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"Artificial intelligence: making sure it's not a walled garden"

Keynote address at the Bank for International Settlements – Financial Stability Institute policy implementation meeting on big techs in insurance

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Let me start by thanking the Bank for International Settlements (BIS) and the Financial Stability Institute for having me today. It's always a pleasure to be back in Basel.

I left the BIS as a central banker and financial regulator and I come back as an antitrust enforcer. Quite a change for me – but I want to show you that what keeps me awake at night can be relevant for your regulatory discussion.

❖ <u>Artificial Intelligence unleashed: a dystopian vision</u>

Regulators are paid to prepare for the worst and expect the best. This morning, we heard a lot of valuable insights on risks and opportunities in the insurance sector. I would like, in turn, to take a leap into a dystopian future and take you with me to the year 2030: a world where competition policy has failed to monitor Artificial Intelligence (AI).

What does it look like?

Well, it's not like in *Terminator:* I can't see any armies of armoured robots shooting lasers in a desolate landscape. It's not like in Frank Herbert's *Dune* either, where – as sci-fi fans will know – AI has been banned following the Butlerian Jihad.

But in this dystopian vision, a few tech giants are dominating the market for AI-based insurance services, building on their unparalleled expertise and resources to raise market barriers, foreclose essential inputs, absorb or evict newcomers, implement lock-in tactics and further entrench end-users within their ecosystems.

In this apocalyptic realm, small insurance firms and mutual funds have no choice but to stick with the same service provider because of a lack of interoperability, suffering unfair conditions and paying excessive prices for less innovative services, ultimately trusting their data and decision-making into the hands of a digital guild.

Not like in *Terminator*, but scary enough, and much closer from today.

❖ **The potential of AI for our societies**

As I said, we should prepare for the worst but expect the best. The good news is, it's not 2030 yet. There's still a window to act and make sure that we reap maximum benefits from AI while controlling the risks.

There's no doubt that generative AI is an unprecedented opportunity for our societies. It is a force for sustainable growth in the future, particularly in industries where productivity has been stagnant and prices have been rising for decades, such as health or education, thus offering a chance for escaping Baumol's "cost disease". A recent report to the French government expects AI to lead to an increase in GDP ranging from €250bn to €420bn in 2034, equivalent to the added value of the entire manufacturing industry.[1]

In finance, BIS research has documented how the "Data-Network-Activities" or "DNA" loop can deliver greater financial inclusion, better services and lower costs. For instance, big tech credit is less sensitive to house prices and GDP and needs less collateral.[2] AI deployment could further enhance these effects.

As for insurance, it's not hard to imagine how AI could make an impact at every level of the value chain, ranging from innovative insurance product design to more precise pricing and distribution policies, streamlined claims management, enhanced chatbots and better fraud detection, as well as insurance supervision – with big techs participating in the value chain as insurers, intermediaries or service providers.[3]

We should not, therefore, be afraid of AI. But we should embark on this journey by defining and mastering the rules that will govern the creation and use of AI in our societies.

❖ **Learning the lessons from the past**

To achieve this goal, we must not repeat the mistakes that we made in the 2010s around Web 2.0. We responded too late to competition concerns and, as result, let big techs become the titans that we know today.

To be fair, we must remember that these emerging technologies suddenly brought a vast array of new services, including search engines, online shopping and social networks, which changed our daily lives. These markets were evolving very fast, and it took significant time and effort to understand their inner workings and take full account of their particular features, such as multisided platforms, network effects, the key role of data and tipping markets. It also took time

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[1] Commission de l'intelligence artificielle, "IA : notre ambition pour la France", 13 March 2024.
[2] H.S. Shin, "Issues in the regulation of big techs in finance", presentation at the Peterson Institute for International Finance virtual event "A holistic look at big tech regulation", 10 February 2021, and L. Gambacorta, Y. Huang, Z. Li, H. Qiu, and S. Chen, "Data vs collateral." BIS Working Paper, no 881, September 2020.
[3] D. Garcia Ocampo, A. Lehtmets, M. Pandey and J. Prenio, "Suptech in insurance supervision", FSI Insights on policy implementation No 47, December 2022, and D. Garcia Ocampo, J. Taneja, J. Yong and J. Zhu, "From clicks to claims: emerging trends and risks of big techs' foray into insurance", FSI Insights on policy implementation No 51, August 2023
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to understand that some key conditions that enhance competition, such as data portability are better enforced through ex-ante regulation than through antitrust.[4]

Competition enforcers, and especially EU agencies, did intervene to tackle harmful conduct:

- The European Commission took the lead with record fines against Google, starting with the Google Shopping decision in 2017;

- At the French Competition Authority, we took a similar approach, using all the tools at our disposal to compel Meta and Google to grant open and non-discriminatory access to their ecosystems, particularly in adtech.[5] On several occasions, the ability to issue interim measures allowed us to intervene quickly (usually within months rather than years) to prevent imminent damage pending a decision on the merits.

However, with the benefit of hindsight, we must admit that competition enforcement came often too late and did not prevent most of these markets from tipping. We need to learn the lessons from the past and act pre-emptively, building on our knowledge of digital ecosystems to secure a level playing field from the start.

❖ **Anticipating competition concerns**

This is all the truer given that the current competitive landscape is not the same as it was in the previous digital revolutions: unlike the early 2000s, when innovators were real pioneers, university students working in their basements, the generative AI sector is already very concentrated around a few incumbents with strong market power.

Under these circumstances, anticompetitive practices and mergers can quickly arise, even more so when the players involved have already and repeatedly infringed competition law in the past.

