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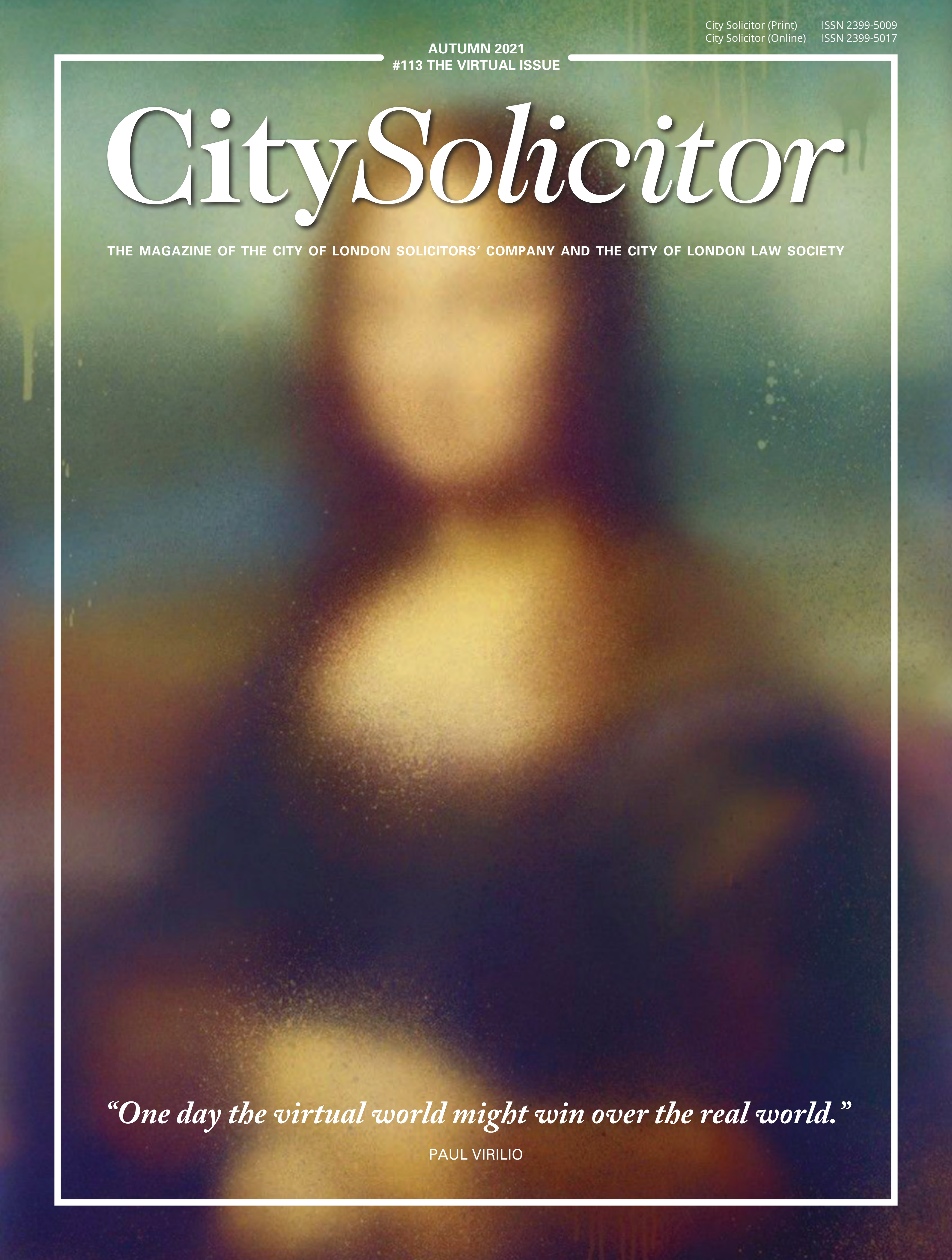

"One day the virtual world might win over the real world."

PAUL VIRILIO


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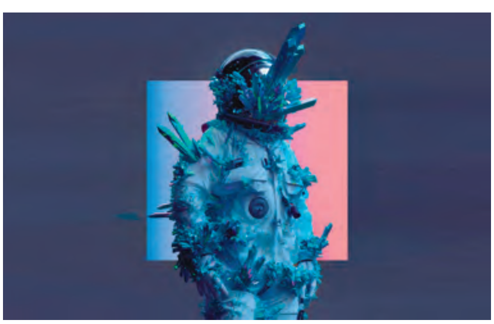
THE WORLD OF CRYPTOCURRENCIES AND NFTs. GOOD, BAD OR UGLY?



LEISURE, FUN AND CULTURAL THINGS

editor's letter

I AM DELIGHTED TO WELCOME YOU ALL TO OUR NEW EDITION OF CITY SOLICITOR.

Hopefully, by now, you are back in your offices and reading a hard copy of this. Perhaps the nightmare of the last eighteen months is finally behind us and we are returning to a more normal life – albeit – to coin a now well used term – a new normal.

The theme for this issue is *virtual* – something that is increasingly becoming our reality. We look at the ever changing landscape of cryptocurrencies and the polarising viewpoints surrounding them. Previously unregulated, now under strict scrutiny, we examine how regulation will change everything about these assets – not least of which, the very philosophy on which they were originally founded. We examine the technology behind Bitcoin; Blockchain, that is becoming a highly valuable tool in so many aspects of our lives. And we consider Non Fungible Tokens; the latest phenomenon that has taken the art world by storm.

This has been a challenging topic to address as no sooner has the ink metaphorically dried, the copy is already out of date – so fast are the changes surrounding this whole subject. But, we hope you find the topics we have covered as fascinating as we did.

As ever, we move beyond the predictable and look at *virtual* from some quite different perspectives too – making for what we hope you will find to be a varied edition with something for virtually everyone. (I couldn't resist the pun.)

We welcome your comments and I would like to thank those of you who have taken the time to give us such positive feedback on our lockdown issues.

Philip Henson
Editor
mail@citysolicitors.org.uk

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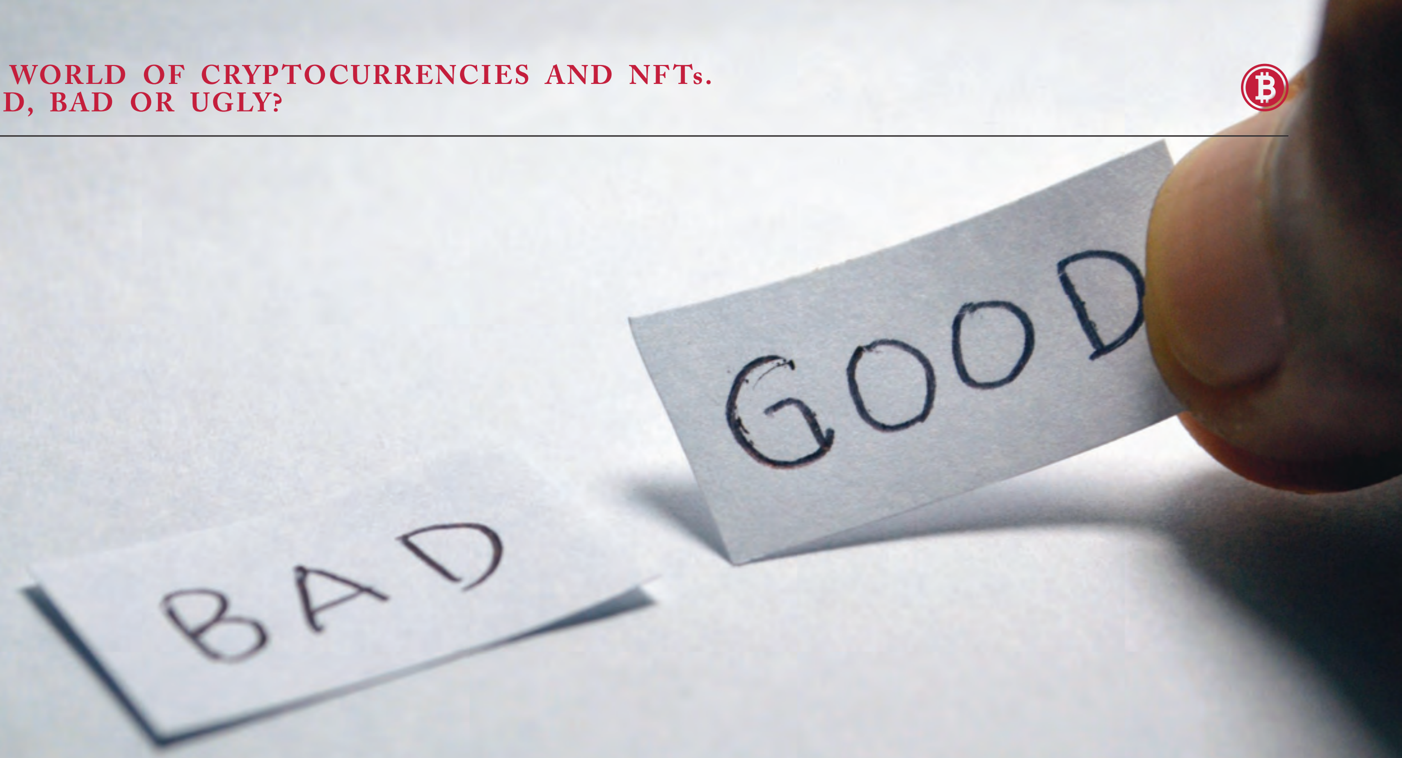


THE WORLD OF CRYPTOCURRENCIES AND NFTs.

GOOD, BAD OR UGLY?

Brexit. Vaccinations. Trump. So many things in the world we live in are polarising us, but probably none so much as the whole virtual world of crypto – not to mention NFTs. Everyone seems to have a view, although few of us really have that much knowledge. A vehicle that facilitates money laundering and terrorism. A way of making the world more equal and fair. One big scam. A more efficient, reliable and safe currency. The Emperor's New Clothes. There seem to be more perspectives than there are coins – and both are growing daily.

We talked to those in the know – from academics to lawyers to regulators to tech entrepreneurs/specialists – to hear their (very different) views and to try and understand what exactly is happening in this brave new world where everything is changing by the second.

Maybe there is a truth surrounding this whole subject but until it clearly emerges we can enjoy examining every shade of it from black to white.

DEMYSTIFYING THE UNINTELLIGIBLE

The entire world of crypto is new and unfamiliar to so very many of us. Add to that the speed with which everything in it is mutating and just as we begin we think we have grasped it, it floats out of our reach again. All of this is exacerbated by the whole new language we are having to translate; NFTs, blockchain, mining, CBDCs; an entire crypto-related dictionary could be written. Then of course there is the tendency to complicate the simple in order to perpetuate the mystery. We are left in a fog. Crypto seems impenetrable. But is it really so complicated?

