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Presentation

EnfTech: the transformative potential of technology in consumer law enforcement

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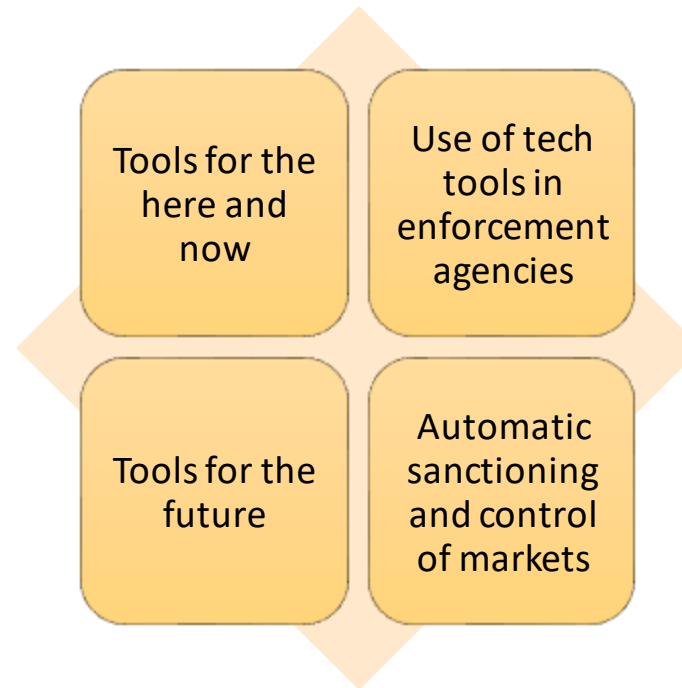
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What is EnfTech?

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)

EnfTech

Tools for the here and now	Use of tech tools in enforcement agencies
Tools for the future	Automatic sanctioning and control of markets

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:

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

Five Generations of EnfTech

1. Descriptive ->	2. Diagnostic ->	3. Predictive ->	4. Prescriptive - ->	5. Proactive
Limited data, manual entry, paper records, basic infrastructure	Some automation of data entry via web portals, richer analysis	Big data, more diverse and frequent, full automation, modelling	Big data architecture plus AI-enabled solutions, learning	Big data architecture, real time flow of data, advance AI and machine learning
What patterns and problems occur	What and why patterns and problems occur	What, why and what could happen next	What, why, what next in more detail **plus** proposing anticipatory action	What, why, what next in more detail executing warning, anticipatory or remedial action
Complaints or results of sweeps compiled on databases. *Organizing and structuring databases to record infringements etc* *Static reports*	*Analysis of complaints to understand timing, business/product type, sector, factors causing problems.* *Dynamic reports and visualization of data*	*Automated scrapes of consumer websites* *AI-enabled or automated detection of unfair contract terms* *Predicting where bad practice is likely to occur*	*Algorithmic enforcement - as seen in copyright* *Warning of impending infringement*	*Executing action – remedy, sanction, correction, preventative measures?*

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

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.crossborderenforcement.com

Any questions?

Check out our website, www.enftech.org or email us with your questions
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
- C Riefa, L Coll, The use of AI in the Enforcement Technology (EnfTech) toolbox: is AI a friend or a foe? in Larry Di Matteo, Cristina Poncibo, Geraint Howells, *AI and Consumers* (Cambridge University Press, forthcoming 2023).
- C Riefa, L Coll, Exploring the role of technology in consumer law enforcement, Loyola Consumer Law Review, Summer 2022 Symposium Issue