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Keynote speech: The economic value of English law in relation to DLT and digital assets

Digital Assets Symposium: Challenging Legal Frontiers

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Introduction

1. Many thanks, Andrew, for that kind introduction. I hope you will all forgive me for having decided at the very last moment to change the title of my talk from '*The Legal Classification of Digital Assets*' to '*The economic value of English law in relation to DLT*[1] *and digital assets*'. As will become apparent, there may have been an element of reverse engineering from the contents of the talk to the new title.

2. It is perhaps unusual for the Bank of England to invite a senior judge to speak at a symposium. It may be, however, that English law and our English legal system has more to offer to the UK economy than might at first be thought. I will be suggesting today that that is certainly the case in the context of the development of new technologies including blockchain and digital assets.

3. My starting point is that law underpins all banking, trade and financial services. It provides the glue that gives investors, traders and even governments the confidence to take economic risks nationally and internationally. Historically, English private law has held a privileged position internationally. A report by Oxera for LegalUK last October 2021 on the *Economic Value of English Law* noted the dominance of English law as the agreed foundation for literally trillions of dollars of transactions in

[1] Distributed Ledger Technology.

many industrial and financial sectors, including, for example, insurance and financial services, maritime, energy and telecoms.[2]

4. Regulators and central banks are naturally concerned at the growth of the decentralised finance (defi) sector to reach a peak of over $3 trillion in November 2021. In March 2022, Joe Biden's Executive Order on Ensuring Responsible Development of Digital Assets said that non-state issued digital assets had grown to that level from approximately $14 billion in early November 2016. Even if it is now reported that the recent value crash has caused the total market capitalisation of cryptocurrencies to plunge below $1 trillion,[3] the sector must surely be taken seriously.

5. The value of the defi sector is not the only important indicator. Distributed Ledger Technology (DLT) offers advantages that will inevitably be taken up across the financial and industrial sectors. We now understand the huge value of data. It enables industry to target customers accurately and to capitalise on gaps in any market. If one can incontrovertibly record every transaction, one would want to do so for a number of simple reasons: data benchmarking, marketing, the avoidance of dispute and argument, better financial control and, of course, seamless friction-free trade. Those advantages do not mention the regulatory benefits that I do not need to emphasise here at the Bank of England.

6. If we take a moment to consider the main industrial and financial sectors, we can see how the use of DLT and blockchain is likely to become ubiquitous. One might start with insurance. Insurance and reinsurance are founded upon the assessment of risk. Risk can only be assessed accurately on the basis of data. DLT offers the realistic opportunity for global data recording of events in every risk category. DLT's advantages in markets and financial services are so obvious that they do not require lengthy exposition. In energy markets, recording and matching supply and consumption in global terms creates challenges even absent a major regional war. DLT could and, I suggest, will be used to provide the data to allow for better supply chains, smarter pricing and improved future proofing. I could go on by looking at telecoms, pharmaceuticals, minerals, property and share ownership and almost every other aspect of society. But I think I have made the point already. The advantages of the blockchain are so obvious that they will inevitably be taken up over time.

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2 English law underpins and governs trading in €600 trillion of OTC derivatives, €11.6 trillion in metals, £250 billion in M&A deals, and £80 billion in insurance contracts.

3 Financial Times, 5 July 2022, Crypto collapse reverberates widely among black American investors.

The curve plotting the growth of DLT usage closely tracks the growth of the internet, and DLT is now about where the internet was in the mid-1990s.

7. The next thing to touch on by way of introduction is disintermediation.[4] The defi sector is driven by it. On 7 June 2022, Democratic Senator Kirsten Gillibrand and Republican Senator Cynthia Lummis introduced the Responsible Financial Innovation Act into Congress. Its objective is to establish a comprehensive regulatory framework for digital assets in the USA. The avowed aim is to allow existing stablecoin issuers and new entrants into the market to have an adequate opportunity to compete with existing banks and credit unions. It proposes 100% reserves and detailed disclosure requirements for all stablecoin issuers, and a new framework which will allow for issuers which are not depository institutions.

8. When I visited Washington DC in May, I discovered that disintermediation is beloved on both sides of the political divide for different reasons. On the Democratic side, digital assets are seen as an enabler for the vulnerable and the disadvantaged. I was told that as many as 40% of the black community invest in them in the US, whilst only 11% of the white community, but these figures seem to vary across demographic. [5] Conversely, the Republicans approach the matter from a far more ideological standpoint. Disintermediation enables a free market and reduces regulatory intervention. The Responsible Financial Innovation Act would provide a new US tax exemption. It would allow individuals to make $200 worth of tax-free gains when using a digital currency for the purchase of goods or services in personal transactions.

