OPINION: How blockchain will upend competition law

-- By **Thibault Schrepel**
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PARIS — Not a day goes by without some discussion of Bitcoin — and, by extension, blockchain. Soon, not a day will pass without blockchain being discussed in competition law circles, too.

The 2010s are to blockchain what the 1990s were to the internet — a transformative technology. It is still difficult to identify all the issues that will arise, because major applications of this technology are still under development. But we already know that competition analysis will be turned upside down.

Spotting the issues created by blockchain requires an understanding of the technology itself. To put it simply, blockchain is an open and distributed digital ledger that can record all sorts of transactions between users. These ledgers are (in principle) immutable. That's why it's sometimes said that,"Unlike Pinocchio, the blockchain doesn't lie."

In a public blockchain, each participant has access to the complete ledger. No single participant controls the information or the data, and so no one is "in charge" of it.

Things are different on private blockchains, in which access and use could be limited and changed anytime by the party in charge.

Whether public or private, most offer capabilities for software to run on top of them, making the distinction between blockchain (as platforms) and software/application (as concrete use) absolutely essential in the context of competition law.

These features raise three technical issues: how to detect anti-competitive practices committed using blockchain, how to identify the author of those practices, and how to put in place remedies once anti-competitive behavior is established. If regulators do not pay particular attention to these issues, they will become powerless to act when blockchain technology is used to violate competition

Transforming markets

On top of the technical issues, blockchain transforms competition in existing markets. Internet giants like Facebook and Google are sometimes accused of using their market power to lock out rivals. Consumers are locked into their platforms, the argument goes, because of network effects or the costs of leaving. The more dominant a platform, the more new users are likely to adopt it — and the less likely they are to choose a competitor used by fewer of their friends or colleagues.

Blockchain technology could disrupt this advantage — most notably, it allows entrants into a market to issue tokens (like Bitcoin). This offers new users the possibility of financial gain even

when the application utility is low. It's as if every social media platform offered its users a share in the company.

As a result, interest in joining a new blockchain can be extremely high, potentially putting rapid and powerful competitive pressure on market leaders.

It's factors like these that antitrust authorities will have to take into account when deciding if a company is engaging in anti-competitive practices. We know the competitive environment tech giants are engaged in today, but it's not clear yet how blockchain will challenge them tomorrow.

This shouldn't stop authorities from acting when there's clear, established harm to consumers, but it raises at least two fundamental questions: How to evaluate whether a company is truly dominant and how competition authorities should be allocating their resources.

Cutting out the middleman

One thing blockchain does is put the power in the hands of its users. This puts the business models of companies acting as brokers in great danger.

Most of Big Tech firms — including Facebook, Twitter, Google, Airbnb, Uber, Amazon and eBay — are intermediaries. Their utility risks being greatly reduced by blockchain. Indeed, blockchain-powered alternatives already exist: La'Zooz, Twister, Bitmessage, Storj.

Blockchain has the potential to redefine what we mean by "a company," making its boundaries unclear. Consider the following example: You drive an electric car and suddenly realize that you are about to be out of power. You log onto a blockchain that lists places where you can recharge and discover that the closest place is a garage in a private residence.

You go there, recharge your car in return for tokens sent via the blockchain from your account to that of the house owner. A commercial transaction has been carried out without any intermediary.

Going back to digital services, you may very soon "Login with Ethereum" instead of "Login with Facebook." This won't kill social media companies, which will still keep possession of the data generated through the use of their services. However, it will greatly diminish their power because they will no longer control the data you bring to the service. It will instead be stored on your own blockchain.

Blockchain won't cause Facebook or Google to disappear (at least, not right away), but it could force them to change their business model. As the applications of blockchain beyond cryptocurrencies become better known, expect to see that reflected in the share prices of Big Tech.

Transformative technology

The disruptive potential of blockchain should not be underestimated. Big Tech firms do so at their peril. Antitrust authorities do so at the peril of the consumers they are supposed to protect.

Multiple applications will be developed based on blockchain technology. Some will be brought under the control of existing tech giants. Others will remain independent. The decentralized

nature of the blockchain will almost certainly prevent Big Tech from controlling the information contained on it.

And if two services are connected to the blockchain, and thus offer the same quality of service, consumers will choose the service that costs the least, making them better off.

The failure among competition experts to account for blockchain's transformative nature is particularly obvious in the writings of the so-called "Hipster Antitrust" movement. For reasons likely to do with electoral politics, its proponents have largely pretended not to see these upcoming changes in the competitive landscape.

Whether the European Commission follows suit will soon become evident, when it publishes its ruling on the Android case. One hopes it will not.

We must take off our blockchain blinders when analyzing tech companies' market power. If we don't, decisions that sanction "abuses" of a dominant position are likely to seem absurd in just a few years.

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