

# **Corporate Social Responsibility as groundwork to impose social duties on platforms**

**Is it possible to reconcile economic freedom and social law ?**

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# CSR AS GROUNDWORK TO IMPOSE SOCIAL DUTIES ON PLATFORMS

## **I. Introduction: Specificities of platforms and possible analogies**

### **II. Is CSR able to act as an instrument of social duties?**

- Analyze in terms of effectiveness & legitimacy
- Analyze in terms of «Hardening mechanisms» of soft law
- Conclusion

### **III. Can the State delegate social security to companies through CSR ?**

#### **Cross analyze with the French case study**

- General regime: Platform social responsibility
- Specific regime: Social charter for platforms of transportation
- Assessment

### **IV. Conclusion**

# I. INTRODUCTION: SPECIFICITIES OF PLATFORMS AND POSSIBLE ANALOGIES

## SPECIFICITIES

Use of technology →  
Creation of micro businesses

Intermediation

Active role of customers  
and suppliers

## CONSEQUENCES

Vertical disintegration

Liberalism

Disengagement  
from the labor relationship

## POSSIBLE ANALOGIES

Transnational companies

CSR

COMPLIANCE

EXTRA-  
TERRITORIALITY

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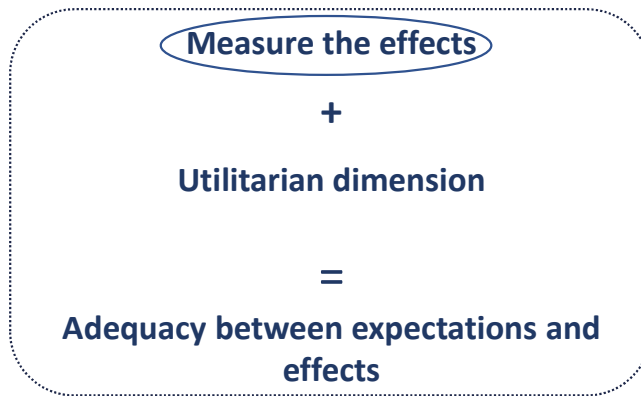
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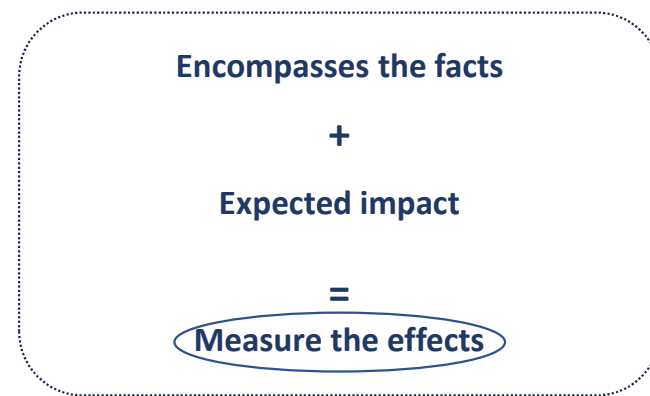
Analyze in terms of  
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### CLARIFICATION

#### EFFICIENCY



#### EFFECTIVENESS



## II. IS CSR ABLE TO ACT AS AN INSTRUMENT OF SOCIAL DUTIES?

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### ASSESSMENT OF EFFECTIVENESS

#### OBSTACLE

Moral objective

+

Fragmentation of the sources

Too imprecise = legal insecurity

Feeble binding effects

#### ASSET

Amplifying Hard law

=

Accompanying function

Evaluation function

Experimental function

#### CONDITIONS

Sanction  
or

Unfavorable consequences

Control mechanisms to detect breaches

No uncertainty in the effects

No excessive consequences for third  
parties

## II. IS CSR ABLE TO ACT AS AN INSTRUMENT OF SOCIAL DUTIES?

Analyze in terms of  
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### LEGITIMACY

#### PREREQUISITE

**Philosophically = Fair**  
**Formally**  
**=**  
**Inclusion in the legal order**  
**Respecting the democratic process**

