



# Research on the Anti-monopoly Regulation of the Phenomenon of Big Data “Killing and Killing” in the Field of Platform Economy

Peilin Sun<sup>(✉)</sup>

Yantai University, Yantai 264000, Shandong, China  
2816920306@qq.com

**Abstract.** The continuous development of the Internet platform economy has not only profoundly affected the economic operation, but also changed people’s lives. In this process, many problems have emerged, and the big data “killing” has become one of the heated discussions. Due to the particularity of the market involved in the big data “killing” and its concealment, the regulation process of the anti-monopoly law is faced with many obstacles. This is mainly manifested in the difficulty of defining the relevant market, and the dominant position of operators. The “killing” of big data seriously damages the legitimate rights and interests of consumers and destroys the order of market competition. In addition, the disadvantages of using the Consumer Rights and Interests Protection Law are obvious. Then, by analyzing the specific behavior path of big data “killing and killing”, it is selected to qualify it as the price discrimination behavior in the anti-monopoly law. Therefore, it is necessary to use the anti-monopoly law to regulate it. In view of the difficulties in the regulation process, this paper believes that it is the basic attitude of the new form of competition for the governance of Internet platforms. On the basis of the overall path, through the rich market definition method and dimension, optimize the definition of the market, through, increase the factors of the market dominance to further clear standards, through these measures for the regulation of Internet platform in the field of economic big data “kill” behavior to find a way out.

**Keywords:** platform economy · big data killing · price discrimination · anti-monopoly law

## 1 Introduction

With the development of the Internet, the Internet industry has deeply penetrated into every aspect of our social life, and the big data market has been expanded as never before. Internet enterprises use user data to “kill familiar” the phenomenon has subsequently appeared. By analyzing and integrating the users’ purchase records, the platform operators provide different quotation schemes for different users, and instead charge a higher price to the users who buy multiple times. This is commonly known as the “big data kill ripe”. Compared with offline “killing”, big data “killing” is a new problem generated

with the new Internet business form, with wide coverage and large influence, so the law should pay more attention. In the face of this problem, starting from the anti-monopoly field, it is necessary to study the difficulty of its nature definition and legal regulation, what kind of harm this behavior will cause, whether to be regulated, and how to regulate and other problems need to be discussed and solved in theory and practice.

## **2 Big Data “Killing Ripe” Behavior Analysis in the Field of Platform Economy**

Big data “killing” is the behavior of “killing regular customers” in the context of the current network big data, and the differentiated pricing of the same product for different consumer groups. Therefore, the behavior of big data “killing” refers to the behavior of operators in the development of the Internet era to dominate the market by collecting users’ consumption records, preferences, user viscosity and other relevant information, and obtain the maximum benefits through differential pricing.

As early as September 2000, Amazon decided to experiment with 68 DVDs favored by listeners. By analyzing a large number of customers accumulated over a long period of shopping history and Internet behavior, Amazon priced new users lower than that of older users. This is also the earliest case of big data “killing ripe” that can be traced back at present [1]. In 2017, a netizen said he often booked a room in a hotel through Ctrip, priced at around 380 yuan to 400 yuan. But he later learned from the hotel’s reception desk that the rooms he often booked were priced at only around 300 yuan during the off-season. In response, Ctrip co-founder Liang Jianzhang once responded: “In terms of price, Ctrip’s previous rules were too complicated, creating an illusion for some customers, but now the rules are more transparent. “However, such an explanation is not fully accepted by the public, and such a phenomenon still exists [2]. In today’s booming development of the Internet, in order to pursue high profits, one of the means adopted by platform operators is to continuously upgrade the way of “killing” behavior of big data. The increasingly fierce behavior of “killing” of big data is undoubtedly a “cancer”.

## **3 The Reason Why the Anti-monopoly Law Regulates the Big Data “Killing Ripe” Behavior**

### **3.1 The Harm of Big Data “Killing Ripe” Behavior**

The most direct harm of big data is that it damages the interests of consumers. In the offline trading mode, when consumers can often choose goods or services, they can “shop around” and “clearly mark the price”, and the differences in price, quality and service are transparent and visible. And the big data “killing” behavior is to conceal their own differentiated pricing, so that consumers are unknowingly “killed”. This obviously infringes on the consumers’ right to know and the right to fair trade.

