



IBF Paper Series

05 – 20

Disclosure and publication of information on the governance and ownership of joint-stock corporations in Europe (19th–early 20th centuries)

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Abstract:

Corporate law increasingly paid attention to the disclosure and publication of information on the governance and ownership of joint-stock corporations. This paper on the one hand gives an overview of mandatory disclosure and publication requirements for joint-stock companies in the corporate legislation of Belgium, France, Germany, the Netherlands, Spain and the United Kingdom from the beginning of the nineteenth century until the interwar period. We argue that changes over time were consequence of a new approach to investor protection which coincided with transition to a concessionary regime to general incorporation and that differences between countries with different legal traditions were minimal. On the other hand, references to official publications which contained constitutional documents and information on governance and ownership are provided in an appendix.

JEL-Classification: NO1, N43, N44

IBF Paper Series
Banking and Finance in Historical Perspective
ISSN 2510-537X

Herausgeber / Editorial Board
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Financial History, Frankfurt am Main 2020

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¹ This work was supported by the European Union's Horizon 2020 Research and Innovation Programme under Grant Agreement N° 777489.

1. Introduction

“International comparisons are, I am convinced, one of the most promising areas for long-term continuing research in business history.”² Alfred Chandler’s call from 1976 notwithstanding, comparative contributions to business history remain rather scarce. Only a fraction of the articles published in major business history journals in 1970/71 and 2012 deal with multiple geographical entities, for instance.³ Books which claim a comparative or international scope are often collections of chapters on individual countries.⁴ But amongst these rare comparative studies, there are some very influential articles such as Rafael La Porta’s *et al.*⁵ The fact that most are based on secondary literature or published statistics highlights a serious impediment to comparative, multinational studies: access to primary (printed or archival) sources. The challenge lies not only in identifying and locating similar sources in various countries, but also in the time-consuming nature of consulting documents dispersed over libraries and archives in various countries and the obvious difficulties associated with understanding sources in foreign languages and outmoded scripts. For the nineteenth and twentieth centuries, the increased online availability of digitised printed sources and the advancement of technologies for optical character recognition and automated translation alleviate these problems to a certain degree.⁶ Large scale digital libraries such as Google Books and the Internet Archive tend to focus on sources in the public domain, including older out-of-copyright works and government publications. The latter, including for instance collections of laws and decrees, official journals and newspapers, contain a wealth of company information from the early nineteenth century onwards. This commonly includes constitutional documents (a term used throughout this paper to designate deeds of incorporation, articles of association, and government authorisations thereof), shareholder’s resolutions for the modification of constitutional arrangements or the liquidation of companies, as well as excerpts thereof and lists of shareholders, directors and other officials.

The aim of this paper is to provide reference and context to publications of constitutional documents of joint-stock companies and related governance and ownership information. It serves a double purpose: on the one hand, foster new comparative research in corporate history by providing a practical guide to published

² Chandler, ‘Institutional Integration’, 12.

³ In 1970/71 and 2012 respectively, 4 out of 17 and 5 out of 21 articles dealing with geographical entities focus on multiple entities. De Jong, Higgins, and van Driel, ‘Towards a New Business History?’, 8.

⁴ For instance: Wells, *Research Handbook*.

⁵ La Porta et al., ‘Law and Finance’. On its influence, see: Musacchio and Turner, ‘Does the Law and Finance Hypothesis’, 525.

⁶ The issue remains for the preindustrial era: Gelderblom and Trivellato, ‘The Business History’.

collections of important primary source documents and point, whenever possible, to their online availability. On the other hand, make an original contribution to the comparative history of corporate law by chronicling publicity requirements in the commercial codes and company laws of Belgium, France, Germany (or Prussia prior to 1871), the Netherlands, Spain and the United Kingdom from the early 1800s up to shortly after the First World War. Our analysis spans two regimes for the incorporation of joint-stock companies and the three dominant legal traditions of Europe.⁷ This will allow us to analyse how the disclosure of legal information was shaped both by the transition from a concessionary regime to a system of general incorporation and by the British, French and German legal traditions.

The remainder of this paper is structured as follows: in the second section, we provide an overview of publicity requirements in the French *Code de Commerce* of 1807 and in other countries where the Napoleonic commercial code introduced or inspired a concessionary system during the first half of the nineteenth century. This is followed by a discussion of corporate legislation in the United Kingdom from 1844 and Germany from 1861 in the third and fourth sections. The fifth section charts changes in publicity requirements as new company laws abolished the concessionary system and introduced or re-organised commercial registries in French law countries. By way of conclusion, we present some remarks regarding the influence of the regime of incorporations and legal traditions on mandatory company disclosure of non-financial information. A complete annotated list of official collections of laws, official journals and newspapers and other official publications of company information up to the present is included in the appendix.

2. The influence of the French Code de Commerce of 1807 during the first half of the nineteenth century

2.1 France

The Code of Commerce of 1807 first introduced the concessionary system in France. Incorporating a shareholder-owned company or *société anonyme* (initially, during the draft phase of the Code, also called *société par actions*) required first that the deed of incorporation was passed before a notary (C. com. 1807, art. 40) and second that the articles of association were approved by the government (*ibidem*, art. 37).⁸ In the *Exposé des motifs*, article 37 was justified by the fact that badly constituted or mismanaged joint-stock

⁷ Flume, 'Law and Commerce'.

⁸ Troplong, *Commentaire*, 561.

companies could not only compromise the fortunes of shareholders, but also the public peace.⁹ These motivations were also clear from the Instruction of the Minister of the Interior of December 23, 1807. In article 4, it was specified that the *préfets*, who advised the Minister on petitions for incorporation, should not only evaluate the projected company's chance of success, but also investigate whether the project was "not contrary to the customs and good faith of commerce and the good order of business in general".¹⁰ Regarding the publicity of company information, the Code of 1807 only required that the articles of association were posted for three months in the courtroom of the commercial court of the district where the company's registered office was located. The Decree approving the incorporation had to be posted as well (*ibidem*, art. 42 & 45). From the *Exposé des motifs*, it is clear that this limited form of temporary nature was regarded as an additional safeguard, along with government authorisation, for the proper management of joint-stock companies. It would prevent not only individual loss of credit, but also general disturbance of the peace and destruction of prosperity.¹¹ Although the Code of Commerce of 1807 contained no provisions regarding active publicity, some of these Decrees authorising the incorporation of joint-stock companies were published in the *Bulletin des Lois*, an official periodical of laws and decrees established in 1793.

Systematic publication of constitutional documents started in 1818.¹² The Instruction from the Minister of the Interior of July 11, 1818 stipulated that publication of the authorisations in the *Bulletin des Lois* was to be continued, but for the first time also required the publication of the articles of association. These were to be published in the *journal d'annonces* of the *département* where the company was located and in the *Moniteur Universel*, the official newspaper of the French government.¹³ In practice, however, the articles of association were also printed in full in the *Bulletin des Lois* from 1818 until 1867.¹⁴ This can be regarded as an extension of the view held at the time by the *Conseil d'état* that the *société anonyme* form was reserved for enterprises

⁹ *Code de Commerce*, 14; Troplong, *Commentaire*, 544. See also: Freedeman, 'Joint-Stock Business Organization', 187.

¹⁰ "[;] contraire aux mœurs, à la bonne foi du commerce, et au bon ordre des affaires en general." *Recueil des lettres circulaires*, vol. 7, 344.

¹¹ "Avec ces précautions, avec celles de la publicité commune aux trois espèces de sociétés, les administrateurs de la société anonyme, ou par actions, géreront avec sécurité pour eux et pour les actionnaires; ils ne seront plus exposés à ces recours en garantie, à ces poursuites solidaires qui ont troublé le repos, détruit l'aisance et ruiné le crédit des hommes les plus estimables." Troplong, *Commentaire*, 544.

¹² Freedeman, 'Joint-Stock Business Organization', 188.

¹³ *Recueil des lettres circulaires*, vol. 18, 204.