We spoke to James Kaufmann, a Partner at Howard Kennedy LLP, who is an expert on all aspects of investment funds and heads up the firm's financial regulation practice. He is a great believer in simplifying things in order to make them understandable. James has broken down crypto into bite sized chunks for those of us who feel we need help navigating this minefield – and made it a lot more clear.

"Let's begin by saying cryptocurrency and blockchain are inherently linked. It makes logical sense to start with understanding blockchain first. Blockchain or distributed ledger technology – and, by using these words, we are already in a world where it is considered important to baffle people by using lots of different terms to describe essentially the same thing. The simple tenet behind distributed ledger technology is that instead of having a single central repository for a register, it can be distributed and decentralised. Therefore, blockchain is not a "thing", it is a platform and a tool. What cryptocurrency does is that it leverages the flexibility that is offered by this decentralised register. In much the same way as the internet decentralises information, so cryptocurrencies use blockchain to decentralise value. That's really all there is to it. Everything else beyond that is essentially marketing fluff – it's almost like trying to explain why VHS was better than Betamax.

The really tricky, knotty bit is how do you verify that the value is being transferred – which is where you get to proof of work or stake. Bitcoin is important here because it is the first well known, popularised and functioning use of blockchain (there is a view that it was previously used by the US military). This is why cryptocurrency and blockchain are seen together – you cannot separate the two. The reason why Bitcoin is viewed as being very environmentally unfriendly is because of the proof mechanism that operates within it. Mining is a race to solve puzzles of a cryptographic nature. There is motivation to use vast computer power to resolve these puzzles because, as well as it being for the greater good, the more puzzles someone solves, the more fractions of Bitcoin they receive as a reward. It is this cryptographic proof element that is the highly energy intensive part of Bitcoin.

Within blockchain, the concept is that you are constantly building a chain – think of it as a great Lego set. If you make an error, you don't delete it or write over it. In the old days, lawyers would keep company books in pencil so if they made a mistake they could correct it. Blockchain doesn't work like that; you are essentially writing in pen and if you make a mistake you have to reverse it and put in a correcting transaction – and all of this, warts and all, is available and viewable on the chain. Every single transaction is added on so the chain is getting longer and longer – again requiring huge computer power – another way this is environmentally unfriendly. Early on in life, people sitting at home could participate in the ecosystem because the chain was not so long and it could be easily downloaded. Now it's so huge the chain itself requires more memory than most normal computers have. Hence, the flip from decentralisation to the need for centralisation – it's no longer something everyone can access.

Now let's look at cryptocurrency. The first question to ask is whether it is actually a currency. It does not pass any of the three major recognised tests. It is not recognised as a store of value. It is not issued by a central government. It is not generally used as a means of exchange. The middle statement is indisputable. With regards the first there are differing viewpoints. Some say it's inherently volatile, some say it's a nascent asset class. There is always the noise about volatility – which is why the comments of

Within blockchain, the concept is that you are constantly building a chain – think of it as a great Lego set.

Elon Musk are interesting – when you see the effect they have on the price, it is fascinating. We went from a period of relative stability and huge growth recently to a seismic event – all based on what Musk had to say. This shows the fragility. Then we look at whether it's a means of exchange. This is where it is really important whether the likes of Tesla and others accept crypto as a means of payment for their goods. The same is true of El Salvador and the fact that they recognise crypto as a means of currency; whilst they are not really important in the world arena, nonetheless it is signifying a direction of travel.

If crypto is not a currency what is it? We saw about two years ago, a move from the regulatory arms of modest governments to rename cryptocurrencies to crypto assets. There is a large school of thought that believes crypto to be an asset class. For example, built within the Bitcoin algorithm – and a lot of other coins – there is a limit on the number that can be issued – so not akin to currency because governments can print more traditional money if they want to. It is more akin to a commodity; like gold.

Then there's the whole subject of regulation. In the US the financial regulators decided to get a handle on it. The American mindset was that they would rather be dealing with a regulated asset class than an unregulated one. Jump to our side of the Atlantic; here the British mindset is if we can get away with it being unregulated, we would prefer that. When the question was first presented to the FCA as to whether they wanted to regulate crypto, they said no. They viewed it in the same way as the trading of art or wine and other such things which are not regulated. They had extra weight behind them because the way in which the bulk of how financial regulation works in terms of which asset classes are regulated is governed by a specific list set out in European legislation. In addition, they were already overwhelmed with work and did not feel they had the capacity to take more on.

This is the complete opposite of the American approach of if 'it quacks like a duck, it is a duck'. And the Howey test also plays an important part in America. If you are investing in an asset class in order to make gain, it must be an investment therefore it must be regulated.

As time passed, what became clear was that the FCA was akin to King Canute. The tide was coming in. Questions were asked in Parliament and it became a political hot potato. But, like most European regulators, the approach of the FCA remained combative and negative.

There is also the tension going on that everyone has spotted that blockchain is the next big thing and – particularly with Brexit – everyone wants to close their borders. Blockchain is geographic agnostic. That challenges governments and existing infrastructures and makes it hugely appealing and it questions the accepted monopoly and the way of doing things by banks. A couple of years ago, the European banking arrangements were changed so that inter-bank transfers were settled overnight. This is a direct impact from crypto where everything happens immediately. I am convinced this is in response to crypto which is crushing the old ways of doing things.

Crypto is very much of its age. It was born and grew up at the beginning of the noughties. It is now coming of age in a world where people don't trust anything anymore. Where they want decentralisation. Crypto speaks to these people. It resonates with its age. It lends itself to direct peer to peer transactions. It challenges long accepted norms. Why do we need currency? Why can we not return to the bartering system? It challenges the very foundations that we as a society have grown to accept.

For some it is a political and philosophical evangelism. Others just see it as an opportunistic way of making money. Lots are jumping in because of FOMO (fear of missing out). Others don't trust it but see their competitors ploughing in and so feel they have no choice but to follow. Whatever the drivers, the result is that it is snowballing. That is important in building an ecosystem – which is simply an overly verbose way of saying crypto needs users. If we are to move away from a centralised hub that provides liquidity in whatever form then we need a marketplace with willing buyers and sellers.

That is how it all hangs together – and how we got there. But it doesn't stop there. In the UK, as with most of the world, cryptocurrency is broken up into three categories; there are exchange tokens, utility tokens, security tokens. The latter have security-like characteristics, in other words – they are a virtual share; you can vote in company resolutions, you are entitled to a dividend and such like. They are caught by FCA and fully regulated which makes them more popular in America and less popular in the UK for the reasons we have already discussed. Utility tokens are tokens that have no value but get you something – think of them as a ticket that provides you with a service. They are only tradeable in their own particular platform and are unregulated. Finally, exchange tokens. These are the classic cryptocurrencies – like Bitcoin. They are potentially available as a means of exchange. They are not currency so they are not regulated as such but potentially could be regulated as e-money.

There is another element to all of this; for anti money laundering purposes, under the Fifth European Anti Money Laundering Directive which was fully implemented in January this year, if you are a crypto asset business, you need to be registered with a relevant authority.

The FCA is the relevant institution for this. The logistics of how you register is in essence no more than a one page form which is an application. With some crypto, the blockchain makes it simple to see if there is any money laundering – but some are specifically formulated to be "tumbled" so although you can see the history, you cannot necessarily see who the owners were at one particular point. Because the FCA has a huge backlog of applications they have not even looked at yet, they recently issued a statement saying businesses who had applied could continue on a temporary basis until March 2022. This has two effects; it is stopping new entrants coming into the marketplace and businesses are being closed down by the FCA, more through an overactive fear factor than anything else. We are moving away from a capitalist philosophy to living in a world where increasingly people are not allowed to lose money.

Think about taxation too. If I were trading FX, from one fiat currency to another, that is not treated as a capital gain as if I sold a house. Because crypto is classified as an asset it is currently taxable. But, with El Salvador recognising crypto as a currency it is only a matter of time before the next argument is profits made trading, say, between Dollars and Bitcoin should therefore not be taxed.

Non Fungible Tokens are also a product of our time. Our generation wanted music, film etc in a physical form – the current thinking is they would rather have access to a service. Because the blockchain technology certifies authenticity, so value is created. It resonates with a new generation.

With all things crypto, the commercial reality is so far ahead of where governments and regulators are, they are constantly playing catch up. A couple of decades ago the bright young things coming out of universities were going to investment banks or hedge funds, today they are going to crypto and NFT startups where our traditional ways of behaving are being re-invented with clever usage of cutting edge technology. COVID and lockdown have accelerated all this with a move away from centralisation and the notion that businesses need a physical space. The challenge we have as lawyers is to be able to advise our clients how they can make things sensibly and properly work in a space where there are no rules.

Crypto is incredible. It's scary. It's really exciting. Love it or loathe it, you can't ignore it."

THE END OF THE MIDDLEPERSON

As we are fast learning, blockchain is the technology destined to change the world forever.

We know there are different stories about where and how blockchain originated; whilst many say it was the technology behind Bitcoin, others insist it existed long before.

But however it started, one thing is certain – it's here to stay.

Think about how any form of trading used to be documented. In the olden days, if one person wanted to buy and one wanted to sell, both would write in a book so there were two versions and, someone in the middle would try and verify what each had claimed. Computers replaced books and the internet meant that those computers could talk to each other – but still required a middleperson to check the validity of the information.

Blockchain revolutionised all of this. Say one person has a painting to sell and another has the money to buy it, a cryptographic key each has gives stamped proof of what they are saying – so eliminating the need for that middleperson.

Blockchain is a highly secure way of storing data. The blocks are agreed then encrypted. Then bound together. It is never out of sync, cannot be corrupted, cannot be changed – it gives a tamper proof history of activity.

Brian McNulty is the Founder of Fund Admin Chain (FAC), FAC connects fund market participants on a distributed ledger-based network that holds a digital representation of assets, cash and transactions.

McNulty started off as a trader for merchant banks. He was passionate about maths and computers and bought a couple of the software companies he was using and that began the shift from trading to setting up companies that largely serviced the fund managers, traders, investment banks and fund administrators by helping to move data along the value chain. Which is how a problem was exposed. Endless data is input, but how trustworthy is it? This meant other people got involved in the middle – be it regulators, third party brokers, transfer agents or custodians – so then there are a whole load of systems to check everything was in sync.

You would be forgiven for thinking blockchain was the obvious solution, but it's not that straightforward.

Those in financial markets are most likely still hesitant to put all their information into one big block and – worse than that – that block is just going to get ludicrously long. So there is a security compliance breach concern and a performance issue. This is where distributed ledger (DLT) comes in; a sort of blockchain plus. What this means, essentially, is that rather than one big massive block, the database is distributed amongst different participants; the data is shared by everyone but they have it "on their own side of the fence".

McNulty says; "This was definitely a step forward in the right direction from blockchain but it still didn't go far enough. It allowed you to join in with a competitor but once a trade is done, everyone wants to store their own data. Why would you want that data shared? What we did was to come up with really smart distributed ledgers. This is how they work. One side says; 'I want to trade with you. I don't want a middle person. I'll check your key. But I don't want to share that data with anyone outside of the chain'. They only have copies of the data on the trades they are involved in. This data is immutable, it can never be wrong and you never have to do a reconciliation again. You never have to check it, or worry about a backdated transaction or a failed trade.