9. To compare the US experience with the UK, HMRC published research earlier this month indicating that about 10% of UK adults had either purchased or owned cryptoassets, which is probably a higher proportion that had previously been thought.[6] Interestingly also, 52% of respondents gave as one of their reasons for holding cryptoassets that they were a "fun" investment.

10. The point here is that disintermediation includes lawyers and the law. The uses of DLT, including digital assets, are driven by many of those most

[4] The drive to do away with the use of intermediaries in financial and other sectors.
[5] https://www.bloomberg.com/news/articles/2022-04-05/young-black-americans-wary-of-stock-market-are-turning-to-crypto
[6] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1089224/Individuals_Holding_Cryptoassets_Uptake_and_Understanding.odt

enthusiastic about their usage by the hope, one might say the dream, that DLT will lead to the end of lawyers, the law and, possibly, also regulation. It is already obvious from what I have said about the Responsible Financial Innovation Act in the USA that it will not do so. But lawyers and legal systems need to be sensitive to the objectives of those in the defi sector if we are to provide responsible global structures that allow for the use of digital assets and DLT for the benefit of our societies. I will return to this aspect of disintermediation.

11. Finally, by way of introduction, it is important to understand that the blockchain does not lend itself to multiple private law systems. It is a borderless technology that relies upon nodes that may be located anywhere to verify what is recorded and the transactions on-chain. Ultimately, therefore, at the very least, it is likely that one or two systems of private law will come to dominate and underpin the use of DLT and perhaps also digital assets also themselves recorded on-chain. This is a complex area, because we have already seen a number of (mainly) small jurisdictions pass ground-breaking legislation intended to make them "crypto-friendly" whether for crypto-exchanges or for digital transferable documentation. One might cite Estonia, Singapore, Switzerland, France and Malta as examples. But most of the major economies and major private law jurisdictions have not reacted in quite that agile way. Certainly, the US is looking at various pieces of enabling legislation, and the UK is about to introduce its Electronic Trade Documents Bill recommended by the Law Commission, which will hopefully follow the route allowed for uncontroversial legislation. I will come back to that important Bill.

12. There is not an unlimited supply of private law systems that would be accepted internationally as providing the legal infrastructure for the international utilisation of DLT and crypto assets for reasons I shall seek, in a moment, briefly to explain.

13. My thesis, however, is that, at the very least, English law is one such system. If English law can be positioned as a good candidate to provide the legal foundation for the use of DLT and cryptoassets internationally, it would be even more significant for the UK economy than the current industrial and financial usages of English law to which I have already referred.

14. Against that background, let me try to summarise how I want to develop these themes this afternoon:

15. First, I want to ask what are the necessary constituent parts for a private law system seeking to provide the legal foundation for the international use of DLT, blockchain and cryptoassets?

16. Secondly, I want to consider the significance of domestic legislation in that jigsaw. In this context, it is to be noted that most regulation is initiated at a federal level – either by US federal legislation or by EU legislation as opposed to national member state legislation. But it will be a private law legal system that will be required to provide the legal foundation for on-chain transactions. Whilst we can start this discussion by reference to the US and the EU, we cannot ignore the role of other major powers and laws such as China and its PRC law and India and Indian law. We need also to consider the significance of the difference between civil and common law legal systems.

17. Thirdly, it is important to consider the jurisdictional factors that affect the systems of law in question. One might identify the rule of law, the quality of the legal infrastructure, the integrity of judges and the jurisdictional reputation.

18. Finally, I want to try to address some of the things that the UK and its hugely powerful legal sector can and should do to enhance its reputation and standing in the digital space.

The constituent parts of a legal system seeking to provide the foundation for the international use of DLT and blockchain?

19. My interest in digital assets began back in about 2016 when I realised that there were perceived legal impediments to the use of English law as a foundation to transactions undertaken digitally. An early speech that I gave in May 2019 at the University of Liverpool was about: *Digital assets as Property – English Law can boost the confidence of parties to smart contracts*.[7] It was all of a piece with the creation of the Lawtech UK Panel, whose avowed objective was to bring together regulators, the judiciary, lawyers and the Law Commission with a view to removing legal impediments to the utilisation of new technologies.

