk of transferring market power to other service operators such as WhatsApp and Instagram particularly, when these services are also characterized by network effects.⁵⁹ This can exclude other market players and create barriers to market entry for competitors.⁶⁰

The Interaction Between Competition and Data Competition Law – Key Decision of Facebook

The Relationship Between Competition and Data Protection Law

The Facebook case illustrates the synergy between competition law and data protection law, demonstrating that competition authorities can intervene in areas of data privacy that raise competition concerns. Enforcing competition law in the context of

⁵⁵ FCJ, para 86 (2), p 31

⁵⁶ FCJ, para 86

⁵⁷ FCO, para 561

⁵⁸ FCO, para 561

⁵⁹ FCO, para 785, 887

⁶⁰ See also Turkish Competition Authority's decision against Meta Platform and WhatsApp, in which it was held that "by combining the data collected from WhatsApp services, it causes distortion of competition by complicating the activities of its competitors operating in the personal social networking services and online display advertising markets and creating an obstacle to market entry" see Final Decision No. 4054 at <<https://www.rekabet.gov.tr/tr/Guncel/meta-platforms-inc-eski-unvani-facebook-c3135926fa54ed11a22e00505685ee05>>

unfair data processing incentivizes firms to compete for higher privacy standards, preventing harm to consumers in the form of privacy degradation. Competition law reinforces data protection rules by upholding users' constitutional right to informational self-determination, ensuring their choice in determining how their data should be used and shared on and off platforms. The competition authority's intervention is limited to cases of dominant positions and potential abusive conduct, relying on EU law principles to establish competition law infringements. Data protection enforcement is not exclusive to data protection authorities; other civil laws, such as consumer protection and unfair contract terms, can address it. Moreover, data protection law primarily examines data processing policies based on principles and may not adequately address market failures associated with dominant positions. Utilizing GDPR principles in competition law assessments related to data use by the competition authority promotes consistency rather than inconsistency.

Applying GDPR's Principles on The Competition Law Framework

Breach of data protection rules can potentially constitute a breach of competition law, specifically in cases of abuse of dominant position.⁶¹ In the Facebook case, abusive terms are linked to the processing of personal data. The Bundeskartellamt examines whether Facebook's data collection qualifies as personal data⁶² and if it aligns with data protection regulations. Data protection rules can serve as a benchmark for identifying abuse of dominant position in competition matters. The FCO's decision emphasizes that a breach of data protection laws, especially when connected to market power, can violate competition laws, highlighting the interaction between enforcing competition and data protection laws. The prohibition of unfair terms in competition law aims to prevent powerful firms from imposing unilateral contractual terms on weaker parties, raising concerns even with mutually agreed terms if a power imbalance exists.

Data protection rules can be taken into consideration within the framework of competition law in establishing exploitative behavior in the form of 'unfair terms' or 'abusive term'. Based on the EU's competition law decision, the finding of 'unfair terms and condition requires the balance of various interests taking into account the market position, the principle of necessity, proportionality and transparency. As decided in the case of Facebook, in addition to 'comparable market' requirement under section 19 (2) of the GWB, ⁶³the Bundeskartellamt also carried out balancing interests'

⁶¹ FCJ, para 131, page 47.

⁶²Article 4 of GDPR defined personal data as data that relates to identified or identifiable natural persons. Identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data etc. The personal data include user-related data such as identity, interests, living conditions, behavior etc and device-related data such as location related data, device information, software information etc. Personal data also include special category of data such as racial or ethnic origin, political opinions, religious and philosophical beliefs, genetic data, health data, sexual orientation etc. (FCO, para 585).

⁶³ Under section 19 (2) of the GWB, the finding of infringement in relation to unfair term requires the competition authority to prove that the term differs from those which would very likely arise if effective competition existed. Under effective competition, consumers are expected to enjoy a more diverse offer on the market for social networks based on their preferences and can choose between service with limited data disclosure (data collected on Facebook.com platform itself) and service with expansive data exposure for a more personalized user experience (with data collected "off-Facebook.com). The Federal Court in this regard is of the view that Facebook is liable for involving in service expansion by tying an

assessment based on the principle of GDPR to prove that the terms in relation to the use of data is inappropriate or unfairly abusive. The balancing interest under the competition law leads to the same outcome as an assessment under data protection law since the assessment under both is based on the same factors such as market power. The principle of necessity, proportionality, and transparency as in the competition law assessment is also inherent in data protection law.⁶⁴ For example, in carrying out balancing interest exercise the Commission considers whether extensive data processing is necessary for the performance of the contract of social networking (Art 6 (b)), whether massive data collection outside Facebook is necessary for the purpose of Facebook's legitimate interest (Art 6 (f)), whether information about the processing of data is communicated in transparent, intelligible and easily accessible form, and most importantly, whether the interest of users outweigh the legitimate interest of data controller. In protecting users' interest, the Bundeskartellamt considers various factors, including type of data, type of data processing, users' reasonable expectations, the position of data controller and the existence of protective measures to minimize data privacy intrusion.

