

LIBRA: A CONCENTRATE OF “BLOCKCHAIN ANTITRUST”

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Blockchains promise to decentralize the economy, bypassing trusts in favor of decentralized communities. The World Economic Forum predicts that 10 percent of the global gross domestic product will be stored on blockchain by 2027.¹ Gartner further prophesizes that blockchain will create \$3.1 trillion worth of business value by 2030.² Even if that prediction turns out to be too optimistic, blockchain’s legal implications cannot be neglected.

But what are blockchains? Although blockchains each have their own unique characteristics, they also share similar mechanisms that allow for broad analysis. Blockchains are, first and foremost, distributed and decentralized ledgers that can record manually or automatically all sorts of transactions between users (this is the “platform layer”).³ Put differently, they are databases with singular features. Blockchains may in fact be public, where anyone can *see* the information it contains, or private, where one or several users control access to the blockchain.⁴ They may also be permissionless—where anyone can *write* on the blockchain—or permissioned—where only specific users can write on it.⁵

Most blockchains, such as the Ethereum, are designed so that applications can function on top of the database.⁶ These applications (the “software layer”) are commonly sorted into three categories: cryptocurrencies, smart contracts, and others.⁷ Mark Zuckerberg introduced Libra to the world in

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1. WORLD ECON. FORUM, DEEP SHIFT: TECHNOLOGY TIPPING POINTS AND SOCIETAL IMPACT 24 (2015).

2. GARTNER, FORECAST: BLOCKCHAIN BUSINESS VALUE, WORLDWIDE, 2017–2030 (2017), <https://www.gartner.com/en/documents/3627117/forecast-blockchain-business-value-worldwide-2017-2030> [<https://perma.cc/ATK2-3YHW>].

3. Thibault Schrepel, *Is Blockchain the Death of Antitrust Law? The Blockchain Antitrust Paradox*, 3 GEO. L. TECH. REV. 281, 287, 290 (2019).

4. *Id.* at 290–92.

5. *Id.* It follows that public blockchain can be permissionless or permissioned while private blockchain are, by definition, always permissioned.

6. See Thibault Schrepel, *The Theory of Granularity: A Path for Antitrust in Blockchain Ecosystems*, 3 n.4 (Jan. 14, 2020) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3519032 [<https://perma.cc/D86T-GRK2>].

7. MELANIE SWAN, BLOCKCHAIN: BLUEPRINT FOR A NEW ECONOMY 22–24 (2015).

June 2019 with the goal of “enabl[ing] a simple global currency and financial infrastructure that empowers billions of people.”⁸ As such, Libra falls into the first category: cryptocurrency. Cryptocurrency in general, but Libra in particular, has drawn regulators’ attention. Two months after Zuckerberg’s announcement, and without waiting for the project to be launched, the European Commission sent a questionnaire to various parties connected to Libra in order to investigate “potential anti-competitive behavior.”⁹ The U.S. House of Representatives also conducted a series of hearings at the end of October 2019 questioning the intentions behind Libra.¹⁰ But the battle between political and technological elites was just getting started. Numerous regulators have since then expressed their skepticism regarding the project, which, some say, is already nipped in the bud.¹¹

This article aims to analyze the pro- and anticompetitive risks of the Libra project to address the overall desirability of the European Commission and the House of Representatives’ adversarial approaches.

On the one hand, blockchain creates numerous issues for antitrust law that can be designated under the label “blockchain antitrust.”¹² As it turns

8. LIBRA ASS’N MEMBERS, AN INTRODUCTION TO LIBRA WHITE PAPER 1 (June 2019), https://libra.org/wp-content/uploads/2019/06/LibraWhitePaper_en_US.pdf [<https://perma.cc/W2AD-UL3N>] [hereinafter LIBRA WHITE PAPER]; Tatiana Koffman, *Facebook’s Libra White Paper Is Now Live*, FORBES (June 18, 2019), <https://www.forbes.com/sites/tatianakoffman/2019/06/18/facebooks-libra-white-paper-is-now-live/#27b6482d6e00> [<https://perma.cc/CK9Y-Z6WY>].