¹⁴ Freedeman, 'Joint-Stock Business Organization', 190-91.

of “public utility” requiring large amounts of public capital such as canals and mines.¹⁵ If the government attested these privileged corporations’ contribution to the public benefit by authorising their *statuts*, these should also be publicised in an official journal of prime importance.¹⁶ Publication of constitutional documents in the *Bulletin des Lois* would not only let future shareholders gauge the company’s chance of success, but also inform the business community at large. Proper third-party notification was deemed necessary because the *société anonyme*’s shareholders and directors enjoyed limited liability and their failure could affect both business and general interests.¹⁷

2.2 Netherlands

The *Code de Commerce* was also introduced in the Belgian *départements* on January 1, 1808 and in the newly annexed Kingdom of Holland on January 1, 1811. After the unification of the Low Countries in 1815, King William I installed a mixed commission that would review the Napoleonic codes. A new Code of Commerce was to come into effect on February 1, 1831. The Belgian secession, however, warranted a revision that delayed its introduction in the Netherlands until October 1, 1838.¹⁸

The Royal Decree of December 1, 1833 (Stb. 1833, 60) confirmed the necessity of royal approval (*Koninklijke bewilliging*) of the articles of association for the incorporation of *naamloze vennootschappen* in the Netherlands. The passive disclosure requirements from the *Code de Commerce* were confirmed, but it also introduced the principle of active disclosure in Dutch corporate law. It required that the Royal Decree approving the incorporation and the articles of association were to be published in full in the *Staatsblad*, the official bulletin of laws and decrees, and announced in the *Staatscourant*, an official newspaper, at the government’s expense (art. 10). In the following years, *ex ante* government supervision of *naamloze vennootschappen* was debated. The opponents, on the one hand, found it an infringement of the general freedom of contract. They argued that the publication of constitutional documents sufficiently guaranteed third-party interests. The government, on the other hand, maintained that an exception to the general rule was necessary because of the limited liability enjoyed by directors and shareholders of *naamloze*

¹⁵ Freedeman, *Joint-Stock Enterprise*; Rochat, ‘Les origines’.

¹⁶ “L’insertion au Bulletin des lois est la plus authentique et la plus sûre constatation qui se puisse imaginer.” Troplong, *Commentaire*, 588. See also: Freedeman, ‘Joint-Stock Business Organization’, 194.

¹⁷ Troplong, *Commentaire*, 568.

¹⁸ Stevens, ‘Vie et mort’.

vennootschappen. The preliminary investigation and approval of articles of incorporation would provide additional protection to shareholders and the public interest.¹⁹

In the Dutch Code of Commerce (*Wetboek van Koophandel*) of 1838, the concessionary system was retained: the King could deny incorporation if the articles were contrary to the Law, the public peace or good manners (WvK 1838, art. 36). The publicity requirements from the aforementioned Royal Decree of 1833 were amended. The deed of incorporation and its royal approval had to be inscribed in full in a public register held by the clerk of the district court and published, free of charge, in the official newspaper (i.e. the *Staatscourant*) by the partners (*vennooten*). They also had to announce this publication in a local newspaper (*ibidem*, art. 38).²⁰ The *Wetboek van Koophandel* also contained an article on what we will call 'public register disclosure': anyone could consult the aforementioned registers and obtain, at their own expense, extracts thereof (*ibidem*, art. 25). It also stipulated that the directors were personally and severally liable to third parties as long as the constitutional documents had not been published (*ibidem*, art. 39).

Belgium became independent in 1830 and retained the French *Code de Commerce* of 1807 until 1873. The concessionary system, however, was also debated because the young Belgian state guaranteed freedom of association both in an *arrêté* of the Provisional Government and in its liberal Constitution of 1831. Eventually, however, the concessionary system was re-affirmed in 1841.²¹ According to article 42 of the *Code de Commerce*, the Royal Decree authorising the incorporation of a *société anonyme* and the articles of association were put up by the local commercial court. They were also published *in extenso* in the *Bulletin officiel des lois et arrêtés royaux* from 1831 until 1845 and in the *Moniteur belge* from 1845.²²

2.3 Prussia

At the Congress of Vienna, Prussia gained territories in the west which, as part of the Confederation of the Rhine, had introduced the French *Code de Commerce* in 1808. These territories, the provinces of the Rhine and Westphalia, retained the concessionary system after their incorporation in the Prussian state. In

¹⁹ Voorduin, *Geschiedenis*, vol. 10, 159-184.

²⁰ Announcements in local newspapers should contain a notice of the incorporation and a reference to the issue of the official journal in which the constitutional documents were published. De Wal, *Het Nederlandsche handelsregt*, 110.

²¹ Stevens, 'Vie et mort', 6-8.

²² The *Moniteur belge* had replaced the *Bulletin officiel* as Belgium's official journal per the Law of February 28, 1845. Van den Eeckhout, 'Publicatie van wetgevende normen', 289.

accordance with article 37, the King approved the articles of association (*Statut*) of *sociétés anonymes* (translated as *anonymen Gesellschaften* in German) prior to incorporation.²³ The approval (*Genehmigung*) and the articles of incorporation were disclosed passively in the manner of article 45, but were also published in the *Amtsblatt* of the district (*Regierungsbezirk*) in which the company was located.²⁴

The *Code de Commerce* was abolished in the western provinces by the Law of November 9, 1843 (PrGS. 1843, pp. 341–346), which was inspired by the Dutch Code of Commerce of 1838.²⁵ Article 1 repeated the need for royal approval (*landesherrlicher Genehmigung*) of the articles of association (*Gesellschaftsvertrag*) of *Aktiengesellschaften*, hence introducing the concessionary system in the whole of Prussia. Publication requirements were included in article 3, which stipulated that constitutional documents were to be published, at the company's expenses, in the *Amtsblatt* of the district in which the company was located. A notice of the approval also had to be published in the *Gesetzsammlung*, Prussia's official bulletin of laws. In case the company issued bearer shares, had special privileges or deviated from the provisions of the Law, the articles of association also had to be published in full in the *Gesetzsammlung*.²⁶ All modifications of the articles of association were equally subject to approval and publication (*ibidem*, art. 4). Unlike the *Code de Commerce* or the *Wetboek van Koophandel*, the Law of 1843 did not contain passive disclosure requirements.

2.4 Spain

Although Spain did not assume the *Code de Commerce* of 1807, it was an important inspiration for the first Spanish Code of Commerce (*Código de Comercio*) of 1829, together with the Ordinances of Bilbao of 1737. The Code of Commerce of 1829 re-affirmed the existence of the *sociedad anónima*, a legal form which much resembled the French *société anonyme*. Contrary to the spirit of the times, the incorporation of a *sociedad anónima* generally did not require government authorisation. Only joint-stock companies which required monopolies, concessions or other special privileges needed to obtain royal approval (C. Co. 1829, art. 294). For others, the examination and approval of the deed of incorporation (*escritura de fundación*) and articles of association (*reglamentos*) by the local commercial court sufficed (*ibidem*, art. 293). This was deemed

²³ Martin, 'Die Entstehung des Preußischen Aktiengesetzes'; Deutsch, 'Die Aktiengesellschaft', 229–30.

²⁴ Prussian *Regierungsbezirke* began publishing *Amtsblätter* in 1811, but in the western provinces, publication started in 1816.

²⁵ Martin, 'Die Entstehung des Preußischen Aktiengesetzes'; Kiessling, 'Das preußische Aktiengesetz'; Guinnane, 'German Company Law'.