Freedom to Compete and Market Openness

Establishing an abuse of dominant position related to data processing, German competition law demands proof of damage to overall competition, not just consumer harm like privacy degradation. The focus is on demonstrating harm to both end-users and competitors in the social network market. Facebook's unlawful data processing provides a competitive advantage, making its platform more appealing to advertisers for personalized ads and maintaining market power, reinforcing entry barriers.⁶⁵ The interconnected functionalities of services within Facebook's ecosystem,⁶⁶ coupled with its dominant position, can shift market dynamics. For competition law to apply, it suffices that unfair terms hinder competition, leading to a detrimental market outcome compared to effective competition.⁶⁷ Strict causality isn't required; instead, normative causality, establishing a link between dominant position and market results, is sufficient.⁶⁸

The Interaction of Competition Law and Personal Data Protection Law in Malaysia – Lesson From The Case of Facebook

Competition Law Goals

In Malaysia, competition law and data protection law can mutually support consumer-friendly market conditions. Competition law fosters not only price

indispensable service with the service that they do not want (FCJ, para 58) which at the end “leads to a market result that is detrimental for customers, that would not be expected under effective competition” (FCJ 65).

⁶⁴ For example, Article 5 of the GDPR set general principle whereby personal data can only be processed for legitimate purpose explicitly stated at the time of collection and the personal data must be adequate, relevant, and limited to what is necessary in relation to that purpose.

⁶⁵ Therefore, according to the Commission, there is direct correlation between the actual effect of the Terms of Service on competition and competitor and market power that Facebook enjoys, FCO, para 888

⁶⁶ FCO, 887

⁶⁷ FCJ, Para 72

⁶⁸ FCJ, para 71

competition but also innovation, product quality, and diverse choices. When competition is active, firms may vie for privacy by adopting protective business models. Similarly, data protection enforcement reinforces competition goals by promoting transparency, informing data subjects about data processing, and fostering competition for higher data protection standards. Amendments to the Personal Data Protection Act (PDPA) may enhance competition and incentivize firms to compete for privacy in the digital market.⁶⁹

Imbalance of Power

According to the Facebook case, competition law may widen its scope to cover data privacy issues if there is a nexus between the two legislations, i.e., through the principle of “‘imbalance of power.’”⁷⁰ While the PDPA lacks explicit provisions on the ‘imbalance of power’ found in GDPR, and the right to informational self-determination isn’t constitutionally guaranteed, this absence doesn’t diminish the relevance of market power in assessing the validity of consent. Even though the PDPA doesn’t directly address forced consent or consent bundling with services, evaluating market power can assist data protection authorities in identifying when consent may be deemed invalid or ineffective.

The 2013 Regulations require explicit consent, recorded and retained properly by data users, typically through opt-in methods. However, in cases of market power, opt-in consent may not genuinely reflect user choice, especially when service usage hinges on agreeing to data processing terms. The ongoing review of the PDPA aims to strengthen enforcement and provide clarity on consent in data subject interactions. Forced consent, driven by power dynamics, may contribute to the privacy paradox, particularly in scenarios with limited alternatives. A study by Lee Fong Yee et al. indicates that Malaysian social media users often avoid reading privacy policies due to information overload. While the privacy paradox may stem from various factors, including bounded rationality and information asymmetries, data-sensitive users may reluctantly accept unfair privacy terms due to platform market power and a lack of alternative services. The study also reveals that despite data breaches, a majority of users maintain faith in popular social media platforms like Google and Facebook, highlighting issues of bargaining power and a pervasive ‘take it or leave it’ approach in Malaysia’s commercial contracts.⁷¹

Lee Fong Yee’s study reveals that social media users in Malaysia accept unfair terms based on privacy calculus, prioritizing perceived benefits over risks. Preferences for benefits traded vary among individuals, with the majority favoring social and financial gains and a minority valuing personalized recommendations.⁷² The key is to empower social network users with the right to choose preferred benefits and control the level of data disclosure. This aligns with PDPA’s choice principles, obliging data users to offer means for limiting data processing. However, for privacy calculus to be

⁶⁹ https://www.pdp.gov.my/jpdpv2/assets/2020/02/Public-Consultation-Paper-on-Review-of-Act-709_V4.pdf

⁷⁰ See Economides & Lianos, *Restrictions on Privacy*, supra note 50, 56.

