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Destructive sharing economy: A passage from status to contract

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ABSTRACT

On the surface, the sharing economy only enables users to make the transactions of underutilized resources over their two-sided platforms. An in-depth exploration of its sudden success reveals three distinctive features of this new business model, namely web search engine, proliferation of smart handhelds and user-generated reputation feedback mechanisms. All of these technological innovations not only inflict destructive changes to our social structure, but also lead to difficulties in an automatic inclusion of the sharing economy into the current regulatory framework. Two changes have raised particular attention. First, sharing platforms are capable of building a democratized private trust mechanism, in addition to the traditional government-monopolized public licensing system. Second, the vertical disintegration feature of the sharing economy considerably blurs the borderline between business and consumers, and between employers and employees. For the purpose of establishing a comprehensive regulatory framework for all online and offline activities, it is necessary to differentiate the sharing economy into those with offline competitors and those without offline competitors. With regard to the former, regulators are encouraged to embrace the sharing economy and meanwhile deregulate offline competitors. In relation to the latter, a three-condition analytical framework is proposed in order to strike a balance between promoting innovation and protecting the existing rights of others.

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1. Introduction

As a substantial Internet business model, the sharing economy did not attract extensive attention prior to 2010, but it has widely affected our consumption patterns ever since. This rapid success leaves many uncertainties for the regulators. One of the most important is the lack of universally accepted terminology. Synonymous terms include but are not limited to

collaborative consumption (or economy),¹ gig economy,² peer to peer sharing,³ access economy,⁴ etc. Moreover, such a variety of terminology reveals the insufficiency of a shared definition. It is estimated by PricewaterhouseCoopers (PwC) that

¹ European Commission, "A European Agenda for the Collaborative Economy", COM/2016/0356 final.

² A. Aloisi, "Commoditized Workers: Case Study Research on Labor Law Issues Arising From a Set of 'On-Demand/Gig Economy' Platforms", [2016] 3 Comparative Labor Law & Policy Journal 653.

³ S. Benjaafar, G. Kong, X. Li and C. Courcoubetis, "Peer-to-Peer Product Sharing: Implications for Ownership, Usage and Social Welfare in the Sharing Economy" [2015] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2669823.

⁴ G. Eckhardt and F. Bardhi, "The Sharing Economy isn't about Sharing at all", [2015] Harvard Business Review <https://hbr.org/2015/01/the-sharing-economy-isnt-about-sharing-at-all>.

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the worldwide value of the sharing economy (including only five sectors, i.e. travel, car sharing, finance, staffing, and music and video streaming) will grow to USD 335 billion by 2025.⁵ By comparison, the Chinese speculate that the sharing economy to date has reached about USD 620 billion⁶ whereas the EU estimates the sharing economy to add up to USD 640 billion in 2015.⁷ Prominent examples of the sharing economy include ride sharing (Uber); hospitality sharing (Airbnb); Space sharing (MonkeyParking); labour sharing (Taskrabbit); video sharing (YouTube); and online sales platform (eBay and Amazon), etc.

In addition to the ambiguous definition, the sharing economy has raised an even more difficult question for regulators as well as scholars, namely how the sharing economy should be regulated. It is not uncommon to read in the newspaper that traditional taxi drivers publicly protested against Uber drivers;⁸ or traditional hotel owners filed complaints against Airbnb due to its unfair competition;⁹ or parking space sharing platforms, such as MonkeyParking, were banned.¹⁰ Alongside these controversies, the sharing economy has also been praised for making a positive impact on the world economy, and changing our daily lives.¹¹ Consequently, the key dispute remains how to strike a balance between strengthening and consolidating the social welfare increase feature of sharing economy and establishing a harmonious regulatory framework that can accommodate both the sharing economy and the traditional economy. Unfortunately, most of the existing scholarship only looks at particular forms of the sharing economy, such as car sharing or hospitality sharing. Little is done with regard to a comprehensive regulatory framework for the entire sharing economy.

In view of these problems, this article aims to shed light on two questions, firstly to offer a horizontal definition that encompasses both the sharing economy and its traditional counterparts, and secondly to propose an integrated regulatory framework that can strike the delicate balance between encouraging innovation and protecting the existing rights of others. The subsequent paragraphs are organized as follows.

