

美國聯邦貿易委員會(FTC)有權監督管理企業資料處理方式



2015年8月24日,美國第三巡迴法院做出判決,宣告美國聯邦貿易委員會(the Federal Trade Commission, FTC)本於聯邦貿易委員會法第5章(Section 5 of the Federal Trade Commission Act)之規定,對於侵害個人資料隱私及未盡資料保護安全責任的相關案件有管轄權。未來若經FTC認定有違反資料安全規定的事實,該委員會針對企業違法事實的判定將產生法律效力。

案件起因於2008年及2009年間,飯店集團Wyndham Worldwide Corporation共遭到3次駭客入侵,導致大約60萬筆的客戶資料外洩。FTC介入調查並指控Wyndham Hotels內部缺乏資訊安全管理控制措施才會造成資料被駭客入侵,使客戶權益受損。Wyndham Hotels不服並上訴,表示FTC只有提供企業資料安全保護措施的建議權,無權決定企業是否違反相關法令。Wyndham Hotels還主張FTC並沒有告知該公司何謂正當利用個人資料的判斷標準。

第三巡迴法院駁回Wyndham Hotels提出的2點主張。在此判決中,第三巡迴法院確立了FTC除了有一般建議權外,也有權對於企業利用個人資料的方式、以及企業是否有盡到資料安全保護責任進行監督與管理。另外,第三巡迴法院也表示Wyndham Hotels無權要求FTC提供逐條釋義。換句話說,FTC僅需負一般性的告知義務。

此判決大幅擴張FTC監督管理企業資料安全保護措施的權力,對於廣大個人資料本人而言,可說是一大保障。

相關連結

- United States Court of Appeals for the Third Circuit No. 14-3514, United States Courts, Aug. 2015
- 15 U.S. Code § 45 Unfair methods of competition unlawful; prevention by Commission, Cornell University Law School, Aug. 2015
- Court Says the FTC Can Slap Companies for Getting Hacked, wired.com, Aug. 2015
- Third Circuit Upholds FTC's Authority in Wyndham Case, ReedSmith, Aug.2015
- PTC confirmed as data privacy and security sheriff: court holds that FTC can regulate company's data practices, Lexology, Aug. 2015

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資料來源:

FTC confirmed as data privacy and security sheriff: court holds that FTC can regulate company's data practices, Lexology, Aug. 2015, http://www.lexology.com/library/detail.aspx?g=c403894b-68a7-49e1-ad25-4ec6d29627c3 (last visited Sep.01,2015)

Third Circuit Upholds FTC's Authority in Wyndham Case, ReedSmith, Aug.2015, http://www.technologylawdispatch.com/2015/08/privacy-data-protection/third-circuit-upholds-ftcs-authority-in-wyndham-case/?utm_source=Mondaq&utm_medium=syndication&utm_campaign=View-Original (last visited Sep.01,2015)

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15 U.S. Code § 45 - Unfair methods of competition unlawful; prevention by Commission, Cornell University Law School, Aug. 2015, https://www.law.cornell.edu/uscode/text/15/45 (last visited Sep. 01,2015)

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