⁷¹ See for example, Farihana Abdul Razak & Zuhairah Ariff Abd Ghadas, “Legal Issues Due to Unfair Contract Term: the Malaysia Perspective,” *Journal of Critical Reviews* (August 2020) : 7461.

⁷² Lee Fong Yee, *Privacy Calculus*, supra note 144.

effective, users must be aware of the benefits and risks, which can be hindered by challenges such as difficulty understanding contractual terms.⁷³

In summary, Malaysian competition law can address data privacy concerns arising from market power, as the current PDPA is deemed insufficient to tackle market failure issues like inadequate competition. Interventions by competition law could enhance user freedom in determining the extent of data disclosure tied to online platform functionalities. To establish a robust link between competition law and data protection law, a revision of the PDPA is recommended to address power imbalances, particularly concerning perceived limitations in obtaining free consent.

Unfairness and Balance of Interest

The Facebook's decision highlights the possibility of using data privacy principles to establish competition law violations, particularly regarding unfair terms related to personal data processing. Definitions of "personal data" and "data processing" are well-established in GDPR Article 4 and PDPA 2010 Section 4. While the CA 2010 lacks clarity on unfairness in exploitative terms, referring to EU competition law cases can provide insight. However, the term "unfair" in EU competition law is inherently vague, varying in meaning based on case circumstances. The expansive interpretation of "unfairness" may hinder the promotion of competition, potentially favoring competitors over fostering competition. In the realm of exploitative conduct, fairness may be assessed based on concepts like necessity, proportionality, and transparency. Trading terms are likely deemed unfair when unnecessary for contract purposes and disproportionate to the contract's aim, considering criteria such as one-sidedness, control, and the ability to unilaterally impose contract clauses.⁷⁴

The PDPA incorporates principles of lawfulness, necessity, and proportionality in Section 6, emphasizing the lawful purpose directly related to users' activities, necessity, and ensuring that personal data is not excessive. Users are obligated not to disclose data for undisclosed purposes, and transparency in processing is mandated⁷⁵, requiring distinguishable presentation of consent for different matters.⁷⁶ While lacking an equivalent to GDPR's Article 6(1)(f) on legitimate interests, the PDPA bases data processing on user consent (Section 6(1)) and lawful purposes (Section 6(2)). However, these lawful purposes, like contract performance, must align with necessity and data minimization principles (Section 6(3)). The Facebook case in Germany illustrates the excessiveness of off-platform data collection as a condition for basic social network service, violating these principles. Beyond Section 6, Malaysia's data processing activities must adhere to other personal data protection principles, safeguarding data

⁷³ See for example, Noor Mahinar Abu Bakar, Norhashimah Mohd Yasin, Siti Salwani Razali, Ng See Teong, "Extending Unfair Contract Terms Protection to Banking Consumers in Malaysia: The Case Of Islamic Banks," *International Journal of Accounting, Finance and Business* 3, Issues: 8 [March, 2018] :22-32

⁷⁴ Renja Vänskä, 'Privacy policy clauses: Exploitation by unfair trading conditions under Article 102(a) TFEU?' (Master's Thesis in EU competition law, UPPSALA UNIVERSITET, Department of Law, 2021)

⁷⁵ Section 8 of PDPA 2010.

⁷⁶ Personal Data Protection Regulations 2013, Regulation 3 (2)

subjects' interests through information provision, choice in limiting data processing⁷⁷, data retention obligations⁷⁸, the right to withdraw consent⁷⁹, and more.

The Malaysian competition authority should not be prevented to consider data protection rules in competition law assessment as long as the core element to abuse of dominant position can be established. The notion of 'unfairness' itself is sometimes ambiguous. The reliance on data protection rules allows the competition authority to have clear legal standards for the finding of infringement on unfair terms in relation to data processing. The principle of necessity, proportionality and transparency are key consideration in the PDPA in determining the legality of data processing, and these are also paramount important apart from market power, in the assessment of unfair terms and condition under the Competition Act 2010.