[7] https://www.judiciary.uk/wp-content/uploads/2019/05/Sir-Geoffrey-Vos-Chancellor-of-the-High-Court-speech-on-cryptoassets-2.pdf

20. The UK Jurisdiction Taskforce, operating under Lawtech UK, set about these aspirations with determination, publishing its Legal Statement on the Status of Cryptoassets and Smart Contracts in November 2019[8] and its Digital Dispute Resolution Rules in February 2021[9]. I was surprised by the authority that the Legal Statement seemed to command when it opined that cryptoassets were properly to be regarded as property under English law. To digress for a moment, my reasoning in thinking that a Legal Statement would be useful, was this. On 13 September 1983, one Leonard Hoffmann QC (now Lord Hoffmann) and one Mary Arden, junior counsel (now Lady Arden) had written a definitive joint opinion on the meaning of a "true and fair view" explaining that the question involved "judgment in questions of degree". The opinion still holds sway 40 years later and abrogated the need for lengthy litigation, which would anyway have been unlikely to reach the courts.[10] My thinking was, as it turns out justifiably, that a Legal Statement was likely to give the market confidence to utilise cryptoassets and smart contracts underpinned by English law.

21. So, the first thing that a legal system aspiring to provide the foundation for DLT and cryptoassets needs to provide is legal certainty. The common law is, of course, rightly commended for its certainty and predictability. But even in a certain and predictable system, there are grey areas – otherwise, how would there be doubt about the outcomes of the few cases that reach the Court of Appeal or the Supreme Court. There was doubt about whether, and if so why, crypto assets should be regarded as property under English law. Despite the clear and persuasive Legal Statement, with which I believe the Law Commission agrees, it is about to publish a lengthy consultation paper on the subject suggesting legislation to put matters beyond doubt.

22. The second thing that is necessary is a dispute resolution process that takes account of the circumstances in which transactions are effected on-chain using digital payment mechanisms. That was the thinking behind the UKJT's Digital Dispute Resolution Rules that allow for arbitral or expert dispute resolution under English law, arbitrators or experts to implement decisions directly on-chain using a private key, and for the optional

[8] https://35z8e83m1ih83drye28009d1-wpengine.netdna-ssl.com/wp-content/uploads/2019/11/6.6056_JO_Cryptocurrencies_Statement_FINAL_WEB_111119-1.pdf
[9] https://35z8e83m1ih83drye28009d1-wpengine.netdna-ssl.com/wp-content/uploads/2021/04/Lawtech_DDRR_Final.pdf
[10] The joint opinion received recent judicial approval from Andrew Smith J in *Macquarie Internationale Investments v Glencore UK Limited* [2009] EWHC 2267 and has been reinforced by a more recent opinion of Martin Moore QC dated 8 October 2013 at https://www.frc.org.uk/getattachment/5d0b34be-5742-41d8-a442-6ad22d2b878e/Martin-Moore-QC-Opinion-3-October-2013-sig.pdf.

anonymity of the parties. Tech parties are starting, slowly at first, to incorporate the Digital Dispute Resolution Rules into their contractual engagements.

23. The third requirement, in addition to substantive legal certainty, is the procedural ability to deal with disputes arising from digital transactions. In the UK, we are looking at amendments to the mechanisms for service of proceedings outside the jurisdiction to make it easier to trace or freeze missing or stolen digital assets. In the world of crypto fraud, there are no national barriers and unlawfully obtained cryptoassets can be difficult to trace. That is why the Civil Procedure Rules Committee will hopefully soon expand the grounds on which proceedings can be served out of the jurisdiction. It is that obstacle that has impeded many sets of proceedings aimed at tracing the proceeds of crypto fraud. Under current case law, third party disclosure applications cannot easily be served outside the jurisdiction, even if one can serve out orders requiring a third party to disclose documents relating to the account of someone who can be shown to be prima facie responsible for a fraud. I hope that developments in the court's rules will make this fine distinction less significant and will make it generally easier to litigate issues that arise in relation to on-chain transactions and the tracing of cryptoassets.

24. A fourth legal element necessary for a good private law backdrop to DLT and cryptoassets is the necessity to be able validly to issue and transfer debt securities using a system deploying DLT. Some doubt has been expressed about English law in this respect and the UK Jurisdiction Taskforce is hoping to commission and publish a second legal statement towards the end of this year dealing with the single critical question of whether it is possible under the laws of England and Wales validly to issue and transfer equity or debt securities using a system deploying blockchain or DLT. I am sure that legal certainty on this issue will make a very great difference to the attractiveness of London as a digital hub.

