

# Finding the Ghost in the Shell

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# Finding the Ghost in the Shell

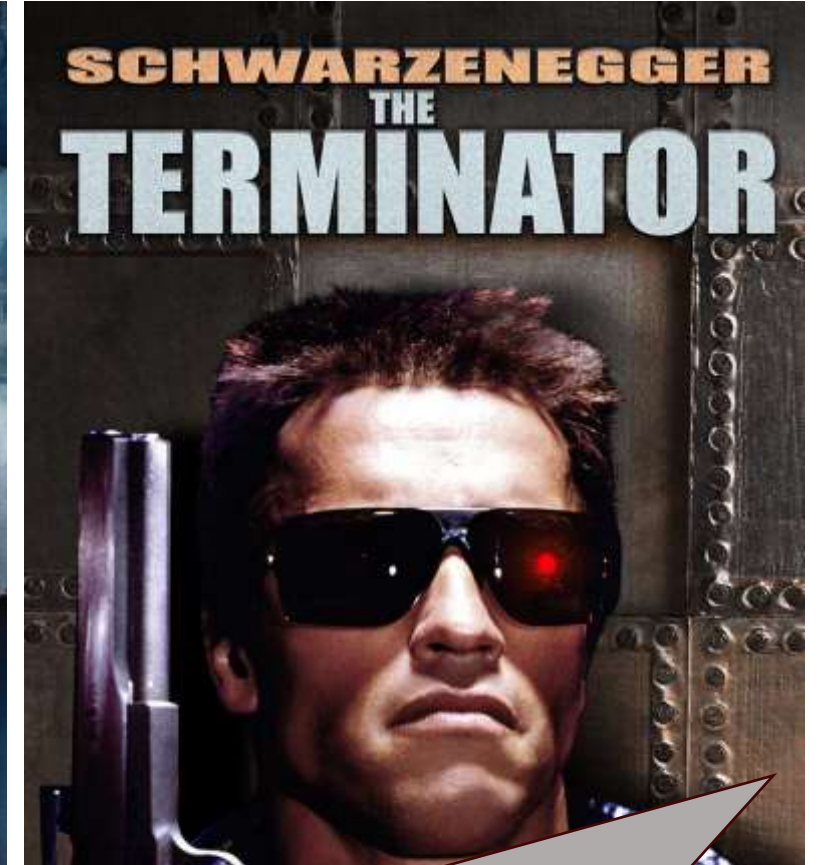
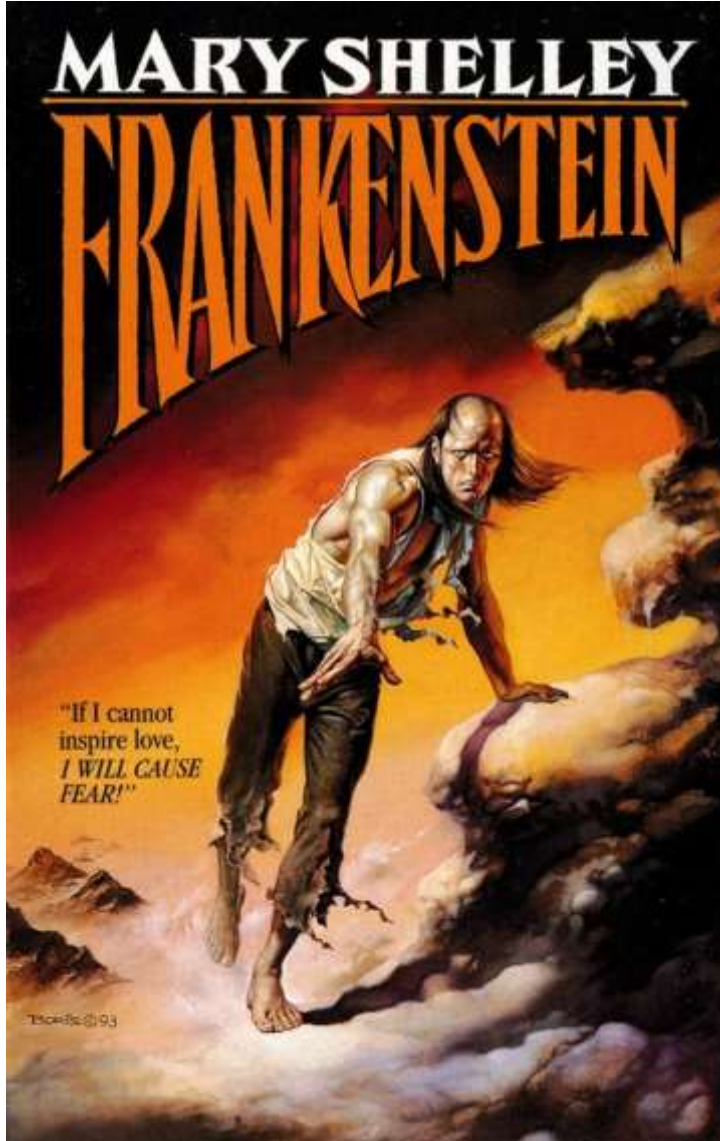
- Presentations will be made available later (tomorrow)
- Certification of participation can be collected at the door (if you have asked for it)
- Please help yourself to coffee and cake

