Article Information

Authors: Steven Pettigrove, Jade McGlynn, Jordan Markezic, Luke Misthos, Michael Bacina
Service: Blockchain, FinTech
Sector: Financial Services, IT & Telecommunications

Blockchain Bites: Disney's partnership with Polygon, RBA reserves praise for stablecoins, CFTC cracks down on pump and dump schemes, EU likely to ban bitcoin mining, GameStop launches NFT Marketplace

Michael Bacina, Steven Pettigrove, Jade McGlynn, Luke Misthos and Jordan Markezic of the Piper Alderman Blockchain Group bring you the latest legal, regulatory and project updates in Blockchain and Digital Law.

Disney partners with Polygon for NFT acceleration

Walt Disney has named blockchain provider Polygon, as one of six companies to be joining its 2022 Disney Accelerator program. As a part of the company's focus on "next generation storytelling efforts", the business development program is designed to build 'the future of immersive experiences" and help accelerate the growth of companies which specialise in technologies such as augmented reality (AR), non-fungible tokens (NFTs), and artificial intelligence (AI) characters.

In its announcement, the Walt Disney Company said:

> *Disney will continue to work with companies… in this year's Accelerator class to help develop new technologies and storytelling canvasses to create connected experiences across physical, digital, and virtual worlds.*

As the only blockchain provider on the list, for Polygon this is a prestigious as well as significant opportunity. The Polygon network is a Layer 2 Ethereum scaling solution designed to provide an easy framework for new and existing blockchain projects to build on Ethereum without scalability issues. There are a range of other excellent layer 2 solutions including, of course, our own home-grown Immutable.

Of interest to Disney, is the opportunity for developers and enterprises to be able to build Web3 experiences and give users low-cost, high throughput transactions. Lower cost transfers is especially vital for NFT projects, as volatile gas fees and difficulty UX hurdles can otherwise dissuade users and lead to only tech savvy users being involved. Blockchain has often promised to deliver micro-transactions and layer 2 solutions help bring that in.

For more information on the other five winners (Flickplay, Inworld, Lockverse, Obsess, Red 6), two of which also involve Web3, see here.

Walter Teng, digital-asset strategy associate at Fundstrat, said that given that Disney:

> *hasn't invested or built an in-house crypto solution, the accelerator marks its foray into the digital-asset space.*

The accelerator program's focus on the metaverse demonstrates growing support for the digital asset space as big players like Walt Disney invest, creating a positive signal to other major rights holders of NFTs as a key new product now and in the future.

Reserve Bank Governor reserves crypto praise for stablecoins

At a G20 finance officials meeting on Sunday, the Governor of the Reserve Bank of Australia (**RBA**), Dr Philip Lowe, made comments signalling that the central bank believes that the private sector is better equipped to develop the technology for digital tokens pegged to the Australian dollar. This sentiment echoes the RBA's recent 'regulate, not create' ethos.

Lowe identified stablecoins as "*the one piece of the crypto landscape where I think there is real promise*". He noted that it is quite possible that they will form the basis of privately issued tokenised money and that a "*first class regulatory regime*" is required to regulate stablecoins like bank deposits.

Despite his praise for privately issued stablecoins, Lowe expressed scepticism that private money could replace State-backed currencies and about cryptocurrencies generally:

> *New technologies drive waves of innovation, but they also drive waves of speculation… and those waves of speculation often end up in people losing money, particularly people who are not well-informed. I think we've seen examples of that just recently.*

Lowe continued:

> *I think it's unlikely that these various crypto things, not assets or currency, will be used as a form of money… but if they did, then we'd have to be confronting a whole series of very difficult issues…they do need regulation.*

Lowe confirmed that the RBA is currently investigating the logistics of how a private-sector issued token could work and whether they should be backed by "high collateral" such as central bank deposits or government securities, or whether issuers are to be regulated in the same way as banks.

Commenting on the costs associated with a central bank issued digital currency, Lowe noted that:

> *there are also likely to be very significant costs in the central bank, setting up a digital token system. I think it's going to be better for the private sector to manage those costs.*

Lowe also expressed his view that it is too early to determine whether central banks ought to issue a retail central bank digital currency (**CBDC**) for use by the general public. At this stage, according to Lowe, there exists a stronger case for central banks to issue a wholesale central bank digital currency or act as a central counterparty in a cross-border setting.

It remains to be seen whether Australia will follow India and Russia, which are planning to issue retail CBDCs to the public. The Atlantic Council has reported that 105 countries, representing 95% of global GDP are exploring a CBDC, including 19 of the G20 countries. 16 members of the G20 are currently developing or piloting a CBDC, including Canada, Brazil, the EU, South Africa, China, Japan and South Korea.

CFTC cracks down on pump and dump schemes

Earlier this week, the US Commodity Futures Trading Commission (**CFTC**) charged two individuals for allegedly running a manipulative and deceptive digital asset 'pump and dump' scheme.

The CFTC has charged John McAfee – the late entrepreneur in digital software – and Jimmy Gale Watson Jr, an associate and 'executive advisor' of McAfee for allegedly secretly accumulating positions in digital assets and then promoting the tokens on social media as valuable long-term investments – before selling for a substantial profit.

