

# LEGAL EAGLE

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## Merchants' Chamber of Commerce & Industry



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MESSAGES



**Amit Saraogi**

President, MCCI

The growth of digital platforms and online marketplaces has completely changed communication and commerce in today's digital world. But this quick growth has also presented a number of complex obstacles, from market domination and data privacy issues to antitrust issues and online content regulation. Corporate law, which has historically concentrated on the management and control of businesses, is being called upon more and more to handle these issues in the context of online marketplaces and digital platforms. This essay looks at how corporate law is changing to regulate online marketplaces and digital platforms. It investigates how the special qualities of digital platforms—such as network effects and data-driven business models—intersect with corporate governance concepts like fiduciary obligations and shareholder activism. It also examines the legal frameworks that control intellectual property rights, competition, and consumer protection and how they relate to digital platforms and online marketplaces.

Online markets and digital platforms are being regulated more and more by corporate law. A balanced strategy is required, one that encourages innovation while safeguarding consumers and upholding fair competition, as these organizations continue to influence trade and communication. In this environment, the development of corporate law emphasizes the necessity of constant communication between stakeholders in order to properly handle the intricacies of the digital economy.

I hope the readers get more value and insights through this legal issue and enjoy reading.



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## Mamta Binani

Chairperson,  
Council on Legal and  
Corporate Governance,  
MCCI

Digitalization is transforming various aspects of corporate law, including the legal personality of corporations, corporate governance, and the emergence of new corporate structures like decentralized autonomous organizations (DAOs).

Every facet of public life, including politics, law, business, finance, education, science, and society, has embraced digital technologies. The way that people use digital technologies has changed the nature of the economic relationships that exist in society, particularly relationships between corporations.

In this article and investigation of the digitalization of corporate law, we look at the following three areas: (1) digital corporate governance; (2) digital corporate personality of the corporation (online registration, or e-residency), and (3) digital (network or decentralized) autonomous organizations. The goal of this article is to determine the patterns and paths that specific corporation law institutions are taking as they adapt to a digital world.

The advent of digital technology and its integration into contemporary people's daily lives have heralded the emergence of an information society, digital economy, and digitalization of various facets of public life. One of the most popular research subjects right now is digitalization, or what some academics refer to as a megatrend—the process of digitization that is permeating all facets of public life.

All facets of public life, including commerce, economics, education, politics, and research, have incorporated digital technologies. However, the effects of digitalization on the economy are much more profound, which calls for rapid action by the State, as reflected in its legislative and executive branches, to guarantee the legal regulation of various digital economy aspects.

Therefore, it seems reasonable to consider the digitalization of corporate law in relation to concerns pertaining to digital corporate governance, digital legal personalities of corporations, and the operations of digital corporations (networked and decentralized autonomous organizations).

I hope the said issue shall augment great insights and value to our readers.

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## ARTICLE I

# Digital Platforms and Online Marketplaces: An Analysis of Role of Corporate law in its Regulation

## Introduction

Technology is advancing at an unstoppable pace, ushering in a time when digital platforms are the major hub for communication and business playing a pivotal role. The history of digital platforms, from the modest beginnings of the internet to the complex web of online ecosystems that exists today, is a fascinating tale that captures the dynamic nature of our globally interconnected world. The goal of this article is to present a comprehensive historical overview of this development, charting the path from the early digital forums to the advanced online marketplaces that now rule the modern corporate world.

The emergence of internet markets is notable as a significant turning point in this process marking a different trajectory of the rudimentary digital forums of the past. These platforms have revolutionized the fundamental nature of trade and commerce, not only made transactions easier. Online marketplaces have a significant impact on conventional business models because they upend existing standards and force companies to reevaluate their approaches in the face of an environment that is unprecedentedly complicated and dynamic.

The goal of this article is to serve as a roadmap through this historical transition, shedding light on the significant turning points and paradigm changes that have molded the current digital environment.

## Digital Platform Evolution

Technological developments, sociological transformations, and economic upheavals have all influenced the dynamic and diverse journey that has been the creation of digital platforms. Since the introduction of the internet, the environment has changed constantly due to inventions that have altered how people, organizations, and civilizations communicate online<sup>1</sup>.

Digital platform evolution has been mostly driven by technological advancement, from the early days of dial-up internet to the present era of high-speed connectivity and 5G networks. The shift from static websites to dynamic, interactive platforms has made it possible to create intricate digital ecosystems and provide richer user experiences. The incorporation of cloud computing has revolutionized the industry by providing scalable and effective

<sup>1</sup> Monnappa, A. (2023) The history and evolution of Digital Marketing, Simplilearn.com. Available at: <https://www.simplilearn.com/history-and-evolution-of-digital-marketing-article> (Accessed: 01 May 2024).



processing and data storage, thus establishing the foundation for the rapid expansion of digital services.

A major factor has been mobile connectivity, as the increasing use of smartphones has turned digital platforms into ever-present tools that people use on a daily basis. This change has accelerated the creation of mobile services and applications in addition to improving accessibility, broadening the range of available digital platforms.

Another crucial element in the progression is data analytics, which has enabled digital platforms to glean insightful information from enormous datasets. In addition to improving service personalization, the capacity to examine user behavior, preferences, and trends has impacted strategic decision-making for companies in the digital economy.

It is essential to comprehend the minute intricacies of this technological revolution in order to fully appreciate the dynamic environment that has allowed online marketplaces to thrive. The following parts will look at business models, corporate governance, legal issues, and the wider social and economic effects based on the symbiotic relationship between technology innovation and the development of digital platforms.

## Business Structures for Online Marketplaces

A diverse range of business strategies that have upended established economic assumptions define the landscape of digital platforms. One well-known model is the freemium strategy, which has spread widely over several platforms. Basic services are offered to users without charge, which encourages them to upgrade and pay for premium features. Platforms such as Spotify and Dropbox serve as examples of this approach, which has not only altered consumer expectations but also faced difficulties in striking a balance between the requirement for sustained revenue and open access.

Another common strategy is the advertising-based model, which is exemplified by social media behemoths like Facebook and Twitter. These platforms provide users with free services, but their primary source of income is highly targeted advertising. The literature explores the complexities of this approach, illuminating concerns about algorithmic bias, user privacy, and the moral implications of monetizing user data.

In addition, a new era of the sharing economy has been ushered in by the emergence of collaborative consumption models, exemplified by businesses like Uber and Airbnb. The ramifications of this paradigm are examined in this area of the literature review, along with how it affects regulatory frameworks, established industries, and the changing nature of employment in the digital age.

## Legal and Corporate Governance Issues

The many business models that digital platforms have embraced raise important issues about accountability and corporate governance. It could be difficult for traditional governance structures to adjust to the decentralized and fast-paced nature of digital organizations because they were created for more traditional business models. The literature delves deeply into the difficulties faced by CEOs and boards in maintaining accountability, transparency, and responsible decision-making in digital platform organizations.

An essential component of this investigation is the legal problems that are inherent in the ever-changing digital

platform world. Regulation compliance, intellectual property disputes, and antitrust issues are essential to these platforms' functional architecture. In order to provide light on how legal considerations influence the tactics and workings of digital platforms, this article explores important legal cases, changing regulatory frameworks, and the dynamic character of laws governing digital spaces.

## Diverse Regulatory Strategies

The way that various nations control internet platforms varies greatly. Prominent digital centers such as Beijing, Washington, London, Brussels, and Beijing are exploring different regulatory approaches. A "Venn diagram" of national internets resulting from this fragmentation would complicate global administration and possibly undermine the advantages of an open internet.

Regulations concerning platform-to-business contacts and antitrust legislation, for instance, have received a lot of attention in Europe<sup>2</sup>. When it comes to big data and the rivalry between digital platforms, the European Commission has taken the initiative. The EU's strategy includes laws like the Digital Services Act and the Digital Markets Act that are intended to improve platform operations' fairness and openness.

## Ethical Considerations in Digital Platforms

The growing impact of digital platforms on diverse facets of society necessitates careful evaluation of ethical issues. The ethical problems and quandaries raised by the operation of digital platforms are examined in detail in this section of the literature review. The analysis covers topics like algorithmic biases, data security, user privacy, and platform operators' moral obligations.

Because technology is constantly changing, new ethical conundrums arise that call for ongoing examination and modification of ethical frameworks. The evaluation looks into how digital platforms try to balance protecting user rights with optimizing user engagement. Additionally, it examines how regulatory frameworks manage ethical issues and the possible effects of unethical behavior on the longevity and reputation of digital platforms<sup>3</sup>.

## Effects on the Economy and Society

Digital platforms have a huge impact on society and the economy, and their influence goes beyond technology and business. The literature review's part on the influence of digital platforms looks at a variety of issues, from sociocultural shifts to economic upheavals.

The literature examines how digital platforms affect social relationships, change consumer behavior, and support the gig economy through an interdisciplinary viewpoint. It also explores the economic ramifications, covering the difficulties experienced by established sectors, the emergence of fresh ventures, and the wider economic restructuring made possible by the digital revolution.

To effectively negotiate the intricacies of the modern world, politicians, businesses, and individuals must have a thorough understanding of the complex relationships that exist between digital platforms, society, and the economy.

## Challenges Faced by Digital Media

<sup>2</sup> <https://iris.luiss.it/retrieve/5d55ea40-08dc-4840-83d1-3f7388522299/20230125-Arbia.pdf>

<sup>3</sup> <https://www.econstor.eu/bitstream/10419/238052/1/Schoentgen-Wilkinson.pdf>

Digital platforms function as multi-sided marketplaces that put conventional regulatory frameworks to the test through their own economic dynamics. Although they often do so in ways that have the potential to upend established economic and legal conventions, they help different user groups engage with one another. For example, by introducing new business models that the laws now in place may not be able to effectively cover, platforms such as Uber and Airbnb undermine labor laws and property rules.

These platforms' disruption poses important queries regarding accountability and liability. Platforms frequently find themselves in the middle of a number of legal disputes, such as those involving intellectual property rights, consumer protection, and data privacy. Regulators have a lot of legal problems to deal with since these businesses operate on the edges of the regulations that are currently in place.

The article examines potential future developments and difficulties in the field of digital platforms. It predicts how business models will change, how technology will grow, and what new regulations might be implemented that could affect the way things seem in the future.

The literature looks at new developments including blockchain applications, artificial intelligence integration, and the continued blurring of lines between online and offline interactions. It also examines the ethical issues surrounding the next generation of digital innovation, regulatory frameworks, and future cybersecurity threats.

Legal disruption is a fundamental aspect of the platform economy rather than an accident<sup>4</sup>.