Freedom to Compete and Exclusionary Conduct

As mentioned earlier, the CA 2010 aims "to promote economic development by promoting and protecting the process of competition, thereby protecting the interests of consumers". In the case of Dagang Net Sdn Bhd:

*The concept of abuse is an objective one relating to the behavior of an enterprise in a dominant position which as such to influence the structure of a market. The abusive conduct of the dominant enterprise resulted in the weakening of competition which hinders the maintenance of the existing degree of competition or the growth of that competition in the market.*⁸⁰ The Commission further stated that: *section 10 of the Act does not only prohibit practices that may cause damage to consumers directly but also practices that may cause harm to consumers through their impact on competition.*⁸¹

Based on the Commission's decision, the objective the CA is beyond pure consumer welfare but rather to protect the competitive process and freedom to compete. This means that breach of data privacy and consumers harm (data subject) alone may not be sufficient to prove exploitative abusive conduct. Purely consumer harm may be well addressed under consumer protection or data protection law. For example, the Malaysian Consumer Protection Act 1999 contains provision that regulates unfair contract terms between businesses and consumers (B2C).⁸² In determining the 'unfairness' factors such as imbalance of power of the parties to the contract relative to each other will be considered.⁸³ However, consumer protection law concentrates on the effect of the unfair contract term on end consumers, that is, the extent to which it causes unjust disadvantage to the consumer.⁸⁴

In line with the goal of the CA 2010, it is submitted that breach of data privacy or harm to data subject is not sufficient to establish an infringement of section 10(2)(a) for unfair terms relating personal data processing. The competition authority is obliged to prove that the unfair data processing weakens the existing competition or hinders the

⁷⁷ Section 7 PDPA 2010

⁷⁸ Section 10 PDPA 2010

⁷⁹ Section 38 PDPA 2010.

⁸⁰ Competition Commission vs Dagang Net Technologies Sdn B (Case No. 700–2/2/003/2015) para 208.

⁸¹ Ibid, para 212.

⁸² Part IIIA, Consumer Protection Act 1999

⁸³ Section 24C (2) (b), Consumer Protection Act 1999

⁸⁴ Section 24C (1), Consumer Protection Act 1999

development and future competition.⁸⁵ Before Facebook enters the Malaysian market, there were other social network platforms such as MySpace, Friendster etc. These platforms then disappear after few years Facebook came to the market.⁸⁶ This shows that it is possible to have new platforms entering the market for social network in future and the abusive conduct may lead to market tipping toward a particular platform. The competition authority needs to prove that data processing as a result of forced consent allows an online platform to strengthen its market power and creates entry barriers or the exploitative conduct is capable of hindering competition on the other side of the market i.e., online advertising market in which competitors compete with Facebook for advertisement contracts (leveraging market power to other markets). In addition, the Commission is not required to prove the actual harm.⁸⁷ The likelihood of the harm caused by the abusive conduct (the conduct is likely to, or capable of having the effect of restricting competition) is sufficient.

Conclusion

This article explores the interface between competition and data protection law and tries to answer the question of whether and to what extent the competition law can be applied to data privacy area. The FCO's investigation and decision against Facebook shows the importance of data in promoting competition and the effect of data concentration in strengthening Facebook's market position, which in turn has spillover effect on privacy. Since competition law covers a wide range of behavior and cross cutting issues, breach of other legislations such as data privacy may fall under the purview of the competition authority. One clear example is intellectual property right. The Guidelines on Competition Law and Intellectual Property Rights empowers the Commission to address competition issues in relation to abuse of intellectual property rights which requires the Commission to rely on various principles and concept found in intellectual property legislations. Relying on data protection rules to establish a competition law infringement promotes consistency provided there should be close coordination and consultation between the two regulators.⁸⁸

ACKNOWLEDGEMENTS

This research is funded by Harun M Hashim Research Grant (HAREG ID : HAREG24-028-0028) under the title of "Developing a new regulatory framework to promote fair

⁸⁵ In the case of Facebook, the Federal Court maintains "that competition is harmed both vertically and horizontally" see Klaus Wiedemann, "A Matter of Choice: The German Federal Supreme Court's Interim Decision in the Abuse-of-Dominance Proceedings *Bundeskartellamt v. Facebook* (Case KVR 69/19)," *IIC* 51 (2020):1168–1181, 1173

⁸⁶ Now Facebook became the most popular social media in Malaysia see **Active social media users as percentage of the total population in Malaysia from 2016 to 2021**<https://www.statista.com/statistics/883712/malaysia-social-media-penetration/> accessed on 14.4.2022

⁸⁷ *MyCC vs DagangNet*, para 282 & 346.