In recent year we have seen a great deal of alarmist calls on AI collusion, and how this will undercut enforcement



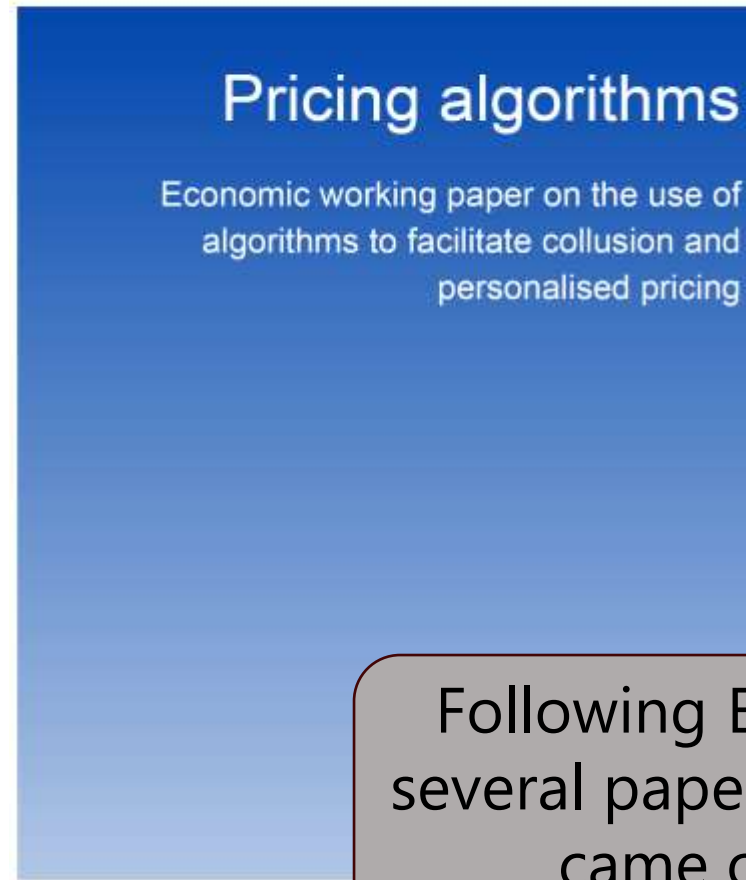
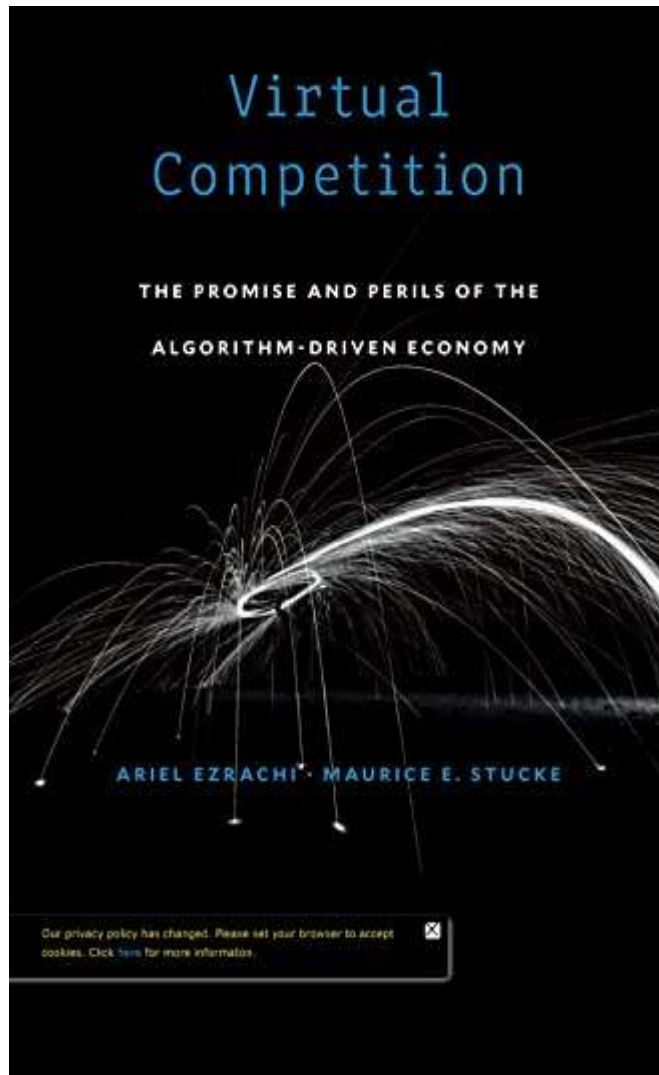