Digital platforms clearly flout the law, and this is a fundamental aspect of their business model. They enjoy demonstrating how the legislation is outdated in light of the modern economy, and they even seem unfriendly to the law. In fact, they frequently disregard the (State) law's geographical component. Being restricted by laws that apply only to a country's borders seems out of place for platforms that aim to reach a worldwide audience.

## Advanced Technologies and Artificial Intelligence

The incorporation of artificial intelligence (AI) and other cutting-edge technology into digital platforms can be covered in detail in this area. Investigating how AI is changing user experiences, forecasting market trends, and potential ethical issues related to AI-driven decision-making are all included in this.

## Regulatory Advancements and International Cooperation

Building on the regulatory framework discussion, future directions in digital platform governance might be investigated in the literature. Talks about the necessity of international cooperation to handle cross-border issues and standardize regulatory standards may fall under this category.

## Cybersecurity Issues and Mitigation Strategies

The section can go into detail about how cybersecurity threats and methods for protecting digital platforms are evolving in order to give a thorough picture of issues to come. This involves talking about how regulations, global cooperation, and technology all contribute to strong cybersecurity practices.

## The Corporate Law's Role and Function

Corporate law is a major influence on the regulations governing digital platforms. It offers the legal foundation for these organizations' operations, affecting their liability requirements, governance frameworks, and compliance requirements. The following are some important areas where corporate law and digital platform regulation interact:

- a. Antitrust law: Preventing dominant platforms from engaging in monopolistic behavior in order to ensure fair competition.
- b. Data Protection Regulations: dictating, for the sake of preserving user privacy, how platforms handle user data.
- c. Consumer Protection Laws: Creating guidelines for fairness and openness in transactions these platforms facilitate.

Corporate governance pertains to how platforms oversee their internal operations and connections with stakeholders. In response to these issues, corporate law is always evolving, with calls for more flexible regulatory frameworks that can keep up with technological advancements.

## Modifying the Preferences and Expectations Of Consumers

The dynamic realm of consumer behaviour is impacted by a number of factors, including economic changes, cultural shifts, and technology improvements. In the current digital era, corporate performance depends critically on comprehending and adjusting to shifting customer expectations and preferences<sup>5</sup>.

**Convenience and Personalization:** These days' customers place a high value on both. They look for goods and services that suit their own tastes and ways of living. For instance, the growing popularity of meal kit delivery services such as Blue Apron and HelloFresh demonstrates the need of customers for personalized, quick meal options that fit their schedules and dietary requirements.

**Shift towards Sustainability:** Consumer awareness of ethical and sustainable business practices is rising. Companies who put sustainability first in their products and services stand to gain from this trend. Patagonia, for example, has developed a devoted following of customers by endorsing ethical sourcing and environmental sustainability.

**Growth of Membership-Based Models** Rising subscription-based business models are indicative of a trend away from ownership and toward access. Individual ownership is no longer necessary because to services like Netflix, Spotify, and Amazon Prime, which provide users with access to a huge variety of products and entertainment for a monthly charge. This model fits nicely with the minimalism and decluttering trends while offering flexibility and ease.

## (A) How Digital Platforms Affect Consumer Decisions to Buy

Digital platforms have a tremendous impact on consumer

<sup>4</sup> We thus agree with O. Lobel, The Law of the Platform, (draft paper), Sept. 2015. (« more often than not legal disruption by the platform economy should be viewed as a feature not a bug of regulatory limits

<sup>5</sup> Consumer behavior and trends (no date) Faster Capital. Available at: <https://fastercapital.com/topics/consumer-behavior-and-trends.html> (Accessed: 01 May 2024).





purchasing decisions because they are changing how customers find, assess, and buy goods and services.

**Social Proof's Function:** Consumer purchasing decisions are significantly influenced by social proof, online reviews, and recommendations. Positive online reputation management for businesses is crucial, as seen by the 93% of buyers who read online reviews before making a purchase, according to a Bright Local poll.

**Mobile Commerce:** The rise of mobile commerce (m-commerce) is a result of the retail landscape being completely changed by the widespread use of smartphones. Nowadays, customers anticipate seamless cross-device browsing and shopping experiences. Mobile shoppers benefit from streamlined checkout procedures and increased convenience thanks to mobile wallets like Apple Pay and Google Pay.

## **(B) Consumer Group Segmentation in the Digital Age**

Businesses must segment their customer base in order to properly identify and target particular customer segments. Psychographic and behavioral segmentation are replacing traditional demographic segmentation in the digital age<sup>6</sup>.

**Psychographic Segmentation:** This method divides consumers into groups according to their values, interests, and way of life. This method looks beyond demographics to comprehend the goals and motives of the buyer. For instance, Airbnb offers individualized recommendations based on the interests and travel preferences of each user by segmenting its target audience.

**Behavioural Segmentation:** This method separates customers according to factors including brand loyalty, frequency of purchases, and product usage. E-commerce sites such as Amazon leverage user behavior and past purchases to target promotional offers and make personalized product recommendations, improving the browsing experience and increasing sales.

**Micro-Segmentation:** This technique makes it possible to design marketing strategies that are incredibly focused and customized. Businesses can find specialty segments within

larger customer groups and adjust their messaging and services by analyzing fine-grained data points. Customers may create personalized sneakers using Nike's NikeiD platform, for example, which caters to individual likes and style preferences.

## **Case Studies**

### **A. Netflix:**

One company that has successfully adjusted to changing consumer behavior in the digital age is Netflix. Netflix revolutionized the entertainment sector by utilizing technology and insights derived from data has transformed the way individuals consume media.

Netflix's recommendation algorithm examines user information, including as viewing history, preferences, and ratings, to provide tailored recommendations.

By presenting material that is customized to each viewer's preferences, this improves the user experience and boosts engagement and retention.

**Original Content Strategy:** Netflix made significant investments in the creation of original content after realizing the trend toward on-demand streaming. By producing engaging and varied content in a range of genres, Netflix sets itself apart from rivals and enhances its value proposition in the process of gaining and keeping users.

**Global Expansion:** Netflix launched its service in several places across the world as part of its plan of going global.

### **B. Spotify:**

Spotify's success story shows how innovation and business growth in the music streaming sector can

<sup>6</sup> Consumer buying behavior - digital vs the Real World (2024) ZD Blog. Available at: <https://www.zilliondesigns.com/blog/consumer-buying-behavior-digital-vs-real/> (Accessed: 01 May 2024).

be fueled by a thorough understanding of consumer behavior and the efficient use of digital platforms.

**Personalized Playlists:** Using data analytics, Spotify's personalized playlists—like Release Radar and Discover Weekly—suggest music based on individual listeners' tastes and habits. By improving user engagement and happiness, this algorithmic strategy promotes retention and loyalty<sup>7</sup>.

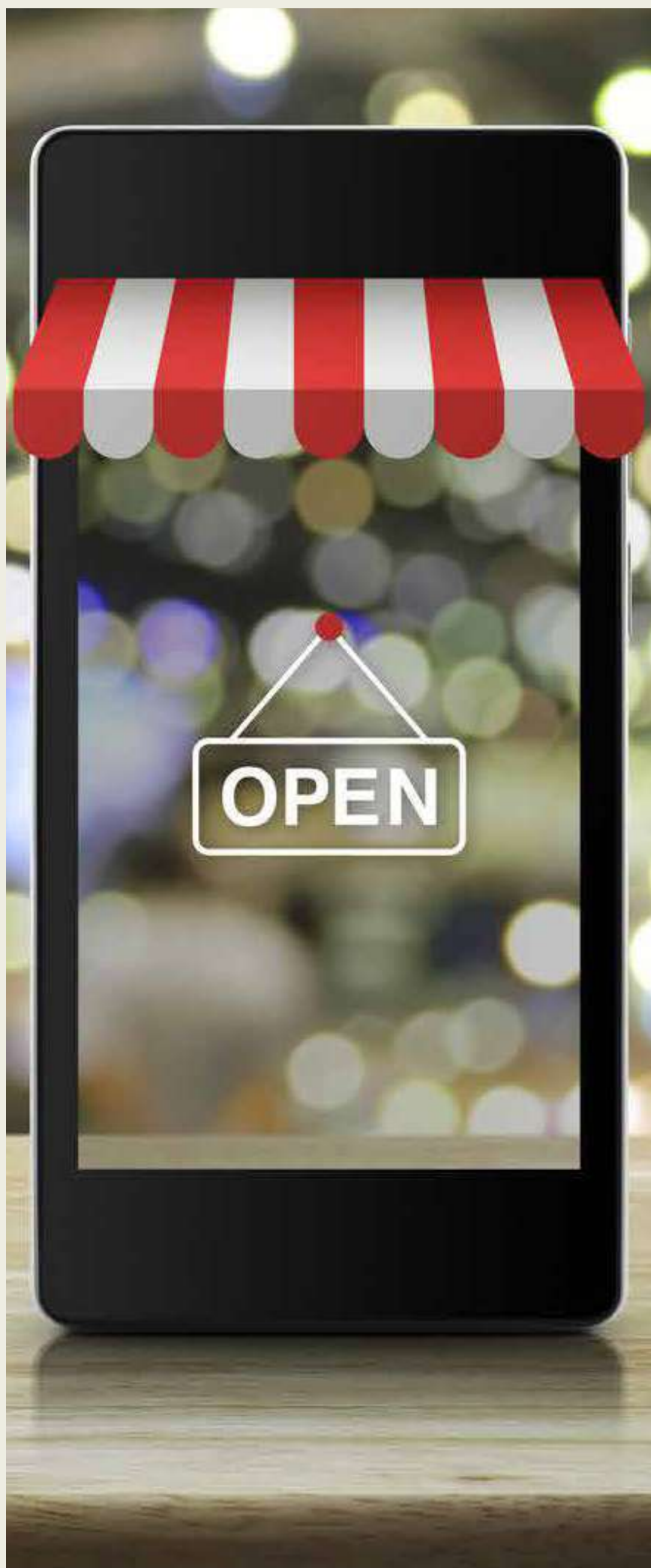
Spotify's freemium business strategy gives customers the option to select between a premium membership tier with extra features and a free, ad-supported tier. With this strategy, Spotify is able to maximize income potential by drawing in a sizable user base and monetizing through targeted advertising and premium subscriptions. **Collaborations and Partnerships:** Spotify works with influencers, businesses, and musicians to produce original content and experiences for its consumers. Working together with musicians to release exclusive music and host live events improves Spotify's value offering and encourages user growth.

## Conclusion

Online markets and digital platforms are being regulated more and more by corporate law. A balanced strategy is required, one that encourages innovation while safeguarding consumers and upholding fair competition, as these organizations continue to influence trade and communication. In this environment, the development of corporate law emphasizes the necessity of constant communication between stakeholders in order to properly handle the intricacies of the digital economy.

