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# Kluwer Competition Law Blog

## Competition Law and Blockchain in Hong Kong: Regulating Cryptocurrencies

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### Introduction

The blockchain industry is undergoing tremendous development and expansion, with new applications and technology constantly appearing. In Hong Kong, blockchain-based industries and activities, such as cryptocurrencies, are gaining popularity and attention. As these industries grow, they must be governed in a manner that fosters competition and protects consumers. Competition law in Hong Kong is governed by the [Competition Ordinance](#), which was implemented in 2015.

This blogpost will examine the role of competition law in regulating Hong Kong's blockchain-based industries and activities as well as current developments and case studies in this field. By examining the intersection of competition law and blockchain in Hong Kong, this blog post can better comprehend the potential and obstacles confronting this quickly expanding industry.

### The Role of Competition Law

Competition law is crucial in regulating blockchain-based industries and activities in Hong Kong. The Competition Ordinance applies to all Hong Kong industries and activities, including those using blockchain technology. This implies that blockchain enterprises operating in Hong Kong must adhere to the same competition rules and principles as other businesses.

The prohibition of anti-competitive practices is a core component of competition law. This involves price-fixing, market allocation, and the misuse of market power. These actions are forbidden under the Competition Ordinance because they potentially affect competition and consumers. Such activities in the blockchain industry may include collusive behaviour among blockchain-based industries and activities or the use of market power to exclude competitors or limit access to blockchain networks.

Advocacy is another essential part of competition law. This includes encouraging competition via the adoption of rules and regulations prohibiting anti-competitive behaviour and supporting the admission of new market players. In the blockchain sector, this may mean encouraging the development of new blockchain-based technology and applications and removing any market entry barriers.

In Hong Kong, the role of competition law in regulating blockchain-based industries and activities is to foster a fair and competitive marketplace and safeguard consumers from anti-competitive conduct. By implementing competition law in this field, authorities may assist in guaranteeing that the Hong Kong blockchain industry continues to expand and prosper while safeguarding consumer interests and fostering competition.

### **Hong Kong's Approach to Blockchain Regulation**

The Securities and Futures Commission ('SFC') is the primary regulatory authority for blockchain in Hong Kong. The SFC supervises Hong Kong's securities and futures markets and has adopted a proactive approach to regulating the blockchain industry. Hong Kong's regulatory framework for blockchain-based industries and activities is robust. This framework aims to foster the growth of the blockchain industry in Hong Kong while safeguarding consumers and guaranteeing compliance with competition legislation. Hong Kong's SFC published a [statement](#) outlining a new approach to putting virtual assets, including cryptocurrency, within its regulatory umbrella. Such a statement also provides a conceptual foundation for a potential set of regulations for cryptocurrency exchanges. These rules, including [the detailed guidance to intermediaries' distribution of virtual asset funds](#), the SFC's requirements for these firms, including registration, licencing, and compliance with anti-money laundering and other regulations.

In addition to the SFC, the Hong Kong Monetary Authority ('HKMA') regulates blockchain in Hong Kong. The HKMA is the central banking authority of Hong Kong, with four key functions: maintaining the stability of the Hong Kong dollar, promoting the safety of Hong Kong's banking system, managing Hong Kong's official reserves, and maintaining and enhancing Hong Kong's financial infrastructure. Also, the HKMA has made initiatives to encourage the development of blockchain-based technologies in the financial industry. The HKMA initiated a [proof-of-concept trial](#) in 2017 to investigate the possible application of blockchain technology in the trade finance sector and produced [recommendations](#) on the use of blockchain technology in the banking sector.

The SFC and the HKMA have received a growing number of inquiries from intermediaries about the distribution of products, including virtual assets, to investors, who were also interested in offering virtual asset dealing services to their clients. In 2018, when the SFC formulated its regulatory approach for virtual assets, it put a "*professional investors only*" limitation on various activities, including the distribution of virtual asset funds (VA funds). Since then, the world of virtual assets has swiftly expanded and started to penetrate mainstream finance. Whether retail or professional, investors may now have exposure to virtual assets via a wider variety and greater quantity of investment products.

The SFC and the HKMA have re-evaluated their current stance in light of recent market developments and industry inquiries. These revised guidelines are offered for intermediaries who intend to participate in activities involving virtual assets. To avoid any kind of doubt, [the new SFC and HKMA guidance](#) for intermediaries and banks on virtual asset-related activities will replace the [circular to intermediaries on the distribution of VA funds](#) issued in 2018 mentioned above.

Hong Kong's approach to blockchain regulation is intended to facilitate the development of the blockchain industry in the city while simultaneously assuring compliance with competition law and investment protection. This balanced approach has contributed to Hong Kong's position as Asia's

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leading centre for blockchain-based industries and activities.

### **Case Studies and Examples**

There have been several notable cases and examples of the application of competition law in the blockchain space. These cases illustrate the challenges and opportunities presented by applying competition law to this developing industry.

Recently, Lord David Currie, the former chair of the United Kingdom's Competition and Markets Authority (CMA), launched a £13.2 billion (\$10 billion) [class action lawsuit](#) against four cryptocurrency companies, including Binance, for alleged collusion to eliminate a prominent cryptocurrency of their exchanges. The action also names Kraken, Bittylicious, and Shapeshift as alleged perpetrators. The claim, launched on July 29 before the Competition Appeal Tribunal, is the first in the United Kingdom and seeks compensation for investors who lost money due to the alleged collusion. The case is now in its beginnings.

Currently, there is no case in Hong Kong concerning the application of competition law in the blockchain space. Yet, as the sector continues to develop and expand, it is expected that additional cases and developments will emerge in this field. By understanding the role of competition law in regulating blockchain-based sectors and activities, firms and regulators will be better able to handle the challenges and opportunities presented by this dynamic industry.

### **Conclusion**

Competition law plays a vital role in Hong Kong's regulation of blockchain-based industries and activities. The Competition Ordinance applies to all Hong Kong enterprises and activities, including those blockchain-based. Companies operating in the blockchain space in Hong Kong must comply with the same competition rules and principles as other businesses.

Hong Kong's regulatory framework for blockchain-based industries and activities is solid. This framework aims to foster the growth of the blockchain sector in Hong Kong while safeguarding consumers and guaranteeing compliance with competition law. The SFC and the HKMA, who have adopted a proactive approach to regulating the sector, are the primary regulatory bodies for blockchain in Hong Kong.

Hong Kong has seen several important competition law precedents in the blockchain field in the form of advocacy. The findings of these activities illustrate the difficulties and possibilities presented by applying competition law to this constantly developing business. By understanding the role of competition law in regulating blockchain-based sectors and activities, firms and regulators will be better able to handle the problems and possibilities presented by this dynamic industry.

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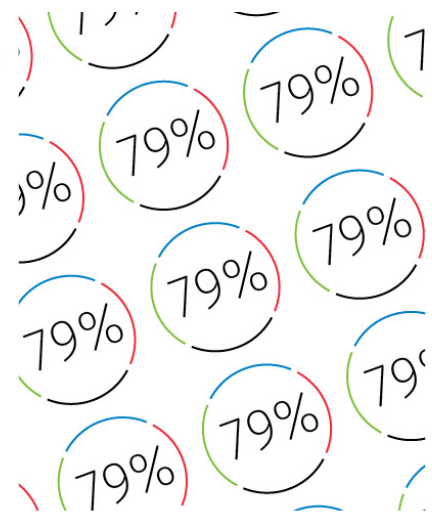
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