9. Lydia Beyoud & Aoife White, *Facebook’s Libra Currency Gets European Union Antitrust Scrutiny*, BLOOMBERG (Aug. 20, 2019), <https://www.bloomberg.com/news/articles/2019-08-20/facebook-s-libra-currency-gets-european-union-antitrust-scrutiny> (on file with the *Michigan Law Review*).

10. See, for instance, *Hearing Before H. Comm. on Fin. Servs.* (Oct. 23, 2019) (testimony of Mark Zuckerberg), <https://financialservices.house.gov/uploadedfiles/hhrg-116-ba00-wstate-zuckerbergm-20191023-u1.pdf> [<https://perma.cc/W3FY-7SFT>], and Makena Kelly, *Congress Isn’t Buying Mark Zuckerberg’s Pitch for Libra*, THE VERGE (Oct. 23, 2019), <https://www.theverge.com/2019/10/23/20929313/mark-zuckerberg-hearing-congress-libra-calibra-facebook-maxine-waters> [<https://perma.cc/QK2R-Y3PJ>].

11. See Ron Mendoza, *Switzerland President Slams Facebook’s Libra: “The Project Has Failed,”* INT’L BUS. TIMES (Jan. 1, 2020), <https://www.ibtimes.com/switzerland-president-slams-facebooks-libra-project-has-failed-2894855> [<https://perma.cc/5M3Y-7FND>]. For a more recent example, see Answer Given by Executive Vice President Dombrovskis on Behalf of the European Commission (Feb. 18, 2020), http://www.europarl.europa.eu/doceo/document/E-9-2019-003614-ASW_EN.pdf [<https://perma.cc/6BUS-UL7F>] (“[A]s Libra is still a project, and thereby a moving target, the information provided remains insufficient for determining the precise nature of Libra and, by extension, its relation with existing EU law.”).

12. See generally Schrepel, *supra* note 3 (exploring the “blockchain antitrust” paradox by unpacking the unique questions blockchain poses to anticompetitive identification and regulation). Generally speaking, the following analyses are solely based on public information regarding Libra, including the LIBRA WHITE PAPER, *supra* note 8, ZACHARY AMSDEN ET AL., THE LIBRA BLOCKCHAIN (rev. Sept. 25, 2019), <https://developers.libra.org/docs/assets/papers/the-libra-blockchain/2019-09-26.pdf> [<https://perma.cc/8RXN-95RE>], and ARTICLES OF ASSOCIATION OF LIBRA ASSOCIATION (July 31, 2019), <https://leconcurrentialiste.com/wp-content/uploads/2020/02/Libra-Articles-of-Association.pdf>

out, Libra is an excellent catalyst for exposing the anticompetitive issues that may appear in permissioned blockchain. On the other hand, regulatory intervention at the stage of product design carries significant risks of creating Type I errors.¹³ Plus, Libra's objective to disrupt the existing financial system cannot be ignored. Finding the right balance is extremely difficult. With this in mind, Part I of this Essay analyzes the type of governance that Libra is aiming for, as this indicates the nature and frequency of certain anticompetitive risks. Part II then offers an assessment of the anticompetitive collusion and monopolization that Libra governance might yield. The discussion concludes by assessing the desirability of the adversarial approach adopted by national and international antitrust agencies thus far.

I. LIBRA'S GOVERNANCE: A DETERMINANT FOR COMPETITIVE ANALYSIS

The Libra Association's governance features the essential characteristics of a permissioned blockchain¹⁴ in which only select users will take turns validating the transactions submitted into the network:

The association is governed by the Libra Association Council, which is comprised of one representative per validator node. Together, they make decisions on the governance of the network and reserve. . . . An important objective of the Libra Association is to move toward increasing decentralization over time. . . . [T]he association will develop a path toward permissionless governance and consensus on the Libra network. The association's objective will be to start this transition within five years. . . .¹⁵

For the Libra blockchain to become permissionless,¹⁶ the Libra Association will wait for the development of a "proven solution that can deliver the

[<https://perma.cc/GRN8-YLAL>]. As such, analyses in this Essay do not purport to be definitive in any way. They are, rather, a first approach to the subject. The European Commission or U.S. authorities may very well open investigations on different grounds based on the information collected in response to their questionnaires and hearings.

