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Digitalização de documentos com validade legal

Alexandre Maiali*



Desde sempre o homem gera e armazena informações, nos mais diferentes tipos de suporte: paredes de cavernas, tábuas de argila, linho, papiro, celulose e, mais recentemente, no mundo virtual, com o advento da Internet.

Em tempos recentes, num intervalo de apenas meio século, os formatos e tamanhos dos documentos, assim como seus suportes, mudaram, mas uma obrigação parece imutável: a guarda da informação, de maneira conservada e acessível. Principalmente com os chamados "documentos originais", para efeitos de cum-

primento legal, fiscalizações e auditorias.

Esta rotina de guardar documentos originais, especificamente os com guarda obrigatória por tempo determinado, gerou um colapso nas organizações e, quanto maior a empresa, maior o colapso. Não há mais como se guardar documentos originais apenas em suporte físico.

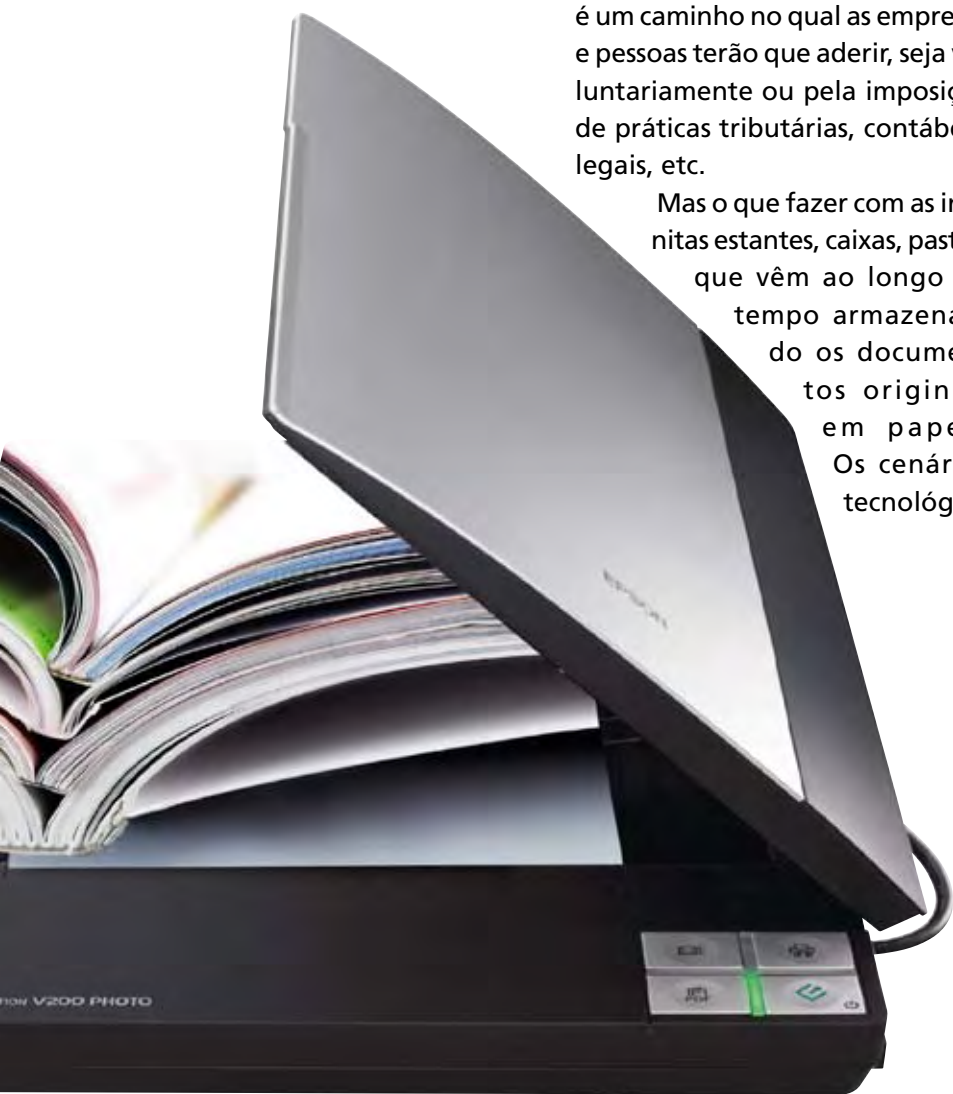
Uma luz brilha fortemente no que diz respeito ao novo suporte onde se gerar e guardar informações, devidamente acompanhado do necessário valor legal: o documento em suporte eletrônico. Este é um caminho no qual as empresas e pessoas terão que aderir, seja voluntariamente ou pela imposição de práticas tributárias, contábeis, legais, etc.