25. Fifthly, we need to make industry and government more aware of the areas in which smart contracts governed by English law are already being used. That was the purpose behind the UKJT's Smarter Contracts report.[11] That report gave real life examples earlier this year of what is happening now, including: (i) blockchain technology automating the sale, purchase and registration of house purchases, (ii) digital documents and contracts being read and analysed by both machines and humans, (iii) smart supply

[11] https://lawtechuk.io/programmes/smarter-contracts

chains reducing friction in global trade, (iv) digitised insurance allowing for instant pay-outs, (v) smart energy microgrids made up of households and businesses, and (vi) original art works bought and sold as non-fungible tokens.

26. The final piece in the jigsaw is, of course, the regulatory environment that is often determinative both of where digital businesses will establish themselves and of the law they will use. The speech made by John Glen MP, then Economic Secretary, on 4 April 2022[12] said that the Government would look at regulating a broader set of crypto activities including trading of tokens like Bitcoin and would consult on a world-leading regime for the rest of the crypto-market that would facilitate safe, sustainable, and rapid innovation. In this context, John Glen specifically acknowledged that the legal landscape would be crucial. He said that English Law and the UK's world-leading legal services and courts would play a big part in "making the UK an attractive hub for all things digital and for new technologies more generally".

27. So, I would say that English law is in a good place even without dedicated digital enabling legislation. Before turning to the role of legislation, let me just say something, I hope uncontroversially, about other private law systems that might also put themselves forward as the private law system of choice for DLT, blockchain and cryptoassets.

28. You will all realise that civil systems of private law have one feature that pre-eminently distinguishes them from common law private legal systems. That feature is that the civil law systems generally depend on a written code and the interpretation of that code as an essential part of its legal decision-making. That feature, taken alongside the absence of any recognised doctrine of precedent, generally means that civilian courts are at least partially dependent on the opinions of legal academics and experts when deciding novel points of law that may turn on, what we would call, an updating interpretation of a statutory code. In this country, we generally think that the common law doctrine of precedent provides an element of predictability and commercial certainty to a common law system of private law, which a civil law system cannot match.

29. Whatever the truth of that point of view, English law is, of course, only one of many common law systems. The most prominent have perhaps been, at least over the last generation or so, New York law, Singapore law,

[12] https://www.gov.uk/government/speeches/keynote-speech-by-john-glen-economic-secretary-to-the-treasury-at-the-innovate-finance-global-summit

Hong Kong law, Australian and Canadian law. But there are many others. I will return under my third heading to the other factors that may be relevant to any whittling down of this list as the borderless nature of DLT becomes increasingly apparent.

30. Let me the move on to my second heading as to the issue of specific enabling legislation.

The significance of domestic legislation

31. Like civilian codes, domestic legislation is rooted in the time it was enacted. If the civilian code is 200 years old, it is commensurately more difficult to apply to modern commercial developments and technological concepts unknown at the time of its drafting.

32. There is, therefore, a school of thought that suggests that legislative solutions to the creation of an hospitable legal climate for the use of DLT and cryptoassets may not always be the most desirable ones. You can only legislate on the basis of technology as it is today, and technology moves so fast that such legislation will inevitably become dated far more quickly than legislation in other legal areas.

33. There may, however, be legal impediments that can only be cleared away by legislation. A good example is the Law Commission's report of 15 March 2022 accompanied by an economically drafted 7-clause Electronic Trade Documents Bill.[13] That Bill tackles the legal question of the uniqueness of an electronic trade document such as a Bill of Lading or a Bill of Exchange. It provides that electronic trade documents are to have the same effect as paper ones (clause 3(2)) provided a reliable electronic system is used: (a) to identify the document so that it can be distinguished from copies, (b) to protect the document against unauthorised alteration, (c) to secure that it is not possible for more than one person to exercise control of the document at any one time, (d) to allow the person in control of the document to demonstrate that they are able to do so, and (e) to secure that a transfer of the document deprives the previous controller of control (clause 2(4)). That is absolutely necessary enabling legislation that will be transformational in making the use of electronically transferable trade documents ubiquitous.