13. Thibault Schrepel, *Predatory Innovation: The Definite Need for Legal Recognition*, 21 SMU SCI. & TECH. L. REV. 19, 35 & n.92 (2018). In this case, the risk is of condemnation (or restriction by regulation) of a service that would benefit consumers.

14. For a definition of what permissioned blockchain is, see Schrepel, *supra* note 6, at 4. It should be noted, moreover, that Libra is quite a narrow permissioned blockchain. As stressed by Consensus, "[t]he Libra consortium is only as decentralized as the number of validator nodes in the network, which today is made up of 29 of some of the world's largest enterprises and financial institutions, which only seems to further centralize power." Coogan Brennan, *Libra Guide: Understanding Facebook's Digital Currency*, CONSENSYS 19 (Sept. 11, 2019), <https://cdn2.hubspot.net/hubfs/4795067/Cons-Guide-Libra-03.pdf>, [<https://perma.cc/YQD3-XART>].

15. LIBRA WHITE PAPER, *supra* note 8, at 8–9.

16. Libra has disclosed its intention to then use a proof-of-stake system "where validators are assigned voting rights proportional to the number of Libra coins they hold." See AMSDEN, *supra* note 12, at 24. For a definition of what permissionless blockchain is, see SCHREPEL, *supra* note 6, at 3–4, 3 n.5. Also, if such a transformation takes place, the lack of defined boundaries for this type of blockchains raises questions regarding the ability to conceptualize antitrust law around it. See *id.*

scale, stability, and security needed to support billions of people and transactions across the globe through a permissionless network.¹⁷ In other words, the change in governance may never come. One may wonder if such a vague strategy is best for Facebook, considering the distrust surrounding the company.

As it stands, it is true that permissioned blockchains are not per se anticompetitive. Their features can benefit consumers, just as closed platforms like iOS do.¹⁸ However, permissioned blockchain makes it easier to implement a number of anticompetitive practices, particularly those falling under Section 2 of the Sherman Act or Article 102 of the Treaty on the Functioning of the European Union (TFEU).¹⁹ Permissioned blockchains feature a pilot in the cockpit, that is, a person or group of persons capable of controlling access and engaging in anticompetitive behaviors.²⁰ Because permissioned blockchains will most likely be subject to close antitrust scrutiny, one may question Libra's strategy not to have waited to build Libra on a permissionless blockchain.

Finally, one may find a particular interest—if and when the mutation into permissionless blockchain occurs—in analyzing the extent to which Libra's blockchain will be fully open. A partial opening would have the effect of creating a substantial competitive disadvantage for the companies barred from accessing it, which would be predatory innovation.²¹

II. A PRELIMINARY ASSESSMENT OF POTENTIAL ANTICOMPETITIVE CONDUCTS

Libra's governance opens up possibilities for different anticompetitive practices in terms of collusion (Section A) and monopolization (Section B). Although Libra is still a project, a risk map can nonetheless be sketched.

A. *Libra and the Risk of Collusion*

The Libra Association's primary mission is to "facilitate the operation of the Libra Blockchain . . . [and] coordinate the agreement among its stakeholders—the network's validator nodes—in their pursuit to promote, develop, and expand the network, and to manage the reserve."²² Moreover, during the "early years of the network," the Libra Association will have additional missions, namely, the "recruitment of Founding Members to serve as validator nodes . . . ; the design and implementation of incentive programs to pro-

17. LIBRA WHITE PAPER, *supra* note 8, at 4.

18. See Hanno F. Kaiser, *Are "Closed Systems" an Antitrust Problem?*, 7 COMPETITION POL'Y INT'L 91, 96–100 (2011).

19. See Schrepel, *supra* note 3, at 306–08.

20. See *id.* 290–91.

21. See Schrepel, *supra* note 13, at 48 (explaining the concept of predatory innovation and showing that the partial opening of a platform can have anticompetitive effects).