At some point when the world catches up with itself, there will no longer be a need for regulatory reporting. All the billions we spend on post-trade reporting will no longer be necessary. Blockchain and distributed ledgers will see an end to all of that.

You may well wonder why on earth this is all taking so long to catch on. There are three reasons.

Firstly, the technology is still relatively new so it is sensible to ensure it is extremely watertight or it really could bring the world down. It's not just being used in the financial markets but in health and medical supply chains and so much else – if we get it wrong, there will be huge ramifications.

In addition, there are some parties who may not want to see blockchain technology succeed because their current revenues are based on the procedures that DLT-empowered solutions and processes will replace – and they may not want to lose that revenue unless it in turn reduces their costs whilst not impacting their margins.

Some of us know we have been contributing to this spaghetti for most of our working lives and we believe we now have an opportunity to unwind what we have created and that it's time for it to stop and we want to be a part of making that sea change. But there is also a lot of inertia; not many want to be the first to take the risk in projects that only succeed once many adopt. They want to let others go first, then to assess the situation before rushing in. This puts pressure on the start-ups developing this technology as their investors question why things are not moving faster and they are not getting enough traction.

The result is that it could take another decade and until DLT-enabled business models and value chains become the norm in a production environment.

The third hurdle is regulations. We need to move faster or we will get overtaken. Other jurisdictions are moving faster – the prominent ones are sleeping at the wheel. There is a global phenomenon happening in front of our very eyes where the way people invest is changing but we are kidding ourselves that it won't happen fast – but it will and won't be in a position to benefit from it if we don't move faster.

With any change there are always the empire protectors and those who fear it – that is not restricted to blockchain. Also, we have to be realistic; people have limited budgets and limited time so it's easy to understand why they would rather wait until it is a more proven case before taking a punt. But if everyone adopted that approach, the world would never progress. Fortunately, there are so many forward-thinking individuals working within this industry I am so passionate about who will give it a go that I am 100% sure we will get there.

This is constructive change – and it's important that as a bunch of human beings we move things forward so the next generation reaps the benefits."

THE OPPORTUNISTIC APPROACH VERSUS A MORE CONSIDERED ONE

Keith Pilbeam is a Professor of International Economics and Finance at City, University of London who describes crypto coins as a "spin off from blockchain that have somehow captivated Joe Public and institutional investors".

He talks of how they are eulogised as "digital gold" as well as "the thing that's going to change the world".

But one thing Pilbeam is confident about is that despite earlier prophecies, they will not become global coins because of two main reasons; the amount of energy they use and therefore the amount of transactions that can be done – bear in mind Visa can achieve 48,000 per second – and also the fact that they are not legal tender (apart from in El Salvador) and will never become legal tender in any of the major economies as any digital currencies of the future will remain with governments and central banks for a myriad of reasons, including taxation.

"Governments will never guarantee these currencies or bail them out. It would be like operating in the Wild West. Think of what would happen if someone cracked the code. Governments will always hold the power; they will allow the coins to co-exist at their behest. All it takes is an Act of Parliament to make them illegal. Look at what recently happened in China not even letting mining happen.

The distinction of whether they are money or not is crucial. They can't be money because they are not legal tender and nobody is forced to accept them. I liken it to stamp collecting; if I am a collector and you want to trade stamps with me, that's fine; we can be part of a club. When some economists say crypto coins are worthless, I don't agree with that because if people collect them they clearly do have a value to that community.

As well as not really understanding the technical aspects, most people don't truly grasp the Exchange risk. What happens if an Exchange freezes your account? And they DO freeze accounts using "Know Your Customer" as their justification. They use Government legislation to freeze your assets. With certain Exchanges, people can't log into their accounts to provide the information they are required to give and so find themselves in a situation where they can't exchange or withdraw their monies. Are these Exchanges scams? Undoubtedly, some are. There have been several that have gone under. There are enormous risks. If you forget the passcode to your wallet, you are in serious trouble.

Of course there are so many coins. Many are complete scams. Just the other day, a so-called 'stable' coin, Titan, went from $60 to zero. If something is wrong with the smart contract – as appears to have been the case here – and that contract is put on the blockchain, it can't then be altered – so disaster! Just one line of code can cause chaos. Was it a scam – or a genuine error? Either way these smart contracts are not so smart if you can't understand them.

Having said that, if you managed to get your Bitcoins in 2011 there has never been a better investment in all of human history. You got them at 10 cents each. Even at today's "crashed" price of $33,000 that's a 330,000 per cent total return. A $1,000 investment made in 2011 would be worth $330 million today! And it was double that at its peak. If you are a believer of behavioural finance, we are witnessing that in action now. Everyone is looking for the next Bitcoin. It's human nature to want to be a part of such spectacular returns but we have probably missed the boat now. The same is true with Ethereum. Many of the insiders now are trying to cash out – but even they are not finding it that easy.

The major coins are held by a small number of big holders – but what happens if one of these "whales" (as they are called) wants to cash out? The price will obviously drastically fall – so they can only do it very gradually. They can sell maybe 10 coins a day. Some holders are dead. So the 21 million Bitcoins aren't even all available.

Another coin that is worth investigating is Tether. This is another so-called "stable" coin that was originally (supposedly) worth the equivalent of 1 US Dollar and is the basis of how other crypto coins are valued When you look at how they value Bitcoin, say, it is not in US Dollars (USD) but in US Dollars – Tether (USDT). If you hold a lot of Bitcoin and you are concerned the value may fall, then the tendency is to convert them into Tether and then use the Tether to rebuy Bitcoin at another time when the rate is favourable, or to use it to buy other crypto coins. It is the main coin used for switching. But there is a lot of scepticism around Tether. The company is based in the Bahamas and only one bank deals with it; Deltec Bank. Other banks have refused to deal with them. On the Tether website it actually states that there is a limit on how much you can withdraw at one time and it even says in their terms and conditions that the tokens may not be redeemable. There are $62 billion of these now; it is exploding. People are simply not reading the terms and conditions. Do we honestly think Tether has the $62 billion to cover this? We have never seen audited accounts so we only have their word on the subject. Tether is the biggest weak link in the whole system. Because Tether is at the heart of the whole exchange system, if it turns out to be a scam then the whole cryptocurrency world could collapse with it. With more regulation coming into play, particularly around "stable" coins, this could be the undoing of Tether. They recently published a pie-chart that shows they only actually have 3% in actual Dollars and the rest is in commercial paper. This is extremely suspicious. What commercial paper? If the US Federal Reserve Bank were to introduce a digital Dollar, Tether would no longer be needed. Regulation could also see an end to it. But in the meantime it's growing and growing. It may or may not be a scam. But if people lose faith in it, there will be a crisis. People aren't looking at what they are buying. So they don't know the risks.

Institutions do know the risks – but they want the fees. This is again where regulators will make a difference for the better as they will insist on the institutions holding reserves – something they don't like doing.





Intrinsically, these coins are nothing more than a bit of computer code. People need to understand they are buying a token. For any worth they have to be realised, they need to be converted back into real money. And whilst theoretically that is possible, the reality is not always so straightforward.

Ironically, cryptocurrencies are increasingly becoming centralised in key Exchanges such as Coinbase, Binance and Bisq, so a long way from the decentralised ideal that was initially promised. Ultimately, you need a governance structure – and that is centralised.

Some of the coins could have a purpose, some utility. The Internet Computer Coin (ICP) is something that could take off although so far it has been a disaster because early investors cashed out. But the coin itself is interesting because it is focused on changing the whole internet protocol and not being at the behest of the giants such as Amazon, Facebook, Apple and Google that are now running the show. They have fantastic technology – it's the one coin I may consider investing in.

Coins aside, the blockchain technology behind them is not going away and it could have many applications way beyond crypto. Smart contracts are also definitely here to stay. But we need to look at if and how they are superior to existing ways of doing things? Do they offer advantages?

People in the industry are going to make a lot of money out of naive people coming into the system. Some of them will make money too. But you always have to consider the risks. And the alternatives.

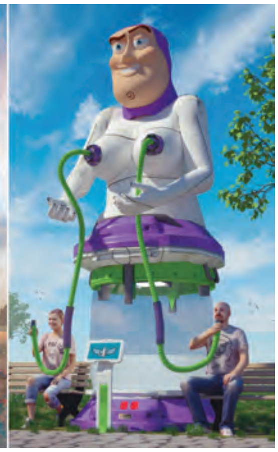
What's safer? Buying shares in Apple or buying Bitcoin?

Non Fungible Tokens (NFTs) are somewhat different from the coins, of course, because they are not standardised. They are easy to buy with Bitcoin or Ethereum. You can't easily buy them with Dollars. It's all about ownership. Other people can have copies – but the holder of the NFT owns the original. What's the difference? Beyond boasting rights, it's hard to say. It is a usage of the coins at least. It is a marketplace that uses cryptocurrencies as the main means of payment. We are in the early days of NFTs but I can see how they could evolve. As a lecturer I could create, say 1,500 copies of my lectures and sell them. There is potential there – but a lot of people are going to get burned in the process.

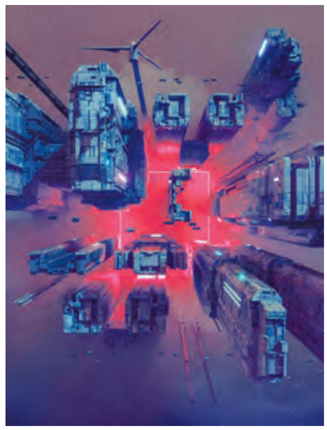
Let's go back to 2001 and the dot.com bubble. A lot fell by the wayside. But there was one big winner; Amazon. This is what we are seeing now – some of these coins and NFTs could be big winners in the future. At the moment everyone is buying Bored Apes; they are becoming a craze, a community is building around them. It could turn into Bored fish, Bored cats – maybe it will disappear – or it could become huge. We know kids like buying digital stuff. They are prepared to pay to own digital goods. It is how the younger generation get esteem, how they value themselves and each other. So, in one form or another, NFTs are here forever."

From everything Pilbeam has spoken of, it seems never has the phrase "caveat emptor" been more appropriate or relevant than in this new world of digital assets.






BUT IS IT ART?




In March this year, Beeple made history with a $69.3 million sale of his online art.

But what precisely did the buyer get for his money? Certainly not a painting, or a sculpture. Nothing tangible at all, actually. No. He got a token. A unique, digital token known as a Non Fungible Token (NFT) that proves his ownership of the digital artwork.

The art itself has been viewed on the internet by people all over the world. What they see is no different at all from what the owner sees.

So why would someone pay for a fortune for something that you can see for free?

Alex Watt is a Commercial Intellectual Property lawyer and Partner at Howard Kennedy LLP. A part of his work is helping artists to protect themselves against those who infringe their copyright.