It also takes into account how industry standards and self-regulation could support established legal systems. This article has also addressed the new regulatory developments and issues in the digital economy, including algorithmic decision-making regulation and digital intermediaries' accountability for user-generated content. In closing, it provides insights into how corporation law will likely develop in the future to regulate online marketplaces and digital platforms, highlighting the necessity of a balanced strategy that promotes innovation while averting potential risks.

<sup>7</sup> Arun, R. (2023) A case study on Spotify marketing strategy: Simplilearn, Simplilearn.com. Available at: <https://www.simplilearn.com/tutorials/marketing-case-studies-tutorial/spotify-marketing-strategy> (Accessed: 01 May 2024)





## ARTICLE II

# Digitalisation of Institutions of Corporate Law: Current Trends and Future Prospects



### Introduction

Every facet of public life, including politics, law, business, finance, education, science, and society, has embraced digital technologies. The way that people use digital technologies has changed the nature of the economic relationships that exist in society, particularly relationships between corporations.

In this article and investigation of the digitalization of corporate law, we look at the following three areas: (1) digital corporate governance; (2) digital corporate personality of the corporation (online registration, or e-residency), and (3) digital (network or decentralized) autonomous organizations. The goal of this article is to determine the patterns and paths that specific corporation law institutions are taking as they adapt to a digital world.

The advent of digital technology and its integration into contemporary people's daily lives have heralded the emergence of an information society, digital economy, and digitalization of various facets of public life. One of the most popular research subjects right now is digitalization, or what some academics refer to as a megatrend—the process of digitization that is permeating all facets of public life<sup>8</sup>.

All facets of public life, including commerce, economics, education, politics, and research, have incorporated digital technologies. However, the effects of digitalization on the economy are much more profound, which calls for rapid action by the State, as reflected in its legislative and executive branches, to guarantee the legal regulation of various digital economy aspects.

<sup>9</sup>These technologies can be applied, for instance, when

forming a corporation and giving it legal existence.

Therefore, it seems reasonable to consider the digitalization of corporate law in relation to concerns pertaining to digital corporate governance, digital legal personalities of corporations, and the operations of digital corporations (networked and decentralized autonomous organizations).

### Corporate Digital Legal Personality

An economic entity's acquisition of legal personality (legal status), or the capacity to engage in entrepreneurial and other economic relations, is linked to the entity's creation, the start of its lifecycle, and the commencement of its production activities and business operations<sup>10</sup>.

As a result of the increasing necessity to regulate digital marketplaces, the Standing Committee on Finance (2022-23) published its report on December 22, 2022. The report is in line with the principles of the recently enforced EU competition regime, the Digital Markets Act (Regulation (EU) 2022/1925) (DMA), which takes a strong stand against large tech companies, ostensibly because dominance in a digital market inevitably poses a threat to competition.

The report proposes methods that are exactly the same as those put in place through the DMA. For example, it calls for

<sup>8</sup> Vaypan, Viktor. 2017. Fundamentals of Legal Regulation of the Digital Economy. Law and Economics 11: 18–25

<sup>9</sup> Adizes, Ichak. 2004. Managing Corporate Lifecycles: How Organizations Grow, Age, and Die. Santa Barbara: The Adizes Institute Publishing, 460p.

<sup>10</sup> Tolstoy, Yuri K. 1959. On the Theory of Legal Relations. Leningrad: Publishing House of Leningrad State University. (In Russian)

the ex-ante regulation of these companies and the classification of sizable online platforms as systemically significant digital intermediaries (SIDI), which is comparable to the DMA's definition of gatekeepers.

## A. Corporations' Online Registration (E-Residency)

A set of ideas for updating EU company law regulations pertaining to the use of digital tools and procedures was unveiled by the European Commission on April 25, 2018. The purpose of these recommendations is to put into practice the Digital Single Market Strategy that was previously established by the European Commission. This strategy includes, among other things, legislation that enable digital solutions for company registration.

The main focus of these legislation is the establishment of online company registration, which can be finished without direct communication with the appropriate authorities or individuals. Interestingly, notaries or attorneys may still be involved in the online company registration process to confirm the identity and legal competence of individuals wishing to incorporate a company, register a branch, or provide pertinent information to the appropriate authorities. Nonetheless, this kind of interaction shouldn't stop the process from being finished entirely online.

One of the best examples is Estonia, which introduced worldwide digital residence, or e-residency, as the first nation in history (The New Digital Nation, n.d.). Digital technologies facilitate online voting, online paperwork completion, and remote company registration for Estonian citizens.

After completing the required paperwork and obtaining an ID, a person is able to register and manage businesses online from any location, as well as access online banking, declare assets online, sign documents, and execute contracts using an electronic digital signature.

## B. Public Registers' Digital Imprint of Companies

In corporate practice, a competent government agency must enter information about a new corporation or a corporation formed as a result of a reorganization of an existing corporation into the relevant state register in order to establish the legal personality of the organization.

### Digital Corporate Governance

Scholars studying corporation law cannot agree upon a definition of corporate governance. Corporate governance has been defined by various scholars as the following: the organization of a corporation and its bodies' respective functions; the process of determining and regulating the focus areas of a corporation's activities; the setting of goals and the development of strategies for achieving them; the institutional and property relations system, which permits a corporation to advance, represent, and safeguard the interests of its investors and, most importantly, its shareholders; and the role of the corporation's governing body to guarantee the optimization of its operations and the attainment of its objectives.

#### a. Blockchain-based distributed ledger technology

According to Egorova et al. (2019), a blockchain is a distributed database that is easily accessible and records every transaction done by its users. Blockchain technology is also recognized in Russian jurisprudence as a legitimate means of formalizing rights<sup>12</sup>. Blockchain technology makes it possible to use an

almost entirely digital certificate of authenticity, offering a secure and effective method of cataloging intangible objects and the rights associated with them. This creates an unfalsifiable record of intellectual property rights registration that is easily accessible from anywhere in the world.

## Autonomous Decentralized Organizations

The progress of digitalizing the economy alters how firms are organized, which in turn brings about the appearance of new players in the corporate relations scene.

According to Blemus (2017), the creation of so-called decentralized autonomous corporations—which are run by self-executing smart contracts—is currently feasible with current technology. An organization of this type can be created as a digital quasi-corporation, where all operations, including management and member contact, are automated and decentralized, or it can be implemented inside an already-existing business<sup>13</sup>.

A decentralized organization is essentially one that is run entirely by computer using automatically implemented business rules created by specialized software, with no human intervention. Token holders (participants in a decentralized autonomous organization) can divide profits, control the organization's assets, receive updates on business activity, and more by using smart contracts. Furthermore, users have the ability to change the smart contracts that control the decentralized organization by casting votes. In light of this, it can be said that a decentralized autonomous organization is the digital equivalent of a traditional organization, since the latter is built around tokens and smart contracts rather than constituent papers and shares.

As of right now, the scientific literature lacks a consensus definition of a decentralized autonomous organization. DAOs, according to Buterin, are a means of investigating new companies' governance regulations that might be transparently and automatically integrated<sup>14</sup>.

## Current Developments in Corporate Law's Digitization

**Digital Legal Personality:** There is growing interest in the idea of a digital legal personality. This covers the digital imprint that businesses leave in publicly accessible registers as well as online registration procedures. New forms of organizational structures, including decentralized autonomous organizations (DAOs), which function outside conventional governance frameworks, are increasingly dependent on digital identities.

**Efficiency and Automation:** To improve workflow, legal departments are progressively implementing automation

<sup>11</sup> Kharitonova, Yulia. 2014. Corporate Governance and the Duality of Law. *Entrepreneurial Law. Law and Business (Suppl. S2)*: 54–59.

<sup>12</sup> Laptev, Vasily. 2018. Digital Assets as Objects of the Civil Rights. *Legal Science and Practice: Bulletin of the Nizhny Novgorod Academy of the Ministry of Internal Affairs of Russia* 2: 199–204.

<sup>13</sup> Chekhovskaya, Svetlana. 2018b. *New Contours of Corporate Law. Entrepreneurial Law* 3: 23.

<sup>14</sup> Buterin, Vitalik. 2014. A Next-Generation Smart Contract and Decentralized Application Platform. White Paper 3(37) 36p. Available online: [https://blockchainlab.com/pdf/Ethereum\\_white\\_paper-a\\_next\\_generation\\_smart\\_contract\\_and\\_decentralized\\_application\\_platform-vitalik-buterin.pdf](https://blockchainlab.com/pdf/Ethereum_white_paper-a_next_generation_smart_contract_and_decentralized_application_platform-vitalik-buterin.pdf) (accessed on 09 September 2024)



technology. This involves the use of contract management tools, which reduce human error and increase productivity by automating repetitive operations. By 2025, the move to digital tools is predicted to increase legal departments' technology spending, reflecting a larger trend toward technologically driven operational efficiency.

**Emergence of Legal Operations (Legal Ops):** In corporate legal teams, especially in North America and Europe, the role of legal operations is growing. Legal operations specialists concentrate on streamlining workflows with technology, enhancing planning and budgeting, and making the most use of available resources. Their increasing presence suggests a deliberate change in the way corporate legal departments function.

**Regulatory Adaptation:** As decentralized technologies and digital finance advance, so do regulatory frameworks. Companies are required to improve their IT security measures and legal protections as a result of new European rules that address cybersecurity, data protection, and crypto-asset challenges.

**Digital Initiatives: Strategic Alignment:** Law firms are increasingly coordinating their digital transformation initiatives with overarching corporate strategy. Although obtaining support from the leadership is essential for a successful implementation, many companies still struggle to involve clients and attorneys in the process. Businesses that successfully implement these tactics frequently express greater levels of satisfaction with their digital endeavours.

## Future Prospects

Corporate law institutions will probably continue to change in the future due to shifting market conditions and technology advancements:

**Reinterpreting Concepts in Law:** The process of digitalization will force conventional ideas—like corporate governance and the essence of corporate entities—to be reexamined. New classifications and laws specific to digital settings may result from this.

**Improved Systems of Governance:** It is anticipated that the integration of artificial intelligence into business decision-making procedures will greatly enhance governance mechanisms. AI can help make board operations and compliance monitoring more effective.

**Innovation in Law:** In order to handle new issues with transparency, decentralization, and regulatory compliance as industries adjust to new technologies like blockchain and decentralized finance, legal innovation will be essential.