22. LIBRA WHITE PAPER, *supra* note 8, at 8.

pel the adoption of Libra, including the distribution of such incentives to Founding Members; and the establishment of the association's social impact grant-making program."²³

First, because Libra is incorporated as an association of undertakings and not as a firm, one cannot ignore the risk of collusion its organization creates among its members.²⁴ As these members retain their independence, the Libra Association's decisions will establish a cartel between independent firms eager to coordinate their market behavior when such practices create a negative effect on trade. Thereupon, one may question the nature of the "incentive programs to propel the adoption of Libra" mentioned in the Association's white paper.²⁵ Questions also arise regarding the relationships between the firms belonging to the Libra Association. Any side agreements between them could catch the attention of antitrust agencies.

Second, the type of protocol consensus used in the Libra blockchain creates a technical risk of collusion. The type of consensus mechanism Libra uses dictates how new information and transactions will be recorded on the blockchain.²⁶ While it does not appear that one protocol can be anticompetitive per se, some protocols are more conducive to anticompetitive practices than others.²⁷ The collusive risk is particularly high, for instance, when a protocol allows a small group of users who control the blockchain's integrity to validate the transactions executed on the blockchain.²⁸ The risk is also high when consensus validators are identified by the community and can potentially be corrupted.²⁹ Conversely, when these validators are chosen randomly and their identity is protected, the risk of collusion at the protocol level tends to disappear. In this case, the Libra Association has announced a protocol that seems particularly conducive to collusion, which can almost be found in its wording: "To *facilitate agreement* among all validator nodes on the transactions to be executed and the order in which they are executed, the Libra Blockchain adopted the BFT approach by using the LibraBFT consensus protocol. . . . Founding Members [will] serve as validator nodes" ³⁰

23. *Id.* Founding Members currently include tech, nonprofit, and venture capital organizations such as Uber, Iliad, Kiva, Mastercard, Visa, PayPal, and Thrive Capital. See *Founding Members*, LIBRA ASS'N, https://libra.org/en-US/association/#founding_members [<https://perma.cc/ZP94-8K7N>].

24. See Schrepel, *supra* note 6, at 10–15. The fact that the Libra Association is not a firm has consequences in terms of corporate liability, making its members accountable only to themselves. But this has no direct impact in terms of antitrust liability assignment insofar as it applies to any entity regardless of its legal form.

25. LIBRA WHITE PAPER, *supra* note 8, at 8.

26. Thibault Schrepel, *Collusion by Blockchain and Smart Contracts*, 33 HARV. J.L. & TECH. 117, 122 (2019).

27. See *id.* at 134–40.

28. *Id.* at 138.

29. *Id.*

30. LIBRA WHITE PAPER, *supra* note 8, at 5, 8 (emphasis added).

As such, founding members will be able to coordinate to capture the fees generated by the validation of transactions, excluding others from the process. Such capture could amount to market sharing.

B. *Libra and the Risk of Monopolization*

On top of the risk of collusion, the Libra project involves a risk of monopolization. Abuses of market power can only exist when an entity holds great market power. For that reason, one should first define the relevant market and then compare all the players in that market to assess their individual influences. Libra's market power cannot be quantified as it is not yet on the market. Assuming, however, that Libra will succeed in holding great market power, its unilateral practices will be closely monitored by regulatory authorities across the world.

First, regulators will be skeptical of the relationship between Libra and Calibra. Calibra, a subsidiary of Facebook,³¹ has two objectives: (1) to guarantee the separation of social data (that of Facebook) from financial data (that of Libra) and (2) to create and operate services using the Libra network.³² As such, notwithstanding the fact that Facebook is only one member among others the Libra Association's governance, it retains great power over Libra by owning the dominant wallet. Calibra will be the only wallet authorized to operate within the broader Facebook ecosystem, which includes Messenger and WhatsApp (nothing is said about Instagram).³³ Libra will function with other wallets too, but not within Facebook's 2.7 billion user ecosystem.

