

# Regulatory & Legal Aspects of Distributed Ledger Technology (DLT)

**Dr Leon J Perlman**

- Head: Columbia University Digital Financial Services Observatory
- Co-chair: ITU DFS Focus Group TIC WG

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- Interest evolved from the ITU Digital Financial Services Focus Group
  - Technology, Innovation and Competition Workgroup
- Looked at potential impact and use of blockchain/DLTs on financial inclusion
- Found DLTs could be used for
  - ID management, interoperability, settlement between DFS systems, property registration, smart contracts, AML/KYC, ICOs

....but study found legal and regulatory issues with DLTs that need to be investigated further.

## Regulatory & Legal Aspects of DLTs

- How DLTs interact with current laws and regulations governing specific sectors
- Legal rules that are needed and invoked where regulations are silent
- All evolving.....

## Regulatory Aspects - Overview

- Rules around use of technologies or services
- Usually the result of a policy framework
- Rules from specific national authorities, or supra-national bodies
- May have *multiple* regulations applicable to same technology or service
- Goal is technology neutrality

# Regulatory Issues – General Questions

- What exactly should be regulated?
- Which activities related to the operation of DLT should be regulated?
- What are the competition issues relating to private DLTs that exclude others from participation?
- How do you apply consumer protection measures?

# Regulatory Issues – AML/ID/KYC Questions

- Can identities registered in one jurisdiction on a DLT be seamlessly used for authentication purposes in another jurisdiction, if dis-similar enrollment techniques are used?
- Whether private DLTs might deliver sufficient information to enable a regulated bank or financial institution to discharge its AML and KYC obligations?
  - For example, one country will use a lower form of KYC enrollment methodology than another such as fingerprint versus iris scans

# Legal Aspects of DLTs

- Specific laws that may impact on technologies or services
  - eg e-commerce, evidence, contract
- Issue:
  - There may not be specific laws on DLTs
  - So may 'extrapolate' to make relevant
- Legal aspects may fill in 'gap' where regulations silent, outdated, or contradictory ie regulatory arbitrage
- Principle of technology neutrality



# Computer Misuse Act 1990

1990 c. 18 ▶ Computer misuse offences ▶ Section 3

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More Resources 

◀ Previous: Provision

Next: Provision ▶

Plain View

Print Options

## What Version



Latest available (Revised)

Original (As enacted)

## Advanced Features


Show Geographical Extent  
(e.g. England, Wales, Scotland,  
Northern Ireland)

Show Timeline of Changes

Opening Options  

More Resources 

 Original Print PDF

**Changes to legislation:** There are currently no known outstanding effects for the Computer Misuse Act 1990, Section 3. 

### **[F1<sub>3</sub>]** Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer, etc.

- (1) A person is guilty of an offence if—
- he does any unauthorised act in relation to a computer;
  - at the time when he does the act he knows that it is unauthorised; and
  - either subsection (2) or subsection (3) below applies.
- (2) This subsection applies if the person intends by doing the act—
- to impair the operation of any computer;
  - to prevent or hinder access to any program or data held in any computer; **[F2<sub>or</sub>]**
  - to impair the operation of any such program or the reliability of any such data; **[F3<sub>or</sub>]**
  - to enable any of the things mentioned in paragraphs (a) to (c) above to be done. **]]**

- (3) This subsection applies if the person is reckless as to whether the act will do any of the things mentioned in paragraphs (a)

# Some Evolving Legal Issues On DLTs

- Contractual provisions  
eg smart contracts, time/place, coding
- Liabilities
- Damages
- Evidence eg evidential rules

# Some Evolving Legal Issues On DLTs

- Hacking eg fork?
- Validity of data
  - eg notarization vs accuracy of data