²⁶ The Law of November 3, 1838 (*Gesetz über die Eisenbahn-Unternehmungen*, PrGS 1838, S. 505–516) had only required that the approval of joint-stock railway companies was published in the *Gesetzsammlung* (art. 3).

necessary because of the privileged nature of the *sociedad anónima*, which limited the liability of shareholders and could therefore become an instrument in the hands of fraudulent promoters to the detriment of small savers and investors.²⁷

Publicity requirements can be found in section one of the *Código de Comercio* concerning the Public Trade Register (*Registro público de Comercio*). The establishment of a commercial register was a distinct Spanish innovation. In the capital of every province, the secretary of the *Intendencia* was responsible for keeping several registers, including one on trading companies (*ibidem*, art. 22–23). The articles of association (*los reglamentos*) of *sociedades anónimas* had to be inserted in full (*ibidem*, art. 295). Unregistered documents could not be enforced against third parties (*ibidem*, art. 28). The secretary also had to send copies of all register entries to the commercial or ordinary court of the area where the company was located to be affixed in the courtroom and inserted in a local register (*ibidem*, art. 31).²⁸ This much resembles the passive temporary disclosure of the *Code de Commerce* of 1807. Unlike its Dutch counterpart of 1838, the *Código de Comercio* did not yet contain explicit provisions regarding the public nature of the registers.

After the joint-stock mania of 1846 was abruptly ended by the spill-over of the international financial crisis of 1847, the attitude towards *sociedades anónimas* became more negative in Spain. General opinion held that the commercial courts performed their supervisory task ineffectively.²⁹ Consequently, government supervision was tightened by the Law of January 28, 1848 (G. 1848, February 18). From 1848 until 1869, authorisation by Law or Royal Decree was required for the incorporation of companies issuing shares (*ibidem*, art. 1). The Royal Decree of February 17, 1848 (G. 1848, February 18) repeated the publicity requirements from the *Código de Comercio*: it necessitated only temporary passive disclosure in the local courts and entering constitutional documents (including the authorisation) in the local register (*ibidem*, art. 28). Authorisations of *sociedades anónimas* only were published, however, in the *Gazeta de Madrid*, the government's official newspaper.³⁰

²⁷ Peironcely, 'La ley', 66-67.

²⁸ Botrel and Chastagnaret, 'Une source'.

²⁹ Peironcely, 'La ley', 67; Martínez-Rodríguez, 'A History', 302.

³⁰ The Law of January 28, 1856 (G. 1,121 of January 29, 1856) first imposed on banks the obligation to publish their articles of association in the *Gazeta de Madrid* in full (*ibidem*, art. 8).

3. British Company Law from the Joint–Stock Companies Act of 1844

Although the United Kingdom strictly speaking never had a concessionary system, just like on the Continent, Parliament and the Crown had a monopoly on incorporations during the first half of the nineteenth century. Prior to 1844, companies could only be incorporated by Act of Parliament or Royal Charter. The Act of 1844 (7 & 8 Vict. c.110) for the first time allowed the incorporation of joint–stock companies without government intervention through registration of basic constitutional documents.³¹ A Registry Office was established for this purpose. To obtain a certificate of incorporation, joint–stock companies would first have to register provisionally and, within one year, complete registration by registering their deed–of–settlement and an abstract thereof. The particulars of the deed itself and of the abstract were described in detail in the Act. The abstract should contain the name, business, address of the office and branches, amount of authorised share capital (with a detail of contributions in kind, if applicable), debt and subscribed capital, number of shares, identity of shareholders and their number of shares, identity of directors and auditors, and duration of the company. All modifications of the deed or changes to the particulars contained in the abstract had to be registered as well. Because the shareholders of companies registered under the Act of 1844 did not yet enjoy limited liability, particular attention was paid to the registration of shareholders: in addition to keeping a register of shareholders, each registered company had to register semi–annual returns with details on transfers of shares. Deeds and returns held by the Registrar were open to inspection by the public and any person could request an extract or copy. The Registrar also made annual returns to Parliament which were printed in the Parliamentary Papers, but did not publish information.³²

The registration and public register disclosure of information on the shareholders, directors, deed–of–settlement and capital was cited in the Gladstone Report which led to the Act of 1844 as a remedy to “bubble companies”.³³ The system of registration and periodic returns had been gradually developing since 1786. William Gladstone cleverly applied it to joint–stock companies to preclude opposition in Parliament. With the Act of 1844, public disclosure of information replaced State supervision.³⁴ Publicity was also a cornerstone of the Joint–Stock Companies Act of 1856 (19 & 20 Vict. c. 47) and subsequent Companies Acts. In his introduction to Parliament, Vice–President of the Board of Trade Robert Lowe stated that the State had to

³¹ Turner, 'The Development'.

³² Wordsworth, *The Law*, 16–18, 28–30; Maltby, 'UK Joint Stock Companies'.

³³ Hunt, *The Development*, 92–94; Maltby, 'UK Joint Stock Companies', 18.

³⁴ Harris, *Industrializing English Law*, 274–77, 281–82.

ensure “the greatest publicity to the affairs of such companies, that everyone may know on what grounds he is dealing”.³⁵ Similar considerations were put forward in discussions of subsequent Companies Acts.³⁶ Publicity was a pressing issue because the liability of shareholders was limited from 1856. Most of the disclosure requirements from the Act of 1844 were maintained during the second half of the nineteenth century. The registration of a memorandum and articles of association remained a prerequisite for incorporation. Registered companies also continued to keep a register of shareholders, file resolutions for changes in the articles, registered address or capital, and an annual return with a summary of their shares and capital and a list of shareholders. Registration of information on debt or the nomination of directors, however, was no longer required.³⁷ The public nature of documents held by the Registrars (three, one in each part of the country from 1856) was affirmed and the public could now also inspect the register of shareholders and constitutional documents at the company's offices (the 1844 Act had reserved this for shareholders).³⁸

4. German Company Law from the *Allgemeines Deutsches Handelsgesetzbuch* of 1861

The General German Code of Commerce (*Allgemeines Deutsches Handelsgesetzbuch* or ADHGB) of 1861 uniformed commercial law in the German Confederation (*Deutsche Bund*). The codification was influenced by existing Prussian laws, but also introduced elements of company law from more liberal German states. As late as the eighteenth century, the free Hanseatic city of Hamburg, for instance, had allowed freedom of incorporation. By Ordinance of December 28, 1835 (SdV, 14: 1835/36, pp. 307–316) it obligated all *anonyme Gesellschaften* to deposit with the commercial court its constitutional documents, letters of attorney and the names of directors and managers (*ibidem*, art. 9). Modifications and liquidations had to be reported as well (*ibidem*, art. 10). The documents were also to be inserted in a public register which was open to inspection by anyone for a fee (*ibidem*, art. 15). Negligent corporations incurred a penalty of 10 *Rheinthalern* (*ibidem*, art. 16).³⁹ From the representative of Hamburg's apology of free incorporation during the preparation of the ADHGB in Nürnberg, we can discern that his government saw individual responsibility as safeguard against abuse. Hamburg's position was that anyone who wanted to extend credit to an

³⁵ Cited in: Maltby, 'UK Joint Stock Companies', 11. See also: Hunt, *The Development*, 138-39.

³⁶ Maltby, 'UK Joint Stock Companies', 22.

³⁷ This was reintroduced with the 1900 Companies Act. Palmer, *The Companies Act, 1907*, 68.

³⁸ Maltby, 'UK Joint Stock Companies', 22-23.

³⁹ Martin, 'Die Entstehung des Preußischen Aktiengesetzes', 511-12; Guinnane, 'German Company Law', 183-86.

Aktiengesellschaft or buy its shares “had to examine by himself if the managers, articles of incorporation and financial position offered the desired guarantees”.⁴⁰ The public register disclosure provision in the Ordinance of 1835 was probably motivated by the desire to offer prospective investors easy access to this information.

Because of the resistance of Austria and Prussia, the ADHGB did not liberate incorporation in the entire German Confederation, but it offered the states a choice between a concessionary system and a system of general incorporation for joint-stock companies.⁴¹ It also introduced public register disclosure in the entire German Confederation. The ADHGB required all German states to create a Commercial Register (*Handelsregister*). This commercial register was held by the local commercial courts (ADHGB, art. 12). Newly incorporated joint-stock companies were obligated to deposit a copy of their constitutional documents with their local commercial court (ADHGB, art. 210). Documents deposited with the commercial courts could be consulted by the public free of charge during office hours (ADHGB, art. 12). Moreover, it also required that the commercial courts published extracts of constitutional documents in a local newspaper containing details such as the date of incorporation and government approval, the company name and address, its purpose and duration, the amount of share capital and the nominal value and form (bearer or registered) of shares (ADHGB, art. 210).

