

Blockchain – the new frontier in Australian law



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BIG LAW | 06
 JULY 2018
 By: **Ian Jones**

The rapidly emerging technology of blockchain – the IT system – secure digital record of assets and transactions — is presenting new challenges across virtually every legal jurisdiction in the world, including Australia, writes **Ian Jones**.

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So quickly has blockchain taken off that it has left many Australian legal and advisory firms playing catch-up in understanding how the secure digital record of assets and transactions through the blockchain encryption process can be implemented and protected legally.

Also, whether cryptocurrencies are a security risk and how ICOs or Initial Coin Offers should be treated, has posed a challenge to regulators suddenly confronted with a myriad of ICOs, many of which are highly dubious.

The realisation that the regulatory, legal and advisory fraternities are still coming to grips with the nuances of blockchain and its associated legal mechanisms became clear as NaturesCoin decided to utilise blockchain to create a solution that overcomes challenges with implementing the United Nations Sustainable Development Goals for 2030.

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These goals call for worldwide action between governments, business and society to improve Earth's environment, end poverty and create a life of dignity and opportunity for all.

They specifically challenge businesses to apply creativity and innovation towards sustainable development.

This coincides with rising demand for corporations to do more social good especially by the increasingly powerful millennial consumers. But at the same time this is counterbalanced with pressure on corporations to continually improve financial performance, and the erosion of trust in governments and nongovernment organisations (NGOs).

With the current system in gridlock the solution was to use blockchain to create a new asset class of social capital that changes corporate social responsibility funding from a cost to a tradeable asset. Now it becomes attractive for a corporation to support sustainable causes.

The blockchain builds transparency and trust back into the system. Through a tokenised economy consumers can engage and support causes and brands that align with their values, and businesses have a new engagement channel with consumers.

Building this ambitious platform to connect corporations, investors, people, governments and NGOs requires expertise across many disciplines and a deep understanding of the regulatory and financial markets globally.

Even the issue of where to domicile a blockchain entity requires recognising having the right legal jurisdiction to protect both the blockchain system and also where assets are involved. Australia has a strong but not onerous regulatory and legal system so any company entering the blockchain space can be confident that being registered in Australia sends the right signals to the markets that such a cryptocurrency company is serious about and committed to compliance and governance.

Finding the right advisory and legal firm can be a challenge as so many are still not sufficiently competent enough on how commercial laws apply to cryptocurrencies and blockchains. One international legal firm experienced on how blockchains operate within structured frameworks is Allen and Overy (A&O), which, while headquartered in London, has offices in Sydney and Perth. A&O are currently working on an Australian cryptocurrency that will be launched by the end of this year.

What is involved in this particular cryptocurrency is the building of a platform with all the legal structures to deliver both security and utility tokens tradeable on regulated exchanges in allowable jurisdictions.

A&O's expertise is helping solve a real global problem that affects a big audience. With the right approach blockchain as a powerful emerging technology eliminates many of the frustrations currently experienced by people, corporations, investors, governments and NGO's in making our planet a better place.

Instead of trying to change a broken model, O&A is make a significant contribution towards building a new one.

The story of blockchain is not the "Bitcoin vs. Bitcon" often see in the popular press. Any tech revolution attracts opportunists who seek the gullible. New regulatory frameworks, the emergence of tradeable security tokens, fractionalisation of assets, new forms of smart contracts and the shift of blockchain into institutional and enterprise applications suggest that this next evolution of the internet is here to stay.

Advisers have significant new opportunities to engage with clients.

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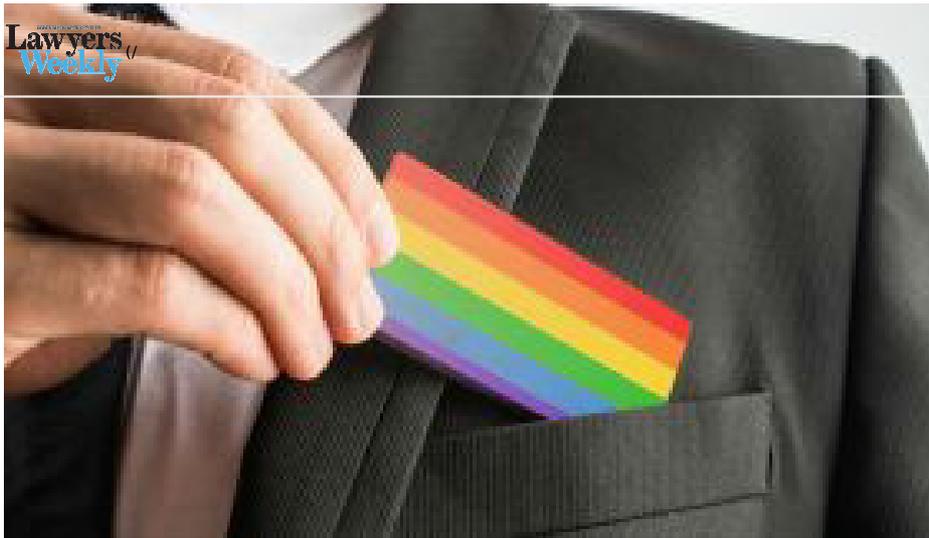
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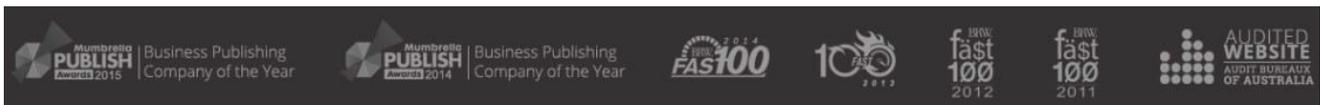
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