⁸⁸ The framework of cooperation is laid down in the recent decision issued by the Court (Grand Chamber) pursuant to request for preliminary ruling in proceedings between Meta Platforms and - the *Bundeskartellamt* (Federal Cartel Office, Germany), Case C-252/21 (ECLI:EU:C:2023:537).

competition of online platforms in Malaysia : toward a responsible digital market economy”.

REFERENCES

- Abdul Razak, Farihana & Zuhairah ARIFF Abd Ghadas. (August 2020). Legal Issues Due to Unfair Contract Term: the Malaysia Perspective. *Journal of Critical Reviews*.
- Abu Bakar, Noor Mahinar et al. (March 2018). Extending Unfair Contract Terms Protection to Banking Consumers In Malaysia: The Case Of Islamic Banks. *International Journal of Accounting, Finance and Business*, 3(8), 22-32.
- Anchustegui, Ignacio Herrera. (2015). Competition Law through an Ordoliberal Lens. *Oslo Law Review*, 2015(2), 139-174.
- Autorité de la concurrence & Bundeskartellamt. (10th May 2016). Competition Law and Data.
- CMA & ICO. (19 May 2021). Competition and data protection in digital markets: a joint statement between the CMA and the ICO.
- Condorelli, Daniele and Jorge Padilla. (2020). Harnessing Platform Envelopment in the Digital World. [Online] Available at: <<https://ssrn.com/abstract=3504025>>.
- Economides, Nicholas & Ioannis Lianos. (2021). Restrictions On Privacy And Exploitation In The Digital Economy: A Market Failure Perspective. *Journal of Competition Law & Economics*, 00(00), 1–83.
- Fong Yee, Lee, Mohd Afizi Mohd. Shukran, Fatimah Ahmad. (April 2019). Data Security: Privacy Calculus on Social Media. *International Conference on Emerging trends in Engineering, Technology, and Management (ICETETM-2019)*.
- H. Jeff Smith, H. Jeff, Tamara Dine, Heng Xu. (December 2011). INFORMATION PRIVACY RESEARCH: AN INTERDISCIPLINARY REVIEW. *MIS Quarterly*, 35(4), 989-1015.
- Heng Xu, Xin, Heng Xu (Robert) Luo, John M. Carroll, Mary Beth Rosson. (2011). The personalization privacy paradox: An exploratory study of decision-making process for location-aware marketing. *Decision Support Systems*, 51, 42–52.
- J. Solove, Daniel. (January 2021). The Myth of the Privacy Paradox. *THE GEORGE WASHINGTON LAW REVIEW*, 89(1).
- Khan, Lina M. (2016). Amazon's antitrust paradox. *Yale Law Journal*, 126, 710.
- Kokolakis, Spyros. (July 2015). Privacy attitudes and privacy behaviour: A review of current research on the privacy paradox phenomenon. *Computers & Security*.
- Kruthoff, Sven. (July 10th, 2018). Privacy Calculus in the Context of the General Data Protection Regulation and Healthcare: A Quantitative Study. 11th IBA Bachelor Thesis Conference.
- Lasserre, Bruno, and Andreas Mundt. (2017). Competition law and big data: The enforcers' view. *Antitrust & Public Policies*, 4(1).
- Lerner, Andres V. (2014). The role of 'big data' in online platform competition. Available at SSRN 2482780.

- Nagle, Frank, Robert Seamans, and Steven Tadelis. (2020). Transaction cost economics in the digital economy: A research agenda. Harvard Business School Strategy Unit Working Paper 21-009.
- Newman, Nathan. (2014). Search, antitrust, and the economics of the control of user data. *Yale Journal on Regulation*, 31, 401.
- OECD. (2003). Germany - The Role of Competition Policy in Regulatory Reform.
- Sokol, D. Daniel & Roisin Comerford. (2016). Antitrust and Regulating Big Data. 23 *Geo. Mason L. Rev*, 23, 1129.
- Stucke, Maurice E. (2017). Should we be concerned about data-opolies? *Geo. L. Tech. Rev*, 2, 275.
- Wiedemann, Klaus. (2020). A Matter of Choice: The German Federal Supreme Court's Interim Decision in the Abuse-of-Dominance Proceedings *Bundeskartellamt v. Facebook* (Case KVR 69/19). *IIC*, 51(2020), 1168–1181.