How the digital revolution will impact interaction among the Corporate Governance's actors in modern companies?

2nd edition of The Corporate Governance Dialogue - 13 December 2018

IN SHORT:

The second edition of the Corporate Governance Dialogue included the questions of how digitalisation will or could impact the shareholder dialogue and engagement and what the potential impact of digitalisation on the relationship with and involvement of stakeholders could be.

A study by EY showed that there is a trend towards the usage of digital solutions, especially by larger and public companies compared to smaller, private ones. Experimenting with new technologies to increase shareholder dialogue and engagement in Europe is still quite low, which cannot be blamed on the regulatory framework. Other impediments and risks are identified in the various member states.

During the debate it was highlighted that the physical general shareholder meeting as it is today can be pictured as a scenery where minority voices are heard. Even with decreasing participation in some countries, this human dimension would be suppressed by digital/virtual general meetings. Moreover, digital solutions such as blockchain eliminates intermediaries which are not favoured by certain professions. Nevertheless, blockchain would bring about benefits such as lowered transactions costs, help to map all the rights attached to securities and provide more transparency on whether beneficial owners vote effectively. Up to a point, there is some real benefit in this but huge investments are needed for the achievement not only in new technologies but also trustful instruments.

With regard to the relationship with and the involvement of stakeholders it has become clear that digital technologies disrupt traditional corporate governance by the example of blockchain based tokens which provide the right incentives for stakeholders with a feeling of affiliation to a community on a specific platform.

Erik Vermeulen stated that the successful business model today has shifted from a hierarchical organisation to platforms which can increase the engagement, involvement and accountability of stakeholders in a company, yet when they face difficulties are prone to move back to a hierarchy. A downside to these newly emerging platform models is exploitation. However they do not fail to take the consumers' voice into account, keeping up with societal trends. It is debatable whether board members are able to initiate a company's shift towards a platform. A board's composition could benefit from the inclusion of stakeholders' voice and the expertise of millennials. With technologies such as machine learning, board members could be selected and truly data-driven decision-making could be achieved by means of Artificial Intelligence. Altogether, technology will facilitate more community-driven organisations and allow for continuous reporting, enabling a forward-looking approach and better dialogue engagement with share- and stakeholders. Relationships among different actors as well as rules governing the latter will have to change.

At its second edition of The Corporate Governance Dialogue sponsored by EY, ecoDa together with its Corporate Associates (Mazars, AIG, Euronext, PwC) and various experts tackled two main topics:

1. How could/will digitalization impact the shareholder dialogue and shareholder engagement?
2. What is the potential impact of digitalization on the relationship with and involvement of stakeholders?

This edition built further on the outcome of the first edition, that kicked-offed the dialogue on the impact of blockchain technology on the shareholder dialogue.

Irena Prijovic, ecoDa's Chair, welcomed the participants. Prof. Lutgart Van den Berghe, Leader of The Corporate Governance Dialogue, introduced the topic within the objectives of the Corporate Governance Dialogue and moderated the session.

1. How could/will digitalization impact the shareholder dialogue and shareholder engagement?

Christian Busca (Attorney-at-law, EY) made a presentation of the EY report related to the use of digital tools for interaction between companies and their shareholders. In particular, the study analyses the current legal framework and practices in the European Union and assesses legal and practical impediments for the use of digital tools as well as any possible solutions. If physical presence at general meeting used to be the traditional communication channel, most companies and shareholders have nowadays adopted digital solutions at least for some types of communication (e.g. resolutions and meeting notices).

Digital tools include a very wide range of technological support elements; most commonly used solutions are e-mails and corporate websites, while blockchain apparently is still mainly in a prototype phase. Larger companies are more digitalised than the small ones and the same holds for public companies compared to the private ones. An increasing number of shareholders (especially institutional investors) embrace digital channel and, in doing so, gain experience in how to use them securely and effectively. The "Experimentier-Lust" currently is still pretty limited in Europe, and still primitive in terms of tools deployed. Christian Busca reassured that EU and national law is currently not an obstacle when it comes to experimenting with new ways of increasing constructive dialogue and engagement through the appropriate deployment of ICTs.

In-depth research on ten Member States demonstrated that the development of digital solutions that are more adapted to the users' needs, significantly facilitates their adoption even if the legal framework is not particularly favorable. However, the fact that Member States are competing more strongly against one another to attract capital might invite them to promote further digitalization. This trend is already emerging in Belgium where the company law reform goes in that direction. If legal frameworks can foster changes, other incentives are needed.