[13] https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2022/03/Electronic-Trade-Documents-final-report-ACCESSIBLE-1.pdf

34. Likewise, the Law Commission's eagerly awaited consultation paper on digital assets will consider whether legislation is needed that would allow English law to recognise a third category of personal property beyond things in possession and things in action. If that happened, one might think such legislation would assist with regulation and prudential management and taxation of the new asset class. It might help the courts develop clear legal principles applicable to the new class of assets, and it might set English law on a path to allow it to be fit for future purpose in the sense of being prepared to regulate novel technologies and asset innovations.

35. It would be invidious for me to review foreign legislation in these areas with a view to concluding whether it is fit for the purpose for which it is intended. I would say, however, that any legislation should normally be on the narrowest possible basis and as general as it is possible to be, so that it does not exclude new technological developments or become quickly obsolete. In common law terms, the most desirable and effective legislation is likely to be that which enables the common law to do that which it is best at. And the common law is best at developing the law incrementally on a case by case basis to deal effectively, predictably and with certainty with new commercial concepts, instruments or situations on the basis of its long-established and well-known principles.

36. I mentioned earlier federal and EU legislation in this context. I mention it again, because non-lawyers often confuse private law systems with regulatory law. US federal law and EU law is not private law. Most legislation emanating from federal legislatures deals with regulation and has nothing to say about private law commercial relationships between businesses. What I am addressing is, as will be obvious, the private law foundation for on-chain business relationships – regulation is a layer apart.

<u>The jurisdictional factors that affect the systems of private law in question</u>

37. Choice of private law systems in an international context is a very interesting topic in itself. Lawyers often suppose that the most important thing on any corporate client's mind is the law and jurisdiction clause that they might wish to agree should be inserted in their international commercial contracts. They imagine that clients spend their waking hours deliberating between the advantages of a commercial arbitration with its

seat in London and litigating in the courts of New York. Experience generally tells us that, in fact, such matters pass commercial parties by.

38. Choice of law and jurisdiction is generally established by historical precedent in the industrial or financial sector in question. So that, for example, reinsurance contracts are customarily governed by English law for no better reason than they have been in the past. It is vanishingly rare, as I understand the position, for parties to spend time negotiating their law and jurisdiction clauses. This is good and bad. It is good for the legal system that has historically been used in particular sectors, but bad for prospects of changing a chosen legal system once it has, so to speak, got its feet under the table.

39. I believe that the push towards disintermediation that I have mentioned and the size (albeit the recently reduced size) of the defi sector put the legal systems vying to be considered the most suitable to underpin DLT, blockchain and cryptoassets at a critical juncture. As I have mentioned, it is very unlikely that it will be easy to use a multiple of private law systems to govern a particular stablecoin issue or a particular industrial usage for the blockchain. The nodes span jurisdictions and there will need to be a choice of applicable private law and jurisdiction, even if some of the techno community wish it were otherwise.

40. There is another important point here. Investors in crypto may find the asset class “fun” or even exciting. But they will find it less fun and less exciting when, as in recent months many have, they lose their shirts. That will be particularly unsatisfactory if they lose investment value due to improper commercial conduct, whether negligence or fraud, and find they have nowhere to seek legal redress and to vindicate their legal rights before an independent judicial or arbitral tribunal. This is directly about the rule of law. The rule of law envisages that there will be an impartial fair and independent court available to determine the legal rights of citizens. When transactions are routinely cross-border, as blockchain transactions are, it is even more important that legal remedies are available when contracts are broken – smart or not – and where wrongs are or fraud is committed.

41. It is always said that international commercial investors will not invest under a law and jurisdiction that is not one that is trustworthy and respectable. The economic risk of investing in a state where the courts routinely decide cases as directed by the government – mentioning no names – is far greater than investing in states and under legal systems

where the judges are independent and the courts are not influenced by the other branches of the constitutional state – i.e. the legislature and the executive. This is true, but investors do not always have the choice and, even if legal risk increases investment risk, it does not mean that the law and jurisdiction chosen will be the first thing to be changed. In some countries, outward investment under foreign law is neither accepted nor negotiable.

42. To summarise, there are many very significant 'rule of law' factors that would affect how suitable a private system of law was as the law of choice to govern DLT, blockchain and cryptoassets. These factors would include the integrity and independence of the judges and courts, the quality of the law in question, the quality of the court or arbitral system, including particularly delays and backlogs, the costs of legal proceedings, and the track record of judges and courts in resisting pressure from the executive and legislature in the state in question.

43. Whilst these factors are of huge importance, as I have already indicated, they are not always directly related to the choice of legal system and jurisdiction. Inertia and customary conduct have a large part to play.