The concessionary regime was abolished in the North German Confederation by the Law of June 11, 1870 (BGBl. 1870, 21, pp. 375–386). It provided a framework for the regulation of corporate affairs without government intervention, but the provisions regarding publicity were unaltered.⁴² Although earlier drafts had required the publication of the articles of association (as well as any modifications or prolongations thereof) in full in the *Amtsblatt* at the company’s expense, the final version required only the publication of excerpts in a local newspaper.⁴³ The principle of publication in abstract in combination with public register disclosure of legal documents was retained in the Law of July 18, 1884 (RGBl. 1884, 22, pp. 123–170). This Law attempted to eradicate the excrescences of general incorporation by providing more information to prospective shareholders.⁴⁴ The articles of association not only had to include clauses on contributions in kind, for instance, but the Commercial Courts were also required to publish more extensive abstracts than before. In addition to the aforementioned basic identification of the company, the excerpts also had to mention

⁴⁰ Von Lutz, *Protokolle*, vol. 1, 322.

⁴¹ Guinnane, ‘German Company Law’, 185.

⁴² Guinnane, 188.

⁴³ Schubert, *Vom Konzessions- zum Normativsystem*, 3-4, 36.

⁴⁴ Guinnane, ‘German Company Law’, 191.

the identity of founders, directors, supervisory directors and auditors and information on shares with special privileges and contributions in kind (*ibidem*, art. 210c). The *Handelsgesetzbuch* (HGB) of 1897 finally required that commercial register notices, which had to contain the same information as in 1884, had to be published in the *Reichanzeiger*, in addition to publication in a local newspaper (HGB, art. 10).

5. Developments in French Law countries from the 1860s onwards

5.1. France

The French Law of May 23, 1863 (Bull. lois,) was the first step towards liberalisation. Following the English example, it introduced a new type of joint-stock company, the *société à responsabilité limitée*.⁴⁵ It much resembled the *société anonyme*, albeit with a capped share capital. Incorporation was not subject to government authorisation, but constitutional documents (including the articles of association, the minutes of the first general assembly and a list of shareholders) had to be deposited with the local commercial court and affixed at the company's offices (*ibidem*, art. 8). An extract of the constitutional documents also had to be published in a local journal (*ibidem*, art. 9, referring to art. 42 of the *Code de Commerce* as amended by the Law of March 31, 1833).

The incorporation of the *société anonyme* proper was freed from the constraints of government authorisation by the Law of July 24, 1867 (Bull. lois 1867, pp. 94–106). With freedom of incorporation, however, came a responsibility to inform the public. The Law of 1867 repeated and amended the publicity requirements of 1863. Neglect of these requirements resulted in the nullity of the company (*ibidem*, art. 56). Within one month, constitutional documents, including the deed of incorporation, a declaration from a notary that the capital was subscribed in full and at least one quarter had been paid-up, a resolution from a shareholders meeting approving contributions in kind by the company's founders and a list of the full name, occupation, domicile and number of shares of each shareholder, had to be deposited with the local commercial and justice of the peace courts (*ibidem*, art. 55). Documents from *sociétés anonymes* deposited with the courts were public: anyone could consult them or request copies thereof. If requested, notaries and companies too had to deliver copies of constitutional documents (for a fee of maximum 1 *franc*) (*ibidem*, art. 63). An extract of the constitutional documents also had to be published in a newspaper gathering legal notices (*journal d'annonces légales*). These extracts should include the company name, registered office address, addresses of branches

⁴⁵ The *SARL* of 1863 is distinct from the present-day French *SARL*, which is a private limited company and was introduced in 1925, following the example of the German *GmbH*.

in France or abroad, the identity of directors, amount of authorised and paid-up share capital (with a distinction between amounts paid up in cash and otherwise), date of incorporation and duration, legal form and the part of the profit that was put into the reserve fund (*ibidem*, art. 57–58). Deeds and resolutions for the modification of constitutional documents, the continuation of the company after its initial expiration date or the liquidation before that date also had to be deposited and published in extract (*ibidem*, art. 61). If a company had branches or offices in several jurisdictions, deposition and publication were mandatory in each (*ibidem*, art. 59).

Soon after the First World War, when the Alsace and Lorraine were returned to France, the Law of March 18, 1919 (Bull. lois 1919, pp. 599–606) established a Commercial Register (*Registre du commerce et de sociétés*).⁴⁶ Following the German example, the deposition of documents with the *Tribunal de commerce* had to be accompanied by a declaration containing basic information for inclusion in the Commercial Registers. For *sociétés anonymes*, this information initially included company name, purpose, registered office address, addresses of branches and offices, the identity of directors, amount of authorised and paid-up share capital, date of incorporation, duration and legal form (*ibidem*, art. 6). All modifications, including the nomination of directors, had to be reported as well (*ibidem*, art. 7). The Decree of October 30, 1935 (JO 1936, October 31) added to this the disclosure of the identity of statutory auditors (*commissaires de surveillance*), the respective amounts of share capital that were paid in cash and in kind and whether double voting shares or founder's shares had been issued. This information, plus provisions for the formation of extraordinary reserves, also had to be published in a *journal d'annonces* (*ibidem*, art. 2). The commercial register was public: anyone could request an extract (*ibidem*, art. 16).

5.2. Belgium

The Belgian Law of May 18, 1873 (Monit. 1873, May 25) was inspired by recent developments in France and the United Kingdom. It was deemed necessary to “subject the incorporation of *sociétés anonymes* enacted in the Code of Commerce to new rules, more suitable to the necessities of commerce and industry.”⁴⁷ The Law of 1873 equally liberated the incorporation of joint-stock companies: the need for preliminary approval of the articles of incorporation was abolished. In turn, a great deal of attention was paid to publicity: no less than seven articles were concerned with the publication of constitutional and other legal documents. Unlike in

⁴⁶ Longelin, 'Le fonds'.

⁴⁷ *Documents parlementaires*, 5 juillet 1865, 2. Chambre des Représentants de Belgique, 'Révision'.

France, all deeds pertaining to *sociétés anonymes* and partnerships limited by shares (*sociétés en commandite par actions*) had to be published in full, at the company's expense, in a special appendix to the *Moniteur belge*. This included not only the articles of association and modifications thereof, but also resolutions for the nomination of directors and for the liquidation of the company (*ibidem*, art. 12). Companies also had to publish, at least one time per year, a summary of their capital and the identity of shareholders who had not yet fully paid up their shares (*ibidem*, art. 41). Copies of the *Moniteur belge* would be made available for inspection to the public free of charge at the clerk's offices of courts and tribunals (*ibidem*, art. 10). Tardy delivery of documents for publication was punished with a fine of one percent of the authorised share capital (with a minimum of 50 and a maximum of 5,000 *francs*). The corporate capacity of companies which did not publish their constitutional documents was also seriously curtailed because they could not take legal action (*ibidem*, art. 11). The Ministry of Justice believed this would constitute "a form of publicity better adapted to the necessities of the present time".⁴⁸ Together with a series of measures to increase the responsibility of directors (including, for instance, the obligation to deposit shares in the company as a guarantee), the publicity of company documents was deemed to provide sufficient guaranties against the abuse of limited liability and to protect shareholders and third parties.⁴⁹

The Belgian system of active publicity, with a centralised publication of constitutional documents and other company information, was regarded by contemporaries as one of the best in Europe.⁵⁰ Up to the present day, its basic principles remain unaltered. The Law of July 22, 1913 (Monit. 1916, July 25), for instance, only specified in more detail the deeds that were subject to publication in the *Moniteur belge*, including now also the identity of statutory auditors (*commissaires*), and introduced more severe penalties for the violation of rules regarding publicity.⁵¹ The creation of a Commercial Register (*Registre du commerce*) by the Law of May 30, 1924 (Monit. 1927, May 11) also did not significantly alter disclosure requirements. According to the *Exposé des motifs*, the Commercial Register would serve the "publicity of commerce" by centralising in one place the information published or kept in various places and by filling existing lacuna therein. The Belgian *Registre de commerce*, however, was to facilitate first and foremost the identification of merchants and companies. Only the company name, date of incorporation, purpose, addresses of the registered office and branches, identity of directors and statutory auditors) had to be disclosed to the register (*ibidem*, art. 3). The

⁴⁸ Chambre des Représentants de Belgique, 2.