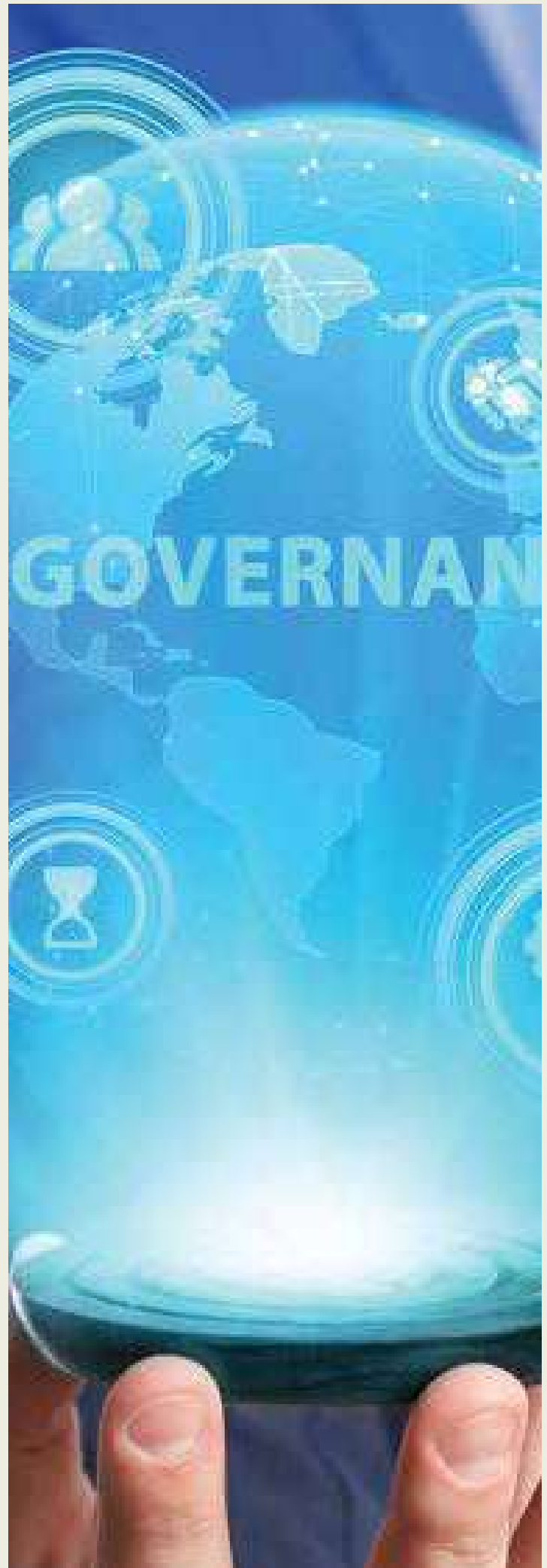
**Improvement of legal mechanisms for corporate governance with the introduction of AI into executive bodies**

**Further digitalization of corporate assets and operations**

**Continued emergence of new digital entities and organizational forms**

## Protection of Consumers and Legal Liability

Liability for operators is one of the main issues with digital platform regulation. The legislative frameworks in place today frequently fail to hold platforms responsible for matters like product safety and consumer protection. Enforcing liability is complicated by the ambiguity surrounding the duties of platform operators, who may see themselves as facilitators only. Judges are starting to view these operators in the same light as direct sellers, which may lead to more stringent liability requirements.



## 7. Outcomes

The authors' findings from a scholarly examination of the issues with the digitalization of distinct corporation law organizations are as follows:

- a. Provided evidence for the division between the terms "digitalization of corporate law" and "digitalization of corporate governance." The authors concluded that the concept of digitalization of corporate law encompasses aspects of digitalization of corporate governance, issues pertaining to a corporation's digital legal personality, and the operations of digital (network or decentralized autonomous organizations) corporations, taking into account the possibility of using digital technologies throughout a corporation's entire life cycle;
- b. Suggested dividing digital corporate governance into three categories based on the amount of automation in management procedures and the amount of human input in managerial decisions:
  - i. The use of technologies to enable a person (such as a shareholder, CEO, or member of the board of directors) to participate remotely in the formulation and implementation of management decisions is known as remote management, or governance.
  - ii. Some examples of remote control methods include video conferencing and electronic voting; smart management, or governance, on the other hand, relies on the use of tools to automatically control a company using pre-established algorithms without the need for human intervention, though it also assumes that these algorithms may be corrected and modified during the program;
  - iii. AI management, also known as "governance" or "corporate management by AI," refers to the adoption by a machine (AI) of managerial decisions that were not previously included in the program, excluding the human factor (cyber business companion);
- c. came to the conclusion that it is most practical to delegate responsibility for maintaining the shareholder register to artificial intelligence working on the basis of a digital program (ereestr), which will run on the blockchain platform. This will ensure information confidentiality, automatically record transactions, and prevent the holder registry, its employees, and third parties from using the data for their own gain.
- d. suggested to modify state laws now in effect to permit and set forth guidelines for the use of blockchain technology in keeping a corporation's shareholder register and guaranteeing electronic voting in sizable public companies;
- e. The study highlights the following conditions that the electronic voting process must satisfy and the electronic voting method must comply with them:
  - i. the expression of will may only be done once; - information regarding each meeting participant's expression of will is confidential;
  - ii. only those authorized to participate in the meeting and vote on the agenda items may participate in such voting (compliance with the specified condition is possible by identifying the meeting participant).

- f. claimed that the primary distinction between the electronic voting process and the remote general meeting of corporation participants is that the former allows each participant to present his or her professional and well-reasoned opinion on a complex, controversial, or controversial issue, while the latter allows a participant to influence the will of other corporation participants through discussion of issues included in the meeting's agenda;
- g. observed that as AI will objectively evaluate a candidate's ability, using it to choose candidates for the board of directors will also help lower the possibility of a conflict of interest and the selection of an incompetent director;

## Conclusion

The corporate governance, decentralized autonomous organizations, and assessed digital components of corporate legal personality speak to the quick adoption of digital technologies by a variety of corporate law-governed entities.

The reinterpretation of certain corporate law concepts, such as corporations and corporate governance, the improvement of corporate governance legal mechanisms following the introduction of artificial intelligence (AI) into the collegial executive bodies of corporations, the digitalization of corporate assets, and the emergence of new corporate and other relevant relations are the outcomes that we believe the digitalization of corporate law institutions will bring about.

New forms of corporate governance and organization are made possible by the digitization of corporate law, which is also changing established legal theories and procedures. The business legal landscape is likely to undergo even more significant changes in the years to come as digital technologies continue to progress.

“As  
*computational  
technology and  
artificial  
intelligence  
matures, more  
people will be able  
to have better  
access to justice.*”



**Monica Bay,**  
Fellow, Stanford Law  
School CodeX



# Snippets



## 1. Digital Platforms

Digital platforms are electronic intermediaries that operate online, connecting consumers and businesses to enable transactions. They cover a broad spectrum of services, from big online retailers like Amazon to different programs that facilitate business-to-consumer exchanges like reservation services or insurance brokers.

## 2. Digital Legal Personality

This term refers to the recognition of corporations as entities capable of holding rights and obligations in a digital context, including aspects like online registration and maintaining a digital footprint in public registers.

## 3. Smart Contracts

These are self-executing contracts that enable automated platform transactions without the need for human interaction. The terms are directly encoded into the code. They demonstrate how corporate governance procedures can be made more efficient by technology.

## 4. E-Residency (Online Registration)

This idea makes it possible for people to register enterprises online in a jurisdiction without having to be physically present, giving entrepreneurs better access to international marketplaces. The main focus of these regulations is the establishment of an online company registration system that can be finished without direct communication with the appropriate authorities or individuals. Since member states are required to guarantee that online company registration is finished within five business days of the date the fee was paid or the date the complete application was submitted, whichever comes later, the main advantage of online registration is speeding up the creation and registration processes of companies.

It guises that people of individual member states looking to establish new firms in their nation as well as citizens of other member states desiring to start a company abroad will benefit from efficiency, convenience, and cost savings associated with the online registration process for national corporations.

## 5. Private Legal Orders

Within their ecosystems, digital platforms function as private legal organizations with the ability to enact laws and exercise executive and jurisdictional authority. This categorization suggests that they establish their own policies and guidelines that control user communications and transactions.

## 6. Stakeholder Collaboration

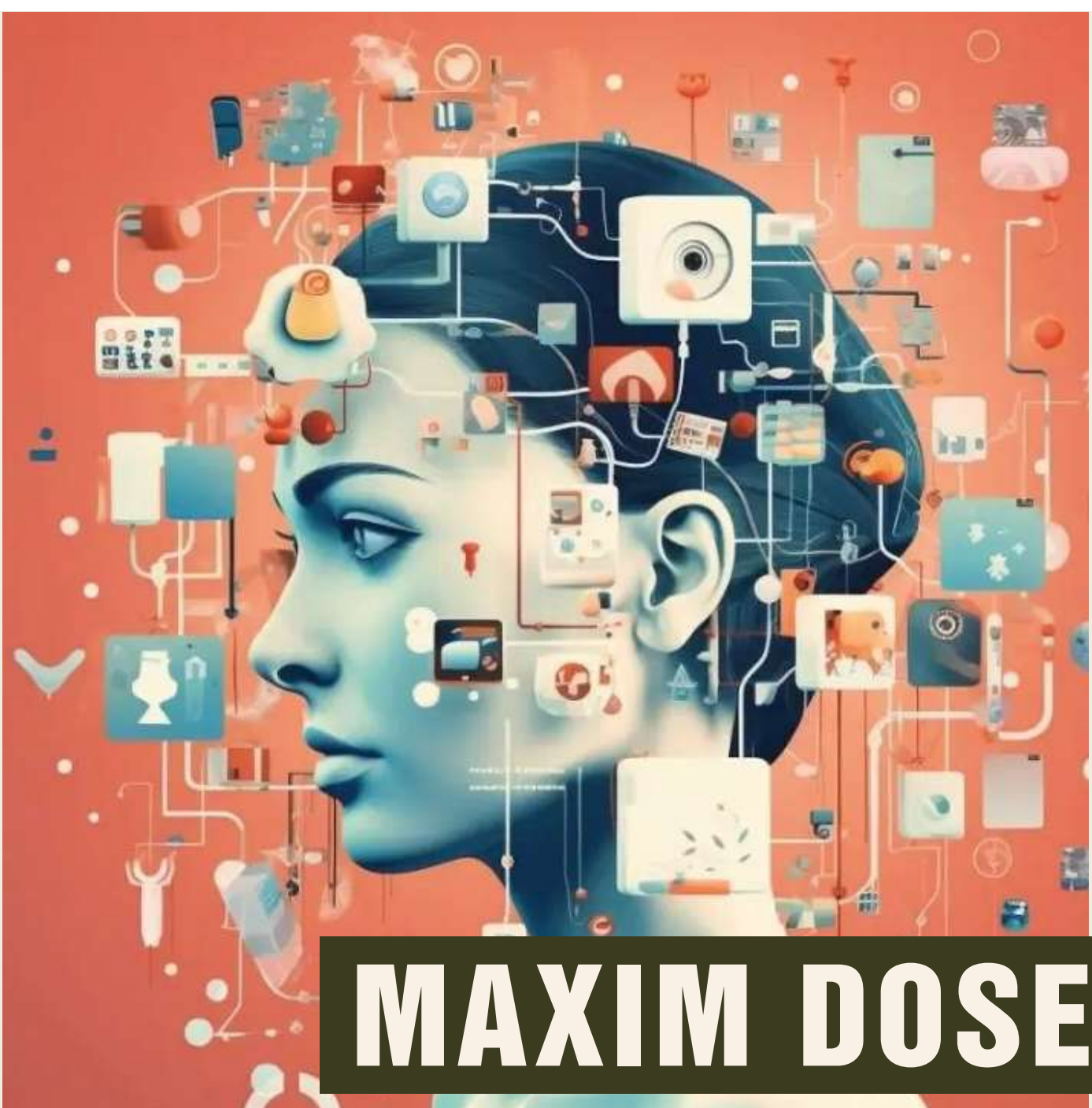
Successful regulation of digital platforms requires collaboration among various stakeholders, including governments, private sectors, civil society, and international organizations. This multi-stakeholder approach can facilitate the development of comprehensive regulatory frameworks that balance innovation with public interest.

