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An Antitrust Review of Innovation Factor and Innovation Elements on Mergers in Digital Economy

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Abstract

In the past decade, many technology giants who gained their market power by leading innovations, have been further strengthening their own innovation power by acquiring innovation start-ups. From the perspective of antitrust laws, mergers may be a two sided sword, on the one hand, they may stifle competitions because of the market concentration, on the other hand, they may be beneficial to the economy because of increasing the market efficiency. It is always a difficult task to balance the pros and cons of mergers. Nonetheless, in the age of digital economy, very few tech giants become the gatekeepers of digital markets. While they further add their revenues by acquiring more innovation-based start-ups easily with their powers and resources, the more and more concentrated market has sounded the alarm of antitrust laws. In light of the innovation impact, this article attempts to make a renewed antitrust review on merger cases especially taking the innovation factor and innovation elements into consideration. The innovation factor weighs the innovation efficiency after the merger whilst the innovation elements imply the re-

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sources input to make innovations happen, such as the data that powers the digital economy business models. The purpose of this article is to review the evaluation of the innovation factor and innovation elements on merger cases through the antitrust lenses. The author will begin with the review of traditional antitrust assumptions and analyze how the innovation factor weighed in cases. Subsequently, the author will explore the antitrust perspective on innovation elements, with a particular focus on data, and give a brief introduction on the international trend on formulating a new regulatory approach about innovation elements in digital economy. At the end of this article, the author will reflect on the current antitrust practice in the Taiwan context.

Keywords: Mergers, Innovation Factor, Innovation Elements, Anti-trust, Innovation Enterprises