

Preface

Regulating the unknown – new restrictions on AI in April 2021

Over the last couple of years, European legislators, authorities and various bodies have intensified their efforts and each month strived for a better, bigger and more comprehensive regulation of artificial intelligence. On 21 April 2021, after over three years of intense works and countless related publications, the European Commission has published its legislative proposal for the Artificial Intelligence Act ("**AI Act**"). The AI Act combines the legal framework on AI and a new Coordinated Plan with Member States and aims to ensure the safety and fundamental rights of people and businesses, while also supporting innovation. *"[O]n Artificial Intelligence, trust is a must, not a nice to have,"* says Margrethe Vestager, Executive Vice-President for a Europe Fit for the Digital Age. *"With these landmark rules, the EU is spearheading the development of new global norms to make sure AI can be trusted [...] Future-proof and innovation-friendly, our rules will intervene where strictly needed: when the safety and fundamental rights of EU citizens are at stake."*

The AI Act has already sparked some controversies, especially in the area of high-risk AI and practices which, according to the AI Act, should be limited or even banned. Even though the list of prohibited practices is technically limited to practices which could result in manipulation or detrimental or unfavourable treatment of certain persons, the ambiguity of their description could lead to a slowdown or, in certain areas, even the discontinuation of the innovation and use of AI. This is due to the high fines for non-compliance with the AI Act, which can reach EUR 30m or up to 6 % of total worldwide annual turnover for the preceding financial year.

The first four months of 2021 were packed with tech-related news. You can find the full article on the AI Act [here](#). You can also read about the new European blockchain platform, a German law allowing special funds to invest in crypto assets, and more. All below!



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To the Point:

- **Update on the European Commission vs Apple**

In April, the European Commission (EC) accused **Apple** of distorting competition in the music streaming market by abusing its dominance for the distribution of music streaming apps through its App Store. It [published a statement of objections on 30 April](#), detailing that it has two main concerns over the App Store:

- The mandatory use of Apple's proprietary in-app purchase system ("IAP") for the distribution of paid digital content, with Apple charging app developers a 30 % commission fee on all subscriptions bought through the mandatory IAP.
- "Anti-steering provisions", which limit the ability of app developers to inform users of alternative purchasing possibilities outside of apps.

Apple is now working on its response to the statement of objections. In parallel, the EC is continuing its investigations into Apple's iCloud services, eBooks and Apple Pay.

[Christoph Haid](#)

- **The French Competition Authority published an opinion on the fintech market**

In late April, the French Autorité de la concurrence (Adc) [issued](#) its opinion on risks to competition in the payments sector stemming from the strength of large digital platforms. While the Adc is aware of the important role played by fintechs in developing new innovative services, the authority also highlights that Big Tech platforms (Apple Pay, Google Pay, Amazon Pay in particular) enjoy considerable advantages. They control ecosystems based on large networks of users, have access to large data sets, and have the technical capacity to make use of them.

The main risks identified are (i) strengthening the market power of Big Tech and foreclosure of consumers, (ii) risks linked to the holding of data by payment service providers who manage accounts, (iii) competitive risks associated with the use of blockchain, and (iv) calling into question the universal banking model and marginalisation of traditional banking players on which Big Tech relies for the implementation of payments.

[Christoph Haid](#)

- **Germany introduces a new law that allows funds to invest into crypto assets**

When the new Fund Location Act (*Fondsstandortgesetz*) comes into effect on 1 July 2021, domestic special funds (*Spezialfonds*) in Germany will be permitted to invest up to 20 % of their portfolios into crypto assets like Bitcoin. The addition of crypto assets in special funds is an important next step towards legitimising crypto assets as an asset class. This new law will undoubtedly boost Germany's position as a financial investment hub. The market has already seen billions enter the crypto space from institutional investors over the last year. Market experts already expect that the new regulation will unleash significant investments into the crypto markets. Sven Hildebrandt, CEO of Germany-based Distributed Ledger Consulting (DLC), sees a theoretical inflow potential for crypto assets in the order of EUR 350bn. That would be around one-fifth of the assets of around EUR 1.87 trillion currently tied up in approximately 4,000 open-end domestic special funds. The question remains: who is next?