He explains the riddle of why anyone would spend millions on something you can get for free in this way;

"Value in art is very often an intangible. Let's say an artist makes a limited edition of 50. The printer runs 60. The 50 for the limited edition, five artist's proofs and an unofficial overrun of five. No artist wants this overrun to happen as it is an infringement of copyright. Whilst there is no physical or tangible difference between a print in the limited edition from those in the overrun, if you believe the authorisation of the artist is important, the one that is signed has value and the overrun is an infringement and should be burned. To tie this in with NFTs, the intangible is important; in that NFTs allow people to rediscover authenticity and to realise why it's important. Someone may say 'why do I want a video I can get for free on YouTube – what value does it have just because it's the official authenticated one? The answer is the same.

Now you can create a means by which you can provide buyers with a digital immutable certificate of authenticity and that is a massive change in the art world and a very valuable thing. It's going to allow producers to do an edition of videos, or of photos. It is a revolution in the ability to monetise art.

Is it overheated and are they really worth the prices some are paying? Ultimately, you can only value art by what someone is prepared to pay for it today. But this is all linked to a bigger phenomenon that is happening in the world right now. Interest rates are so low that serious investors are having to search out – and create – different vehicles to put their money into. They decide something is going to be valuable – and make it so by investing into it. We are living in a world where there is a lot of money looking for a home. Suddenly this new digital mechanism of authenticating and so adding value comes along and NFTs are providing a home for that money.

NFTs are here to stay. They prevent forgery. But that will not just be restricted to digital art in the future. Other forms of art can benefit from a reliable certification of authenticity.

This is also why cryptocurrency is also here to stay. Think how many Dollar bills and Euros are forged every day. It is very difficult, almost impossible to forge a Bitcoin. This provides it with an innate sense of integrity."

An interesting perspective. It seems far from being a con and rather a way of preventing them. Imagine you had spent a fortune on a painting by Paula Rego, for example. Then you discover it's a forgery. Whilst it may look identical to the original, one is actually worthless. NFTs and the blockchain technology behind them ensure that never happens.

EXPANDING THE TECHNOLOGY BEYOND CRYPTO

Laura Clatworthy is a Dispute Resolution Partner at Rosenblatt Ltd. She is passionate about the whole subject of crypto, not least the technology underlying it which she believes will change our lives forever.

"People are interested in cryptocurrency from so many different perspectives. There are the academics who are observing how it is impacting economics; those who look at it from a philosophical viewpoint and the anarchists which I think is really how it all began. It was a part of the populist movement that began a number of years ago and was all about taking back control from the big institutions; giving power back to the people. There are dreamers out there who love the vision of decentralisation and democratisation of finance. Then there are the hard nosed investors who see it as a real technology that can change things positively and it's a huge wealth growth area.

There is a huge distinction between crypto and the technology underlying it; blockchain. It was designed to create a decentralised digital currency. That is one fork; but even there lies a split between crypto as a monetary payment and as a new asset class in its own right. Then there is the underlying distributed ledger technology which will revolutionise the storing of data, use of data, trust in data, access to it in every supply chain imaginable.

For me, this is the exciting stuff. It will allow access to data that, while it may have always been there before, was simply not available. Blockchain can do so much more beyond crypto. It has gone off into so many different areas.

Some of our clients in the agricultural sector, for example, use the technology to trace the provenance of the food product with the goal to trace foodstuffs from the plant right the way to when it is put on someone's plate. With the blockchain technology, every step can be tracked and traced. So if there is, say, an issue with contamination or pollution it can be very quickly identified by all participants on the chain because the data will tell you precisely in which row and in which field the problem lies, the whole farm does not have to be closed down. The breach can be pinpointed quickly and easily. The same chain can be used to track economic, social and environmental factors in that supply chain.

This can be applied across every supply chain whether for example retail, food or healthcare. A few years ago, the shipping company, Maersk together with IBM, created a blockchain for global shipping which traces and manages cargo, ships and containers all over the world. In order for these supply chains to

It is the ultimate irony that people associate crypto with fraud, when the underlying technology is used as an indelible store of trusted, fully accessible and traceable data.

becoming digitised on the blockchain it requires collaboration,but where that happens, an indelible source of trusted data is logged that can be accessed immediately by all participants.

Whilst nobody definitively knows who specifically developed the technology and much urban myth surrounds it, now it is freely available for anyone to develop.

Lots of startups are looking at integrating blockchain technology to disrupt ways of working; it can be used in so many ways. One of the first to explore it was the Land Registry to make it simple to prove and record title and reduce the cost and time in the transfer of title. Collectors are starting to use the technology to have an indelible trusted proof of ownership and to track information relevant to the collectible in question. Musicians and artists can use it to protect copyright, retain ownership in their art and track royalty payments. It is easy to see how it can be applied across most industries for the benefit of all participants.

It is the ultimate irony that people associate crypto with fraud, when the underlying technology is used as an indelible store of trusted, fully accessible and traceable data.

Data is going to be a massive area in the next decade. People are becoming more aware of its value. This will enable individuals to have more control over and be able to monetise the use of their own personal data.

This really is an "internet" moment. This technology has the potential to change everything. We will be able to go into a supermarket and hover over an image with our phones and immediately be able to see that this produce came from this farmer and he is making x amount of money, or we will be able to see – for example – the environmental impact of that product being put our plate or in our wardrobe. We can compare that product with a competitor and decide which best aligns not just with our budget, but with our values.

We will start to see real differences in our shopping patterns and other areas of our lives . Once the technology has got critical mass it will accelerate hugely. I believe this will be in the next five years or so. "

It seems that whether we are interested in cryptocurrencies or not, the technology behind them is guaranteed to play a significant part in our lives from now on. It can determine the provenance of a particular wine, tell you how the chicken you are about to buy was fed, pay your insurance claim before you have even filled in your form – it can be used to make our lives so much more knowledgeable and easier. And, had it not been for Bitcoin, it may never have seen the light of day.

IS ENFORCEMENT ACTUALLY UNENFORCEABLE?

Matthew Allan is a litigation lawyer with the Astraea Group who are carving out a niche for themselves in relation to enforcement and asset tracing when it comes to cryptocurrencies. This began as a result of one of the group's founding partners, James Ramsden QC, being involved in the UK's first recorded freezing injunction over Bitcoin; Wen v Exmoor Partners (2018).

"Wen v Exmoor Partners served as a launchpad for us to be at the coalface when it comes to the fallout from crypto. The whole decentralised finance (DeFi) paradigm shift away from more conventional finance is certainly at the heart of our work. You are dealing with what are essentially traditional breaches of contract but you have to look at them in a very novel and different way. It's interesting to see how this is impacting both the regulatory side and the consumer side. Our perspective is that the market is likely to bifurcate in the near future; one fork focussing on consumer protection and one on law enforcement. A lot of consumers will be willing and happy to disclose their identities and there will be those that won't. This latter category is not just the likes of money launderers or those financing terrorism but also individuals who value their privacy. There is an inherent gambler mentality involved with crypto, so where you are looking to defraud people, you are somewhat cavalier in your approach to the law generally. It is interesting to see how England is finding itself as the central jurisdiction in some of the larger crypto asset cases, One such case is the ongoing litigation in the High Court being brought by the purported creator of Bitcoin, Dr Craig Wright. That's a case where the value is in excess of £4 billion. But while this speaks volumes as England being the jurisdiction of choice for enforcing these matters, which is good, at the same time you may not be able to do anything practically at the end of a case. For example in the Craig Wright case, so far there has been limited engagement from some of the parties; down to the fact that some won't even disclose their identities for the service of papers. It's a tricky situation. You could be spending a huge amount of money to bring the case only to find you could hit immoveable brick walls.

The regulation in the UK is likely to be led by the US. The US is taking very proactive steps at the moment. They've got a Bill currently going through the Senate (Eliminate Barriers to Innovation Act) which has bi-partisan support so it will inevitably become law. The follow on from this will be a consultation to discuss how to regulate crypto assets. It's likely to fall back on the law enforcement side – and that will be picked up in the UK.

With the boom going on in the NFT art market now, we have also had to address this from a contractual and enforcement point of view because people are losing a lot of money while ostensibly buying nothing. It makes for a very interesting discussion with a client when they approach us as the first thing we have to say is that unless you have lost a very substantial amount of money, it's probably counterproductive to spend any money trying to sue a breach. In one matter, a client lost €300,000 – but even with that amount it may not be cost efficient to pursue. Fortunately, a lot of people investing this sort of money in these sorts of assets do so because they can afford to lose it.

This is where it comes down to that fine balancing act of asking are consumers really demanding more protection or are they just angry they have lost money?

Our advice to clients getting involved in NFTs is to really read all the terms and conditions and be 100% sure of exactly what it is you are buying and where the copyright lies. When you are looking for ownership rights, an NFT is a very different concept from even when you are buying even a share of a piece of traditional art. This is where traditional art fraud would occur; people would sell the same piece of art over and over. While the technology behind NFTs ensures this cannot happen, nonetheless a buyer needs to really understand what it is they are actually buying. Does the artist/gallery/seller still own the copyright? Can he resell the art? Having said all this, the fact that NFTs are unregulated does afford benefits to artists who may otherwise be unable to access a highly restricted market and to monetise their work. NFTs are providing a more egalitarian mindset to the artworld. It's no longer about contacts, or which college you went to. Anyone can put their art onto one of the digital platforms without having to go through the struggle of getting gallery representation. It is no longer the domain of a gatekeeper to decide what can get sold and purchased and what can't. It's a fascinating change in the rules of the game.

The underlying technology, blockchain, can and should be applied to much more than crypto and NFTs as it would see the end of Ponzi schemes and such like and offer real security for purchasers to know that what it is they are buying actually exists and the seller not only has it but has the right to sell it.

It is ironic that it is by treating crypto not as an intangible but as a physical identity, i.e. property, that makes it possible to enforce against, to get freezing orders and to recover assets. Whilst this is not true globally there is definitely a shift towards this approach which is helping make what could otherwise be unenforceable enforceable."

DEFINING A REGULATORY APPROACH

Kate Rhodes is a lawyer and lobbyist, and is currently Senior Legal Counsel for Crypto at Paysafe. She has been heavily involved in the regulatory approach to the world of crypto. Her initial foray into this virtual world was whilst working in a regulatory policy role for a major bank where she was given the opportunity to get involved in an Initial Coin Offering (ICO) – a digital version of an IPO. This role mutated into regulatory affairs. This was at the time when the ICO boom was winding down and Kate had a lot of interaction with the investing community.

"The demographic of these investors was not typical of what you would normally expect; they are not from a corporate background. This meant I was not in my usual comfort zone but by spending time with them, I found out a whole lot more than had I just been sitting behind my desk researching. One of the major problems with people working in this sector is that they have not generally had the roll-the-sleeves-up experience.

