



# Challenges for Company Law in the Digital Age

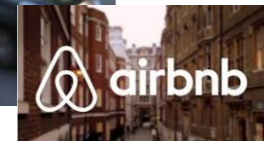
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# Think of “Digital”. What comes to your mind?

- Algorithms and Artificial Intelligence
- Blockchain Technologies
- Platform Technologies
- Cloud Computing, Big Data, ...
- But still e-mail, anybody?



# ICLEG Report on Digitalisation in Company Law

- Nucleus of the current proposal
- Definition of Digitalisation, right at the outset:

1.1. This report looks at the issue of digitalisation in company law in the EU. By »digitalisation« we mean the representation of communication in writing or sound by electronic means and the concept thus concerns electronic communication including the transmission of information and the storage of such communication electronically and electronic access and retrieval from such storage.

- Digitalisation as (nothing more than) electronic communication
- In-Depth Analysis for EP Juri Committee (Knapp, 2016): similar approach
- Definition is outdated and not fit for the Digital Age
- For a “modern” approach, cf. FinTech Action Plan, COM (2018) 109, p. 2: “digital identification, mobile applications, cloud computing, big data analytics, artificial intelligence, blockchain and distributed ledger technologies”

# Proposal for a Directive as regards the use of digital tools and processes in company law, COM(2018) 239

## - Content -

- Online registration: Core of the proposal; important for its cross-border impact. Online registration must be possible, but Member State opt-out for public limited-liability companies
  - (P) letterbox companies – but company law not the right instrument to combat fraud
- Electronic filing of documents to the business register
- Transparency, in particular with respect to Directors' Disqualifications
- Once-only-Principle: Disclosure of information only via the register. Publication via a nationale gazette no longer a mandatory requirement at EU-level (but Member State may require it)

# Proposal for a Directive as regards the use of digital tools and processes in company law, COM(2018) 239

## - Shortcomings -

- With its focus (solely) on electronic communication, the proposal does not tackle all challenges of the Digital Age.



IMAGINE A NATION WITHOUT LAND AND BORDERS

A digital jurisdiction

Aragon Network will be the first community governed decentralized organization whose goal is to act as a digital jurisdiction, an online decentralized court system that isn't bound by traditional artificial barriers such as national jurisdictions or the borders of a single country



- Example 1: Blockchain technologies enable establishment of new "digital companies" without incorporation  
=> How does the law deal with these digital companies?
- Example 2: Artificial intelligence leads to robo-directors in the boardroom  
=> Consequences for directors' duties?
- Current proposal therefore just the beginning, not the end of company law reform in the digital age

# Thanks for your attention.



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