



City Pro Bono Gazette



The latest society news, views and announcements

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Please email us with any questions, comments or queries you may have

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Pro Bono Society Sub-Committee Applications Now Open

City Pro-Bono Society is now taking applications for our 2021-2022 Sub-Committee!

This gives you a chance to work alongside the executive committee in running one of the best societies at City.

To apply email probonosociety@city.ac.uk with your CV and cover letter outlining which position you're interested in and why you would be the ideal candidate for it by 31st July 2021.

POSITIONS:

Fundraising Officer (1 position):

Organize/oversee fundraisers and manage the charitable status of the society. Aid the finance officer in obtaining funds from internal & external bodies.

*Social Events Officer (1 position):

Organize society social events. Reach out to venues, and present proposals at different price points.

Social Events Team (3 positions):

Aid social events officer in planning and organizing events.

Marketing Officer (1 position):

Manage our website. Make sure all content is up to date as well as monitor content, comments and queries.

Social Media Officer (1 position):

Work with marketing officer under the supervision of the Communications Officer. Responsible for creating templates for posts, manage social media and handle comments and questions.

Year Representatives (open):

Promote events/workshops/competitions to your program and year. Act as advisors to the society and will assist in various positions when needed.

*Events include, Winter Diversity Reception, Summer Social, Thorpe Park, Pizza & Prosecco, Society Picnic, Bowling, Chemistry Cocktails, Pro Bono Masquerade Ball & more!

Competition & Data Protection Law with Giulio Kowalski

By Hadyeh Baghbadarani

To understand the interrelation of data protection and competition law, one must understand the two topics separately. Competition law prevents the distortion of the competitive process on the markets, and data protection law oversees how individuals' personal information is used by private and public entities.

In the current digital age, data is becoming increasingly central in business models and economic activities. This knowledge allows companies to better target consumers with their products and services, gaining a competitive edge over rivals. The interrelation between competition law and

data protection law is where personal data can serve as a source of market power but may also be collected in breach of data protection laws. An interesting question therefore arises: can a violation of data protection laws trigger applicability of competition law provisions? And more generally, does data protection law play a role in competition law enforcement and analysis?

I had the opportunity to discuss the aspects of the interface between competition law and data protection law with **Giulio Kowalski**, a PhD student at City, University of London.

Giulio carries out his research in the field of competition law, particularly looking at the issues raised by competition law enforcement and remedial intervention against digital platforms. In the webinar, we discussed Giulio's legal journey, his current projects in detail and a Q&A; this article will be divided into three parts.



Giulio's Legal Journey

Before Giulio started his PhD, he worked as a Data Protection Lawyer in Milan, Italy. After enjoying the opportunity to deep dive into his research project in the field of competition law with the academic route, Giulio does not plan on returning to practising law. Although, the experience of working in the fast-paced environment of a law firm provided an exciting adrenaline rush, the work Giulio engaged in did not always provide the opportunity to properly investigate the data protection and competition law legal issues involved in his tasks. An academic career has offered him this opportunity together with the chance to gain a better grasp of these two topics. Despite working on the academic side, Giulio encourages those who aspire to make a career in law, whether academic or not, to work in a law firm. Such an experience provided him with several skills that helped him understand and increase his passion for studying competition and data protection law. Working in a law firm allowed Giulio to experiment with different practice areas. Once a data protection lawyer, Giulio got into the interface between data protection and competition law. He discovered the issues, which helped him figure out what he wanted to base his research project on.

Current Projects

The interface between data protection and competition law is a complex matter. Giulio divided his presentation in two parts. Firstly, he introduced the interface between competition and data protection law. Secondly, he focused upon the most important developments in the recent case law on this topic the interrelation.

The Interrelation

Giulio explains that in his research on how the digital economy impacts competition and its applicability to digital markets, he highlights less separation between the economy and the digital economy as economies are reorganising themselves to become eventually digitalised.

It is important to highlight the role of data is not necessarily the more data, the more market power, but instead to focus on its characteristics. Its role in digital markets, particularly personal data, is used to fit an organisation's model, thus creating a barrier of free harvesting, which Giulio explains is a problem as certain uses of personal data could be a detriment of a certain product and quality.

Disclaimer

Privacy meaning the private sphere of individual information.
Data Protection meaning the protection of personal information that directly or indirectly refers to an individual.

Competition & Data Protection Law with Giulio Kowalski

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Giulio argues that privacy is arguably the most important element of quality competition as there is increasing evidence that (digital) firms are competing on quality by offering higher or lower standards of privacy.

Therefore, a large dominant tech social media firm could lower the level of data protection policies to harvest more data and, possibly, gain a competitive edge against its competitors. This not only gives them a competitive advantage but also infringes data protection rules.