Attitudes are really changing surrounding this whole topic. In 2018, crypto was still in its early days in regulatory discussions. But now the UK is developing a regulatory approach, the regulator has resource in this area and there is a willingness to engage and understand all parts of the ecosystem, from DeFi in general to stablecoins.

It's a difficult topic to think about because the technology is still relatively new and it's taking regulators time to understand what it does and how it works. This has been exacerbated by the sheer volume of decentralised tokens being produced which, whilst they are unregulated, are causing tension.

I believe that when looking at the regulatory approach to all of this, taking a technology neutral stance like Switzerland has done is sensible. Even though it is impossible to harness and impose regulation on a borderless industry, a globally harmonised approach would be really helpful. Where there is disparity in regulation around the world there is the risk that people will just start jurisdiction shopping to suit their purposes. So a basic agreement over the broad principles is important. This is possible; there are European and global organisations that are currently setting standards in the financial arena generally, so there is no reason why this collaborative approach cannot be applied to crypto.

A lot of businesses involved in this space are now thinking about 'the Financial Action Task Force (FATF) Travel Rule'. This is effectively making sure that the owners and beneficiaries of a crypto transfer above a certain threshold are identified. This is causing challenges in a system that is supposed to allow anonymity and which is also at odds with GDPR regulations. Equally there are issues around interoperability that need to be thought through.

Like a lot of regulatory guidance, definitions are key. They should not be so broad that you can do what you want – but nor should they be so tight that they restrict innovation. It's a balancing act.

Engagement with industry is fundamental. You can't devise rules in the confines of an echo chamber; you need a wide, diverse bunch of views; startups. scale-ups, corporates, lawyers, technical experts, economists, consultants – all of these add to a breadth of opinion beyond one single trade organisation.

Given the proactive approach of the UK Government, I think we will eventually see a regulatory framework that sets the Gold standard. A lot of countries that have entered into the foray of regulation very early may not necessarily have the best framework. It's useful to look at parallels. In order to understand regulations, you need to understand patterns. If you look at other industries that have moved from being deregulated to regulated, certain behaviours repeatedly crop up. Think of the online gaming industry where, originally, only a few countries had a licensing framework in place. Now the whole of Europe has a licensing system and whilst the UK was not the first country to have a framework, it is one of the best regarded licenses. I think the same will happen now.

Personally, I am really excited about central bank digital currencies (CBDC) because of their impact on monetary policy. These are blockchain-based virtual currencies issued by a central bank. The impact these could have are huge. The fact that the Bank of England is talking to stakeholders about this subject is a clear demonstration of their intentions. The challenge with consultation forums on these new technologies is not just to resort to going to the usual suspects who may not be the most knowledgeable or informed.

Another very interesting topic we have to consider is the whole sustainability challenge around crypto. There was the bombshell dropped by Elon Musk a while ago that sent prices diving and regulation in China also had a big impact. But markets go in cycles and I don't think this is the death of crypto; every market is volatile and reacts. A shift to a more sustainable approach to mining needs to be considered and this should probably start bottom-up, for instance, the use of sustainable energy in mining. Discussions around this at a policy level should be and are happening.

Not all crypto currencies will survive. Some – like Bitcoin which had been meticulously thought out and documented – are here to stay. Most of the Magic Circle law firms now have a crypto practice – which says it all."

A REGULATORY LAWYER'S ROLE IN THE CRYPTO WORLD

Andrew Henderson is a Partner and regulatory lawyer at Macfarlanes LLP and has advised various entities and people who have been involved in the launch of crypto assets and the use of the underlying technology to facilitate capital market transactions. This area of his work, which really started taking off around 2017, involves thinking about how assets are treated under the laws of property and contract as one example. He has seen a shift in the nature of his work as there is now more resolution around how these matters should be treated and today is more involved in advising clients on investing into crypto; ensuring they really understand those investments and the types of arrangements that are put in place that allow them to buy, trade and sell.

"Bitcoin and other crypto coins have been in place for a long time now and are becoming universally adopted so it is of no surprise that clients are coming to us because they are thinking of investing into these crypto assets. This asset class is now considered to be a necessary part of a client's portfolio. When you start deconstructing what is involved and look at it from a legal and regulatory point of view, it is important to understand exactly what we are talking about when we use the term crypto assets as not all crypto assets are alike.

But they are not as different from each other as some make out. For a lawyer there is an important difference between a crypto asset derived or determined by another asset, for example the representation of a unit of gold on a blockchain or the recording of the beneficial interest in a share – in both these cases, the actual value of the crypto is determined by reference to something that has an existence outside of the blockchain. This is contrasted with a crypto asset which is, in essence, a representation of itself such as Bitcoin. There are hybrids also – a lot of the so-called utility tokens which give an entitlement to something else.

This feels like a reward point – the others have a more universal application.

If we go back to how crypto was born and why – it is really the child of the financial crisis and the loss of confidence in central banks and national banks issuing fiat currency that was the fallout of the crisis. It may be that its future fortunes will in turn rely on the extent to which people lose confidence in central political systems. A lot of the commentary from crypto evangelists is often linked in with a scepticism of the role of traditional government administration. What becomes interesting in the context of financial regulation is that the difficulty you run into when you try and divorce the manner in which a crypto asset is ordered from the physical geography of those who wish to participate in that crypto asset. This is the challenge that faces those who are in favour of decentralisation. If you have citizens of a particular place suffering a loss, they will naturally look for redress to the national authorities in the state where they live and expect to be protected, so it's difficult to divorce something that in itself transcends borders because you are still dealing with actual people who live within those actual borders. This is an issue lawyers constantly find themselves coming up against.

The other point to consider is that, yes there are the natural concerns about underlying fraud and financial crime. These are not particular to crypto assets but are features of any asset where there is a degree of opacity. But there is a specific concern around crypto assets and crypto asset businesses and that lies around the operations and technology. We can expect to see an increase in the focus by the authorities on the users and providers of crypto asset businesses – then we get into questions about operational risk and resilience in banking systems. This is inevitable as banking systems become more reliant on technology. Some say if you think about the term financial technology you are really just talking about a continuum from being able to withdraw fiat currency from a hole in the wall to being able to digitally represent that money; running through both extremes is the need for operational risk to be minimised. If the machine breaks down, the system breaks down."

THE DARK SIDE OF CRYPTO

One of the criticisms that is levelled against crypto is that it is easily used as a means of crime; it enables money laundering, funds terrorism. Some argue that this is not something that is particular to crypto. Who better to give us a knowledgeable and unbiased perspective than a specialist financial crime lawyer?

Kyle Phillips is precisely that. He is a Partner at Howard Kennedy LLP with particular expertise in advising companies and individuals in relation to fraud, bribery, corruption and money laundering. Phillips believes that the world of crypto is great in principle, the concept of one monetary use with no need for FX is an ideal – but the reality is that it has created a minefield.

"Everyone is trying to play catch up with the new technology and trying to put in place structures that will regulate; but until some international conformity on how to regulate it is unlikely that we will see it being used universally. However much you get Europe, America, Australia, Japan on board with regulation, you continue to get havens where you can purchase cryptocurrency or whatever is being utilised through blockchain, on an unregulated market. Transactions are recorded in a public ledger which theoretically should make it easy to identify who is behind virtual assets. Unfortunately gaps in global safeguards mean that it is relatively simple to muddy the waters and hide the true identity of the owners. Additionally there are a significant number of jurisdictions that will allow you to buy and spend without anyone monitoring the transactions. It's much easier than you would think. Cryptocurrency has also been used to purchase weapons, drugs and other illegal items through the dark web. Until we are at a stage where we can identify all wallet holders, this will continue. But even then, people will find ways around it. Think of property; you can set up a phony corporation and use that to buy a property so as to hide the identity of the beneficial owner. There are similar issues with cash and other commodities meaning that it is unlikely that this will never stop happening, irrespective of what changes are implemented. But we can certainly make it more difficult than it currently is.

Crimes associated with crypto are not limited to the dark means it can be used for. Look at One Coin. Probably one of the biggest scams in history. Its founder, Dr Ruja Ignatova, told the world she had come up with the coin that would equalise the world, that would be bigger than Bitcoin – and they believed her. This conviction people had in her was evidenced by the billions they invested. People with little money put their entire life savings into One Coin. And she disappeared with the money. The whole thing was no more than a ponzi scheme. (For those of you who would like to know more about this subject, listen to Jamie Bartlett's Missing Cryptoqueen podcast – it is more fantastic than fiction!.)

Phillips says the possibility of scam is an issue with all crypto coins.

"The 'whales' could pull the rug out at any time. Only a handful of people own large amounts of the coins. They could sell up tomorrow. They would be billionaires but the coin's value would dramatically fall. They have the power. Maybe Dr Ruja was the first to take her money and run, but she may not be the last.

You need significant international cooperation and regulation to get it to a degree where the vast majority of countries are on board and then there will be 'name and shame' of the countries that aren't on board. At that point, we may begin to see Central Banks showing more interest, although there are other exposures they will be concerned with. Already they are talking about creating their own cryptocurrencies, but a lot of the benefits of crypto would then be lost."

Whilst for most, crypto is being used as an investment, there is no doubt that it is also providing a great vehicle for a lot of crime; from scams to money laundering to funding terrorism. Whilst regulation will be a step towards diminishing this, until the whole world is regulated – and that has to include the virtual world too – criminals will always find a place that provides them with what they need.

Life; its fleeting nature is an element hard to ignore and one which ultimately colours the entire picture. Think about our own individual lives – our stories, our memories – which at the time of happening appear so distinct and clear. The second they are over they become like dreams, tantalisingly elusive, their clarity diminishing to such an extent that sometimes we cannot even be sure they even happened. What remains is not a factual recollection but simply our perception and the feelings that perception evokes.

This examination of reality through perception is the essence of the current body of work of the artists, the Miaz Brothers, an Italian duo whose work is not just about what we see when we look at it, but what it makes us feel. Our reaction is as much a part of the entire process as the art itself; something that is true of all great art. Think of the effect that sitting in the Rothko room at the Tate has, how blocks of colour can make us cry or feel at peace or stir up all manner of emotions. This is the power art has. It can reach deep within us and connect with our history and with lived experiences that our conscious minds may have forgotten but which can be brought back to the surface by something that seems totally unconnected.

The art form of the Miaz Brothers is hard to describe. Their subject matter encompasses a lot that is familiar to us; famous paintings like the Mona Lisa, historical characters; some we know of, others we merely have a notion of, iconic pieces of function and design like Coke cans and Chanel perfume bottles. These familiar subjects are presented to us in an unfamiliar way and on vast canvasses that you simply cannot ignore. Like street artists, the Miaz Brothers use spray paint; the result is a blurred image which despite its enormity, feels fragile and out of reach. We are forced to really look. This experience of trying to focus seems to unlock not just a clearer view of the image itself but also a part of us too.