⁴⁹ Stevens, 'Vie et mort', 14.

⁵⁰ Théate, *Les sociétés anonymes*, 61.

⁵¹ Stevens, 'Vie et mort', 14.

assessment of financial status was not an issue. Unlike its French counterpart, the Register therefore did not contain information on the authorised capital, for instance. This was justified by the fact that financial statements were published already in the *Moniteur belge*.⁵² The Register was public: article 8 stipulated that everyone, at his own expense, could request an extract. Because the Law of 1924 was not well abided by, the Law of March 9, 1929 (Monit. 1929, March 25–26) added that companies could not invoke unregistered documents in court (*ibidem*, art. 12).

5.3. Spain

In Spain, the Decree of October 28, 1868 (G. 1868, October 29) repealed the Law of 1848 and installed a regime of general incorporation whereby joint-stock companies no longer needed consent from the king or the court to incorporate. This was confirmed by the Law of October 19, 1869 (G. 1869, October 21 & November 10) which contained further rules for the incorporation of *sociedades anónimas*, including publication requirements. The obligation to publish constitutional documents was extended to all *sociedades anónimas*. Directors were obligated to publish the deed of incorporation and articles of association in the *Gaceta de Madrid* and in the *Boletín oficial* of the province where the companies registered address was located “so that they become public knowledge” (*ibidem*, art. 3). Directors who failed to publish documents could incur fines between 100 and 1,000 *escudos* (*ibidem*, art. 12). This publication requirement was regarded as a substitute for government surveillance and regulation. The preamble of the Decree of 1868 cited the publicity of company documents as one of the remedies that, “with the intelligence and energy that is pertinent to free men”, would mitigate the “unavoidable evils” of bankruptcy and crisis.⁵³ As all commercial companies, *sociedades anónimas* were also required to register with the *Registro Mercantil*.

The Commercial Code of 1886 reorganised the commercial register (henceforth called *Registro mercantil*).⁵⁴ Its basic organisation, with branches in the capital of each province and separate registers for merchants (*comercantes particulares*) and companies (*sociedades*) (C. Co. 1886, art. 16), remained unchanged. Also largely unchanged were provisions regarding the legal status of unpublished documents (these could not be opposed against third parties, *ibidem* art. 25). *Sociedades anónimas*, however, were no longer treated differently. The deed of incorporation, as well as resolutions for their modification and for the liquidation of

⁵² *Pasinomie*, 1927, 168-69.

⁵³ *Gaceta de Madrid* (October 29, 1869), 7. See also: Peironcely, ‘La ley’, 607.

⁵⁴ Botrel and Chastagnaret, ‘Une source’.

all companies had to be inserted in full, along with, amongst other things, the company name, object, date of incorporation, addresses, powers of attorney of managers and other representatives, and details on issues of shares or debt (*ibidem* art. 21). Modifications of capital and all other changes to constitutional documents had to be registered as well (*ibidem* art. 25). The public character of the Commercial Register was explicitly affirmed: everyone could inspect the registers or obtain copies thereof (*ibidem*, art. 30). The Commercial Code of 1886 hence introduced public register disclosure in Spain, but contained no further publicity requirements. In light of the improved contents and transparency of the commercial register, the legislator probably no longer found it necessary to demand publication of constitutional documents. Unlike in Germany, the Spanish Commercial Registries did not publish notices until 1990.

5.4. The Netherlands

The Netherlands were one of the last countries in Europe to update their regulation of joint-stock companies. They finally did so in 1928, but first, a Commercial Register (*Handelsregister*) was established in 1918. The Law of July 26, 1918 (Stb. 1918, 493) replaced the requirement to register constitutional documents with the district courts by a similar obligation to register with the Chambers of Commerce (*Kamer van Koophandel*). Neglect was punished with a fine of up to 2,000 guilders (*ibidem*, art. 25). This Law transformed the registers mentioned in the Commercial Code of 1838 into a Commercial Register (*Handelsregisters*). The aim was to provide easy access for the public to “essential information for judging the condition of firms”.⁵⁵ The public character of the registers held by the Chambers of Commerce was affirmed: consultation of the Commercial Register was free and anyone could request extracts thereof (*ibidem* art. 21). The obligation to publish announcements of incorporation in a local newspaper, however, was abolished and the Chambers of Commerce did not publish notices either.

The need to seek royal approval for the incorporation of a *naamloze vennootschap* was abolished in the Netherlands by the revision of the *Wetboek van Koophandel* of 1928. An element of *ex ante* supervision was retained, however, in the Law of July 2, 1928 (Stb. 1928, 216) which subjected the incorporation of a *naamloze vennootschap* to a preliminary declaration of no objection (*verklaring van geen bezwaar*) by the Minister of Justice (*ibidem*, art. 36e). The directors had to publish this declaration of no objection together with the deed of incorporation in the *Staatscourant* (*ibidem*, art. 36f). A special appendix to the *Staatscourant*

⁵⁵ Everwijn, *Handelsregister en Kamers van Koophandel*, IV.

had been created for this purpose in 1904. As long as these documents were not published, the directors remained personally liable (*ibidem*, art. 36g). It further left provisions regarding publicity largely unaltered.

6. Concluding remarks

According to Bishop C. Hunt, publicity was “an outstanding and progressively more pronounced characteristic of company regulation in England”.⁵⁶ This overview of publicity requirements in company law shows that legal origins or tradition, i.e. French, German or common law, had little influence on the form and content of legal company information that was disclosed to the public. In general, differences between France, Belgium, the Netherlands and Spain, Germany, and the United Kingdom were relatively small. There was, however, a clear break in the publicity requirements of legal company information in all countries studied here from the middle of the nineteenth century onwards. This rupture coincided with the transition of a concessionary regime to a regime of general incorporation.

Under the concessionary regime, which prevailed until 1844 in the United Kingdom, 1867 in France, 1869 in Spain, 1870 in most of the North German Confederation (including Prussia), 1873 in Belgium and 1928 in the Netherlands, the emphasis was on the publicity of constitutional documents and modifications thereof. Government approval of the incorporation of limited liability joint-stock companies was the central tenet of the concessionary regime. *Ex ante* supervision of joint-stock corporations was deemed necessary to protect both shareholders and creditors, as well as the general interest against the potential abuse of limited liability. Active disclosure, by means of the publication of deeds and articles of association or resolutions for the modification thereof in official collections of laws, official journals or official newspapers, and passive disclosure, usually by means of temporarily affixing these documents in courtrooms, was motivated in a similar vein. Paradoxically, however, essential information in this respect such as names of directors (other than the initial directors named in the constitutional documents) or shareholders were not subject to disclosure under the concessionary regime. An early twentieth-century observer therefore concluded that “this publicity produced, so to speak, no useful effect”.⁵⁷ Hence, in this era, the publicity of constitutional documents was probably also tacitly driven by a desire to emphasise the primacy of the State over private contracting rights.⁵⁸

⁵⁶ Hunt, *The Development*, 94-95.

⁵⁷ Théate, *Les sociétés anonymes*, 59-60.

⁵⁸ La Porta, Lopez-de-Silanes, Shleifer, et al., ‘The Quality’.

In a concessionary regime, the State viewed itself as the ultimate guarantor of investor protection, which resulted in a biased disclosure of information to the public.