#### ASSESSMENT

**Associates its addressees to its**  
**elaboration**  
**=**  
**Presumption of legitimacy**



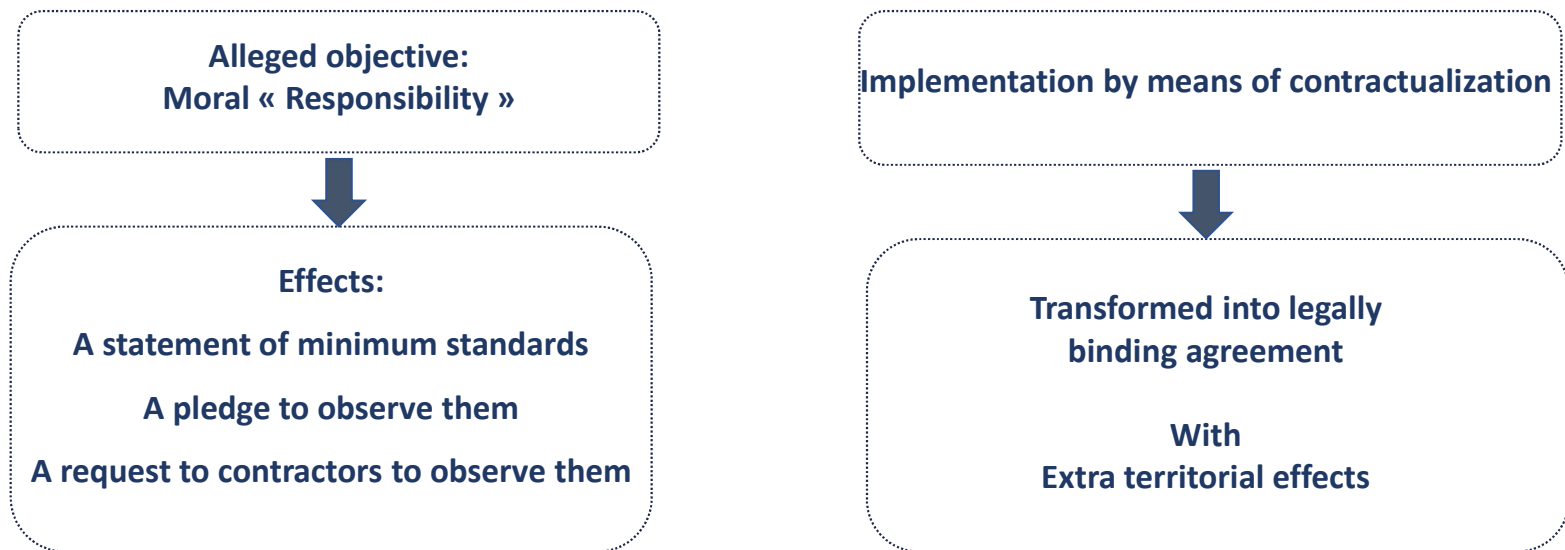
## II. IS CSR ABLE TO ACT AS AN INSTRUMENT OF SOCIAL DUTIES ?

- Analyze in terms of effectiveness and legitimacy
- Analyze in terms of «hardening mechanisms» of soft law
  - Juridification process
  - Normative shift
- Conclusion

## II. IS CSR ABLE TO ACT AS AN INSTRUMENT OF SOCIAL DUTIES?

Analyze in terms of  
«Hardening mechanisms» of soft law

### JURIDIFICATION PROCESS



## II. IS CSR ABLE TO ACT AS AN INSTRUMENT OF SOCIAL DUTIES?

### Analyze in terms of «Hardening mechanisms» of soft law

#### NORMATIVE SHIFT EXAMPLES

20. Most definitions of corporate social responsibility describe it as a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a **voluntary** basis.

DOC | 19 July 2001

**GREEN PAPER: Promoting a  
European framework for Corporate  
Social Responsibility**

#### **COM(2011)681 - *Communication* Renewed EU strategy 2011-14 for Corporate Social Responsibility**

##### **3.1. A new definition**

The Commission puts forward a new definition of CSR as “the responsibility of enterprises for their impacts on society”. **Respect for applicable legislation**, and for collective agreements between social partners, is a prerequisite for meeting that responsibility. To fully meet their corporate social responsibility, enterprises should have in place a process to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategy in close collaboration with their stakeholders, with the aim of:

## II. IS CSR ABLE TO ACT AS AN INSTRUMENT OF SOCIAL DUTIES?

Analyze in terms of  
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### NORMATIVE SHIFT

Compliance mechanisms  
reinforce the effectiveness



**Objective:**

**Force companies to communicate**

**Delegates the control**

## II. IS CSR ABLE TO ACT AS AN INSTRUMENT OF SOCIAL DUTIES ?

- ▶ Analyze in terms of effectiveness and legitimacy
- ▶ Analyze in terms of «Hardening mechanisms» of soft law
  - ▶ Juridification process
  - ▶ Normative shift
- ▶ **Conclusion**