Second, in the field of platform economy, part of the enterprise’s big data “kill” behavior using the masses of user information, accurate “portrait” to consumers, when providing products or services without the differential pricing and direct one thousand

thousand pricing, the hidden, differentiated pricing behavior against the law of market economy, leading to a serious waste of social resources. For new Internet enterprises entering this industry, they have inherent disadvantages in information collection. Insufficient information will lead to their inability to grasp more consumer information, and it is difficult to use big data and algorithm technology to attract users and obtain more profits through price means. In the long run, the Internet giants will form a monopoly position.

The harm of this behavior is in line with the regulatory thinking of the anti-monopoly law. In addition, the revision of the anti-monopoly Law focuses on adding the provisions on the abuse of the dominant market position of Internet platforms, reflecting its determination to regulate the digital economy.

### **3.2 Qualitative of “Killing” of Big Data in the Field of Platform Economy**

As for how to define the “killing” behavior of big data in the field of platform economy, there is a great controversy that the academic community should define it as price discrimination or price fraud [3]. This paper agrees the characterization of this act as price discrimination. In the process of big data “kill”, the operator has been in the platform page to provide the price of the goods or services clearly clearly shows, fulfill the obligation of its “plain code marks a price”, the price of the present and the user eventually pay price there is no deviation, the operator without price fraud and deception, induced trade behavior, in the process of consumers do not know price error, is not in deception and induced to complete the transaction behavior.

There are three classifications of price discrimination in economics, namely primary price discrimination, secondary price discrimination and tertiary price discrimination. The biggest difference between the three lies in whether the platform operators can accurately distinguish the consumers with different payment intentions. Generally speaking, in order to implement effective price discrimination, platform operators need to meet the following three components: First, platform enterprises should occupy certain advantages in the market competition. Second, the platform enterprises evaluate consumers’ willingness to consume through data collection, and thus accurately classify consumers. Third, the profit margin is limited. Therefore, it is believed that big data “killing” is the behavior of platform operators using big data algorithms to differentiate pricing for different consumers in order to maximize profits.

### **3.3 The Necessity of Regulation by the Anti-monopoly Law**

The Anti-monopoly Law is formulated to regulate the order of market competition and protect the interests of consumers and the public interests. Its legislative purpose coincides with the purpose of regulating the “killing” behavior of big data. Therefore, the anti-monopoly law regulation of “big data” killing behavior is inevitable. In addition, there are some omissions and logical incompatibility in regulating this behavior. The Law on Consumer Rights and Interests protects consumers’ right to fair trade and right to know. But big data “kill” does not mean that must violate the fair trading right of consumers, operators think such “kill” is a kind of business means, this is the operator in the “kill” the most commonly used way of defense, the defense reason, lead to the

consumer protection law on the concrete implementation of great difficulties. On the other hand, the consumer protection law only protects the interests of consumers, while the interests of small and medium-sized operators of other platforms affected by the “killing” behavior of big data cannot be guaranteed [4].

## **4 China’s Anti-monopoly Law Regulates the Dilemma of Big Data “Killing” Behavior**

### **4.1 It is Difficult to Define the Relevant Markets**

First, the boundaries of big data products are very blurred. In the traditional industry, through the analysis of the product nature, function and use, the product boundary of different products can be defined very clearly. However, with the continuous optimization of big data technology, cross-platform and cross-industry cooperation modes continue to emerge, and the boundary of related products and services becomes no longer clear. For example, in the case of Qihoo 360 v. Tencent, the two sides have different understandings about whether the video chat and text chat software in Tencent QQ belong to different products or different functions of the same product. Secondly, the product upgrading speed of the big data platform is fast, and the innovation and improvement of the big data technology also make the substitution of related products constantly changing. For example, the seemingly different use of software such as Taobao and netease Cloud have developed community sharing functions, and even have the function of instant chat. Finally, the boundary between the big data market and the real market is increasingly crossing. The increasingly blurred boundary between online and offline makes the definition of the relevant market very controversial.

### **4.2 Difficult to Identify the Dominant Position**

Although the Anti-Monopoly Law has clear provisions on the identification of dominant market position, the traditional methods of judging dominant market position still face many difficulties in the face of enterprises on big data platforms [5].