Two sub-issues of antitrust law arise in this regard. The first relates to the risk of *tying* between Facebook and Calibra. If, for instance, a Calibra account is automatically created for each Facebook user, antitrust agencies will likely intervene. The same goes if Calibra's customer service, for the time being announced as a "24/7/365 support in Messenger and WhatsApp,"³⁴ is not accessible using the standalone application.

31. On its website, Calibra indicates that "[t]he Calibra company is a subsidiary of Facebook, Inc. Calibra operates independently from Facebook." *Frequently Asked Questions*, CALIBRA, https://www.calibra.com/?locale=EN_en [<https://perma.cc/TE5N-V7RQ>]. This independence does not necessarily exist in terms of antitrust law. If Facebook wholly owns Calibra, a capital presumption provides, to the contrary, that the subsidiary is not independent of the parent company. See *Copperweld Corp. v. Indep. Tube Corp.*, 467 U.S. 752, 769–71 (1984). In such a scenario, there is no possible collusion between the two entities since they form a single firm. *Id.* In return, however, the liability for all anticompetitive practices implemented by the subsidiary goes to the parent company. *Id.* For the equivalent European Union doctrine, see Case C-516/15 P, *Akzo Nobel NV v. Commission*, 2017, <http://curia.europa.eu/juris/document/document.jsf?text=&docid=190169&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=485827> [<https://perma.cc/SF7R-YJXD>].

32. LIBRA WHITE PAPER, *supra* note 8, at 4.

33. See *Frequently Asked Questions*, *supra* note 31. Please note that Calibra will also be available as a standalone app. *Id.*

34. *Id.*

The second sub-issue relates to the *exclusivity* Calibra will enjoy in terms of access to Facebook's ecosystem. By denying access to all other digital wallets within its ecosystem, Facebook could create a bottleneck effect. Courts and agencies will, however, sanction such a practice *only if* Facebook is regarded as an essential facility, an issue that is likely to be debated at length.³⁵

Second, another regulatory risk stems from several antitrust authorities' willingness to use antitrust law as a tool for privacy issues.³⁶ As a result of overlooking the causal link between dominant market positions and privacy abuses, antitrust agencies may regard any harmful practices implemented by dominant companies as potential privacy abuses.³⁷ Thus the mechanism by which Calibra will obtain users' consent to share their financial information with Facebook will most likely be under scrutiny from a competition-law angle. Facebook would indeed have a strong interest in obtaining Calibra's very valuable data. For the time being, it merely states that "Calibra will not share customers' account information or financial data with Facebook *unless* people agree to permit such sharing."³⁸ No further information is provided regarding the nature of such approval. For all we know, consent could be collected by asking for explicit in-app approval, or, conversely, by inserting a clause in extensive terms and conditions.

Third, there is an anticompetitive risk regarding the Libra Association's use of powers, particularly in its ability to select members and change the protocol or network.³⁹ Denying or withdrawing memberships may constitute an anticompetitive practice where the decision is not objectively justified and where membership is essential for operating on the market.⁴⁰

35. In the United States, see *Verizon Communications Inc. v. Law Offices of Curtis V. Trinko*, 540 U.S. 398, 410–11 (2004), and in Europe, see Case C-241/91 P, *Radio Telefis Eireann v. Commission of the European Communities (Magill)*, 1995 E.C.R. I-00743. For more, see Pablo Ibáñez Colomo, *Indispensability and Abuse of Dominance: From Commercial Solvents to Slovak Telekom and Google Shopping*, 10 J. EUR. COMPETITION L. & PRAC. 532 (2019).

36. See, for instance, Bundeskartellamt [Federal Cartel Office] Feb. 6, 2019, B6-22/16. Similarly, see Frank Bajak, *Top Antitrust Enforcer Warns Big Tech over Data Collection*, AP (Nov. 8, 2019) <https://apnews.com/a31ee585d23143769823791942e736ab> [<https://perma.cc/Y2QK-ELV9?type=image>] (quoting Makan Delrahim, Assistant Attorney General, saying, "although privacy fits primarily within the realm of consumer protection law, it would be a grave mistake to believe that privacy concerns can never play a role in antitrust analysis").