The CTFC said:

> *Ensuring appropriate customer protections and enforcing against fraudulent schemes like this one are core principles deeply embedded in the agency's legal and regulatory framework, history, and ethos… such fraudulent and manipulative schemes are particularly egregious when they target the most vulnerable market participants, here hardworking retail investors.*

Watson has also permanently been banned from trading derivatives, as well as from registering with the CFTC to provide regulated services. It is alleged that the scheme resulted in profits exceeding USD$2 million, and utilised cryptocurrencies such as Verge, Dogecoin and Reddcoin.

The recent charges follow the SEC's enforcement action against McAfee and Watson in 2020, where it was alleged that the pair promoted investments in an initial coin offering without disclosing that they were compensated for doing so. Watson is also personally banned from participating in the issuance, purchase, offer or sale of any digital asset deemed a security.

In Australia, entities will require an Australian Financial Services Licence to issue financial products of any type, which may include digital assets in some circumstances. It is an offence under s 1041H of the *Corporations Act 2001* (Cth) to engage in conduct, in relation to a financial product or financial service, that is misleading or deceptive, or to engage in conduct that is likely to mislead or deceive. Entities may also be banned from holding an Australian Financial Services Licence under s 920C of the Corporations Act.

Irrespective of whether a digital asset is or is not a financial product, it is an offence to engage in misleading and deceptive conduct in the course of trade and commerce under s 18 of the Australian Consumer Law, and significant penalties could apply. The Australian Securities and Investments Commission (**ASIC**) has been delegated powers from the Australian Consumer and Competition Commission (**ACCC**) to, in coordination with the ACCC, respond to potentially misleading or deceptive conduct relating to crypto-assets which affect Australian consumers. ASIC is yet to prosecute any Australians for being involved in "pump and dump" schemes, but this matter serves as a warning to those who might engage in such actions here, that there are serious consequences.

EU seeks stablecoin regulation, likely to ban bitcoin mining

The European Central Bank (**ECB**) has released a report titled 'A deep dive into crypto financial risks: stablecoins, DeFi and climate transition risk' ahead of the implementation of regulatory frameworks across the European region.

At a high-level, the report notes that digital asset markets are evolving rapidly and claims that if current trends continue, crypto-assets may pose risks to financial stability and are in need of effective regulation.

A closer inspection of the report reveals the ECB also continues to voice its concerns for the impact of crypto-mining on the climate, noting the balance between incentivising the 'crypto version of the electric vehicle' or incentivising the 'proof-of-stake' method of mining, which the Ethereum network is poised to switch to in the upcoming 'merge'.

The ECB considers that public authorities are unlikely to take a hands-off approach:

> *Policy action by authorities (e.g. disclosure requirements, carbon tax on crypto transactions or holdings, or outright bans on mining) is probable.*

The ECB further observed that a majority of protocols in DeFi are far more centralised than people may expect, relying on Uniswap as an example. The ECB pointed out that 1% of the total token holder addresses held approximately 97% of the total token supply.

The report was highly critical of stablecoins which the ECB has been pushing back on since early 2021. The ECB primarily relied upon the example of the recent collapse of the Terra ecosystem:

> *Recent developments show that stablecoins are anything but stable, as exemplified by the crash of TerraUSD and the temporary de-pegging of Tether.*

The report did not consider or provide any analysis of stablecoin volatility and the devaluation and instability of fiat currencies due to various central bank's monetary policy and inflation.

This sentiment has certainly been echoed domestically in Australia, with the Governor of the Reserve Bank of Australia, Philip Lowe, conceding that monetary policy employed during the pandemic contributed to the instability of fiat currency leading to dramatic levels of inflation. While crypto has been touted as an inflation hedge, the price performance in recent times has been more akin to a technology stock, but that may well prove to be a short term price movement as the fixed supply nature of Bitcoin in particular stands in contrast to the growing monetary supply.

One thing is certain from the ECB report, crypto products are being taken more seriously than ever before, and smart minds are considering how to best balance consumer protection and innovation (which are not necessarily opposing forces) as stablecoins and other crypto assets grow in popularity.

GameStop launches NFT Marketplace

GameStop, the American video game retailer, has announced the launch of its NFT marketplace, GameStop NFT. Launching on Ethereum using a layer-2 solution to minimise transaction fees, the marketplace is focusing on NFT artwork with a roadmap to expand into GameFi.

GameStop's intention is to use the marketplace as a vehicle for users to trade in-game NFTs. Thanks to their partnership with Immutable X, GameStop plan to connect the marketplace with popular play-to-earn games. GameStop NFT will initially use a rollup solution, Loopring, to bundle transactions, so only NFTs minted on Loopring may be transacted on GameStop NFT. Users can also connect to GameStop NFT using the recently launched GameStop Wallet.

GameStop appears poised to transition from its reliance on retail sales and expand into digital assets and GameFi. It has been a year since GameStop announced it was building an NFT team which sought experts, gamers, community leaders and designers. The early results of the campaign are GameStop NFT and GameStop Wallet.

The trading-frenzy of January 2021, involving an army of Reddit users who collaborated to cause a short-squeeze in the heavily shorted GameStop stock, has had a ripple effect for the company which was facing heavy losses before the dramatic rise in its share price. In the wake of a tumultuous 2021, GameStop will enter the NFT market and, through its various partnerships, looks set to become a serious player in GameFi.

The video-game industry has continued to display strong signs of growth. Statista, a market and consumer data company, predicts the market value of video games will surpass USD$250 billion by 2025 as shown in the graph below. The industry's continued steady growth is a promising sign for GameStop as it kicks off its push into NFTs and GameFi.