Higher barriers to market entry. There are many factors that constitute barriers to market entry, but for big data “killing”, the primary barrier lies in the technical barrier of data. The technical barriers of data mainly exist in the collection and utilization of data. As the big data market shows a high fixed cost in the early stage and a low marginal cost in the later stage, those new entrants to the market can often only “hesitate” when faced with such high entry barriers, and it is difficult to effectively compete with the operators who occupy the dominant market position [6]. Obviously, big data has formed a new key market access barriers [7]. In addition, the barriers to entry into the market are also reflected in the data owners will protect the data. Although data is non-adversarial and multi-user attribution, this does not mean that every operator can obtain data, because some enterprises, after obtaining enough data and forming certain data advantages, often take various restrictions to prevent other competitors from obtaining such data [8]. Finally, companies may use data and algorithms to predict market competition, eliminating potential competitors in advance.

## **5 Big Data “Kill the Familiar” Regulation Path**

### **5.1 Treat it Rationally in an Inclusive, Prudent and Innovative Manner**

The so-called inclusive and prudent attitude refers to taking an inclusive attitude to those existing things that still have many unknown factors, allow the existence of unknown factors, set a certain observation period and continuously pay attention to the positive and reverse trend of the existence of emerging things during the observation period. Big data “kill” because in the sense of economics to promote competition, efficiency of positive effect and the rationality of existence, but specific to individual cases cannot escape the damage competition, so at this stage to take inclusive prudent attitude to face the Internet platform enterprise big data “kill” is the most appropriate processing attitude. For digital platforms, antitrust should protect competition, promote competition, create fair competition market environment, and stimulate the innovation vitality of small and medium enterprises; not overemphasize the pursuit of absolute fairness, adhere to the regulatory principle of inclusive and prudence, prevent “one size fits all” for large platform enterprises, aim at economic efficiency, respect property rights and intellectual property rights, and respect innovation achievements [9].

### **5.2 Enrich the Definition Methods and Dimensions of Relevant Markets**

Before the anti-monopoly law enforcement, generally to the relevant market identification. The definition of the relevant market is a very important basic premise in the implementation of the Anti-monopoly Law. Therefore, various methods should be adopted to define the relevant markets of the Internet industry behind the “killing” behavior of big data. When other conditions are the same, using different methods to define the relevant markets will often produce different results. At present, the method adopted by the world’s major developed countries almost convergence, adopt the assumed monopoly test method (i.e., SSNIP test method), the test related market is such a minimum range, namely a not restricted by the market into the goal of the only supplier in the successful implementation of a “amount is small but very important and not temporary price increase”. At the same time, the relevant market is composed of multiple dimensions, so we should also pay attention to the choice of dimensions, such as product dimension, geographical dimension, time dimension, etc. Only by enriching the definition methods and dimensions, can we find the relevant market [10].

### **5.3 Factors that will Increase the Identification of the Dominant Market Position**

At present, the Anti-monopoly Law has certain considerations on how to determine the dominant market position, and the market dominant position is also known as the market advantage or the market control position, which is a state of enterprises. To investigate whether an enterprise has a dominant market position, it needs to see whether an enterprise has the control ability to determine the product output and price sales in the relevant product market, regional market and time market [11]. Big data “killing” is a new behavior of enterprises under the background of the Internet to use science and technology, so these enterprises have different characteristics from traditional enterprises.

When judging whether these enterprises have a dominant market position, other factors should be considered, such as the share of these enterprises in the relevant fields and the total profits obtained, so as to improve the determination of the dominant market position by increasing the factors related to these enterprises.

## 6 Conclusion

The development of everything has two sides. The development of Internet big data technology has created a new economic development model, brought convenience to economic transactions, and improved the efficiency of economic operation, but on the other hand, the “killing” of big data is also a negative product of this new economic model. In the near term, big data “killing” does indeed bring economic benefits to enterprises, but in the long term, this behavior will damage market competition and reduce the trust of consumers. Therefore, it is necessary that the Anti-monopoly Law should regulate the market economy to regulate this behavior. Although there are some difficulties in the regulation of the Anti-monopoly Law, through the proposal, establishment and operation of countermeasures, the big data “killing” will inevitably be contained.

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