Shareholder and creditor protection were equally invoked to motivate public disclosure of company legal information under a regime of general incorporation. With the abolishment of the concessionary regime, governments passed the responsibility of assessing legal information to prospective shareholders and creditors. This required appropriate measures for disclosure in company law both in regard to the form and content of publicity. Apart from basic details on their corporate identity, companies increasingly had to disclose the identity of directors, supervisory directors and auditors, as well as information on their share capital, shares and shareholders to commercial courts or registrars who were instructed to hold special registers or records which were open to the public thereof. Public register disclosure provided interested parties with easy access to information at a low cost. The Spanish and Dutch commercial codes of 1828 and 1838 had already established public registers of company documents, but explicit provisions regarding the consultation and reproduction of documents by the public were included only in the Dutch code. Public register disclosure was introduced simultaneously with general incorporation in the United Kingdom in 1844, in the German Confederation in 1861, in France in 1867, in Belgium in 1873 and in Spain in 1886. It was re-affirmed by the establishment of Commercial Registers in the Netherlands in 1918, in France in 1919 and in Belgium in 1924 and complemented by the publication of legal information in official periodicals everywhere but in Spain and the United Kingdom. Extracts were published in the German Confederation and France, publication in full was maintained only in small countries like the Netherlands and Belgium. The latter as a matter of fact required active disclosure of the information that was also mandated by the much appreciated Act of 1844 and illustrates our contention that publicity was not an exclusive British feature.

7. References

- Botrel, Jean-François, and Gérard Chastagnaret. 'Une source pour l'histoire économique et sociale de l'Espagne contemporaine: Les registros mercantiles'. *Mélanges de la Casa de Velázquez* 9, no. 1 (1973): 747-54. <https://doi.org/10.3406/casa.1973.1095>
- Chambre des Représentants de Belgique. 'Révision du titre III, livre Ier, du Code de Commerce, relatif aux sociétés'. *Documents parlementaires (1865-1866)*, 5 July 1865.
- Chandler, Alfred. 'Institutional Integration: An Approach to Comparative Studies of the History of Large-Scale Business Enterprise'. *Revue économique* 27, no. 2 (1976): 177-99. <https://doi.org/10.3406/reco.1976.408257>
- Code de Commerce, avec le rapprochement du texte des articles du Code Napoléon et du Code de procédure civile, qui y ont un rapport direct, suivi d'une table analytique et raisonnée des matières. Tome second contenant les motifs et rapports. Paris: Firmin Didot, 1807.
- De Jong, Abe, David Michael Higgins, and Hugo van Driel. 'Towards a New Business History?' *Business History* 57, no. 1 (2015): 5-29. <https://doi.org/10.1080/00076791.2014.977869>
- De Wal, Johan. *Het Nederlandsche handelsregt: Grondtrekken met verwijzing naar de buitenlandsche wetgevingen en opgave der belangrijkste hulpmiddelen, ten gebruike bij academische voorlezingen*. Leiden: Firma Jacobus Hazenberg, 1861.
- Deutsch, Andreas. 'Die Aktiengesellschaft im Code de Commerce von 1807 und ihre Vorbildfunktion für die Entwicklung in Deutschland'. In *Aktienrecht im Wandel*, edited by Walter Bayer and Mathias Habersack, Vol. 1, 46-97. Tübingen: Mohr Siebeck, 2007.
- Everwijn, Jan Charles August. *Handelsregister en Kamers van Koophandel. Verhandelingen en Mededelingen van de Afdeeling Handel van het Departement van Landbouw, Nijverheid en Handel* 2. The Hague: Belinfante, 1920.
- Flume, Johannes W. 'Law and Commerce: The Evolution of Codified Business Law in Europe'. *Comparative Legal History* 2, no. 1 (2014): 45-83.
- Freedeman, Charles E. 'Joint-Stock Business Organization in France, 1807-1867'. *The Business History Review* 39, no. 2 (1965): 184-204. <https://doi.org/10.2307/3112696>
- Freedeman, Charles E. *Joint-Stock Enterprise in France, 1807-1867: From Privileged Company to Modern Corporation*. Chapel Hill, NC: University of North Carolina Press, 1979.
- Gelderblom, Oscar, and Francesca Trivellato. 'The Business History of the Preindustrial World: Towards a Comparative Historical Analysis'. *Business History* 61, no. 2 (2019): 225-59. <https://doi.org/10.1080/00076791.2018.1426750>
- Guinnane, Timothy W. 'German Company Law 1794-1897'. In *Research Handbook on the History of Corporate and Company Law*, edited by Harwell Wells, 170-204. *Research Handbooks in Corporate Law and Governance*. Cheltenham & Northampton, MA: Edward Elgar, 2018.
- Harris, Ron. *Industrializing English Law: Entrepreneurship and Business Organization, 1720-1844. Political Economy of Institutions and Decisions*. Cambridge: Cambridge University Press, 2000.
- Hunt, Bishop Carlton. *The Development of the Business Corporation in England, 1800-1867*. *Harvard Economic Studies* 52. Cambridge, MA: Harvard University Press, 1936.
- Kiessling, Erik. 'Das preußische Aktiengesetz von 1843'. In *Aktienrecht im Wandel*, edited by Walter Bayer and Mathias Habersack, Vol. 1, 193-236. Tübingen: Mohr Siebeck, 2007.

- Kling, Christoph. 'Deutscher Reichsanzeiger und Preußischer Staatsanzeiger: Einleitung zur Veröffentlichung der Digitalausgabe'. Report. Mannheim, 2016. <https://ub-madoc.bib.uni-mannheim.de/41378>
- La Porta, Rafael, Florencio Lopez - de - Silanes, Andrei Shleifer, and Robert W. Vishny. 'Law and Finance'. *Journal of Political Economy* 106, no. 6 (1998): 1113-55. <https://doi.org/10.1086/250042>.
- La Porta, Rafael, Florencio Lopez-de-Silanes, Andrei Shleifer, and Robert W. Vishny. 'The Quality of Government'. *Journal of Law, Economics and Organization* 15, no. 1 (1999): 222-79. <https://doi.org/10.1093/jleo/15.1.222>.
- Lantzsck, Rudolf. 'Zur Geschichte des Deutschen Reichsanzeigers und Preußischen Staatsanzeigers: Ein Rückblick zu seinem 120 jährigen Bestehen'. Erste Beilage zum Deutschen Reichs- und preußischen Staatsanzeiger (2 January 1939): 1-4.
- Longelin, Ingrid. 'Le fonds du registre du commerce et des sociétés (1920-1954) et du registre des métiers (1936-1962) du tribunal de commerce de Lille'. *Entreprises et histoire* 68, no. 3 (2012): 132-37.
- Von Lutz, Johann. *Protokolle der Kommission zur Berathung eines Allgemeinen Deutschen Handelsgesetzbuches*. Vol. 1. Würzburg: Stahel, 1858.
- Maltby, Josephine. 'UK Joint Stock Companies Legislation 1844-1900: Accounting Publicity and "Mercantile Caution"'. *Accounting History* 3, no. 1 (1998): 9-32. <https://doi.org/10.1177/103237329800300102>
- Martin, Paul C. 'Die Entstehung des Preußischen Aktiengesetzes von 1843'. *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 56, no. 4 (1969): 499-542.
- Martinez-Rodriguez, Susana. 'A History of the Corporation in Spain in the 20th Century'. In *Research Handbook on the History of Corporate and Company Law*, edited by Harwell Wells, 298-322. *Research Handbooks in Corporate Law and Governance*. Cheltenham & Northampton, MA: Edward Elgar, 2018.
- Musacchio, Aldo, and John D. Turner. 'Does the Law and Finance Hypothesis Pass the Test of History?' *Business History* 55, no. 4 (2013): 524-42. <https://doi.org/10.1080/00076791.2012.741976>
- Palmer, Francis Beaufort. *The Companies Act, 1907 and the Limited Partnerships Act, 1907, with Explanatory Notes, Rules and Forms*. 2nd ed. London: Stevens, 1908.
- Pasinomie: *Collection complète des lois, décrets, arrêtés et réglemens généraux qui peuvent être invoqués en Belgique*. Bruxelles: Bruylant, 1833.
- Peironcely, Rafael Ansón. 'La ley y el reglamento de 1848 sobre compañías mercantiles por acciones'. Unpublished doctoral dissertation, Universidad Complutense de Madrid, 2015. <https://eprints.ucm.es/28086/1/T35650.pdf>.
- Recueil des lettres circulaires, instructions, programmes, discours et autres actes publics du Ministère de l'Intérieur*. Paris: Imprimerie Impériale / Royale, 1799-1821.
- Rochat, Jean. 'Les origines de la société anonyme en France: Un cas pour penser les institutions de l'économie'. *Working Papers of the Paul Bairoch Institute of Economic History*. Genève: Université de Genève, 2017. <https://archive-ouverte.unige.ch/unige:94467>
- Schubert, Werner. *Vom Konzessions- zum Normativsystem: Materialien zur Aktienrechtsnovelle 1870*. ZGR-Sonderheft 21. Berlin: Walter de Gruyter, 2017.
- Stevens, Fred. 'Vie et mort des sociétés commerciales en Belgique: Évolution du cadre légal XIXe-XXe siècles'. In *Naissance et mort des entreprises en Europe, XIXe-XXe siècles*, edited by Michael Moss and Philippe Jobert, 3-16. Dijon: Université de Bourgogne, 1994.

