

The Regulation of Big Data Pools

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This Article examines the government's influence on "big data pools" - a new type of collective rights organization (CRO) swiftly taking form in the fields of healthcare and agriculture. The government has long influenced the formation of private IP-sharing regimes, such as patent pools, research consortia, and copyright licensing collectives. Antitrust authorities, for instance, discourage patent pools from adopting institutional designs harmful to competition. Conversely, a patchwork of government policies encourage socially desirable cooperation among IP rights holders. The government's role as both a "brake" and an "accelerator" on private cooperation between IP holders reflects the potential that traditional intellectual property CROs have for both good and bad. How the existing policy framework will influence the formation and design of big data pools is a pressing and unexamined question. This Article explores the formation, structure, and governance of three big data pools through a set of ethnographic case studies. From these case studies, this Article identifies a set of opportunities for policymakers to promote innovation and competition in the newly discovered big data frontier.

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