Virtual Competition: Challenges for Competition Policy in an Algorithm-driven market

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The competition agencies are currently struggling with the problem of designing new tools to address the complex tacit collusion, involving the difficult legal issues of human accountability of a computer's behavior? ii) Who should the competition authorities hold liable in case of advanced and algorithm-driven economies? iii) When is the appropriate time for competition agencies to intervene?

In this context, the question that needs to be answered is whether with the advent of pricing algorithms, the implications of Competition law on AI? The answer to that at the moment could be that nobody can be held responsible. What if there is no anti-competitive agreement, no anti-competitive behavior, no human interference, what will the future be of the competition authorities?

The enforcement could be even more challenging in case of AI. In the messenger, hub-and-spoke, and tacit collusion scenarios, all the signs of anti-competitive behavior are clear. In such cases it is difficult to get direct evidence but can be inferred from the algorithms' actions. In cases where there is no explicit agreement, no anti-competitive agreement and no human interference, what will the future be of the competition authorities?

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Thus, it is proposed that a specific legislation or policy to give individuals more power over their personal data can serve here in the goal of being more transparent and fair. In some cases, it might be difficult for antitrust agencies to establish a violation. For instance, the Messenger and Messenger Connect concerns discussed above could be brought under Article 101 of the Treaty of the Functioning of the European Union (TFEU), Section 1 of the U.S. Sherman Act and Section 3 of the Indian Competition Act, 2002, wherein the anti-competitive element can be established. However, where artificial intelligence plays a role, sources and participants of collusion are difficult to identify. It is also difficult to establish a clear stated power in algorithmic pricing, so it would completely depend on the relevant product and geographical market being defined. We need to build a framework for healthy virtual competition that builds upon realistic competition, benefits consumer welfare and safeguards the privacy of the individual.

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