37. On the subject of causation, see Thibault Schrepel, *Repeal Continental Can*, CONCURRENTIALISTE (Dec. 20, 2019), <https://leconcurrentialiste.com/2019/12/20/repeal-continental-can/> [<https://perma.cc/8WPQ-2UFX>].

38. *Examining Facebook's Proposed Digital Currency and Data Privacy Considerations: Hearing Before the S. Comm. on Banking, Hous. & Urban Affairs*, 116th Cong. 6 (2019) (testimony of David Marcus, Head of Calibra, Facebook) (emphasis added), <https://www.banking.senate.gov/imo/media/doc/Marcus%20Testimony%207-16-19.pdf> [<https://perma.cc/VE56-KCZD>].

39. LIBRA WHITE PAPER, *supra* note 8, at 6 ("The Libra Association will oversee the evolution of the Libra Blockchain protocol and network . . .").

40. On sanctioning associations denying membership, see in the United States *Northwest Wholesale Stationers, Inc. v. Pacific Stationery & Printing Co.*, 472 U.S. 284, 295–98 (1985),

Moreover, the Libra Association's ability to manage the "network" indicates a power that goes beyond the mere framework of managing its memberships and extends to any holder of the cryptocurrency.⁴¹ This power stems from Libra's permissioned nature, which gives blockchain gatekeepers the ability to prevent others from reading the blockchain, proposing new transactions, or validating blocks. Moreover, the authorization to perform any of these tasks may be overruled at any point, which could easily amount to an anti-competitive practice.⁴²

As for modifying the protocol and rules of Libra's blockchain, one might want to scrutinize whether any anticompetitive practices—such as predatory pricing, refusal to grant access, tying, or predatory innovation—will be implemented concomitantly.⁴³ Again, the power required to *impose* such modifications is only seen in permissioned blockchains,⁴⁴ which explains why they are more conducive to anticompetitive practices than permissionless blockchains.

The fourth and final risk relates to the fact that Calibra will charge fees for the use of Libra.⁴⁵ Similar issues to those in the *Amex* case will arise, particularly depending on who bears the costs and how much the costs are.⁴⁶

CONCLUSION

The Libra project raises numerous antitrust law issues, which is not particularly unusual considering the project's wingspan. Four features related to the very nature of this project should nonetheless be considered.

First, the implementation of anticompetitive practices would affect several billion users.⁴⁷ The stakes are considerable, as they are for any company whose product or service is used throughout the world.

and in Europe, see Case T-461/07, *Visa Europe Ltd. v. Commission*, 2011 E.C.R. II-01729, ¶¶ 21–25.

41. See *Examining Facebook's Proposed Cryptocurrency and Its Impact on Consumers, Investors, and the American Financial System: Hearing Before the H. Comm. on Fin. Servs.*, 116th Cong. (2019) (written statement of proposed testimony by Katharina Pistor, Edwin B. Parker Professor of Comparative Law and Director, Center on Global Legal Transformation, Columbia Law School), <https://financialservices.house.gov/uploadedfiles/hhrg-116-ba00-wstate-pistork-20190717.pdf> [<https://perma.cc/LRK8-HLWM>].

42. Schrepel, *supra* note 3, at 310.

43. See *id.* at 308 (listing potential exclusionary practices and evaluating the likelihood that each will occur on public versus private blockchains).

44. See generally Schrepel, *supra* note 6, at 34 (analyzing the "blockchain power game" by which a participant may wield "sufficient influence to be qualified as control under antitrust or competition law").

45. *Frequently Asked Questions*, *supra* note 31 ("Will Calibra charge fees? Transaction fees will be low-cost and transparent, especially if you're sending money internationally. Calibra will cut fees to help people keep more of their money.").

46. See *Ohio v. Am. Express Co.*, 138 S. Ct. 2274 (2018).

47. As Calibra points out:

Second, some of these anticompetitive practices would become unstoppable if they are implemented on a blockchain.⁴⁸ Although Libra is permitted, which calls into question its immutability,⁴⁹ the Association will lose all revocation power on a number of practices as it will need a majority of its nodes to agree on changing the consensus process. The larger the Association becomes, the more difficult it will be to stop anticompetitive practices associated with the consensus.