⁵ PwC, “The Sharing Economy” [2015] <https://www.pwc.com/us/en/advisory-services/publications/consumer-intelligence-series/sharing-economy.html>.

⁶ China’s State Information Center, “Annual Report on Sharing Economy Development in China” [2018] <http://www.sic.gov.cn/archiver/SIC/UpFile/Files/Default/20180320144901006637.pdf>.

⁷ P. Goudin, “The Cost of Non-Europe in the Sharing Economy: Economic, Social and Legal Challenges and Opportunities” [2016] [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/558777/EPRS_STU\(2016\)558777_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/558777/EPRS_STU(2016)558777_EN.pdf).

⁸ e.g. S. Koester and J. Fioretti, “Taxi drivers block traffic in Brussels to protest ‘Uberisation’” 2018, <https://www.reuters.com/article/us-uber-protest-belgium/taxi-drivers-block-traffic-in-brussels-to-protest-uberisation-idUSKBN1H32GI>.

⁹ e.g. E. Chiland, “Protestors Ask City to Crack Down on Airbnb Rentals” [2018] <https://la.curbed.com/2018/3/8/17096772/los-angeles-airbnb-rules-protests>.

¹⁰ B. Tuttle, “Can We Stop Pretending the Sharing Economy Is All About Sharing?” [2014] <http://time.com/money/2933937/sharing-economy-airbnb-uber-monkeyparking/>.

¹¹ O. Angel, “How the Share Economy is Changing Our Lives” [2016] <https://www.bodyandsoul.com.au/health/health-news/how-the-share-economy-is-changing-our-lives/news-story/9dc32700a5af9bc10031fb2034f69d69>.

Section 2 carries out a literature review for the purpose of identifying the key elements of the sharing economy. Section 3 is dedicated to the explanations of its rapid success, as well as the creative destruction of the current social structures. The fourth and fifth parts establish a regulatory framework respectively for the sharing economy with offline competitors and without offline competitors. The last part concludes.

2. The definition of sharing economy

Although the sharing economy has proliferated around the world, a standard definition still remains largely uncertain. Sometimes people hold the view that you know it when you see it. The lack of a commonly accepted definition not only hinders us from further understanding the sharing economy, but it also inhibits regulators from adopting a new regulatory framework for competing activities. For this reason, this part is aimed at proposing a unified definition for the sharing economy based a literature review.

2.1. Sharing economy vs. two-sided markets

The sharing economy distinguishes itself from the traditional competing activities by establishing a platform. Therefore, the sharing economy has a close connection with the platform economy. Research on the platform economy, prominently started at the beginning of this century, has yielded a very important branch of economics, namely the two-sided market. The less than two decades’ study on two-sided markets has not generated a shared definition, as with the sharing economy. The more or less widely accepted definition nonetheless views two-sided markets as a platform that serves two or more groups of consumers with heterogeneous demand, and with bilateral indirect network externalities¹² exerted on each other.¹³ The two-sided market offers a useful instrument to explain the internal price structure, designed by the platform, to the extent to which all the participants’ welfare can be maximized. In this regard, the sharing economy should certainly be built upon platform economies, and thus also upon two-sided markets. However, different from two-sided markets that focus on the internal relationship between those market participants, the sharing economy places its emphasis on its external relations with existing social institutions, thereby provoking studies on whether and how the sharing economy can fit within current society. Consequently, the two

¹² Indirect network externalities, as distinguished from direct network externalities, describes situations where consumers’ willingness to pay for a product depends on the number of consumer’ willingness to buy another product. Direct network externalities refers to situations where customers’ willingness to pay for a service depends on the number of other consumers’ willingness to buy the same product. In the subsequent discussion of this article, bilateral indirect network externalities denote situations where both sides can benefit from the increasing size of the other while unilateral indirect network externalities refers to situations where only one side benefits from the increasing size of the other.

¹³ J. Li, “Is Online Media a Two-sided Market?” [2015] 1 Computer Law & Security Review 99.

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