

FinTech e Concorrenza (*)

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Several Slides are based on Competition Issues in the Area of FinTech, Study for European Parliament, 2018

Platforms

- Usual issues with Platforms:
 - Refusal of Access
 - Discrimination regarding 3rd parties' products and services
 - Barriers to Entry
 - Network Externalities
 - Economies of Scale and Scope
 - Leverage
 - Single-homing
 - Lack of Interoperability
- Ex ante regulation needed (ROFIEG*, 30 Recommendations, page 80)

*Expert Group on Regulatory Obstacles to Financial Innovation

Data

- Access to Data
- Tipping
- Lack of Portability

Algorithms

- Collusion

Payments

Competition Agencies focusing on Payments more than any other area of FinTech.

Issues:

- **Access to bank accounts;**
- **Access to critical assets** such as data and mobile near field communication (NFC) chips (Apple Pay, q.v.);
- **Use of a strong market position offline** to leverage and exclude competitors online.

Cases: Apple Pay

- Denies Access to its Near Field Communication technology to other digital payment providers (non-Apple pay)
- Are Google Pay and Samsung Pay, e.g., enough competition? How can they leverage on the wealth of data of which they (partic.ly Google) dispose?
- Commission: carefully monitoring
- AUS: ACCC asked if banks could move jointly (bargain or boycott) to get NFC from Apple; but (a) weakens Apple's competition to android-based services (b) market too new to make predictions (c) can improve competition between banks by facilitating switching between card providers
- German law: forces Apple to allow other payment providers

Cases: Access to Bank Data

- Online payment service need to access bank account's personal data
- Does the bank need to be dominant?
- Or relatively dominant (only bank to have user's data)?
- Does the refusing bank need to have an 'incentive' (i.e, it is itself present or wants to extend in that market)?

Ongoing Commission's investigation in NL and POL

Digital Currencies (cryptocurrencies)

Competition between currencies (inter-cryptocurrency market) and
competition between exchanges (intra-cryptocurrency market)

Mining, exchanges, wallets and payments

Network effects

Standardisation of distributed ledger technology (DLT): issues typical
horizontal agreements

Access issues (as in payments)

Leverage issues of traditional banking services in the cryptocurrency market

Entry of traditional banks and central banks in cryptocurrency markets: more
competition?

Cases: Blockchain

reements

standardization (traditional competition law concerns)

storage of information available on ledgers; approvals of transactions by members;

ilitation of collusion

may have easier detection and more effective retaliation

enhances transparency in general

difficulty in identifying culprits and in enforcing punishment

Cases: Blockchain (II)

Dominant Position

- Is it a natural monopoly? Even if so, who holds a dominant position? Collectively held by users?
- What is the relevant market? How do you use substitutability?

Abuse

Predation; refusal to deal (access to ledgers; membership); discrimination (e.g. tariff-based)

Mergers

Consortium may be mergers? Or may be cooperative JVs?

Wealth/Asset Mg.t

Fees

Conflicts of interest

Algorithms: collusion (but also efficiency in elaboration of products and enhanced transparency).

Personal Finance Management

Main issue: Access to Customer Data

Insurance

- Access to customers' data
- Pricing Algorithms
- Standardisation (if blockchain is used)

Technologies (DLT, AI, Data Analytics) and infrastructures

- **There are no specific competition concerns in technologies** such as DLTs, Artificial Intelligence (AI) and Data Analytics, apart from the common ones (standardisation, network effects, access data)
- Possible Issues with concentration in cybersecurity technologies market
- Cloud: oligopoly, Possible barriers to entry

Mergers

- Market shares/market definition may fail: e.g., when power is based on wealth of data; also, blockchain (q.v.)
- Killer acquisition and ‘below the radar’ issues
- *See* new thresholds adopted and new enforcement methods to be adopted in German legislation