- Théate, Théophile. *Les sociétés anonymes: Abus et remèdes. Actualités sociales 8.* Paris: Misch & Thron, 1905.
- Troplong, Raymond Théodore. *Commentaire du contrat de société en matière civile et commerciale.* Bruxelles: Meline, Cans et Compagnie, 1843.
- Turner, John D. 'The Development of English Company Law before 1900'. In *Research Handbook on the History of Corporate and Company Law*, edited by Harwell Wells, 121-41. *Research Handbooks in Corporate Law and Governance.* Cheltenham & Northampton, MA: Edward Elgar, 2018.
- Van den Eeckhout, Patricia. 'Publicatie van wetgevende normen sedert de "Franse Tijd"'. In *Bronnen voor de studie van het hedendaagse België: 19e–21e eeuw*, edited by Patricia Van den Eeckhout and Guy Vanthemsche, 2 ed., 287-95. Brussel: Koninklijke Commissie voor Geschiedenis, 2009.
- Voorduin, Justinus Cornelius. *Geschiedenis en beginselen der Nederlandsche wetboeken, volgens de beraadslagingen deswege gehouden bij de Tweede kamer der Staten-Generaal; uit oorspronkelijke, grootendeels onuitgegeven staatsstukken opgemaakt en aan den Koning opgedragen.* 11 vols. Utrecht: Robert Natan, 1837.
- Wells, Harwell, ed. *Research Handbook on the History of Corporate and Company Law.* *Research Handbooks in Corporate Law and Governance.* Cheltenham & Northampton, MA: Edward Elgar, 2018.
- Wordsworth, Charles. *The Law of Joint Stock Companies.* Fourth edition. London: William Benning & Co, 1844.

8. Abbreviations

art.	Article
BGBI	Bundesgesetzblatt
Bull. lois	Bulletin des lois
C. Co.	Código de Comercio
C. com.	Code de Commerce
G.	Gaceta de Madrid
JO	Journal officiel
Monit.	Moniteur belge
PrGS.	Preussische Gesetzsammlung
RGBI	Reichsgesetzblatt
Stb.	Staatsblad
WvK	Wetboek van Koophandel
SdV	Sammlung der Verordnungen der Freyen Hanse–Stadt Hamburg

9. Appendix

The appendix contains an annotated bibliography of official and selected private publications of company legal information from the beginning of the nineteenth century up to the present.

9.1 Belgium

The Royal Decree of authorisation and the articles of association of *sociétés anonymes* were published in full in Belgium's official journals, *Bulletin officiel*[1] (1831–1845) and *Moniteur belge*[2] (1845–1873). Trioen [3] and Demeur [4] also published unofficial compilations of constitutional documents from *sociétés anonymes* published in official journals. Trioen's work contains the complete articles of association of *sociétés anonymes* active in 1839. Demeur collected the articles of association and modifications thereof published in official journals between January 1, 1838 and May 18, 1873. After the reform of 1873, a special appendix [5] to

the *Moniteur belge* was created for the publication of legal documents and financial statements from, amongst others *sociétés anonymes*. Demeur [6] also published another three volumes with the complete articles of association and modifications thereof published in the *Recueil special* from 1873 until 1885. The Law of March 24, 1978 replaced the obligation to publish the articles of incorporation or modification in full by an obligation to publish excerpts containing all the essential information about the company. From 2002, the printed publication of the *Recueil spécial* was substituted by an online database [7] which contains again the complete contents of documents.

- [1] *Bulletin officiel des lois et arrêtés royaux de la Belgique*. Brussels, 1831–1845.
- [2] *Moniteur belge*. Brussels, 1831–.
- [3] Trioen, Louis François Bernard. *Collection des statuts de toutes les sociétés anonymes et en commandite par actions de la Belgique*. 2 vols. Brussels, 1839. – Available online (Digithèque des Bibliothèques de l'ULB): <http://digitheque.ulb.ac.be/fr/autres-ouvrages/livres-classement-alphabetique-des-auteurs/index.html#c13158>
- [4] Demeur, Adolphe. *Les sociétés anonymes de Belgique*. 4 vols. Brussels, 1857–1874. – Available online (Digithèque des Bibliothèques de l'ULB): <http://digitheque.ulb.ac.be/fr/autres-ouvrages/livres-classement-alphabetique-des-auteurs/index.html#c13169>
- [5] *Moniteur belge. Annexe: Recueil spécial des actes, extraits d'actes, procès-verbaux et documents relatifs aux sociétés commerciales = Belgisch Staatsblad. Bijlage: Bijzondere verzameling van de akten, uittreksels uit akten, processen-verbaal en bescheiden betreffende de handelsvennootschappen*. Brussels, 1873–2002.
- [6] Demeur, Adolphe. *Les sociétés commerciales de Belgique: Actes et documents*. 3 vols. Brussels, 1876–1886. – Available online (Digithèque des Bibliothèques de l'ULB): <http://digitheque.ulb.ac.be/fr/autres-ouvrages/livres-classement-alphabetique-des-auteurs/index.html#c13169>
- [7] Belgisch Staatsblad. Bijlage: Akten van rechtspersonen [online]. Brussels: FOD Justitie, 2002–. – Available online: http://www.ejustice.just.fgov.be/tsv_pub/tsv_sum_a_n.htm

9.2 France

Decrees authorizing *sociétés anonymes* and their articles of association (from 1818) were published in the official journal, *Bulletin des lois* [8], until 1867. From 1867, *journaux d'annonces légales* published notices of incorporation. Each *département* had one or more of these newspapers. The *Affiches parisiennes et départementales* [9] was the most important publication for the Paris region. From 1874 until, the *Archives commerciales de la France* [10] published an annotated list of legal notices published in Parisian and

departmental journals.⁵⁹ These lists contain in chronological order of publication the location of the company, the nature of the notice (for instance, incorporation or liquidation), the type of company (in case of incorporations), the name of the company, the industry in which it is active, the street address, the duration, the capital, the date and an abbreviation of the journal in which the notice was published. From 2012, company notices published in 600 French *journaux d'annonces légales* can also be searched and accessed online via *Actulegales* (<https://actulegales.fr>).

The French Commercial Registers started publishing notices of incorporation in 1950. Per the Decree of August 4, 1926, published notices of sales, bankruptcies and liquidations of companies had been published in appendix of the *Journal officiel*, the *Bulletin officiel des ventes et cessions de fonds de commerce* [11]. The scope of this publication was expanded to publishing notices of entries in and erasures from the commercial register by the Law of April 9, 1949. Its title was changed to *Bulletin officiel des annonces civiles et commerciales* (or BODACC as it is currently known) [12] to reflect this. In case of new incorporations, the notice should include the company's type, name and purpose; its registered address and location of branches, its amount of capital, and the names and addresses of the managers or board president and managing director.