The question then arises of how a breach of data protection rules can trigger competition law rules and, in particular, whether a competitive level of data protection can exist below which competition law could be infringed. Defining a standard and objective level of privacy on the markets could prove (and is) difficult. Indeed, the optimal level of privacy on the markets depends very much on how much consumers care about privacy itself. However, the relevance of data protection for each consumer is very different and subjective. On the contrary, it is easier to determine the competitive price on a market, based on objective economic data and principles (e.g., law of supply and demand)

Case Law

Mergers and unilateral practices are the two sectors of competition law where the interface of competition law and data protection may be more visible.

Merger control was the first sector to deal with the interface and may display a progressive shift in approach that the EU Commission has included in privacy in competition assessment.

Facebook/Whatsapp

Giulio discussed the significance of the Facebook and WhatsApp merger, where the Commission realised that data protection could be included in the competition assessment. Privacy was an important quantitative parameter on which companies compete to win consumers. Competition law is multidimensional as it is based on the quality, price, and innovation of the specifically defined market. Giulio explained that companies compete on data protection to win the market, particularly the quality element, especially in zero-priced markets where consumers pay with their data, such as Facebook advertising space. The Facebook/WhatsApp merger – cleared unconditionally by the EU – highlights that the real asset Facebook



wanted to acquire in order to strengthen their position on the relevant markets and become more dominant, was the data that WhatsApp stored. In particular, by acquiring WhatsApp (a “data protection-friendly” option from the market), Facebook allegedly shielded itself from further competition on data privacy, decreased choice and potentially harmed competition.



Microsoft/LinkedIn

The Microsoft/LinkedIn merger was another case that formed a significant test as to whether privacy could be an efficient parameter for assessing the effect of the merger on competition. It consisted of whether consumers consider privacy as an important quality factor to choose a product or service and whether the merging parties compete on this parameter. The EU Commission analysis alleged that Microsoft would have had an incentive to favour LinkedIn and exclude other competitors offering better privacy standards from the relevant market. By foreclosing “privacy-skilled” competitors, Microsoft would have also restricted consumer choice concerning data protection standards.

Competition & Data Protection Law with Giulio Kowalski

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Giulio argues that the EU Commission may be backtracking from the previous case-law (especially from the legal test in Microsoft/LinkedIn), as demonstrated by the Apple/Shazam and Google/Fitbit merger. The test used in Microsoft/LinkedIn was not held. With Google/Fitbit, it was said that privacy was not a concern of competition pushing us from a progressive shift back to square one.

Regarding abuse of dominance, Giulio discussed the Facebook case in Germany where The German Competition Authority ruled that Facebook abused its dominant position by imposing unfair data protection conditions, creating an exploitative abuse to gain monopoly profits. The case law has not clearly stated whether a breach of the GDPR could also trigger applicability of Article 102 TFEU and therefore constitute an abuse of dominant position. The EU Court of Justice is now examining the German Facebook case after referral by the German court. The judgement of the EU Court of Justice will clarify whether and how (a violation of) data protection law should be a factor in the competition law analysis of anticompetitive unilateral practices.

Giulio also discussed the Google Privacy Sandbox case. The Google Sandbox is phasing out 3rd party cookies, fundamental for advertising and selling products. Google is cutting out the main source of data for other companies that, without this data, cannot carry out daily business and be efficient on the market. Google argues that it is for the benefit of individual's data protection. However, Giulio highlighted that by excluding the competitors who rely on these cookies, Google would harvest

the data in its ecosystem, entrenching its position and possibly engaging in exclusionary practices against competitors. Google can also potentially become a gatekeeper of information by choosing who can access the data and compete for the market to access consumers—demonstrating that Google will become a de facto privacy regulation, forcing everyone to adapt to Google.



Competition & Data Protection Law Q+A with Giulio Kowalski

Which legal system has the strongest data protection law?

(G): The EU. The GDPR has created a fortress for data protection that other jurisdictions have tried. To transfer data between the EU and US, it requires GDPR and decision to allow transfer to be at the same level at both sides.

As the value of data increases, dominant firms are seen to prevent small/mid-size firms to compete effectively. Will we see more mergers occur as a solution to compete, and does that not create a double-edged sword by decreasing the market rather than improving competition?

(G): Absolutely. Collecting data makes it either more important or less. Collected from a data subject is more valuable depending on the type of data based on different situations of evaluating if it gives market power. Is it data or an algorithm? If the latter, there is competitive advantage that can be obtained to innovate into other industries. However, who will complain about innovation? Who will give up Google?

Maybe we see a global monopolistic market with very tough competition, invading different markets. Will smaller and mid-size firms collapse? It is possible, as a minimum efficient scale with hardly any profit and expensive with bad product quality. Consumers will lean to more cheaper and efficient. There could be a development of less firms and mergers of small and mid-sized, however, this could create a more active market. Arguably, this is the strategy that will occur if competitors cannot compete in network effects to reach profitability.

How can the law keep up with dominant firms?

(G): Leave the market do its job. There will be a new structure of competition with Big Tech vs Big Tech. Players entering the market will find a way to innovate the market (Facebook > Myspace). Focus on competition in the market and allow others to compete to resolve market failures. The law needs to mimic their speed and understand their instruments to be just as fast so that we can construct better remedies and understand their position.



