EN
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Answer given by Executive Vice-President Vestager
on behalf of the European Commission
(23.4.2021)

The Commission is currently investigating the way data concerning users is gathered, processed and monetised by Google. The investigation, under the competition rules, covers the use of data and practices in the provision of 'ad tech' services, in which Google acts as intermediary between advertisers and online publishers. Google's proposals to deprecate third-party cookies are within the scope. The preliminary investigation is ongoing and it is too early to report any findings.

In past cases, the Commission has examined whether the accumulation of data can provide merging parties a unique advantage or foreclose competitors.

The Commission already considers data as an asset in merger assessments. In *Apple/Shazam*[1], it compared the data collected by the parties against other comparable datasets available on the market, using four relevant metrics: (1) variety of data; (2) velocity of data accumulation; (3) volume of the dataset; and (4) data value.

In *Google/Fitbit*[2], the Commission's investigation focused, amongst others, on possible anticompetitive effects of the transaction in the field of online advertising and the merger was approved subject to conditions. Amongst others, Google committed to maintain a technical separation of health and wellness data collected from wrist-worn wearable devices and other Fitbit devices of users in the European Economic Area (EEA). Such data are stored in a 'data silo' and will not be used by Google for any advertising purposes. In addition, Google will ensure that users in the EEA have an effective choice to allow or deny the use, by other Google services, of health and wellness data stored in their Google or Fitbit accounts. The duration of this commitment is ten years, and can be extended by a further ten years if justified by market conditions.

Notwithstanding the economic value resulting from processing activities, personal data protection is a fundamental right under the Charter. Therefore, it is the competence of national data protection authorities to assess the lawfulness of personal data collection and use, including by 'ad tech' services, in accordance with the General Data Protection Regulation[3] and the ePrivacy Directive[4].

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[1] Case COMP/M.8788 (*Apple/Shazam*), decision of 6 September 2018.
[2] Case COMP/M.9660 (*Google/Fitbit*), decision of 17 December 2020.
[3] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) *OJ L 119, 4.5.2016, p. 1–88*
[4] Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)