# But history is full of warning against new technology



Frankenstein is from 1818 but reached back to an old Jewish legend on Golant

# And the latest concern appears to be AI collusion



Unclassified

DAF/COMP/WD(2017)50

Organisation for Economic Co-operation and Development

7 June 2017

English - Or. English

DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE

**It's a Feature, not a Bug: On Learning Algorithms and what they teach us - Note by Avigdor Gal**

Roundtable on Algorithms and Collusion

21-23 June 2017

Following Ezrachi and Stucke's 2016 book several papers, reports, and academic papers came out addressing AI collusion

# What can AI do when it comes to collusion

- a) Running a cartel is complex, and AI can help stabilize it by enforcing compliance
- b) Reaching a consensus is complex if many aspects (or prices) need to be coordinated, but AI can help in this, even eliminating cheating
- c) Meeting is complex, but AI can help facilitate the exchange of commercially sensitive information, essentially a variation of **a)** or **b)**
- d) Finally, AI might reach an “understanding” independently of human decision making

The many papers and reports indicates four ways AI can thwart competition



# Enforcers are mindful of the risk

DG COMP (2023) appears confident in its ability to react, stating how:

- “...firms involved in illegal pricing practices cannot avoid liability on the ground that their prices were determined by algorithms. Just like an employee or an outside consultant working under a firm's "direction or control", an algorithm remains under the firm's control, and therefore the firm is liable even if its actions were informed by algorithms.”



# Enforcers are mindful of the risk

While others have expressed concerns on TV (the Daily Show 2 April 2024)





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Provided the AI is guided by humans, it should be within reach of enforcers

# But does their bite match their bark?



# Program

1315-1400	<p><b>What can AI provide for:</b> Kristian Storgaard is a tech lawyer, and Jacob Brønnum-Schou is head of IT, both at Kromann Reumert, and will jointly outline how far AI has come in assisting companies in optimizing their commercial (including pricing matters) strategies. This includes giving examples of how AI has already been deployed and (ab)used to secure actions that may be incompatible with Article 101.</p>
1400-1500	<p><b>Next-generation cases, as seen of group of pending US cases:</b> Jonathan Rubin is an attorney, Ph.D. economist, and a partner at Mogin Rubin LLP (USA), and Camila Ringeling is an associate at Hausfeld LLP (USA). Jointly, they will discuss a group of pending US cases involving AI and (alleged) collusion between landlords and hotels. Jonathan Rubin and Camilla Ringeling will present on the legal challenges confronting the plaintiffs in this new frontier of US antitrust law. Jonathan Rubin is representing one of the plaintiffs; Camila Ringeling, co-authored a forthcoming paper on the topic, Hausfeld also represents clients in AI collusion cases.</p>
1500-1600	<p><b>An EU perspective on the US cases and the reach of Article 101:</b> Erik Kjær-Hansen is a lawyer at Gorrissen Federspiel and will outline how the US cases would be treated in an EU context should somebody contemplate following suit. As the US cases appear well within the reach of Article 101, Erik Kjær-Hansen will offer some thoughts on how far 101 can be stressed to cover all forms of AI collusion and, in this, if enforcement lacunas also exist in the EU.</p>