## 7. Blockchain Technology

It is suggested to keep track of shareholder registrations, guarantee safe transactions using smart contracts, improve transparency, and lower the risk of fraud. Blockchain technology offers several benefits, such as transaction traceability, immutability, transparency, and decentralization. As a result, the use of this technology in corporate governance can greatly improve its effectiveness while also assisting in advancing and defending the rights of corporate members and balancing their interests.

## 8. Digital Transformation

Digital transformation is the more comprehensive process of incorporating digital technologies into every aspect of company operations, radically altering how companies run and provide value to their clients. Digital change may be seen in everything from a new website for a company that records client usage to the corner store accepting payments via mobile devices. It is the process where the emphasis is shifted toward simplifying the customer's journey and figuring out how value may be supplied more effectively; it doesn't have to be of a specific calibre. Every business division within an organization and every stage of the supply chain has the potential to undergo digital transformation, which will enhance teamwork and productivity



## Artificial intelligence (AI) and Digital Platforms

Digital platforms in a variety of industries are growing more and more dependent on artificial intelligence (AI) for their success. Digital platforms and AI are combining to create new value propositions, increase productivity, and change the way businesses function.

### AI's Effects On Digital Platforms

- Efficiency and Automation:** Artificial Intelligence (AI) technologies allow digital platforms to analyze large volumes of data, automate repetitive jobs, and improve operations. This increases operational effectiveness and frees up resources for businesses to concentrate on strategic projects rather than menial duties.
- Personalization:** By examining user behavior and preferences, artificial intelligence (AI) enables individualized user experiences. By recommending pertinent products or information, this feature helps platforms build user loyalty and boost conversion rates.
- Data-Driven Decision Making:** Businesses are able to make well-informed decisions based on precise insights thanks to AI's capacity to process and analyze enormous datasets. The operational efficacy and strategic planning are improved by this data-driven methodology.
- Improvements to Security:** Artificial Intelligence is a key component in improving digital platform security. Platforms can protect user data by using machine learning algorithms to identify unusual activity and possible threats.
- Economic Implications:** It is anticipated that the incorporation of AI into digital platforms would have a substantial positive economic impact, leading to the creation of jobs and a rise in productivity. By 2025, AI-driven platforms may help to increase the world GDP by 2%, according to estimates<sup>15</sup>.

<sup>15</sup> <https://www.intechopen.com/chapters/74099>  
(Accessed on 11 September 2024)



# Digital Platforms and Online Marketplaces: An Analysis of Role of Corporate Law in its Regulation



## QUICK GUIDE

### ARTICLE I

#### Introduction

Technology is advancing at an unstoppable pace, ushering in a time when digital platforms are the major hub for communication and business playing a pivotal role. The history of digital platforms, from the modest beginnings of the internet to the complex web of online ecosystems that exists today, is a fascinating tale that captures the dynamic nature of our globally interconnected world. The goal of this article is to present a comprehensive historical overview of this development, charting the path from the early digital forums to the advanced online marketplaces that now rule the modern corporate world. The goal of this article is to serve as a roadmap through this historical transition, shedding light on the significant turning points and paradigm changes that have molded the current digital environment.

#### Digital Platform Evolution

Digital platform evolution has been mostly driven by technological advancement, from the early days of dial-up internet to the present era of high-speed connectivity and 5G networks. The shift from static websites to dynamic, interactive platforms has made it possible to create intricate digital ecosystems and provide richer user experiences. The incorporation of cloud computing has revolutionized the industry by providing scalable and effective processing and data storage, thus establishing the foundation for the rapid expansion of digital services.

A major factor has been mobile connectivity, as the increasing use of smartphones has turned digital platforms into ever-present tools that people use on a daily basis. This change has accelerated the creation of mobile services and applications in addition to improving accessibility, broadening the range of available digital platforms.

It is essential to comprehend the minute intricacies of this technological revolution in order to fully appreciate the dynamic environment that has allowed online marketplaces to thrive. The following parts will look at business models, corporate governance, legal issues, and the wider social and economic effects based on the symbiotic relationship between technology innovation and the development of digital platforms.

#### Business Structures for Online Marketplaces

A diverse range of business strategies that have upended established economic assumptions define the landscape of digital platforms. One well-known model is the freemium strategy, which has spread widely over several platforms. Basic services are offered to users without charge, which encourages them to upgrade and pay for premium features. Platforms such as Spotify and Dropbox serve as examples of this approach, which has not only altered consumer expectations but also faced difficulties in striking a balance between the requirement for

sustained revenue and open access.

### **Legal and Corporate Governance Issues**

The many business models that digital platforms have embraced raise important issues about accountability and corporate governance. It could be difficult for traditional governance structures to adjust to the decentralized and fast-paced nature of digital organizations because they were created for more traditional business models. The literature delves deeply into the difficulties faced by CEOs and boards in maintaining accountability, transparency, and responsible decision-making in digital platform organizations.

### **Diverse Regulatory Strategies**

The way that various nations control internet platforms varies greatly. Prominent digital centers such as Beijing, Washington, London, Brussels, and Beijing are exploring different regulatory approaches. A "Venn diagram" of national internets resulting from this fragmentation would complicate global administration and possibly undermine the advantages of an open internet.

### **Ethical Considerations in Digital Platforms**

The growing impact of digital platforms on diverse facets of society necessitates careful evaluation of ethical issues. The ethical problems and quandaries raised by the operation of digital platforms are examined in detail in this section of the literature review. The analysis covers topics like algorithmic biases, data security, user privacy, and platform operators' moral obligations.

### **Effects on the Economy and Society**

Digital platforms have a huge impact on society and the economy, and their influence goes beyond technology and business. The literature review's part on the influence of digital platforms looks at a variety of issues, from sociocultural shifts to economic upheavals.

The literature examines how digital platforms affect social relationships, change consumer behavior, and support the gig economy through an interdisciplinary viewpoint. To effectively negotiate the intricacies of the modern world, politicians, businesses, and individuals must have a thorough understanding of the complex relationships that exist between digital platforms, society, and the economy.

### **Challenges Faced by Digital Platforms**

Digital platforms function as multi-sided marketplaces that put conventional regulatory frameworks to the test through their own economic dynamics. Although they often do so in ways that have the potential to upend established economic and legal conventions, they help different user groups engage with one another. For example, by introducing new business models that the laws now in place may not be able to effectively cover, platforms such as Uber and Airbnb undermine labor laws and property rules.

These platforms' disruption poses important queries regarding accountability and liability. Platforms frequently find themselves in the middle of a number of legal disputes, such as those involving intellectual property rights, consumer protection, and data

privacy. Regulators have a lot of legal problems to deal with since these businesses operate on the edges of the regulations that are currently in place.

The article examines potential future developments and difficulties in the field of digital platforms. It predicts how business models will change, how technology will grow, and what new regulations might be implemented that could affect the way things seem in the future.

Legal disruption is a fundamental aspect of the platform economy rather than an accident<sup>16</sup>.

### **Advanced Technologies and Artificial Intelligence**

The incorporation of artificial intelligence (AI) and other cutting-edge technology into digital platforms can be covered in detail in this area. Investigating how AI is changing user experiences, forecasting market trends, and potential ethical issues related to AI-driven decision-making are all included in this.

### **Regulatory Advancements and International Cooperation**

Building on the regulatory framework discussion, future directions in digital platform governance might be investigated in the literature. Talks about the necessity of international cooperation to handle cross-border issues and standardize regulatory standards may fall under this category.

### **Cybersecurity Issues and Mitigation Strategies**

The section can go into detail about how cybersecurity threats and methods for protecting digital platforms are evolving in order to give a thorough picture of issues to come. This involves talking about how regulations, global cooperation, and technology all contribute to strong cybersecurity practices.

### **The Corporate Law's Role and Function**

Corporate law is a major influence on the regulations governing digital platforms. It offers the legal foundation for these organizations' operations, affecting their liability requirements, governance frameworks, and compliance requirements.

Corporate governance pertains to how platforms oversee their internal operations and connections with stakeholders. In response to these issues, corporate law is always evolving, with calls for more flexible regulatory frameworks that can keep up with technological advancements.

### **Modifying the Preferences and Expectations of Consumers**

The dynamic realm of consumer behaviour is impacted by a number of factors, including economic changes, cultural shifts, and technology improvements. In the current digital era, corporate performance depends critically on comprehending and adjusting to shifting customer expectations and preferences<sup>17</sup>.

Growth of Membership-Based Models Rising subscription-based business models are indicative of a trend away from ownership and toward access. Individual ownership is no longer necessary because to services like Netflix, Spotify, and Amazon Prime, which provide users with access to a huge variety of products and entertainment for a monthly charge. This model fits nicely with the minimalism and decluttering trends while offering flexibility and ease.

