Artificial Intelligence and Collusion

A research paper by Professor Ariel Ezrachi, Slaughter and May Professor of Competition Law and Director of the Centre for Competition Law and Policy, has helped shape the debate on the use and legality of advanced algorithms in online commerce.

The development of sophisticated computer algorithms has radically changed our social, economic and political environment, and has transformed the competitiveness of present and future markets. On the one hand the algorithms have enhanced competition to the benefit of consumers. On the other, they have provided the means for limiting competition and widening the scope of competitive restraints.

The research paper explored the possible use of computer algorithms to sustain collusion between sellers, or create conditions for tacit collusion. The paper also considered the possible use of hub-and-spoke strategies which may result in horizontal price alignment.

The novel discussion of the possible welfare harms which can result from autonomous operation of algorithms, without human involvement, opens the door to consideration of new enforcement tools, and the adequate level of antitrust intervention.

The research paper, authored by Professor Ezrachi and Professor Maurice E. Stucke from the University of Tennessee College of Law, has had a significant impact on the law and policy debate in this area. It was referenced in a joint report by the French and German Competition authorities on 'Competition Law and Data' and formed part of a submission to, and evidence at the House of Lords. Ezrachi and Stucke's analysis was subsequently referred to in the House of Lords report 'Online Platforms and the Digital Single Market'. This report was the result of an inquiry by the House of Lords into online platforms in the EU Digital Single Market, after concerns were raised by the European Commission about the growing influence of internet platforms in some online markets, leading it to ask whether new regulation is necessary.

The research paper also featured in THE NEW YORKER, Americans.com, Business Insider, and Columbia Law School Blue Sky Blog. It won the 2016 'Concurrences' prize for "Best Article on Collusion" and is due to be published in the University of Illinois Law Review. The paper forms part of a wider research project by Ezrachi and Stucke into the welfare effects of online commerce. Their book Virtual Competition – The Promise and Perils of the Algorithm Driven Economy is due to be published by Harvard University Press in October 2016.

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