

Private Law Challenges of Personalized Pricing

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This presentation will give an overview over some of the key questions about Personalized Prices from a private law perspective: what are Personalized Prices and how do they work? What positive and negative consequences could be expected? Is an abusive or exploitative usage possible or realistic? Does an adequate legal framework exist, or is further regulation necessary?

While the abstract theory of personalized pricing has been discussed within economics under the term of 1st degree price discrimination for the better part of a century, the real-world appliance of such pricing strategies has so far failed to materialize – at least on a bigger scale. However, as technical obstacles are continuing to diminish and the promise of increased profit makes personalized pricing especially intriguing from a business management perspective, the probability of their broad appliance increases.

This outlook raises concerns and questions about the implications of Personalized Prices: whereas they seem appealing to business owners, their socio-economic impact on consumers and society does not seem to be so unilaterally positive. For example, the increased profits are partly bought at the cost of consumer surplus. Also, the individualization of prices based on personal attributes or behavior provokes the risk of morally and legally reproachable discrimination. Furthermore, the connection between the price of a product and the consumer's dependency on it raise concerns about the justice of this practice.

Such concerns demand for a thorough legal analysis. In order to reduce possible risks it is necessary to evaluate the capability of the existing legal framework to handle Personalized Prices. Additionally, further regulatory measures that could minimize remaining negative consequences have to be identified.