

# Cross-Border Legal Issues which arise – even when staying at home!

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# The past four months, and the new normal

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We have been doing less:

- Business travel and conferences (intra-national, and international)
- Leisure travel (intra-national, and international)
- ‘in person’ meetings and communications
- Making purchases in shops by attending ‘in person’

We have been doing more:

- Communicating by video-conferencing, tele-conferencing, email
- Purchasing goods online

# What types of cross-border issues could arise?

- What rules govern our use of online services?
- What rules govern the purchase/sale of goods on the internet?
- What if a defamatory remark is made in an email, or an online forum?
- Classic division of cross-border issues: (i) jurisdiction; (ii) applicable law; (iii) recognition and enforcement of judgments. In this presentation, concentrate on (i) + (ii)

# Using online services

- Where is the provider based? T & Cs of use: choice of court? choice of law?
- *Clark v TripAdvisor LLC* 2015 SC 368
- Harris, “Understanding public policy limits to the enforceability of forum selection clauses after *Douez v Facebook*” (2019) 15 *J. Priv. Int. L* 50

# Doing business over the internet/phone: what law applies?

- *Regulation (EC) No 593/2008 [Rome I Regulation]*: impact of EU withdrawal
- Ability of parties to choose governing law
- Applicable law in the absence of choice
- Protective provisions in respect of consumers

# Doing business over the internet/phone: where to sue in the event of a dispute?

- *Regulation (EU) No 1215/2012 [Brussels I Regulation (recast)]*: impact of EU withdrawal
- *Lugano Convention (2007)*: impact of EU withdrawal
- *Hague Convention on Choice of Court Agreements (2005)*
- *Civil Jurisdiction and Judgments Act 1982*, Sch. 8 = residual rules
  
- Intra-UK disputes: *Civil Jurisdiction and Judgments Act 1982*, Sch. 4
- For the future? *Hague Judgments Convention (2019)*

## Cross-border delict: what law applies?

- *Regulation (EC) No 864/2007 [Rome II Regulation]*: impact of EU withdrawal
- *Private International Law (Miscellaneous Provisions) Act 1995*
- Common law



## Cross-border delict: where to sue in the event of a dispute?

- *Regulation (EU) No 1215/2012 [Brussels I Regulation (recast)]*: impact of EU withdrawal
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# Thank you for listening / watching!

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