Mas o que fazer com as infinitas estantes, caixas, pastas, que vêm ao longo do tempo armazenando os documentos originais em papel? Os cenários tecnológico

e jurídico se encontram, de maneira muito sutil e incontestável, para trasladar a originalidade e autenticidade do meio físico para o eletrônico, devidamente registrado por cartórios de Registro de Títulos e Documentos, com o mesmo valor legal do que o original.

A tecnologia está disponível há quase uma década; a lei que embasa este trabalho é de 1973 (Lei Federal 6.015/73) e nada há que impeça as grandes corporações de aderirem a esta solução.

Para cumprirmos as leis e determinações de guarda documental não precisamos estar atrelados a práticas custosas, ineficientes e que remontam a um passado muito distante. Basta abrimos os olhos e a mente para o óbvio, buscando a inovação no ordenamento jurídico que está à nossa disposição desde o século passado. ☺



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Compliance and credibility in the corporate world

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In the beginning of the XXI century, financial scandals brought to attention the need to rescue the business ethics that, with transparency in management, became so important for the corporate world as the profitability and market share concepts.

Investors started to worry about issues related to security and reputation of those managing their capital. As a consequence of this new scene, Sarbanes-Oxley Act, issued by the North-American Congress in 2002, proposed by senators Paul Sarbanes and Michael Oxley, was efficient in setting a new management method, ready to ensure ethics in business.

Within this context, the increase of anti-trust inspection by main world powers worked as an alert to companies about the need to avoid anti-trust behaviors. In this scenery, Compliance Programs, as a useful tool to assure that company personnel is aware of the anti-trust legislation applicable to the company, became more consistent enabling the increase in illegal acts prevention.

Compliance may be defined as a set of measures aimed to reduce competition acts performed by

employees of a company, including directors. These programs become effective usually by means of continuous training alerting on the consequences set forth in the law for infringements against economic order.

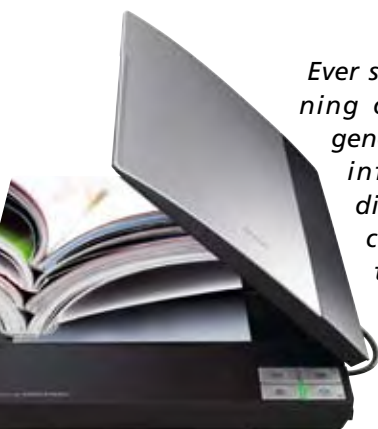
This type of program is highly promoted in the USA and in EU countries, with considerable positive results regarding compliance with anti-trust laws.

In Brazil, such programs have been recently deployed, as a result of the Program to Prevent Infringements against Economic Order, introduced in our legislation by Order 14/2004 by the Secretariat of Economic Law. Companies have been increasingly adopting such programs as a means to regulate behavior in their routine.

The Compliance department became synonymous to efficiency, credibility and good relationship of a group with society.

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Document digitalization with legal effects



Ever since the beginning of times, men generate and store information, in different media: cave walls, clay tables, linen, papyrus, celluloid, and, more recently, in the virtual world, with the advent of the Internet.

In recent times, within half a century, document format and size, as well as their supporting media, have changed, but one thing never changes: information storage, in an accessible and protected way. Especially regarding "original documents", for legal effects, inspections, and auditing.

This routine of storing original documents, specifically those

that should be stored for a determined period of time, has caused a collapse in organizations, and the larger the company, larger the collapse. There is no more space to store original documents only in physical media.

A strong light shines towards the new support media for information storage, duly accompanied with the required legal effect: the electronic document. This is a path to be followed by companies and people, whether voluntarily or by imposition of fiscal, accounting, legal practices, etc.

But, what should we do with countless racks, boxes, files, that have been used to store original hard copy documents? Technological and legal scenarios meet, very subtly and clearly, to transfer the originality and authenticity from the physical to the elec-

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tronic media, duly registered by Registries of Bonds and Documents, with the same legal effects as the original.

The technology has been available for a decade; the law supporting this work was issued in 1973 (Federal Law 6015/73) and nothing restrains large corporations from adhering to this solution.

To comply with laws and rules related to document storage we do not need to follow costly, inefficient practices dated to a distant past. We just have to open our eyes and minds to the obvious, searching for the innovation in the legislation, available to use since the last century.

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