## II. IS CSR ABLE TO ACT AS AN INSTRUMENT OF SOCIAL DUTIES?

### Conclusion

**Reconstitute the « de facto » unity  
of the transnational enterprise  
Overcome compartmentalization of  
responsibilities**

**Compliance mechanisms give  
an extra territorial effect to CSR**

**Bottom-up approach  
legislation becomes  
cooperative**

**From a subsidiary role to a complementary cooperative normative tool**

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# III. CAN THE STATE DELEGATE SOCIAL SECURITY TO COMPANIES ?

## General regime: Platform social responsibility

**ATTENDEES**  
L 7342-1 CTr

**Electronic platforms of intermediation which determine the characteristics of the service and sets its price**

**CONTENT**  
L 7342-2 to L 7342-6 CTr

**Private insurance**  
or  
Reimburses the premium  
**Voluntary Occupational accident insurance**  
to self-employed worker who achieves more than 5348 €  
p.a.

**Continuing professional training**  
Bear the costs for loss of income

**Collective Union rights**  
Right to organize coordinated refusal to provide services  
Right to form trade union organizations



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## Specific regime: Social charter for transport platforms

### ATTENDEES

Transport platforms which determine the characteristics and sets its price  
(L 7342-1 CTr)

### SELF REGULATION CONTENT L 73428 to L 7342-11 CTr

Specify the rights and obligation of workers  
+  
Improve the working condition  
absence of exclusivity, decent prices,  
social dialog, supplementary social  
protection...

Certification by administrative authority

Prior consultation procedure

### HARD LAW COMPLEMENT protection & transparency (L 1326-1 to L 1326-6 C Transport)

Choose working time & disconnect  
+  
Right to refuse the service  
Without breach

Information  
on the distance & the price of the ride  
+  
on the average duration & income of  
contract

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## Assessment

### POSITIVE ASPECTS

Innovative & flexible

Contractual value

Justiciability and legal effects

Consecration by State law by certification

=

Effectiveness + Legitimacy

### NEGATIVE ASPECTS

#### SOCIAL CHARTERS

Control mechanism and sanction

= Counterproductive to the protection effectiveness

#### SOCIAL RESPONSIBILITY

Private accident insurance

= Disrupt the principles of social insurance

Self employment limits the role of social partners

= Negative in terms of legitimacy

= EXCLUSION OF LABOR LAW

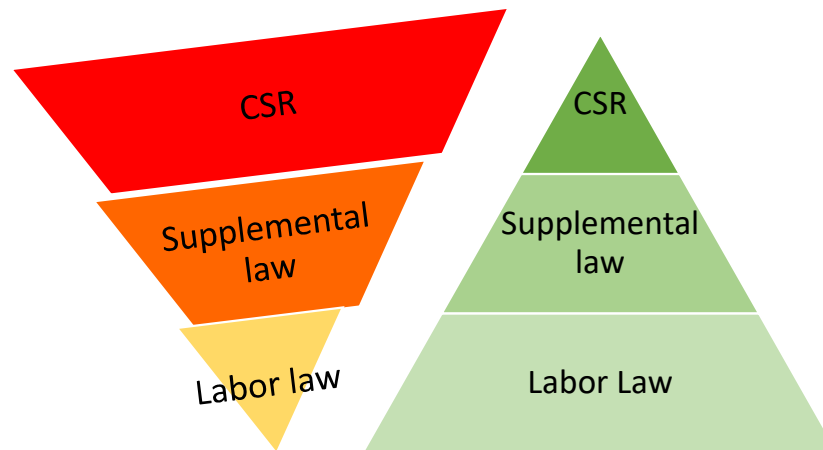
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# IV. CONCLUSION: CAN THE STATE DELEGATE SOCIAL SECURITY THROUGH CSR?

- CSR can be an effective and legitimate instrument with legally binding effects
- CSR transcend the territoriality of labor law
- Possible delegation of States competences via compliance process
- Privatization of social security would destabilize the whole system
- CSR must be backed up by a system with solid foundations

CSR CAN BE THE LAST STONE TO THE EDIFICE NOT THE CORNER STONE



- THANK YOU FOR YOUR ATTENTION ! -