The participants stressed that it is not in the interest of some professions like notaries and proxy advisors to call for more digital innovations in terms of shareholders' dialogue. On the contrary, maintaining the status quo would preserve their privileges. Blockchain would indeed remove intermediaries in the chain.

Physical general meetings are also viewed by shareholders as an opportunity to exhibit, to exercise powers and to challenge directors. Minority and retail shareholders often like to go on stage and express themselves. The human aspect get lost by digital general meetings even if it is true that in some countries participation is quite low.

One should not underestimate the costs of general meetings for companies. Combining digitalization and physical presence could aggregate the benefits of both ways. Blockchain would not only diminish the transaction costs but also help map all the rights attached to the different securities and give transparency on whether beneficial owners effectively vote. Electronic voting would also facilitate the work of institutional investors at the time of pretty compressed AGM season.

Smart contracts could solve numerous inefficiencies of AGMs. However, if there's some real benefit in that, it's not necessarily black and white. Developing digitalization requests a massive investment not only in new technologies but also in trustful instruments. If banks would be willing to make such investments, they are not necessarily the best placed to ensure trust at least in "milleniums"' opinion.

Some participants went further in their criticism and questioned the usefulness of maintaining physical general meetings furthermore when companies are looking for continuous reporting rather than one-short exchange on the past. Shareholder dialogue is much more than just the organization of the shareholders' meeting.

2. What is the potential impact of digitalization on the relationship with and involvement of stakeholders?

Erik Vermeulen (Senior Legal Counsel, Philips Lighting) highlighted the societal shift away from a "centralized world" to more decentralized and disintermediated alternatives. Digital technologies are disrupting this model of organizational design and traditional corporate governance. An example in this respect are blockchain based tokens. Tokens can provide the right incentives to all stakeholders, bind them into the platform and facilitate connections to a community that matters to them.

Successful businesses today operate as platforms which can increase the engagement, involvement and accountability of all stakeholders. The World's largest Tech giants are indeed platform companies (Amazon, Alphabet, AIrBnB, Netflix). However, it is interesting to see that those companies tend to move back to hierarchical organizations when they face difficulties as it is the case for Facebook. Moreover, it was noted by the participants that platform based businesses such as Facebook and Spotify uses traditional governance mechanism to keep control of the company.

The disruptive power in this new round of technological innovation has also the potential to enable the emergence of platform models that might hide new forms of exploitation - like Uber from a critical angle. However, those new platforms tend generally to empower stakeholders and specifically the end-consumers. Companies need to take consumer views more seriously. Dialogue with stakeholders keep companies in touch with trends in society. One tweet might damage the company in a long-lasting way. This is why the corporate culture is becoming so important and is part of the product. Erik Vermeulen sees the GDPR as a possible way for Europe to create a competitive advantage around privacy.

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At boards' level, there has always been a deficit of attention when it comes to IT. One can wonder whether board members are up to the task to bring companies from hierarchical organisations to platforms. Boards definitely need to better understand the continuum between Hierarchical Formalized Governance and Decentralized Autonomous Organizations and the different forms of transitions to such new models. This is all the more important given that "Disruption happens when you least expect it because the thing that disrupts you looks like a toy when it arrives, and if you don't take it seriously then it's too late for you to respond".

Boards' composition might be impacted to integrate stakeholders' voice and the Millenniums' expertise. Machine learning could even help companies to select board members. AI's role in the leadership team is to drive truly data-driven decision-making and innovate new data-driven ideas. Some participants relay the provocative statements that managers and board members might be replaced by AI and Smart Contracts in future. But at the same time, AI raises many interesting questions such as who owns the algorithm? What about responsibility ? Remunerations? Which should be subject for further reflections.

Technology will facilitate more community-driven organization, and will allow for continuous reporting. Real-time corporate reporting will enable a forward-looking approach and will lead to more engaging reporting and better dialogue with shareholders.

Béatrice Richez-Baum (Director General, ecoDa) concluded the session. It is obvious that shaping corporates' future will require to change the relationships among the different actors as well as the rules governing those relations.

Companies are in the learning curve. They cannot no longer just upgrade ('retro-fit') their business model, they have to disrupt it. There is no ready-to-use model to adapt to the new reality, no reference or codes.

Companies' values and resources are the only source of inspiration. Coping with the future requires also a collective approach, this is why ecoDa will pursue the reflection.

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