44. One might hope, however, that the position of English law as the law of choice in many important international industrial and financial sectors would stand it in good stead when it becomes apparent that parties to DLT, blockchain and crypto transactions are in need of a preferred law and jurisdiction to govern their cross-border and indeed borderless transactions.

45. It would be invidious to consider how the other common law systems that I mentioned earlier might match up to the factors that I have mentioned, and I shall not attempt to do so. Suffice it say that law is critically related to economic confidence as I began by noting.

What the UK and its legal sector can do to enhance their reputation and standing in the digital space

46. I come finally to what I regard as the $64,000 (or the 2.7 BTC) question. That is what we can do here in the UK to position English law and the UK's jurisdictions as a desirable option in the DLT space. This is an area which is far more the province of regulators and government than judges and

courts. I can, as I have, highlight the problem, but I, as a judge, even a senior judge, cannot even start to solve it.

47. As I see the position, however, we are in a period of very significant opportunity. In one sense, the regulatory landscape is quite as important as the legal landscape. Since the UK left the EU, there are more regulatory levers in the hands of the Bank of England, the FCA and the UK Government than there were when the UK was a member of the EU.

48. The judiciary and the other authorities that make up LawTech UK, such as the Law Commission, the FCA, the MoJ, barristers and solicitors have together started to pull many of the legal levers I have mentioned. They have issued the Legal Statement, and the Digital Dispute Resolution Rules, are looking at digital assets as security, and the Law Commission is working hand over fist to recommend essential new legislation to make English law and jurisdiction fit for purpose in the DLT environment.

49. But I believe there is more that can be done. It was alluded to by John Glen in the speech I mentioned. It is to commit to a major new project that demonstrates the UK Government's commitment to the adoption of new technologies. Here I want to make it clear that no judge can even consider telling any government which project would be most economic, most effective and most economically beneficial. What I do know, however, is that if a major project were to be identified and pursued, it would give English law the fillip that it needs to present itself as the international law of choice in this area.

50. I have suggested several such projects. One could consider digital on-chain customs duties collection, putting VAT on-chain, digitising the Land Registry[14] or the intellectual property registries, or even issuing a UK Central Bank Digital Currency. All these projects would be huge statements of intent, but they would also be costly and time consuming. There would be no quick wins. That said, I believe that it is time for a detailed cross-departmental consideration of whether, when and how one or more of these projects could be initiated.

[14] See Mishcon de Reya's "White Paper" dated July 2020 entitled "Towards a distributed ledger of residential title deeds in the UK".

Conclusions

51. For the reasons I have tried to explain, English law and the UK's jurisdictions have more to offer to the deployment of DLT, blockchain and crypto than many realise. A legal foundation is a pre-requisite to good governance and regulation. The push towards disintermediation cannot be allowed to abrogate a legal foundation for on-chain transactions. It is a rule of law pre-requisite that those operating in the defi sector have the protection of the law, just as much as those operating in an analogue business and consumer world.

52. If English law and the UK's jurisdictions can provide the legal backdrop of choice to DLT systems, a big economic prize will follow. It has been of huge invisible benefit to the UK that its business legal sector has been so vibrant and widely respected. English law can replicate its ubiquity in financial services, insurance, energy and telecoms with ubiquity in DLT, blockchain, crypto and smart contracts. It is moving in the right direction, but needs a more holistic approach to its direction of travel.

53. English law is taking the right steps to prepare itself as the law of choice in this area. It is making the essential changes needed to validate electronic trade documents, to make cryptoassets a third species of property, to cater for DAOs in place of corporate structures,[15] and to ensure that its private international law keeps pace with the borderless technologies. The regulatory layer will need to follow swiftly after those critical groundworks are complete. Regulation must not, however, be heavy handed. It must be enabling as this audience above all will understand. It will be critical to make the UK and the environment of English law hospitable to the use of new technologies. To do so, participants in these new markets will need to be able to vindicate legal rights quickly and effectively. That was the thinking behind the ground-breaking Digital Dispute Resolution Rules that I have already mentioned.

54. Let me close then by returning to the place I started: the value of English law. Law is always regarded as something for lawyers alone; something of no real interest to finance, economic growth or consumers. We must challenge that false misconception.

[15] The law Commission is currently engaged in a project in relation to DAOs.

55. Law in general, and English law in particular, is of inestimable value to our economy. The national and international trust in our judiciary, our legal system and most of all in the flexibility and resilience of English law is a unique selling point that, in the digital context, we will undervalue at our peril.

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