## **(A) How Digital Platforms Affect Consumer Decisions to Buy**

Digital platforms have a tremendous impact on consumer

<sup>16</sup> We thus agree with O. Lobel, *The Law of the Platform*, (draft paper), Sept. 2015. (« more often than not legal disruption by the platform economy should be viewed as a feature not a bug of regulatory limits

<sup>17</sup> Consumer behavior and trends (no date) FasterCapital. Available at: <https://fastercapital.com/topics/consumer-behavior-and-trends.html> (Accessed: 01 May 2024).



purchasing decisions because they are changing how customers find, assess, and buy goods and services.

- a. Social Proof's Function
- b. Mobile Commerce

## (B) Consumer Group Segmentation in the Digital Age

Businesses must segment their customer base in order to properly identify and target particular customer segments. Psychographic and behavioral segmentation are replacing traditional demographic segmentation in the digital age<sup>18</sup>.

### Case Studies

#### (C) Netflix:

One company that has successfully adjusted to changing consumer behavior in the digital age is Netflix. Netflix revolutionized the entertainment sector by utilizing technology and insights derived from data has transformed the way individuals consume media.

Netflix's recommendation algorithm examines user information, including as viewing history, preferences, and ratings, to provide tailored recommendations.

By presenting material that is customized to each viewer's preferences, this improves the user experience and boosts engagement and retention.

Original Content Strategy: Netflix made significant investments in the creation of original content after realizing the trend toward on-demand streaming. By producing engaging and varied content in a range of genres, Netflix sets itself apart from rivals and enhances its value proposition in the process of gaining and keeping users.

Global Expansion: Netflix launched its service in several places across the world as part of its plan of going global.

#### (D) Spotify

Spotify's success story shows how innovation and business growth in the music streaming sector can be fueled by a thorough understanding of consumer behavior and the efficient use of digital platforms.

Personalized Playlists: Using data analytics, Spotify's personalized playlists—like Release Radar and Discover Weekly—suggest music based on individual listeners' tastes and habits. By improving user engagement and happiness, this algorithmic strategy promotes retention and loyalty<sup>19</sup>.

Spotify's freemium business strategy gives customers the option to select between a premium membership tier with extra features and a free, ad-supported tier. With this strategy, Spotify is able to maximize income potential by drawing in a sizable user base and monetizing through targeted advertising and premium subscriptions.

Collaborations and Partnerships: Spotify works with influencers, businesses, and musicians to produce original content and experiences for its consumers. Working together with musicians to release exclusive music and host live events improves Spotify's value offering and encourages user growth.

## Conclusion

Online markets and digital platforms are being regulated more and more by corporate law. A balanced strategy is required, one that encourages innovation while safeguarding consumers and upholding fair competition, as these organizations continue to influence trade and communication. In this environment, the development of corporate law emphasizes the necessity of constant communication between stakeholders in order to properly handle the intricacies of the digital economy.

<sup>18</sup> Consumer buying behavior - digital vs the Real World (2024) ZD Blog. Available at: <https://www.zilliondesigns.com/blog/consumer-buying-behavior-digital-vs-real/> (Accessed: 01 May 2024).

<sup>19</sup> Arun, R. (2023) A case study on Spotify marketing strategy: Simplilearn, Simplilearn.com. Available at: <https://www.simplilearn.com/tutorials/marketing-case-studies-tutorial/spotify-marketing-strategy> (Accessed: 01 May 2024)



# Digitalisation of Institutions of Corporate Law: Current Trends and Future Prospects



## QUICK GUIDE

### ARTICLE II

#### Introduction

Every facet of public life, including politics, law, business, finance, education, science, and society, has embraced digital technologies. The way that people use digital technologies has changed the nature of the economic relationships that exist in society, particularly relationships between corporations.

In this article and investigation of the digitalization of corporate law, we look at the following three areas: (1) digital corporate governance; (2) digital corporate personality of the corporation (online registration, or e-residency), and (3) digital (network or decentralized) autonomous organizations. The goal of this article is to determine the patterns and paths that specific corporation law institutions are taking as they adapt to a digital world.

The advent of digital technology and its integration into contemporary people's daily lives have heralded the emergence of an information society, digital economy, and digitalization of various facets of public life. One of the most popular research subjects right now is digitalization, or what some academics refer to as a megatrend—the process of digitization that is permeating all facets of public life<sup>20</sup>.

All facets of public life, including commerce, economics, education, politics, and research, have incorporated digital technologies. However, the effects of digitalization on the economy are much more profound, which calls for rapid action by the State, as reflected in its legislative and executive branches, to guarantee the legal regulation of various digital economy aspects.

The utilization of digital technologies for corporate governance and electronic record-keeping enhances corporate efficiency, streamlines business operations, and promotes communication between corporate constituents and external parties. Nonetheless, as Ichak Adizes has shown, businesses can gain from implementing digital technologies at every stage of their life cycle.

<sup>21</sup>These technologies can be applied, for instance, when forming a corporation and giving it legal existence.

Therefore, it seems reasonable to consider the digitalization of corporate law in relation to concerns

<sup>20</sup> Vaypan, Viktor. 2017. Fundamentals of Legal Regulation of the Digital Economy. *Law and Economics* 11: 18–25

<sup>21</sup> Adizes, Ichak. 2004. *Managing Corporate Lifecycles: How Organizations Grow, Age, and Die*. Santa Barbara: The Adizes Institute Publishing, 460p.



pertaining to digital corporate governance, digital legal personalities of corporations, and the operations of digital corporations (networked and decentralized autonomous organizations).

### Corporate Digital Legal Personality

An economic entity's acquisition of legal personality (legal status), or the capacity to engage in entrepreneurial and other economic relations, is linked to the entity's creation, the start of its lifecycle, and the commencement of its production activities and business operations<sup>22</sup>.

The report proposes methods that are exactly the same as those put in place through the DMA. For example, it calls for the ex-ante regulation of these companies and the classification of sizable online platforms as systemically significant digital intermediaries (SDI), which is comparable to the DMA's definition of gatekeepers.

## A. Corporations' Online Registration (E-Residency)

A set of ideas for updating EU company law regulations pertaining to the use of digital tools and procedures was unveiled by the European Commission on April 25, 2018. The purpose of these recommendations is to put into practice the Digital Single Market Strategy that was previously established by the European Commission. This strategy includes, among other things, legislation that enable digital solutions for company registration.

One of the best examples is Estonia, which introduced worldwide digital residence, or e-residency, as the first nation in history (The New Digital Nation, n.d.). Digital technologies facilitate online voting, online paperwork completion, and remote company registration for Estonian citizens. After completing the required paperwork and obtaining an ID, a person is able to register and manage businesses online from any location, as well as access online banking, declare assets online, sign documents, and execute contracts using an electronic digital signature.

## B. Public Registers' Digital Imprint of Companies

In corporate practice, a competent government agency must enter information about a new corporation or a corporation formed as a result of a reorganization of an existing corporation into the relevant state register in order to establish the legal personality of the organization.

### Digital Corporate Governance

Scholars studying corporation law cannot agree upon a definition of corporate governance. Corporate governance has been defined by various scholars as the following: the organization of a corporation and its bodies' respective functions; the process of determining and regulating the focus areas of a corporation's activities; the setting of goals and the development of strategies for achieving them; the institutional and property relations system, which permits a corporation to advance, represent, and safeguard the interests of its investors and, most importantly, its shareholders; and the role of the corporation's governing body to guarantee the optimization of its operations and the attainment of its objectives<sup>23</sup>.

### Blockchain-based distributed ledger technology

According to Egorova et al. (2019), a blockchain is a distributed database that is easily accessible and records every transaction done by its users. Blockchain technology is also recognized in Russian jurisprudence as a legitimate

means of formalizing rights<sup>24</sup>. Blockchain technology makes it possible to use an almost entirely digital certificate of authenticity, offering a secure and effective method of cataloging intangible objects and the rights associated with them. This creates an unfalsifiable record of intellectual property rights registration that is easily accessible from anywhere in the world.

### Autonomous Decentralized Organizations

The progress of digitalizing the economy alters how firms are organized, which in turn brings about the appearance of new players in the corporate relations scene.

According to Blemus (2017), the creation of so-called decentralized autonomous corporations—which are run by self-executing smart contracts—is currently feasible with current technology. An organization of this type can be created as a digital quasi-corporation, where all operations, including management and member contact, are automated and decentralized, or it can be implemented inside an already-existing business<sup>25</sup>.

As of right now, the scientific literature lacks a consensus definition of a decentralized autonomous organization. DAOs, according to Buterin, are a means of investigating new companies' governance regulations that might be transparently and automatically integrated<sup>26</sup>.

### Current Developments in Corporate Law's Digitization

**Digital Legal Personality:** There is growing interest in the idea of a digital legal personality. This covers the digital imprint that businesses leave in publicly accessible registers as well as online registration procedures. New forms of organizational structures, including decentralized autonomous organizations (DAOs), which function outside conventional governance frameworks, are increasingly dependent on digital identities.

**Efficiency and Automation:** To improve workflow, legal departments are progressively implementing automation technology. This involves the use of contract management tools, which reduce human error and increase productivity by automating repetitive operations. By 2025, the move to digital tools is predicted to increase legal departments' technology spending, reflecting a larger trend toward technologically driven operational efficiency.

**Emergence of Legal Operations (Legal Ops):** In corporate legal teams, especially in North America and Europe, the role of legal operations is growing. Legal operations specialists concentrate on streamlining workflows with technology, enhancing planning and budgeting, and making the most use of available resources. Their increasing presence suggests a deliberate change in the way

<sup>22</sup> Tolstoy, Yuri K. 1959. *On the Theory of Legal Relations*. Leningrad: Publishing House of Leningrad State University. (In Russian)

<sup>23</sup> Kharitonova, Yulia. 2014. *Corporate Governance and the Duality of Law*. *Entrepreneurial Law. Law and Business (Suppl. S2)*: 54–59.

<sup>24</sup> Laptev, Vasily. 2018. *Digital Assets as Objects of the Civil Rights*. *Legal Science and Practice: Bulletin of the Nizhny Novgorod Academy of the Ministry of Internal Affairs of Russia 2*: 199–204.

<sup>25</sup> Chekhovskaya, Svetlana. 2018b. *New Contours of Corporate Law*. *Entrepreneurial Law 3*: 23.

<sup>26</sup> Buterin, Vitalik. 2014. *A Next-Generation Smart Contract and Decentralized Application Platform*. White Paper 3(37) 36p. Available online: [https://blockchainlab.com/pdf/Ethereum white\\_paper-a\\_next\\_generation\\_smart\\_contract\\_and\\_decentralized\\_application\\_platform-vitalik-buterin.pdf](https://blockchainlab.com/pdf/Ethereum%20white%20paper%20a%20next%20generation%20smart%20contract%20and%20decentralized%20application%20platform-vitalik-buterin.pdf) (accessed on 09 September 2024)

corporate legal departments function.

