Introduction

Blockchain (a distributed ledger technology) is inherently no pan anticompetitive [1], however does bear the potential to be both; given the significance of this emerging technology, the competition law impacts of blockchains are worthy of exploration. Threat, or rather its absence, constitutes a driving force behind blockchain technology; it is a decentralized, near source and transparent medium for transactions and information sharing that prevents an ex-ante peer-to-peer basis. This model challenges the need for trust between parties by instead placing trust in the underlying technological platform; this would effectively remove the need for intermediary businesses which have been in place to take up the lack of trust; these include banks, brokers, governments, internet platforms, etc.

The merits of blockchain’s true potential are yet to be fully understood, but it is clear that it is without the need for the most suitable approach for all the numerous applications where it is currently being proposed [2]. Most, if not all, of these applications allude to the ability of blockchains to increase the accessibility to crucial services, such as the ability to exchange value or information, which has been an area of interest in the context of antitrust.

Gearing up for new threats and opportunities

Turning to opportunities

It may be more puzzling to legally qualify the practice of modifying governance of permissioned blockchains if such modifications are done in the guise of genuinely innovating, while in reality they specifically aim at excluding competitors.

The main threat to competition law is its actual function. The antitrust function has often been described as a toothless creature. However, the reality of blockchain technology is about to change this. The decentralized nature of blockchains makes it extremely difficult for competitors to collude as blockchain consensus mechanisms are difficult to tamper with in a way that is absolutely secure. In addition, the near-instantaneous availability of information enables a much higher degree of scrutiny on blockchain participants.

Access to information

As recently demonstrated, the antitrust function is one of the few that is actually workable in practice. The decentralized nature of blockchain technology will likely lead to a more transparent market, and will be a boon for antitrust authorities. It will also be easier to detect and prevent anticompetitive behavior as blockchains will be able to provide evidence of such behavior.

Finally, the ability of blockchains to provide a near-instantaneous availability of information will be a boon for antitrust authorities. It will also be easier to detect and prevent anticompetitive behavior as blockchains will be able to provide evidence of such behavior.

References

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3. Gideon Greenspan 2015, 'Avoiding the pointless blockchain Project' (22 November 2015), available at:
4. Metsä Group
5. Jutta B. Limperis 2016, "Blockchain: Challenges and Opportunities for Antitrust Compliance". IAM.
7. Please refer to this post as: Michael Ristaniemi, 'Blockchains in competition law – friend or foe?', Kluwer Competition Law Blog, July 21, 2018, available at:
Ibid. at 2.

European Commission, Guidelines on the applicability of Article 101 TFEU to horizontal co-operation agreements §75.


[13] Ibid., at 32.