“The Past, The Present and Imperceptible” is the very apt name of the Miaz Brothers recent show at the Maddox Gallery; their first solo exhibition. What you experience when you first walk into the space and the artworks almost envelop you with their hazy, foggy surrealness is quite extraordinary; whilst the brain struggles to clarify the visual blur, the emotions that are evoked and come to the fore could not be more sharp.

Heartbreakingly, only one of the brothers, Roberto, was present for the opening of the exhibition. Renato was in Valencia (where

the brothers have chosen to make home in recent times) and COVID restrictions meant he could not get back to London to see his own show. The brothers travelled and lived around the world before deciding to come back and make Europe their home again. They chose Valencia because of its peace and because of the power of Santiago Calatrava's architectural works which dominate the city. They felt it was the right and calm atmosphere and also a creatively inspirational environment for them to create the work they had been planning and envisioning for many years. It's hard to imagine how the paintings can be created by two people; there is just one style, it does not feel like a collaboration, there is one very strong and unique feel to the work.

We wanted not just to give pleasure with our work but also to provide food for thought.

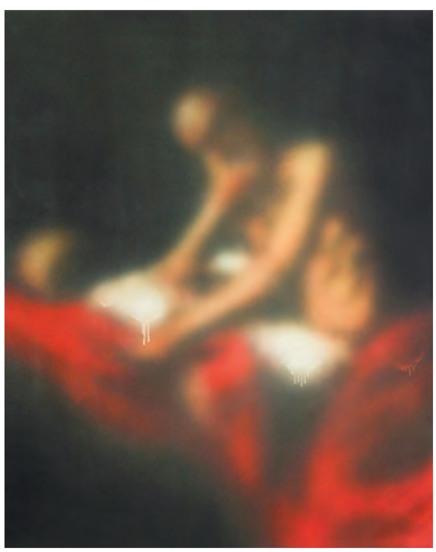
City Solicitor managed to catch up with the duo after the show finished and when they were reunited in Spain after an unusually long – for them – separation. Our interview took place over Zoom and as they finished each other's sentences and spoke with one voice it no longer seemed odd that these brothers create their art together; once you have experienced the power of the two of them, the combination, it is hard to imagine them doing anything separately.

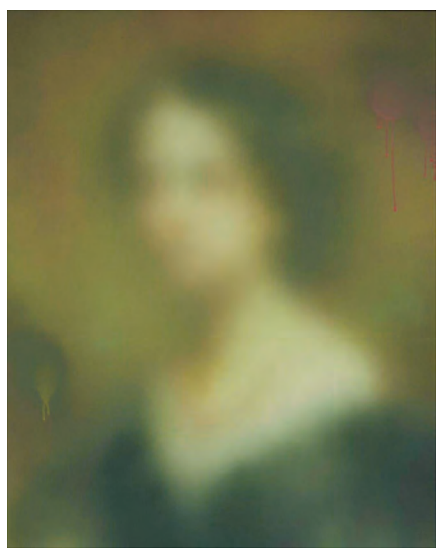
The brothers are from Milan and art is very much in their blood. Their father was a fine producer of copies of antique furniture, so they grew up surrounded by beautiful things and watched and appreciated the skills their father had. Their father was an art collector himself and the brothers lived in a home which was filled with Old Masters. They themselves started painting from a very young age and describe this as how they played together. That play has never stopped. Their almost childlike joy and enthusiasm when talking about their work shines through.

They said (and it is very much "they" as literally the sentences were composed of the two of them speaking together; one would start, then the other would interject words and so it continued. They were not even separate sentences but sentences that were made by both of them. Like their art.)

"It has always been our passion to come up with ideas and then to try and create them together. That was the rule of our game. We chose to play this game from when we were very small and that has continued right through our life so far. We preferred to do this than, say, to play video games or do the stuff other kids did. Work and play are the same for us. It's more active than passive. We would rather be producing and creating than doing anything else – it could be design, art, photography – anything that is a creative expression of an idea.

We wanted not just to give pleasure with our work but also to provide food for thought. We both studied the history of art and we loved the Renaissance artists who were capable of doing so many different





things and did not just specialise in one aspect; this multidisciplinary way to approach art was something which really appealed to us. We knew we needed to learn a lot of different techniques before we approached galleries. So we literally spent a couple of decades learning our trade. Trying out different things in terms of visuals and effects, working hard to perfect our skills. We were in our early 20s when we decided to make art our life but it was not till we were 45 that we felt ready to show the world. It was a big adventure for us. We had no fear because we had each other. We knew we did not only want to create something that was beautiful, but also something that was meaningful.

With the "imperceptible" style we realised that we had found something that not only interested us but it appealed to others too. With this latest show we saw people really interacting with the paintings. That people felt the art was 'amazing' was wonderful feedback for us. It meant everything."

Who are the artists the brothers themselves admire? They say that each century "has its heroes" who "open our minds". Of their contemporary counterparts they single out Damien Hirst who they say has "transformed" the art world and also Gormley and Koons. When you think of the work of these three, it is as much theatre as it is art. The same is true of the Miaz Brothers. Whilst each painting is an extraordinary piece of art, together they create a theatrical piece of drama that plays with your brain and your senses; that challenges your reality and makes your perception the centrepiece.

"At the moment we are only known for our paintings. But imagine how much we explored, how much we experimented with in the last thirty years that we were leading up to this moment. Where that will take us to next, we have no idea yet. But it will evolve, it will grow. We do not want to be one dimensional. We are not in a hurry. It will be an organic development."

Reality and the facts that create it fade. The feelings associated with them may get put into locked away rooms but they don't diminish. The genius of the Miaz Brothers is they hold the key to unlock those feelings. Their blurry style is far from a gratuitous trick. It is making an important comment about our whole lives. We think we know things. We think we understand our reality. It is familiar. But in time it starts to diminish and whilst our brain squints to clarify it, all that remains and – ultimately all that matters – is our perception of it.

One reality we can be sure of is that whatever the Miaz Brothers come up with next it will definitely make us think – and feel.

To find out more about The Miaz Brothers and their available works contact Maddox Gallery
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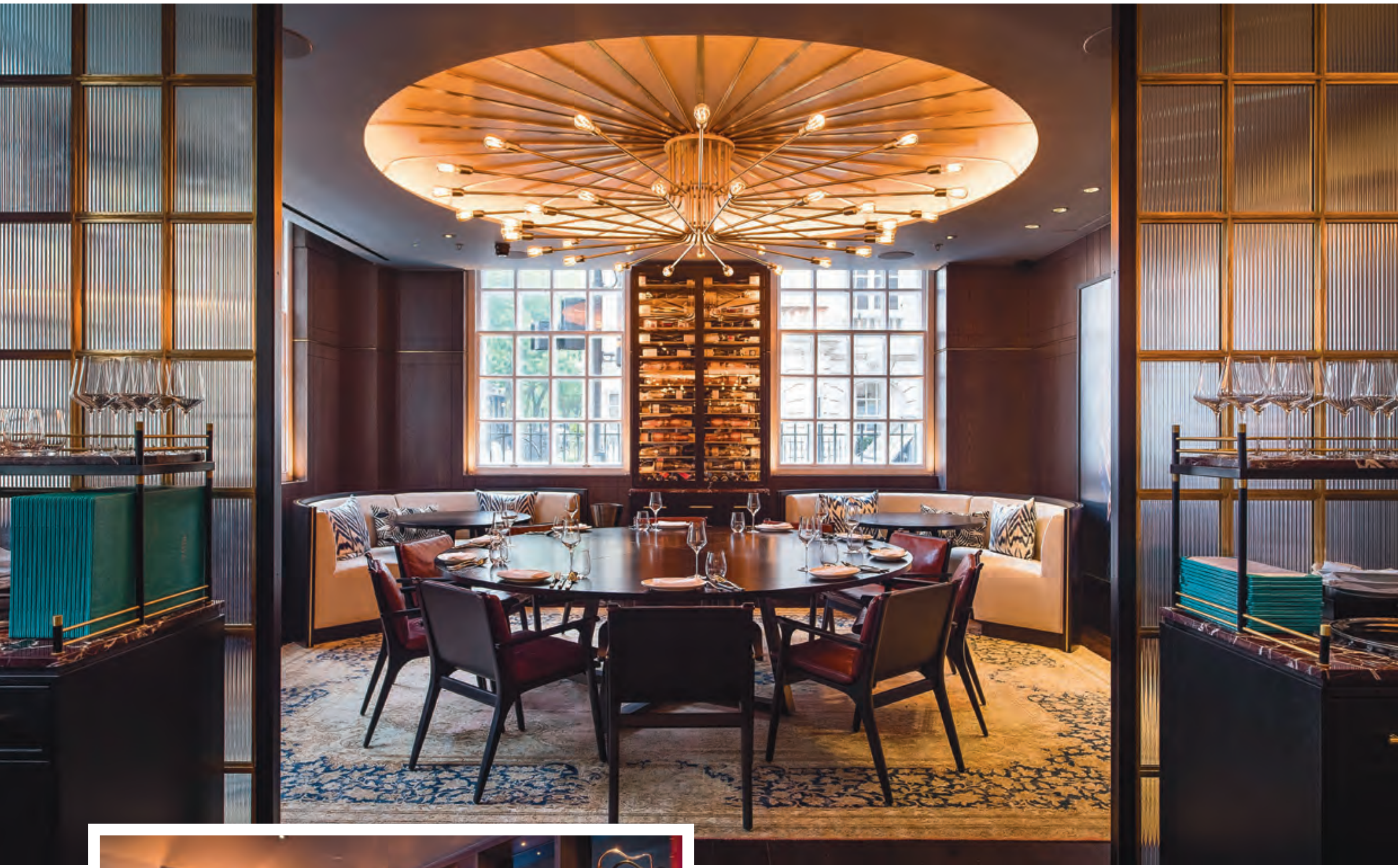

VIRTUAL HEAVEN (ON EARTH, IN MAYFAIR)

Turkish food and fine dining are not an obvious pairing. Big, meaty, greasy kebabs, overly sweet pastries and coffee that's so thick it's almost solid are the things that spring to mind for most of us when we are thinking about Anatolian cuisine.

Photo: @lateef.photography

Ruya London will turn all of those preconceptions on their head in the most wonderful way possible; a visit to this Mayfair restaurant will be a delicious assault on each and every one of your senses.

This very chic, Conrad designed restaurant is in Upper Grosvenor Street but, the second you walk in, you are transported to a place that feels a million miles away from Mayfair. Huge pieces of Turkish art adorn the walls, typical tiles and copper kettles are treated as works of art themselves in how they are displayed. The lights are dramatic and look like installations and even though the space is vast, it is cleverly divided so you can sit with relative intimacy and privacy while still being able to observe the exotic surroundings. Whilst everything is obviously Turkish, it is very much an elevated version; this place oozes style. Even the clothes worn by the staff – again based on traditional Turkish attire, somehow look like they are from a Commes des Garcons catwalk.

Yet although this place is so very cool, it is also unbelievably friendly and comfortable and makes you feel like you are eating at home with your best friends; everyone is so welcoming.