**Regulatory Adaptation:** As decentralized technologies and digital finance advance, so do regulatory frameworks. Companies are required to improve their IT security measures and legal protections as a result of new European rules that address cybersecurity, data protection, and crypto-asset challenges.

**Digital Initiatives: Strategic Alignment:** Law firms are increasingly coordinating their digital transformation initiatives with overarching corporate strategy. Although obtaining support from the leadership is essential for a successful implementation, many companies still struggle to involve clients and attorneys in the process. Businesses that successfully implement these tactics frequently express greater levels of satisfaction with their digital endeavours.

### **Future Prospects**

Corporate law institutions will probably continue to change in the future due to shifting market conditions and technology advancements:

### **Reinterpreting Concepts in Law**

#### **Improved Systems of Governance**

#### **Innovation in Law**

### **7. Outcomes**

The authors' findings from a scholarly examination of the issues with the digitalization of distinct corporation law organizations are as follows:

- a. Provided evidence for the division between the terms "digitalization of corporate law" and "digitalization of corporate governance." The authors concluded that the concept of digitalization of corporate law encompasses aspects of digitalization of corporate governance, issues pertaining to a corporation's digital legal personality, and the operations of digital (network or decentralized autonomous organizations) corporations, taking into account the possibility of using digital technologies throughout a corporation's entire life cycle;
- b. Suggested dividing digital corporate governance into three categories based on the amount of automation in management procedures and the amount of human input in managerial decisions:
  - i. The use of technologies to enable a person (such as a shareholder, CEO, or member of the board of directors) to participate remotely in the formulation and implementation of management decisions is known as remote management, or governance.
  - ii. Some examples of remote control methods include video conferencing and electronic voting; smart management, or governance, on the other hand, relies on the use of tools to automatically control a company using pre-established algorithms without the need for human intervention, though it also assumes that these algorithms may be corrected and modified during the program;

- iii. AI management, also known as "governance" or "corporate management by AI," refers to the adoption by a machine (AI) of managerial decisions that were not previously included in the program, excluding the human factor (cyber business companion);

- c. came to the conclusion that it is most practical to delegate responsibility for maintaining the shareholder register to artificial intelligence working on the basis of a digital program (ereestr), which will run on the blockchain platform. This will ensure information confidentiality, automatically record transactions, and prevent the holder registry, its employees, and third parties from using the data for their own gain.
- d. suggested to modify state laws now in effect to permit and set forth guidelines for the use of blockchain technology in keeping a corporation's shareholder register and guaranteeing electronic voting in sizable public companies;
- e. The study highlights the following conditions that the electronic voting process must satisfy and the electronic voting method must comply with them:
  - i. the expression of will may only be done once; - information regarding each meeting participant's expression of will is confidential;
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- f. claimed that the primary distinction between the electronic voting process and the remote general meeting of corporation participants is that the former allows each participant to present his or her professional and well-reasoned opinion on a complex, controversial, or controversial issue, while the latter allows a participant to influence the will of other corporation participants through discussion of issues included in the meeting's agenda;
- g. observed that as AI will objectively evaluate a candidate's ability, using it to choose candidates for the board of directors will also help lower the possibility of a conflict of interest and the selection of an incompetent director;

### **Conclusion**

The corporate governance, decentralized autonomous organizations, and assessed digital components of corporate legal personality speak to the quick adoption of digital technologies by a variety of corporate law-governed entities.

New forms of corporate governance and organization are made possible by the digitization of corporate law, which is also changing established legal theories and procedures. The business legal landscape is likely to undergo even more significant changes in the years to come as digital technologies continue to progress.





# LEGAL STALKER

## 1. Commercial Laws

### a. Trade Connect e-Platform for Global Exports Launched by Ministry of Commerce and Industry

The Ministry of Commerce and Industry introduced the commercial Connect e-Platform to expand India's international commercial presence, particularly for small and medium-sized businesses (SMEs). Union Minister Shri Piyush Goyal launched this single-window digital platform, which gives exporters access to resources, government support, and real-time trade information. It links Indian Missions overseas, important stakeholders like Export Promotion Councils and financial institutions, and more than 6 lakh Importer Exporter Code (IEC) holders. The portal makes international trade more convenient and effective for Indian enterprises by providing resources including market data, benefits of the Free Trade Agreement (FTA), e-commerce guidance, and professional assistance. Shri Goyal stressed that the platform will assist India in reaching its lofty goal of exporting \$1 trillion worth of goods and services by 2030.

### b. Penalty for not maintaining Average Monthly Minimum Balance

For many consumers, the subject of penalties for not keeping an average monthly minimum balance (AMB) in savings accounts has been a major source of anxiety. This page discusses the specifics of these fees, the standards that public sector banks employ in determining them, and the government's position toward their rationalization.

We examine the details of these fines and the reasonableness standards used in their enforcement, based on the Lok Sabha Unstarred Question No. 1098, which was answered on July 29, 2024.

The Reserve Bank of India (RBI) has issued circulars outlining the guidelines for penal charges on non-maintenance of minimum balances. Banks are allowed to set their charges based on their Board Approved Policy, ensuring that the penal charges are a fixed percentage of the difference between the actual balance and the required minimum balance. The guidelines also stipulate:

- **Customer Notification:** Banks must inform customers about the minimum balance requirement at the time of account opening and any subsequent changes.
  - **Notification of Penal Charges:** If the minimum balance is not maintained, banks must notify customers of the penal charges and give them a month to replenish the balance.
  - **Prevention of Negative Balance:** Savings accounts should not turn negative solely due to the imposition of penal charges
- ### c. RBI introduces provisions for 'Sovereign Green Bonds' vide Foreign Exchange Management (Debt Instruments) (Third Amendment) Regulations, 2024.

The 2024 Regulations provide that a person resident outside India who maintains a securities account with a depository in IFSC in India would be

able to purchase or sell Sovereign Green Bonds issued by the Government of India.

On 02-08-2024, the Reserve Bank of India ('RBI') notified the Foreign Exchange Management (Debt Instruments) (Third Amendment) Regulations, 2024 to amend the Foreign Exchange Management (Debt Instruments) Regulations, 2019. They came into force on 07-08-2024.

Key Points:

- A new sub-paragraph has been added to paragraph 1 of Schedule 1 to the Principal Regulation which provides for the 'Permission to persons resident outside India for purchase of Sovereign Green Bonds in the International Financial Services Centre in India'.
- A new clause (4B) has been added to paragraph 2 of Schedule 1 to the Principal Regulation to amend the provisions for mode of payment. This new clause states that the amount of consideration for the purchase of Sovereign Green Bonds by persons resident outside India will be paid out of inward remittance from abroad through banking channels or out of funds held in a foreign currency account maintained as per regulations issued by RBI and/or the International Financial Services Centre Authority.
- A new clause (2B) has been added to paragraph 4 of Schedule 1 to the Principal Regulation which states that the sale/maturity proceeds of instruments held by the persons resident outside India as per sub-para (F) of paragraph 1 of this Schedule may be remitted outside India.

**d. TRAI Releases Consultation Paper on Telecom Consumer Protection Review**

A consultation paper has been released by the Telecom Regulatory Authority of India (TRAI) in order to revise the Telecom Consumer Protection Regulations (TCP), 2012. Feedback on many areas of telecom rates, such as voucher availability and validity, is sought after by this paper's stakeholders. Written comments from stakeholders are requested by August 16, 2024, and counter comments will be received through August 23, 2024. The consultation addresses matters like the requirement for customized tariff plans, longer voucher validity periods, and the possible implementation of digital color coding for vouchers.

## 2. Corporate Laws

**a. Finance Minister to launch NPS Vatsalya Scheme on September 18, 2024**

The NPS Vatsalya is a child-focused pension scheme that was introduced by the Pension Fund Regulatory and Development Authority (PFRDA) on September 18, 2024, at an event in New Delhi. The National Pension System (NPS) was first adopted in 2004 for government employees and subsequently expanded to include workers in the private sector. The concept was presented by Hon'ble Union Minister of Finance Smt. Nirmala Sitharaman. Pension planning is accessible from

an early age because to NPS Vatsalya, which permits participation from birth to age 70. The program encourages families to start saving early because of its low entrance requirement of just ₹1,000 annually, which makes it possible for the child to seamlessly transfer to a standard NPS account once they reach maturity.

**b. Revised Framework for Global/Regional Corporate Treasury Centres in IFSC**

In order to get public input on its proposed amended framework for Global/Regional Corporate Treasury Centers (GRCTCs) in the International Financial Services Center (IFSC), the International Financial Services Centers Authority (IFSCA) has released a consultation document. Treasury Centers serve as the internal banks of multinational firms, streamlining fund administration and maximizing liquidity for group companies. The first framework described the composition and approved uses of GRCTCs in IFSC and was unveiled in June 2021. By improving alignment with worldwide best practices, streamlining authorized activities, and broadening the range of services these Treasury Centers can provide, this updated framework seeks to attract multinational firms. Feedback on the framework and the accompanying explanatory note is requested from the public; comments must be sent by October 02, 2024. Additionally, the updated rules emphasize compliance with owned fund requirements, eligibility criteria, and oversight mechanisms to ensure robust financial operations in the IFSC.

**c. MCA Launches New Company ADJ Form**

The Ministry of Corporate Affairs (MCA) is set to launch the Company ADJ form on September 16, 2024, aimed at enhancing the functionality of the V3 MCA21 portal. This initiative is part of ongoing improvements to serve stakeholders in corporate compliance better.

**d. Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) (Second Amendment) Regulations, 2024**

The Securities and Exchange Board of India (SEBI/LAD-NRO/GN/2024/205), (Issue and Listing of Non-Convertible Securities) (Second Amendment) Regulations, 2024, dated September 17, 2024, were released by SEBI. The Securities and Exchange Board of India hereby makes the following regulations to further amend the Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021, in the exercise of the powers granted under sub-section (1) of section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).

**e. SEBI proposes amendments to Merchant Bankers Regulations, 1992**

The public and stakeholders are being asked to provide input on suggested changes to the Merchant Bankers Regulations, 1992, in a consultation paper released by the Securities and Exchange Board of India (SEBI). These rules, which were put in place to control the qualifications, duties, and activities of merchant bankers in the



securities market, need to be updated to reflect the circumstances of the market today. One of SEBI's recommendations is to update merchant bankers' permitted activities so they can concentrate on tasks pertaining to the securities market. In order to preserve registration, the document also recommends tightening compliance rules, implementing a two-tier structure based on net worth, and changing the capital adequacy requirements. Furthermore, SEBI wants to harmonize the definition of net worth with the Companies Act, 2013 and forbid merchant bankers from participating in valuation activities unless specifically authorized. Additionally, the concept of minimum liquid net worth is introduced in the paper to guarantee merchant bankers have adequate, easily accessible financial resources. By limiting the number of serious, financially viable companies that participate in the market, these modifications hope to promote a stable and legal financial ecosystem.