LLB Fresher's Q&A and Advice Session

By Qamar Shahrouf & Habon Abdi

STRESS: It's okay to not understand everything at first. You are not meant to know everything being taught so don't stress when you don't understand the modules when you start the course. Create a study group with some friends and make sure that you balance your school work and social life.

READINGS: Stay on top of your readings, it is extremely useful when it comes to making notes and summary sheets for exam season. Ensure that you highlight all important cases and understand the significance of them.

OPPORTUNITIES: Apply to every opportunity available to you. City University offers a wide range of extra-curricular activities such as mooting, Lawbore Journalism and much more! The more well rounded you are, the more you will stand out. First year is all about finding yourself and what you enjoy, so don't feel discouraged to apply to opportunities outside your comfort zone.

SUPPORT: Apply to be a CityBuddy Mentee – your CityBuddy Mentor will be your guide at university, teaching you all the tricks and giving you advice to ensure you have a successful first year. There is also a new CLYC Scheme which pairs LLB1 students with upper year students to act as mentors and offer advice regarding the LLB Programme.

ORGANISATION: Be as organised as possible! Buy a planner, stay up to date on your lectures and readings and manage your time. Folders are life savers when it comes to organising your work.

FRIENDS: Meeting people and making friends sounds scary but that couldn't be further from the truth here at City. You'll have many opportunities to meet people that share similar interests as you through societies, teams and events on campus. Most of my friends are from the Pro Bono Society, so joining societies is a good way to meet new people. You will also meet people from your tutor groups so don't stress about not being able to make friends. Just be yourself and it should be fine!

BOOKS: LawExpress Study Guides are great for revision, however, don't rely on these for your core reading. They are summarised versions of your module textbook.

SETTLING IN: It took about 4-5 weeks for us to settle in and finally understand the modules. Once you settle in, everything else will be fine. We made a solid timetable and stayed on top of our work and still had opportunities to socialize and attend events.

EXPERIENCES AT CITY: CityBuddy, CLYC, Lawbore Journalism, Mooting, Clinic Volunteering

How to Prepare for Exams?

Summary Sheets – summary sheets help you get all your lecture notes onto one sheet and they make it easier when it comes to planning essays. You can refer to your summary sheet to spot the issues raised, then refer to your lecture notes/reading notes.

Time Management – ensure you've watched all your lectures before the exam. You don't want to lose valuable time catching up on your work instead of revising for your exam!

Formatives – formatives are a great way to practice and get feedback before the summative. They help you assess your weaknesses and strengths and gain valuable feedback from the markers.



The Pro Bono Society promotes a variety of opportunities from clinic work to mentorships to exciting socials!

Volunteer with LEDUCATE

Leducate is an educational charity that aims to promote an understanding of everyday legal rights among secondary school-aged students in England and Wales.

City Pro Bono Society has partnered with Leducate to give our members the opportunity to deliver debate/mock trial lessons to sixth form students. This exclusive opportunity falls under our brand new 2021/2022 Street Law Chapter.

Volunteers will receive training sessions delivered virtually by experienced advocates that cover advocacy skills and critical thinking. They will be taught how to teach these materials to Key Stage 5 students.

Submit your CV & Cover Letter to probonosociety@city.ac.uk by the 19th of July to be considered. Spots are limited!

Training sessions will begin towards the end of July

Street Law Chapter Director
Fatima Raja

The logo for Leducate, featuring the word "LEDUCATE" in white, uppercase, sans-serif font, centered within a solid orange square.

GIVEAWAY!

Get your hands on our exclusive MERCH!

Thank you so much for being a member during our 2020/2021 Academic year. This year was filled with challenges and hurdles and really pushed us to our limits in ensuring that our members still got the most of their membership with the Pro Bono Society.

We truly appreciate all of our members taking part in our virtual events, giveaways, game nights and our exclusive volunteering opportunities. We aim to have a bigger and better 2021/2022 with monthly socials, networking events and most importantly the opportunity to volunteer at the various legal clinics we've partnered with.

Once again, thank you for sticking around, and thank you to those that joined for the first time. Make sure to purchase your 2021/2022 membership through the SU website to enjoy what the Pro Bono Society has in store for the 2021/2022 academic year! You won't want to miss out!

This Gazette was an idea in the works for a couple of months and we are so proud to finally have it ready and available for our members. We will be releasing a new issue every month on the 5th, packed with useful information on what to expect from the society for the month, updates on opportunities and useful news to keep you up to date on what's happening.

We would appreciate your feedback on how you found our first issue and in doing so, you will be entered into a draw to win a piece of society MERCH of your choosing! Just email us your thoughts, what you liked, what we can improve on and what you want to see more of, and be sure to include that you want to enter the giveaway.

Deadline to enter this giveaway is the 31st of July!

To join the Pro Bono Society, please visit our website
www.citystudents.co.uk/cityprobono
and purchase a Standard Membership (current City students)
or an Associate Membership (all others)