We nosily looked at our fellow diners; it was an interesting mix of Turkish people (a great indication that the food will be good) and a lot of beautiful people who looked as though they had stepped out of the pages of Vogue.

We started our evening with a cocktail. The Mekan Bar – like everything about Ruya London – takes the familiar and gives it a twist; takes the ordinary and makes it extraordinary. Paul, my guest for the evening, and I are negroni-aficionados and so we obviously chose the Ruya Negroni which consisted of Gin, Pio Cesare Vermouth, Campari and (wait for it) Turkish Coffee. It really plays with your head to be tasting Turkish coffee in your aperitif – but it actually works beautifully. The drink – although complex in its flavours – managed to still maintain an elegance and even an unexpected lightness.

And then the food extravaganza began. Our snacks were Isli Patlican and Borek; the former aubergine crisps served with a smoky aubergine dip which Paul wanted a whole packet of to take home! Again, against all expectations, they were stunningly light and grease free (I am hoping they were calorie free too!). The Borek looked like cigars, the most delicate filo pastry filled with carrot, courgette and walnuts. In a word, yum.

Photo: @lateef.photography

Our cold starters came next; Karpuz Peynir which was a salad of compressed watermelon (I have no idea at all what compressed watermelon actually is but it was the best watermelon I've ever tasted) sheep cheese, tomato and pine nuts. I actually couldn't stop eating this, it was so good. The tomatoes tasted as though they had been picked fresh that day. The salad was the perfect accompaniment to our other starter; the Lakerda which was salt cured tuna with compressed cucumber, tarama and bottarga. Yet again whatever compression does, it does it beautifully as I never thought cucumber could taste so good! The two dishes complimented each other so well; the strong, salty flavours of the fish with the refreshing flavours of the salad.

Before our hot starters arrived, we had some things from the bread oven; the Aged Kaşar Cheese Pide. There was a little bit of theatre as our waiter broke the slow cooked (cooked at 62 degrees for an hour and a quarter to be precise) organic egg and the yolk smothered the bread. It tasted as good as it looked. We also tried the Lahmacun; a thin bread filled with spicy lamb, vegetables and herbs. The flavours literally exploded in our mouths.

Photo: @lateef.photography


Photo: @lateef.photography


Photo: @lateef.photography

Next came the Umut's Bayildi – a confit of aubergine with a sauce of tomato, onions and feta; a dish many of us have probably had versions of before – but certainly not in this way. This is food your grandmother cooks – if she happened to be Turkish – but done so with the finesse of the world's greatest chefs. The ingredients and flavours are what you would expect – but everything is so refined and there is no heaviness to anything. You feel you can just carry on eating and eating – which is exactly what you want to do.

We also had the Lamb Manti. Manti are microscopic ravioli that we were told are made freshly every day. I cannot begin to imagine the skill and deftness of hands that are required to produce these miniatures that are served with a roasted garlic yoghurt and are as big in flavour as they are small in size.

The whole Turkish immersion extended into the wines. With our starters we had a white; a Narince Amir which was dry and mineraly and fruity – it paired with the food excellently.

Then the mains. We had to try the traditional Kesket which is the national dish of the Black Sea and is slow cooked lamb with barley risotto which was just so very moreish. The lamb literally melted in our mouths; Paul and I were fighting over the last bit! We also had the Grilled Halibut which was served with a crunchy pistachio crust; our sides were Okra which was turned into something very sublime by the addition of preserved lemons and the Turkish Spoon Salad which with its pomegranate notes was a perfect palate refresher.

Again, we went for a Turkish wine with our mains; this time a red; Oküzgözü-Boğazkere – which while very full in flavour did not feel overly tannic.

Of course, even after such a mammoth feast, we had to find room for dessert. We obviously chose the Baklava – but again we were in for a surprise as, like everything else we had experienced,


Photo: @lateef.photography

We had been virtually transported to a world of the exotic, of spices, of colour, of drama

it was wonderfully light and served with a caramelised milk sorbet. Being a chocoholic, I also went for the Çikolata ve Türk Kahvesi which was a veritable extravaganza of dark, milk and white chocolate alongside Turkish coffee ice cream. I am not going to pretend for a second this was light. No it was rich and luscious but if you are going to eat a lot of calories then they absolutely have to taste as delicious as this.

No Turkish meal would be complete without the coffee at the end. This arrived in the most beautiful metal container embracing the cup; again theatre and art. And the coffee was like velvet; no bitterness, no grains. As exquisite as everything else we had tasted.

This had not just been a perfect meal but a whole experience. We had been virtually transported to a world of the exotic, of spices, of colour, of drama. The ingredients were what you would expect of Turkish cuisine; pomegranate, lamb, coriander, mint… but they were combined with such artistry. I wanted to find out more about how such simple food could be elevated to such great heights – and who was responsible.

Colin Clague is the Chef Patron – which I suppose says it all – of Ruya both in Dubai and in London (and soon in Qatar, Saudi, the South of France and a couple of others are also in the pipeline). For any of you who may not know of this genius, Colin's CV is like an A–Z of the world's greatest restaurants. Think Zuma, Caprice, Mossimans, Pollen, Ivy… in fact, just think of any of the top culinary places in the world and chances are Colin was involved. Given this great man's pedigree, it's hardly surprising that Ruya London was such a stunning experience.

City Solicitor had the pleasure and opportunity of catching up with him over coffee (well, coffee for me and tea for him as he never drinks coffee) one morning just before he was heading back to his family in Dubai. Before the pandemic, Colin split his time between the two restaurants, flying to London each month but COVID made that impossible, But he was back at the first possible opportunity to check up on everything. Although his team does an incredible job, Colin is very hands on and also a perfectionist – as was evidenced when we ate at Ruya London. Despite his celebrity status in the world of food, Colin is full of humility, has no airs and graces and is just a really lovely, charismatic human being literally bursting with passion and enthusiasm for what he does.

Colin was born in the Isle of Man and is hugely patriotic about the place. He came to London at 17 and even at that tender age began working in some great places – like Langans – and with some great chefs – like Garry Hollihead. Then he decided to visit Australia – and stayed for 10 years. But the travel bug had bitten so worked as a chef in Cyprus, Israel, France and many other places. In 1999 he visited Dubai for the first time and opened the famous Burj al Arab. From there he went to Spain and it was at that point that Rainer Becker, with whom he had worked in Sydney, called him and said they were opening a Japanese restaurant in Knightsbridge and did he want to be head chef. Of course he accepted. The idea was that he would work alongside a Japanese chef who, unfortunately, pulled out before the restaurant even opened. It could have been a disaster; a German owner and a British head chef running a Japanese restaurant. But that was not the case. The restaurant was Zuma – a massive success story. Colin then opened Zuma in Dubai in 2007 and from there opened a Caprice out there – and then was approached to start Ruya. So he then had to learn about Turkish cuisine. Colin's fascination with such diverse cuisines and cultures links back to his childhood ambition of wanting to become an archaeologist.

"Nobody told me you had to be clever to be an archaeologist – I thought having a bucket and spade was sufficient. When I realised I would never be an archaeologist, I decided I wanted to be a cook – following in my mother's footsteps – and to travel the world. But, in essence, what I do with food is not so dissimilar from what archaeologists do, so in a way, I did fulfil my original dream. I love the stories behind the food, digging out dishes from the past. That is what I wanted to do with Ruya – to find out the secrets behind the really traditional dishes; then to add a twist to them to make them even more magical. At Zuma we used to talk about making food that was 'authentic but not traditional' and that's what I applied to the Ruya menu. I spent three months in Turkey, travelling, eating, listening and learning. And then we launched; firstly in Dubai then in London. There is still a certain perception about Turkish food – I want to change all that and show people what Turkish food is really all about. We use the finest quality ingredients, the presentation is what you would expect from fine dining and even though we have elevated it nonetheless all of my chefs are actually Turkish so there is a genuine authenticity to the food. My business partner, Umut Özkanca, is a second generation restaurateur – his father has been in the business for over 65 years and every new recipe is first tasted by Unut but then has to be tasted by his father – he makes sure we don't go off on a tangent and we remain true to the cuisine."

Colin cites Reiner Becker as his greatest influence and also his mentor and still chooses Zuma as his own favourite place to eat when in London. But he says if he had to choose his final meal on this planet it would be a tagine. He is so very passionate about food – learning about it, creating it – and eating it. That passion is what makes Ruya London so special – you can taste it in every bite.

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LIVERY NEWS

A look at what has been happening.


Photo by Lukas Meier on Unsplash.

Do women make more ethical lawyers, and how might City law firms improve their ethical infrastructures?

The Solicitors' Company was pleased to be able to host a seminar provocatively entitled "Do women make more ethical lawyers?" on 30 June 2021, as part of its "Food for thought" series.

The session focussed on a study of misconduct cases involving solicitors over a twenty year period which was recently carried out by Professor Andrew Boon (Professor of Law, City, University of London) and Avis Whyte (Senior Research Fellow, Senior Lecturer and Deputy LLB Course Leader, University of Westminster). Their study looked at solicitors' disciplinary processes in England and Wales from 1994 to 2015 and resulted in the publication of a fascinating research paper, "Trusted to the ends of the earth?" (International Journal of the Legal Profession, 2021), which reveals a number of interesting patterns and points as well as raising further questions for the profession. Senior Warden, Tony King, and Junior Warden, Sarah de Gay, chaired a conversation with Andrew and Avis, with members and guests of the Company attending by Zoom. Our focus was to ultimately explore what, if anything, City law firms might learn from the data and findings in terms of improving their ethical infrastructures. With the kind permission of Andrew and Avis, we are able to share with you, below, some of the key points which came out of this conversation. (Please note that the data interrogated was binary in terms of gender and so any conclusions drawn do need to be viewed through that lens.)

What were some of Andrew and Avis' key findings, in a nutshell?

During the twenty year period in question, the number of practising solicitors nearly doubled (from 66,123 to 133,367) but the number of solicitors finding themselves before the Solicitors Disciplinary Tribunal ("SDT") remained relatively consistent, and then dropped, over that time (from about 279 in 2008 to just 132 in 2015). The prosecution rate for misconduct does not, therefore, seem to have kept pace with the increasing size of the profession. As to possible explanations for this, these might include: solicitors have become better behaved; the Solicitors Regulation Authority ("SRA") has become a more effective regulator; the SRA has increasingly used alternative methods of disposal (e.g. small fines, regulatory settlement agreements); there has been a decline in the volume of the detailed rules applying to solicitors meaning there are fewer opportunities to breach them; the disciplinary system lacks the capacity to handle more cases.

As to the appearance of women before the SDT, it is striking that there seemed to be none in 1996 and by 2015, when they represented about 50% of practising solicitors, women were respondents in just 20% of cases.

Could this indicate that female solicitors approach ethical dilemmas differently?