**f. SEBI Proposes Mandatory UPI Block Mechanism for Trading**

In order to gather input from the public, the Securities and Exchange Board of India (SEBI) has published a consultation paper requesting opinions on whether or not Qualified Stock Brokers (QSBs) must provide a UPI block mechanism for secondary market trading. With this service, investors can block money in their bank accounts instead of sending it to brokers, improving fund protection and collecting interest. It is similar to the ASBA system for primary markets. The proposal also examines whether QSBs ought to provide an alternative in the form of a "3-in-1 trading account." The objective of SEBI's program is to enhance trading safety and operational efficiency by tackling issues that were brought up in stakeholder meetings.

**g. SEBI proposes Maintenance of Record of Mandatory Communication By Regulated Entities**

In order to get public input on a proposal mandating that regulated firms keep records of all obligatory communications, SEBI has released a consultation document. At the moment, only a small number of communications must be retained; however, this proposal intends to improve compliance and transparency by requiring that all records of these conversations, including acknowledgements, be retained for a minimum of eight years. With this modification, regulatory monitoring should be enhanced, investor complaints should be resolved more easily, and evidence trails for possible securities law violations should be strengthened.

### 3. Taxation Laws

**a. Representation to Reduce fees for filing appeal to GST Appellate Tribunal**

The high costs associated with filing appeals with the GST Appellate Tribunal have been brought up in a submission to Finance Minister Nirmala Sitharaman by the All Gujarat Federation of Tax

Consultants (AGFTC) and Income Tax Bar Association (ITBA). The groups believe that the GST Act's current fee structure—which lists appeals fees between ₹10,000 and ₹50,000—is exorbitant when compared to comparable provisions under the Income Tax Act. They support a more fair fee schedule that is in line with the income tax appeals procedure, where costs can vary from ₹500 to ₹10,000. The proposed changes would provide a more equitable and easily accessible appeal process for taxpayers by charging a charge of ₹1,000 to ₹10,000, contingent on the tax or input tax credit at issue in the case. The organizations ask the government to consider these changes to create a more equitable and streamlined taxation system under GST, benefiting both taxpayers and businesses.

**b. The government notified amendments to the Central Goods and Services Tax (CGST) Act, particularly concerning the Input Service Distributor (ISD) provisions, effective from April 1, 2025. This includes a new definition of ISD and requirements for registration and credit distribution.**

The Finance Act of 2024 notifies the government of the changes to the GST law and their implementation date.

The Central Board of Indirect Taxes and Customs (CBIC) recently released a notification outlining the effective date of adjustments made to the Central Goods and Services Tax Act, 2017 (CGST Act), as per the Finance Act, 2024, in the interim budget. This Tax Alert highlights that notification.

According to the notification, changes to the CGST Act's definition of an input service distributor (ISD) in Section 2(61) and the way in which ISD distributes credit in Section 20 will take effect on April 1, 2025. Effective October 1, 2024, a penalty provision for manufacturers of pan masala, chewing tobacco, and other tobacco-related goods who fail to register their packing machinery would be in place.

**c. Following Budget 2024, there will be new capital gains tax rates on equity, debt MFs, ETFs, and gold funds, as well as updated mutual fund tax regulations.**

Following the Budget 2024, new taxation rates for short-term capital gains (STCG) and long-term capital gains (LTCG) on various assets have been introduced:

- Equity Mutual Funds: STCG rates increased from 15% to 20% for holdings up to 12 months, and LTCG rates adjusted from 10% to 12.5% for holdings over 12 months.
- Debt Mutual Funds: Similar adjustments have been made, with significant changes in holding periods for tax calculations.

**d. Central govt. has released INR 1,39,750 crore installment for tax devolution to States totaling to INR 2,79,500 crore released to States (up to June 10, 2024) for FY 2024-25 vide Press Release dated June, 10 2024 including bifurcation of tax amount released to different States.**

## 4. Consumer Law

- a. Apex Court held that 'Onus to prove that service was obtained for commercial purpose under Consumer Protection Act lies on service provider and not consumer'

*"If and only if, the service provider discharges its onus of showing that the service was availed, in fact for a commercial purpose, does the onus shift back to the complainant to show that the service was obtained exclusively for the purpose of earning its livelihood by means of self-employment."*

In the case of *Shriram Chits (India) (P) Ltd. V. Raghachand Associates* 2024 SCC OnLine SC 851, Supreme Court noted that the service provider had raised a plea that the complainant did not satisfy the definition of consumer since the service was obtained for a commercial purpose. The Court said that the service provider had merely pleaded in its version that the service was obtained for a commercial purpose, no evidence led to probabalise its case other than merely restating its claim on affidavit and it is well settled that a plea without proof and proof without plea is no evidence in the eyes of law. Hence, the Court dismissed the appeals and held that the three forums had concurred in their findings and that there was proved deficiency of service.

In a batch of civil appeals against the order of the National Consumer Disputes Redressal Commission, New Delhi (NCDRC) wherein the view taken by the State Forum and the District Forum, that there was 'deficiency in service' and ordered for refund of the claimed amount with interest of 18% p.a. was upheld, the Division Bench of Pamidighantam Sri Narasimha and Aravind Kumar\*, JJ. dismissed the appeal and held that deficiency of service was proved.

## 5. Arbitration Law

- a. **When one business partner's actions harm another, Bombay High Court provides interim relief under Section 9 to the harmed party in the absence of a workable remedy under Section 17 of the Arbitration Act of 1996.**

Due to disagreements, partners in respondent 3, a construction company, filed competing petitions before a single judge bench presided over by Arif S. Doctor, J. The petitioner claimed that respondents 1 and 2 were negatively affecting him in the Firm's business dealings. According to the terms of their partnership agreement, the disputing parties had submitted their matter to arbitration, and the court had selected a sole arbitrator. A status quo order was issued by the instant Court and remained in place until the court's final conclusion. The Bombay High Court in the present matter of *Ambrish H. Soni v. Chetan Narendra Dhakan* had observed that by starting construction on a Firm's land, the petitioner had flagrantly broken the status quo order. As a result, the Court denied the petitioner's request. Nonetheless, the respondent's request to appoint a Court Receiver to protect Firm property was granted<sup>27</sup>.

- b. **Order granting/declining ex-parte interim measure in Commercial Arbitration Dispute is appealable under S. 37, A&C Act, 1996: Karnataka HC**

In the instant appeal, the Court had to consider the interplay of Sections 9 and 37 of the A&C Act; Section 13 of the Commercial Courts Act, 2015 and Rule 9 of High Court of Karnataka Arbitration (Proceedings before the Courts) Rules, 2001. While considering the instant appeal, wherein the Court had to consider that whether an order refusing or granting ex-parte interim measure on an application under Section 9 of the Arbitration and Conciliation Act, 1996 (A&C Act) falling under 'Commercial Arbitration Dispute' is appealable order under Section 37 of the A&C Act; or whether such an appeal is barred under the proviso to Section 13(1A) of the Commercial Courts Act, 2015, the Division Bench of Anu Sivaraman and Anant Ramanath Hegde\*, JJ., opined that an order granting or declining ex-parte interim measure is appealable under Section 37 of A&C Act, even if a dispute under Section 9 of A&C Act is before the Commercial Court<sup>28</sup>.

- c. **Section 34 Court cannot overturn the interpretation of contract rendered by the Arbitral Tribunal – National Highway Authority of India v. M/s Hindustan Construction Company Ltd [Civil Appeal No. 4702 OF 2023]**

While deciding a civil appeal preferred by the National Highway Authority of India, the Supreme Court of India, recently affirmed the view taken by subordinate courts, that a court cannot overturn the interpretation of a contract rendered by the arbitral tribunal. The scope of the appeal was limited to two claims, first concerning the increase in royalty, sales tax etc. on account of subsequent legislations; and second for the balance amount for the construction of the embankment. In respect of the first claim, the Supreme Court distinguished between Clauses 70.1 – 70.7 and Clause 70.8.

The Supreme Court found that while Clauses 70.1 – 70.7 dealt with escalation premised on fluctuations in market value, Clause 70.8 concerned compensation for additional costs resulting from subsequent legislation. Accordingly, the Court concluded that the first claim is covered by Clause 70.8 and not Clauses 70.1 – 70.7. So far as the second claim was concerned, the Court noted that the arbitral tribunal had taken a particular view which was further approved by Section 34 & 37 Courts.

The Supreme Court also noted that NHAI had sought to make deductions after initially paying the amounts for the embankment. On the basis of the above, the Supreme Court did not find any perversity or illegality in the arbitral award and held that there is no reason for interference with the arbitral tribunal's interpretation of the contract.

<sup>27</sup> *Ambrish H. Soni v. Chetan Narendra Dhakan*, 2024 SCC OnLine Bom 2280, decided on 16-07-2024

<sup>28</sup> *KLR Group Enterprises v. Madhu H.V.*, 2024 SCC OnLine Kar 65, decided on 19-07-2024.

# INTERACTIVE SESSION

1. \_\_\_\_\_ evolution has been mostly driven by technological advancement, from the early days of dial-up internet to the present era of high-speed connectivity and 5G networks.
2. What are the following areas where corporate law and digital platform regulation interact?
  - a. Antitrust law
  - b. Antitrust law, Data Protection Regulations
  - c. Consumer Protection Laws
  - d. All of the above.
3. \_\_\_\_\_ refers to the recognition of corporations as entities capable of holding rights and obligations in a digital context, including aspects like online registration and maintaining a digital footprint in public registers.
4. \_\_\_\_\_ are self-executing contracts that enable automated platform transactions without the need for human interaction. The terms are directly encoded into the code. They demonstrate how corporate governance procedures can be made more efficient by technology.
5. The incorporation of \_\_\_\_\_ and other cutting-edge technology into digital platforms can be covered in detail in this area.
6. It is suggested to keep track of shareholder registrations, guarantee safe transactions using smart contracts, improve transparency, and lower the risk of fraud as \_\_\_\_\_ offers several benefits, such as transaction traceability, immutability, transparency, and decentralization.

Answers: 1. Digital platform, 2012; 2. D. All of the above; 3. Digital Legal Personality; 4. Smart Contracts; 5. Artificial Intelligence (AI); 6. Blockchain technology