Third, even after considering the aforementioned concerns, it remains surprising that the European Commission sent a questionnaire to Libra before Libra's actual launch. The role of antitrust agencies is to correct market failures.⁵⁰ By definition, such failures do not exist here yet—Libra is still just a project. As such, the European Commission's questionnaire to investigate "potential anti-competitive behaviors" seems to confirm that political elites fear the growing power technology giants wield. Not all projects in the pipeline are subject to antitrust law-related interrogations.

Finally, the cryptocurrency landscape in which Libra is introduced cannot be forgotten. The Libra Association intends—even if it denies as much—to compete with state currencies and the existing financial system. By sending out a questionnaire at such an early stage of development, the European Commission is sending a strong signal regarding its willingness to open investigations the day Libra launches. Similar signals have been sent by the United States.⁵¹ These moves raise concerns as to whether such an adversarial approach adopted by national antitrust authorities will ultimately discourage the introduction of new competition in the cryptocurrency space⁵² and, consequently, result in the preservation of current regulatory, political, and

As well as being a standalone app available on iOS and Android, Calibra will integrate the Calibra wallet into Facebook platforms like WhatsApp and Messenger. This means Facebook's 2.7 billion users will be able to access Calibra's functionality through apps they already use. Offering this integrated service alongside the Calibra standalone app helps make financial services more accessible to more people.

See *About Calibra*, CALIBRA, <https://www.calibra.com/about> [<https://perma.cc/F2FZ-3QZL>].

48. As Mark Zuckerberg underlined, recourse against blockchain is much harder than against tech giants. See Harvard Law Sch., *Zittrain and Zuckerberg Discuss Encryption, 'Information Fiduciaries' and Targeted Advertisements*, YOUTUBE (Feb. 20, 2019), <https://www.youtube.com/watch?v=WGchhsKhG-A>.

49. See Schrepel, *supra* note 26, at 162.

50. Thibault Schrepel, *Antitrust Without Romance*, 13 N.Y.U. J.L. & LIBERTY (forthcoming 2020).

51. See Danny Nelson, *FTC Commissioner Cites Libra in Support of Fed's Real-Time Payment System*, COINDESK (Nov. 8, 2019), <https://www.coindesk.com/ftc-commissioner-cites-libra-in-support-of-feds-real-time-payment-system> [<https://perma.cc/P7GW-TCG3?type=image>].

52. The international skepticism of Libra has been widely covered by the press, creating a negative impact on the project. See, e.g., Elizabeth Schulze, *Facebook's Libra Plans Are Under Fire Again – This Time from Global Privacy Regulators*, CNBC (Aug. 6, 2019), <https://www.cnbc.com/2019/08/06/facebook-libra-crypto-plans-under-fire-from-privacy-regulators.html> [<https://perma.cc/EYH5-BTSL>].

financial power structures.⁵³ More generally, such early skepticism by international antitrust agencies calls into question the agencies' ability to intervene impartially; after all, Libra would compete with the state's own currency, thus influencing the antitrust agencies' motivation to get involved. As cryptocurrencies rise in popularity and continue to develop, these regulatory concerns will continue to brim on a global scale. The regulatory agencies investigating new cryptocurrencies like Libra have mixed incentives, potentially counseling for a diffusion of these agencies' power in this context. One may therefore contend that decisions regarding the viability of cryptocurrency services are best taken elsewhere.⁵⁴

53. For an empirical study documenting how antitrust officials may protect their own interest rather than the interest of the greater population, see Schrepel, *supra* note 50. Also, see Aurelien Portuese & Julien Pillot, *The Case for an Innovation Principle: A Comparative Law and Economics Analysis*, 15 MANCHESTER J. INT'L ECON. L. 214 (2018) (arguing that following a precautionary principle is causing negative effects on innovation).

54. See LAWRENCE LESSIG, CODE: VERSION 2.0, at 8 (2d ed. 2006) ("We are at a stage in our history when we urgently need to make fundamental choices about values, but we should trust no institution of government to make such choices.").