Having said that, what are we, competition enforcers, doing today to make a difference?

Consensus has rapidly emerged around possible anticompetitive concerns in AI and the need for swift action at G7 as well as at European Union level[6] and, more broadly, within the International Competition Network and the OECD.

For now, our priority is to gain sufficient knowledge of the technology and to better understand how the markets work, in order to anticipate competition concerns and give ourselves the means to intervene at an early stage, if needed. Enforcers around the world are actively engaged into horizon scanning. Useful reports have been released by the British and Portuguese competition authorities.[7] Recently, the European Commission launched a call for contributions to gather

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[4] F. Scott-Morton., "Antitrust alone is not enough to combat the problems associated with digital platforms", Promarket, 17 May 2019.

[5] Recent examples are Decision 21-D-11 of 7 June 2021 and Decision 22-D-12 of 16 June 2022 regarding practices implemented in the online advertising sector; Decision 22-D-13 of June 21, 2022 regarding practices implemented in the press sector, and Decision 23-MC-01 of 4 May 2023 on a request for interim measures by the company Adloox.

[6] G7 Competition Authorities and Policymakers' Summit Digital Competition Communiqué, Tokyo, 8 November 2023.

[7] Competition and Markets Authority, "AI Foundation Models: Initial report", 18 September 2023. Autoridade da Concorrência, "Competition and generative artificial intelligence", Issues paper, 5 November 2023.

information and views from regulatory experts, academia, industry participants and consumer organisations.

At the French Competition Authority, we recently opened an *ex-officio* inquiry to study the competitive dynamics of the sector. A public consultation will help us gather input from stakeholders, and we plan to publish our opinion before the summer.

Of course, our assessment is still ongoing, but I can already share a few areas of concerns. They relate, broadly speaking, to strategies implemented by major digital players aimed at consolidating – or leveraging – their current market power upstream in the generative AI value chain:

- Big digital players such as Amazon, Google, Microsoft and Meta are all already active in this sector, at different levels of the value chain. Some of them hold significant positions on several upstream markets, such as cloud computing. Cloud computing is an essential input for generative AI, due to the significant computing power required to train and deploy foundation models. In this regard, the French Competition Authority can build on the knowledge gathered in its study on the cloud sector published in 2023.[8]

- Access to massive amounts of data is key to train and fine-tune generative AI. This data comes from a variety of sources, via collaborative and open sources such as Common Crawl, or via direct collection from the websites of press publishers or social networks. Large Language Models can also train on proprietary data, held or purchased by the company training its model.

- The competitive landscape seems rather oligopolistic on these upstream markets, and competitive concerns might therefore arise. These concerns are not all that different from what we have already seen in other digital markets, in terms of possible exclusionary and exploitative conduct: they include exclusivity agreements that may foreclose the market, tying and bundling, interoperability concerns, self-preferencing, unfair access conditions, etc. Our public consultation and inquiries will tell us whether we should be watching out for new types of practices.

- Another point of interest for us is access to funding and a skilled workforce, which are also essential inputs for generative AI. Indeed, the training of foundation models requires strong technical skills, particularly in engineering and data science. We will therefore look at the consequences of the concentration of a small number of highly skilled employees by big tech players.

- Lastly, the generative AI sector is attracting increasing interest from investors, as evidenced by the massive investments by Microsoft in OpenAI and by Amazon and Google in Anthropic. Also worth mentioning is the recent partnership between Microsoft and the French start-up Mistral AI. Most of these investments have not been reviewed by competition authorities on the substance. They could nonetheless raise competitive concerns.

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[8] Opinion 23-A-08 of 29 June 2023 on competition in the cloud sector.

Again, these are only preliminary concerns that we are still investigating with fellow competition enforcers. There's a lot to do, things are moving fast, and we all need to join forces.

❖ The need for coordinated action

This brings me to my last point.

Another key difference with the situation that we faced in the early 2000s is that regulatory tools have already been adopted. I'm thinking for instance of the European Union's AI Act, Data Act and Digital Markets Act.

Policymakers will need to answer key policy questions, such as:

- How will regulations interact with each other and jointly impact the AI market structure, hopefully without impacting too much innovation and competition?

- Will there be more diversity in downstream than in upstream markets, due to a lower cost of entry and a variety of data, use cases and sectoral regulatory requirements? Can control by companies of in-house data mitigate concerns that big players will consolidate or leverage their current market power?

- What is the right allocation between *ex ante* regulation and antitrust when new competition concerns emerge? Should we first try the competition law route, as we have done in the past, or adapt our regulatory instruments upfront? This will be a key question for the incoming European Commission and for governments.

- How can we articulate competition, privacy and financial regulation and be mindful of the reality of large integrated entities which are active in financial services and other areas? For this purpose, we may need a mix of activity-based and entity-wide requirements.[9]

Those are just some of the many questions that we will need to answer in the coming months and years, joining forces internationally and across regulatory domains.

❖ Conclusion

The role of competition agencies is not to restrain innovation; we're not on a crusade against computers, thinking machines and robots like in Frank Herbert's *Dune*. Rather, we intervene because we want AI to be a force for innovation, where smaller players have a chance to succeed and where companies and consumers have access to a variety of models. To borrow a quote from my former colleague Hyun Shin, we want AI to be a public square rather than a walled garden.[10]

It's up to us, enforcers, policy makers and industry participants to make this future a reality, and not the one that I described in my introduction.

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[9] F. Restoy, "Fintech regulation: how to achieve a level playing field", FSI Occasional Papers No 17, 2 February 2021.

[10] H.S. Shin, *op. cit.*