

*Defining digital ownership. Refurbishing the idea of property?*

Human digitalisation raises the question of digital property. This notion can be approached from two main perspectives. Digital property consists in the ownership of digital assets and in the digital access to goods. These approaches deserve distinct analyses.

Firstly, the ownership of digital assets must be examined. In the digital economy, these assets can be divided in two main categories. The first category is made up by software and data. The second category is made up by intellectual property rights and other related intangible assets such as the increasingly important e-reputation.

This first approach, and its two components, are far from new despite having challenged the traditional understanding of property because of their lack of physical support. In any case, they have already been subject to regulation for a while and the digital economy does not create any new hurdle.

Secondly, the digital access to goods refers to the new trend of appropriation of goods. This understanding shows a different appropriation process: digital property is here based on the use rather than on the ownership rights. The digital platforms and especially the sharing economy have indeed developed business models where goods were ‘shared’ among pools of participants and access to the good is a service rather than an immediate right.

Digital platforms praise nowadays these ‘disruptive’ business models on the market place, while collaborative consumption is a movement existing since the 1970s. Although the issues were more limited, a set of solutions for the ‘new’ legal problems already exist in the offline world, as illustrated by the regime applicable to ‘time-sharing’ agreements in the accommodation sector.

This research shows that although the notion of ‘digital property’ seems new and fashionable, it actually encompasses old debates and should thus be resolved in the light of history.

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