[8] *Bulletin des lois*. Paris, 1794–1931. - Available online (Gallica): <https://gallica.bnf.fr/ark:/12148/cb32726274t/date>

[9] *Affiches parisiennes et départementales*. Paris, 1818– .

[10] *Archives commerciales de la France: Journal hebdomadaire*. Paris, 1874–1955. - Partly available online (Gallica): <http://gallica.bnf.fr/ark:/12148/cb32701198x/date> (1874–1942).

[11] *Bulletin officiel des ventes et cessions de fonds de commerce, des jugements déclaratifs de faillite et d'ouverture de liquidation judiciaire*. Paris, 1926– 1949

[12] *Bulletin officiel des annonces civiles et commerciales*. Paris, 1950–. - Partly available online: <http://www.bodacc.fr> (since 2009).

9.3 Prussia and Germany

Announcements of the authorisation of *Aktiengesellschaften* were published in Prussia's Collection of Laws [13] from 1843 until 1870. These notices reference the official journal (*Amtsblatt*) of the *Regierungsbezirk* which published the authorisation and articles of association in full. Many *Amtsblätter* have been digitized. WikiSource [14] has a list of volumes with online availability. The Doshisha University German Accountings Seminar has collected many scans of published constitutional documents of Prussian companies between on

⁵⁹ The frequency of the *Archives commerciales* was increased to twice per week in 1876 and to three times per week in 1930.

its website [15]. After the introduction of the ADHGB of 1861, commercial registers published notices in local newspapers. All Prussian commercial registries also published their announcements in Prussia's official journal, the *Königlich Preussischer Staats-Anzeiger* [16], from 1864. After the German unification, the *Preussische Staats-Anzeiger* became the official journal for the entire German Realm, and its title was changed to reflect the broadened geographic scope. The *Deutscher Reichs-Anzeiger* [17] published announcements of incorporations and modifications for all of Germany. A specially created appendix entitled the *Zentralhandelsregister für das Deutsche Reich* was published for this purpose from 2 January 1875.⁶⁰ From 1949, the publication of the *Zentralhandelsregister* was continued in the *Bundesanzeiger* [18], which took the role of the *Deutscher Reichs-Anzeiger* as federal gazette in the Federal Republic of Germany. It is only available online from 2007 onwards.

- [13] *Gesetzsammlung für die königlich preussischen Staaten*. Berlin, 1806–1906. – Available online (Elbląska Biblioteka Cyfrowa): <http://dlibra.bibliotekaelblaska.pl/dlibra/publication?id=28953>⁶¹
- [14] 'Amtsblätter der preussischen Bezirksregierungen'. *WikiSource* [website], June 20, 2019 (consulted on July 2, 2019).
https://de.wikisource.org/wiki/Amtsbl%C3%A4tter_der_preu%C3%9Fischen_Bezirksregierungen
- [15] Doshisha University German Accountings Seminar (DUGAS). *Statutes of Company and Statements of Accounts in 19th Century Germany* [website], 2000 (last consulted on July 2, 2019).
<http://ykawabat.sakura.ne.jp/statutenTopEng.htm>
- [16] *Königlich preussischer Staats-Anzeiger*. Berlin, 1851–1871.
- [17] *Deutscher Reichs-Anzeiger und königlich preussischer Staats-Anzeiger*. Berlin, 1871–1945
- [18] *Bundesanzeiger*. Köln, 1949–. – Available online (since 2007): <https://www.bundesanzeiger.de>

9.4 Netherlands

Royal Decrees of authorization and the article of incorporation were published in the official journal, *Staatsblad* [19] (1834–1838), and the official newspaper, *Staatscourant* [20] (before 1834 and from 1838). Articles of association published in the *Staatsblad* between December 1, 1834 and October 1, 1838 were also

⁶⁰ Lantzsch, 'Zu Geschichte'; Kling, 'Deutscher Reichsanzeige'.

⁶¹ Volumes for 1810–1900 are also available online through Staatsbibliothek zu Berlin (<http://resolver.staatsbibliothek-berlin.de/SBB000155D000000000>).

published as a separate volume by Van Hasselt [21]. A special appendix was created for this purpose in 1904 [22–23]. Publication of legal information ceased in 1971. From 1972, articles of incorporation, amongst other documents, can only be consulted at the Chambers of Commerce or online (for a fee) through the Commercial Register (<https://www.kvk.nl>).

[19] *Staatsblad van het Koninkrijk der Nederlanden*. The Hague, 1816–.

[20] *Nederlandse Staatscourant*. The Hague, 1814–1985. - Partly available online (Delpher): <https://www.delpher.nl> (1814–1950)

[21] Van Hasselt, W.J.C. *Verzameling der besluiten voorkomende in het Staatsblad van het Koninkrijk der Nederlanden met betrekking tot naamlooze maatschappijen uitgegeven met vergunning van zijne majesteit den Koning*. Amsterdam, 1840. - Available online (Google Books): <https://books.google.be/books?id=PBZRAAAAcAAJ>

[22] *Akten betreffende naamlooze vennootschappen en de daarbij behoorende Koninklijke Besluiten van bewilliging: Bijvoegsel tot de Nederlandsche Staatscourant*. The Hague, 1904–1941. - Variant title (1932–1941): *Akten betreffende naamlooze vennootschappen en de daarbij behoorende Ministerieele Verklaringen van geen bezwaar*.

[23] *Register der naamlooze vennootschappen*. The Hague, 1942–1971.

9.5 Spain

Royal Decrees and Law approving the incorporation of *sociedades anónimas* were published in the official journal, *Gazeta de Madrid* [24], between 1848 and 1869. These Laws and Royal Decrees contain little information other than the name of the company, the total amount, number and nominal value of shares, its purpose and duration. From 1869 until 1888, the *Gazeta de Madrid* and provincial official journals published the articles of association in full. Some provincial official journals have been digitised and are available online in the Bibliotheca Virtual de Prensa Histórica (<http://prensahistorica.mcu.es>). Information from the provincial commercial registers has been centralised by the Central Commercial Registry (*Registro Mercantil Central*) since 1990. It was created in the implementation of the First Company Law Directive (68/151/EEC) and publishes notices on the incorporation, modification and liquidation of companies in the *Boletín Oficial del Registro Mercantil* (BORME) [25] from 1990 onwards.

[24] *Gazeta de Madrid*. Madrid: 1661–1936. - Available online: <https://www.boe.es/buscar/gazeta.php> (1661–1959).

[25] *Boletín del Registro Mercantil*. Madrid: Boletín Oficial del Estado, 1990– . - Available online (from 2001): https://www.boe.es/diario_borme

9.6 United Kingdom

Only Parliamentary Acts for the incorporation of joint-stock companies were published. These can be found among the Local Acts of Parliament, which were printed in a separate series [26] since 1797. Royal Charters and Letters Patent were not printed, but can be consulted in the National Archives in Kew.

From 1845 until 1907, the Registrar of Companies made annual *Returns* with general information on newly incorporated joint-stock companies to Parliament. These *Returns* were published (albeit with some gaps in the 1850s) in the *Parliamentary Papers* and reported minimal information on all new companies formed in the previous year. They list in chronological order of registration the name of the company, its object, place of business or registered office (address), date of registration, number of persons who signed the memorandum of association, nominal capital (£), number of shares into which the capital is divided, amount of calls made on each share, total amount of calls received, total number of shareholders in the company and whether or not the company is still in operation.

Following the European Communities Act of 1972, the London, Edinburgh and Belfast *Gazettes* also published notices of documents received or issued by the *Registrar of Companies*. A special appendix titled *Company Law official notifications*, published on microfiche, was created for this purpose. These notices, however, contain no other information apart from the name and registration number of the company, a code indicating the type of document issued or received (for instance certificates of incorporation or annual accounts and reports) and their date of issue or receipt by the *Registrar of Companies*. The *Registrar* holds the original documents of active companies, a selection of records on dissolved companies held in the National Archives. The records of the *Registrar* are partially digitised and the scanned documents can be consulted online (<https://www.thegazette.co.uk/companies>).

[26] *A Collection of the Public Local and Personal Statutes* London, 1797– .