Presentation

EnfTech: the transformative potential of technology in consumer law enforcement

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EnfTech: the transformative potential of technology in consumer law enforcement

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UNCTAD RPP, 5 July 2023
What is EnfTech?

Classification by beneficiary:
- LegalTech (Lawyers) / RegTech (Industry) / SupTech (Supervisory authorities)

Enforcement Technology or EnfTech:
- accounts for specific needs of enforcement agencies
- classified according to task: monitor/ detect, analyse, evidence and execute sanctions (some overlap with enforcement function of other agencies)

Transformative potential of EnfTech

Agencies:
- From reactive to proactive enforcement
  - Cost efficiencies
  - Maximizing value of staff time

Consumer protection:
- From ex-post to ex-ante
  - Preventing harm before it is felt by consumers

Consumer law:
- Equal partner with Competition Law in regulation of markets

Where is EnfTech?
- 23 examples of EnfTech for consumer protection
  - 14 different authorities
    - 5 continents
  - 4 generations of technologies

A vital tool
- Prevents potential obsolescence of consumer protection enforcement agencies.
- Essential response to cross-border, industry-dominated digital consumer markets
What is EnfTech?

EnfTech is defined by **what** the technology is deployed for, not just by **who** the user is:

<table>
<thead>
<tr>
<th>EnfTech</th>
<th>Technologies that...</th>
<th>For users...</th>
<th>Case use example</th>
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<tbody>
<tr>
<td><strong>LegalTech</strong></td>
<td>enhance analysis and application of law</td>
<td>• Lawyers, law firms</td>
<td>e-discovery for private enforcement cases disclosure</td>
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<tr>
<td><strong>RegTech</strong></td>
<td>facilitate delivery of regulatory requirements</td>
<td>• Regulated companies</td>
<td>Detection tools trained to spot money laundering activity via database of transactions</td>
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<td><strong>SupTech</strong></td>
<td>facilitate and enhance supervisory processes</td>
<td>• Supervisory authorities</td>
<td>Market surveillance platforms with real-time data feeds can alert to suspicious activity</td>
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<td><strong>EnfTech</strong></td>
<td>facilitate a range of enforcement needs</td>
<td>• Enforcement agencies, <strong>plus</strong> enforcement functions of other authorities</td>
<td>AI enabled detection of misleading price discounts in online marketplaces using AI</td>
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## Five Generations of EnfTech

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<tr>
<td>Limited data, manual entry, paper records, basic infrastructure</td>
<td>Some automation of data entry via web portals, richer analysis</td>
<td>Big data, more diverse and frequent, full automation, modelling</td>
<td>Big data architecture plus AI-enabled solutions, learning</td>
<td>Big data architecture, real time flow of data, advance AI and machine learning</td>
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<tr>
<td>What patterns and problems occur</td>
<td>What and why patterns and problems occur</td>
<td>What, why and what could happen next</td>
<td>What, why, what next in more detail plus proposing anticipatory action</td>
<td>What, why, what next in more detail executing warning, anticipatory or remedial action</td>
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<tr>
<td>Complaints or results of sweeps compiled on databases. Organizing and structuring databases to record infringements etc Static reports</td>
<td>Analysis of complaints to understand timing, business/product type, sector, factors causing problems. Dynamic reports and visualization of data</td>
<td>Automated scraps of consumer websites AI-enabled or automated detection of unfair contract terms Predicting where bad practice is likely to occur</td>
<td>Algorithmic enforcement - as seen in copyright Warning of impending infringement</td>
<td>Executing action – remedy, sanction, correction, preventative measures?</td>
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Five Generations of EnfTech, based on the Four successive technological generations by analytic capabilities (Di Castri, 2019)
What can EnfTech do in practice?

**UOKiK, Poland**
ARBUZ: AI-powered assistant detecting abusive contract clauses
#Gen 3-4 #CP and Competition Authority #AI #Deep Learning #Consumer Contracts #Unfair clauses #Open contest for provider

**EU eLab**
Remote mystery shopping, VPNs and Screen recorders to capture experiences
#Gen2 #online retail #user journey #open source tool #Network of national CP authorities

**ACCC, Australia**
Algorithmic tool to analyse extent to which higher prices were offered first on a travel comparison site
#Gen 3 #CP and Competition Authority #AI #Platforms #Choice architecture #Misleading information

**ACM, Netherlands**
Fake countdown timer detector and analyst to spot misleading pressure selling practices
#Gen 3 #CP and Competition Authority #AI #unfair commercial practices #online retail #In-house bespoke tool

**SIC, Colombia**
Data analysis tool to calculate application of administrative sanctions based on severity, revenue etc
#Gen1-2 #CP and Competition Authority #sanctions #In-house bespoke tool
EnfTech Challenges

- Generic challenges
  - Resource and information asymmetry (ICT knowledge, ICT physical capacity, procurement knowledge, etc)
  - Agency culture / silos
  - Cross border challenges – of digital markets and consumer authority co-operation

- Technology-specific challenges
  - Data: availability, quality, interoperability
  - Arms race with industry?
  - Risks of legal challenge to findings and machine-enabled processes from companies

www.enftech.org
Transformative potential

- Next generation, anticipatory enforcement technology?
- Live examples from private sector
- From reactive to proactive enforcement
- From ex-post to ex-ante
- Preventing harm before it is felt by consumers
- Raising expectation of sanction by companies and creating a culture of compliance that rewards good behaviour
What next for EnfTech?

• Develop together: practical knowledge through sharing and co-development
• Creating a living compilation of EnfTech case studies and insights
• Follow work at www.enftech.org
• Send examples and learning to info@enftech.org
• Enhancing collaboration to design EnfTech that works across borders at the outset www.crossboderenforcement.com
Any questions?

Check out our website, [www.enftech.org](http://www.enftech.org) or email us with your questions [info@enftech.org](mailto:info@enftech.org)

Forthcoming publications

- C Riefa, Transforming consumer law enforcement with technology: from reactive to proactive? Vol. 12 (2023) Issue 3 European Journal of Consumer and Market Law