Unfortunately, we do not know the answer to this question yet. In her 1982 book "In a different voice", Carol Gilligan (Professor of Humanities and Applied Psychology at New York University) posited that women are more disposed to an "ethics of care" approach, dominated by the value they place on relationships, whilst men are more inclined to view ethical dilemmas in terms of justice. It's a controversial hypothesis but provides an important reference point for considering whether there could be biological, social or cultural differences to explain this data.

That said, few SDT cases appear to involve ethical dilemmas. The predominant theme is the mishandling of money. This of itself could help to explain why so few women appear before the SDT. Most law firms currently are run or dominated by men and so perhaps they have more opportunities than others to breach accounts rules and/or indulge in financial impropriety. This may also explain why more partners than associates make up SDT respondents.

Where's the irony in this?

The ability to control your environment comes with seniority and so as diversity initiatives begin to have an impact in law firms, a rising number of female partners could afford women lawyers greater opportunities to engage in misconduct. This does not, however, take Gilligan's care theory into account, which suggests that, even with greater autonomy, women are less likely to choose to break the rules.

Another, unexplored, hypothesis is that women lawyers do in fact engage in misconduct but do so in a way which is less detectable than the misconduct of others. Could it be that women are better at covering their tracks? It is true there is nothing in the data to support this so it is perhaps a topic for further research.

Could "chivalry bias" be at play?

There is a theory that some regulators and others assume that women are less capable than men of poor behaviour and so may give them the benefit of the doubt when considering, for example, whether to prosecute a case or in interpreting behaviour (Hatamyar and Simmons, "Are women more ethical lawyers? An empirical study", 2004). It would require further research to see whether this possible explanation applies here.

Given that it invariably leads to striking off, does the SDT strain to avoid making a dishonesty finding in some cases?

There is some evidence of the SDT in effect negotiating reality to, for example, find a lack of integrity rather than a lack of honesty on occasions (and so save a solicitor's career). A finding of dishonesty should, in all but the least serious cases of dishonesty, lead to striking off (Bolton v Law Society, 1994). This might (but further research would be required) have a connection with "chivalry bias" too – possibly suggesting that sub-consciously the SDT could be hard wired to find in favour of a woman when considering an honesty-related claim.

At the time of Andrew and Avis' research there was no regulatory principle which demanded honesty, as distinct from integrity. But, since November 2019, SRA Principles have required honesty separately and in addition to integrity. At the same time, the SDT adopted the civil standard of proof in preference to the criminal standard. This combination of changes could have an impact on the SDT's ability to negotiate reality going forward. This is an area worth watching, especially given the questions being raised by the legal press and academics regarding the harshness of striking off in the case of junior lawyers who have committed relatively minor honesty-related transgressions whilst working for law firms with cultures described by some as "toxic".

Is there evidence to suggest that women tend to approach their mistakes differently?

Some of the data suggest that to the extent women lawyers transgress, it is to deliver something they believe to be in the best interests of their client or their firm as a whole, whereas other lawyers are more likely to be pursuing a personal interest of sorts. This chimes with Gilligan's theory, but the relevant data sample was very small and so it is not possible to reach a reliable conclusion on this question.

How often do City lawyers end up before the SDT?

Not very often, although the data kept by the SDT regarding firms is not very reliable (sometimes its records do not name the relevant firm at all). In 2008, for example, of 279 respondents just three appeared to be from City law firms whilst in 2015 the corresponding numbers were 132 and six.

Does this suggest that City law firms tend to have better systems/controls, which promise to deliver better compliance with professional rules?

As most respondents who find themselves before the SDT are sole practitioners or come from small firms, there may be some truth in this.

Larger law firms tend to have a more managerial culture, with for example better IT systems. In addition, the creation of the COLP/COFA roles by the SRA, and the support given to people in those roles by City law firms, has likely had an effect.

Did the research tell us anything about the reluctance to share problems?

Undoubtedly a fair number of SDT respondents tried to cover up an initial mistake by, for example, creating false documents or representing that something had been done which had not. This relates back to the culture of their firm. When faced with balancing "do I lose face internally?" with "shall I risk ending my career?", some appear to make bad choices. It is therefore possible to conclude that the fear factor of admitting mistakes and having to deal with senior people/peers in a solicitor's own organisation is hugely influential.

Here it was noted, and welcomed, that the SRA is conducting a thematic review of workplace culture in law firms with a view to publishing best practice guidance.

And finally…

We'd like to thank Andrew and Avis for talking to us about their important study. City solicitors benefit from the research of academics and from having conversations like these, so do please contact us with suggestions for other topics we might cover to give us "Food for thought".

The Art of Mindfulness

On another very wet and windy evening in May, 15 or so City solicitors (and a chartered surveyor) set out on a journey of self-discovery, also known as a zoom art class.

Having received our materials, including brushes, oil paints and a canvass by post beforehand, we were excited and a little nervous to start work. However, ably and patiently assisted by artist John Hainsworth (https://www.johnhainsworthartist.com) we tentatively began making brush strokes in an effort to create a sky. Some of the group were brave enough to attempt clouds whilst others concentrated on variations of blue.

Soon followed the sea and a calm descended on the group as everyone focussed on the task at hand, quiet lawyers at last(!)

Sand represented a challenge as those of us not patient enough to wait for the sea to dry ended up with a green beach which was not quite remedied by the attempt at white sea foam. Those adventurous few who attempted some sailing boats were rewarded for their efforts with a very cheerful scene.

The final stage involved flowers and allowed for some latitude with the design during which blooms emerged in various sizes and hues.

Those brave enough to do so have shared photos of their efforts which are shown below along with a class screen shot.

All agreed that though our results might not quite match our enthusiasm, the class was a welcome break from the ubiquitous zoom quiz and an opportunity for a little calm and tranquillity.

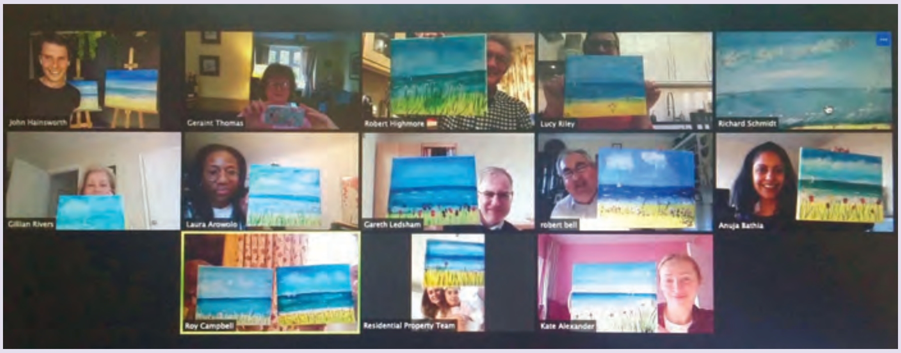
We are very grateful to John and members of the Whittington Committee for organising a very pleasant and enjoyable evening.

If you would like to find out more about Whittington and other CLSC events, please contact Liz Thomas.









WELCOME TO THE METAVERSE

How computer gaming software is reshaping the design, development, marketing, and testing of the latest cars

By Joel Leigh

Imagine a metaverse – the sum of all virtual worlds and the internet. A collective shared space that converges with reality, where humans in the form of avatars can interact with each other in a three-dimensional space in real time. If this sounds like a concept ripped from the pages of some dystopian sci-fi fantasy, that's because it is – Neal Stephenson's 1992 cyberpunk novel 'Snow Crash', to be precise.

Fast forward 30 years and the creation of just such a space has become Tech's next big idea, with Silicon Valley giants including Facebook, Google and Microsoft working fervently to make it a reality.

Accompanying them on the ride are Epic Games, best known as the maker of the hugely successful multiplayer computer game Fortnite – with a mind boggling 350 million registered accounts worldwide – in a perhaps surprising partnership with the motoring sector.

Epic is in fact exceptionally well placed to build a definitive metaverse, having recently secured $1 billion funding for its construction, and already has a significant head start over any competitors via its game engine 'Unreal Engine 5', the world's most advanced real-time 3D creation platform.

And the company's vision stretches far beyond the gaming industry; 'Unreal' isn't just an engine for building bigger and better computer games, but a means of creating a series of interactive experiences and augmented virtual reality applications that already span architecture, film and television. Not everyone will have twigged, for example, that the BBC's Tokyo Olympics coverage was broadcast from a virtual studio in Salford.

So how did Epic become so heavily invested in the world of cars? The answer appears to be, at least initially, by accident. After acting in a consultative role for companies such as Ferrari, BMW and Ford, it set up an enterprise division specifically to support the automotive sector and identify ways of collaborating on new and increasingly innovative projects.

The company was quick to realise, for example, that manufacturers online car configuration tools were clunky to operate and difficult to update, with graphics unrepresentative of the final product; features which could be hugely improved using 'Unreal'. Following Epic's input, customers are now able to 'build' cars on iPads and laptops from the comfort of their own home. The resulting graphics have genuinely realistic renditions of surfaces and textures and can afterwards be uploaded at dealerships via giant video walls. Aside from improving the buying experience, this is a more effective way to 'upsell' customers into selecting high value items from the options list.

According to Epic CEO and majority shareholder Tim Sweeney, 'brand presence in the metaverse isn't going to be a bunch of advertising… it's going to be a place where you can actually drive the cars around and feel the experience'.

In terms of bringing a new car to market, historically cars were designed using hand drawn pictures and clay models until the invention of Computer Aided Design (CAD) by Dr Patrick Hanratty in the 1960s. Although CAD has evolved over the decades, 'Unreal' represents a quantum leap in reducing duplication of effort and other inefficiencies. The software makes it possible to produce a single, consistent 3D digital asset which can be developed, improved, and shared with colleagues across the world, through every stage from concept through to sales.

In the field of autonomous driving research, game engines make an obvious choice when it comes to AI based scenario planning for risk management, given an appropriate program can be used to test and validate vehicles over millions of road miles, saving years of practical experiments.

General Motors, for example, have used the platform to create a program dubbed 'The Matrix' for testing one off safety scenarios that are difficult to replicate, such as an object falling off a curb into the path of an approaching vehicle.

Warwick University, on the other hand, have merged digital and real environments to create a simulator that allows researchers to 'drive' actual vehicles, so that data can be collected from both.

Looking forward, and once self-drive vehicles have reached 'level 5' of vehicle autonomy, defined as 'fully autonomous and able to perform all driving tasks under all conditions with zero human intervention or interaction', the same technology will allow manufacturers to offer entertainment experiences to fill the time of the now driverless passengers.

With steering wheels, gear sticks and foot pedals obsolete, every internal surface of the vehicle will have the potential to be safely utilised as a screen, meaning the options to browse the internet, watch a film or play a game, or all three, are endless.

It's worth noting that back in 2016, Tim Sweeney suggested the metaverse would be 'far more pervasive and powerful than anything else' and 'if one central company gains control of this, they will become more powerful than any government and be a god on Earth'. Whether that behemoth proves to be Epic remains to be seen.

Joel Leigh is the motoring correspondent of City Solicitor and a Partner at Howard Kennedy LLP