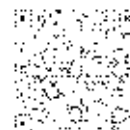


公、私部門的雲端監偵：隱私權／營業秘密與國家安全／商業智慧之間的角力？

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摘要

美國國家安全局透過私部門網路服務業者遂行其雲端監偵（Cloud Surveillance）的曝光，以及業者隨後的集結反制政府行徑，除凸顯公、私部門對雲端監偵各有所圖外，也不禁讓人質疑：「傳統網路安全文獻中，對於「隱私權／營業秘密保護」與「維護國家安全／創造商業智慧」之間的分際界線，是否依然適用於雲端監偵？本文試圖呈現公、私部門對雲端監偵的目的與手法，並探討雲端監偵對個資、營業秘密、國家安全、商業智慧間界線的衝擊。初步發現，由於法令追趕不上科技應用腳步，後兩者有凌駕前兩者之趨勢。公部門要求接近與暗中竊取業者所儲存與傳輸的資料，除可能導致個資與私部門營業秘密洩漏，亦可能造成用戶對業者的信心危機，進而衝擊商業智慧的巨大商機。業者也是基於此一疑慮，才做出集結反制政府行徑的表態動作。

關鍵詞：巨量資料分析、個資保護、商業智慧、媒合監偵、營業秘密

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Mediated Cloud Surveillance: Protection of Privacy and Trade Secrets vs. National Security and Business Intelligence?

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Abstract

The unraveling of US government's cloud surveillance mediated via private internet service providers (ISPs), and the ISPs' countervailing posture that followed, compelled one to question whether the traditional line between privacy/trade secrets protection and national security/business intelligence (BI) has been tilted in cloud computing arena. Drawing on discourses over cybersecurity and cloud surveillance, this essay employs documentary analysis and case studies to present differed driving forces behind public and private sectors' moves, and the ensuing implications upon lines between privacy/trade secrets protection and national security/business intelligence (BI). This essay finds that search for national security and BI has outpaced the development of regulation, and thereby increasingly called for reshaping and redefining personal information and trade secrets protection. In addition, government's coercive request and clandestine espionage upon ISPs' data storage and transmission not only lead to likely leak of personal data and trade secrets, but also undermine users' confidence toward ISPs. The latter development raises serious concerns over the prospect of BI, thereby inviting ISPs' collective countermeasures against public security services.

Keywords: big data analytics, personal information protection, business intelligence, mediated surveillance, trade secrets

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