[Dominik Tyrybon](#)

- **Ethereum hits new all-time high**

Altcoins set off to a great start in May, with Ethereum hitting a new record high above USD 3,400, extending its more than 300 % rally this year. Altcoins are currently making gains more and more often, while Bitcoin, whose market dominance has fallen to below 50 %, has tended to decline. In our opinion there are several reasons for Ethereum's recent strength. One is the growing space of Defi. In addition, the current NFT hype is also largely based on Ethereum and contributes to the fact that there are many transactions on the blockchain.

[Dominik Tyrybon](#)

- **EIB issues its first ever digital bond on a public blockchain**

On 27 April 2021, the European Investment Bank (EIB) launched a digital bond issuance on a blockchain platform. The distributed ledger technology was used to register and settle a EUR 100m two-year bond. This is the market's first multi-dealer led, primary issuance of digitally native tokens using public blockchain technology. The transaction consists in the issuance by the EIB of a series of bond tokens on a blockchain, where investors purchase and pay for the security tokens using traditional fiat. The Joint Lead Managers will then settle the underwriting against the issuer using a representation of central money, the Central Bank Digital Currency (CBDC). The principal is expected to be repaid in commercial fiat at maturity. The transaction will use Ethereum. The EIB believes that the digitalisation of capital markets may bring benefits to market participants in the coming years, including a reduction of intermediaries and fixed costs, better market transparency through an increased capacity to see trading flows and identity asset owners, as well as a much faster settlement speed. For more information, visit [here](#).

[Thomas Kulnigg](#)

- **IP Register on Blockchain**

The European Union Intellectual Property Office ("EUIPO") has launched the first ever European Blockchain platform to better serve intellectual property offices and their users.

By connecting the EUIPO's [TMview](#) and [DesignView](#) search databases (that are currently gathering more than 62 million trademarks and 17 million designs from across the EU and beyond) via Blockchain,

the delivery of trademark and design data will be updated in real time reflecting the status of IP rights as they change over time in a fast, secure and reliable way.

The IP Register project aims to expand to all IP offices in the EUIPO's network with offices from the EU joining this year and international offices coming on board progressively. The project aims to bring data integrity and security to another level and to simplify processes such as priority rights claims or transferring evidence from one IP office to another. For more information, click [here](#).

The EUIPO will soon also launch an [anti-counterfeiting authentication platform](#) ("Anti-Counterfeiting Blockchain Forum") on the Blockchain. The platform aims at combating the huge numbers of fakes/counterfeits by interconnecting products' "track and trace" solution with risk analysis systems of existing EUIPO tools and enforcement authorities.

[Anna Katharina Tipotsch](#)

- **VC seeks USD 10bln record investment in private tech start-ups**

New York-based investment firm Tiger Global Management, focusing on private equity and public equity, is seeking USD 10bln for a record tech venture fund. In the first four months of 2021 alone, Tiger Global has participated in 100 investment rounds and raised USD 22.2bln for private tech companies. Just a few weeks ago, Tiger Global raised USD 6.7bln in funding for its venture capital fund, despite targeting only USD 3.8bln. Such tremendous deal-making







acceleration illustrates the extent to which private tech companies are booming.

Tiger Global's unique selling proposition in financing is that they are moving faster and are offering higher prices than their competitors. The major tech start-up deals were Brex, a corporate credit card start-up, ShareChat, an Indian social media company, and Getir, a Turkish instant grocery delivery app. Tiger Global's new fund would be the largest by an independent fund manager dedicated to minority investments in tech start-ups.

Several VCs tried to create billion-dollar tech funds to compete with fewer risky institutional investments. For instance, Tiger Global's hedge fund return is 21 %, while the VC's return is 26 % over the last two decades.

[Stepan Nikolaus](#)

For further information, please contact any of the individuals named above, your usual contacts at Schoenherr or any member of our [technology & digitalisation group!](#)

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