

Opinion of the European Committee of the Regions — The Local and Regional Dimension of the Sharing Economy

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POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS,

1. considers that the sharing economy (SE) builds on new or revived social patterns having important business, legal and institutional implications: the social practices of sharing, collaboration and cooperation. Given its innovative and dynamic nature, the concept cannot be ultimately defined. It however encompasses phenomena presenting the following features:

- (i) its main agents do not act in the same way as classical economic models usually assume they will (i.e. the so-called 'homo oeconomicus'); this does not mean that they cannot be rational and act deliberately to achieve their goals;
- (ii) the SE adopts a platform approach whereby relations, reputation, social trust and other non-economic motives within a community become one of the main drivers;
- (iii) the SE makes large scale, intensive use of digital technologies and data collection. Data becomes primary raw material. Fixed costs are mostly externalised;
- (iv) on a smaller, local scale some SE initiatives might be limited to the shared use or management of physical assets (e.g. co-working spaces, urban commons, etc.) or to new forms of peer-to-peer, sometimes street or building level, welfare systems;
- (v) the SE can be organised on the basis of both market-based and social-based models;

2. notes against this backdrop that the European Commission uses the term 'collaborative economy' rather than 'sharing economy' and has made a first effort in its recent Communication on 'Upgrading the Single Market' ⁽¹⁾ to define the concept as follows: 'the collaborative economy, a complex ecosystem of on-demand services and temporary use of assets based on exchanges via online platforms, is developing at a fast pace. The collaborative economy leads to greater choice and lower prices for consumers and provides growth opportunities for innovative start-ups and existing European companies, both in their home country and across borders. It also increases employment and benefits employees by allowing for more flexible schedules, from non-professional micro jobs to part-time entrepreneurship. Resources can be used more efficiently, thereby increasing productivity and sustainability'. In the view of the CoR however, this definition focuses on the commercial and consumer aspects of the sharing (or collaborative) economy while leaving aside the non-commercial and commons-based approaches. Calls therefore on the European Commission to further analyse and later define the different forms of the sharing economy (a part of which belongs to the social economy);

SE as a paradigm changer

3. highlights that many take the view that the main actor of SE is no longer the 'consumer' wishing to own something or buy a service, but rather a citizen, commoner, user, maker, producer, creator, designer, co-worker, digital artisan urban farmer seeking access to a service or asset that is needed to satisfy certain of her needs;

⁽¹⁾ COM(2015) 550, p. 3.

4. points out that others however argue that the SE actor is in many instances also a person willing to act and take care of, manage, generate or regenerate a common, open access resource, material or immaterial, without the intermediation of a public or private provider, on a peer-to-peer, person-to-person small scale level. Thus in SE the actor is not a mere 'economic actor'. It can rather be a social or personal or civic actor for whom traditional economic motives are secondary or entirely absent. Some of the SE realms are not necessarily 'economies' in the strict sense, but social communities and networks of collaboration that generate new economic ventures or perform a function with regard to existing economic activities;

5. underlines that the SE seems also to question traditional macroeconomic models with their clear distinction between consumers and producers;

6. believes that the SE could give rise to a new economic identity where an individual, unwilling to act alone, would, instead of pursuing the quest to maximise his/her own material interests, associate his economic behaviour with a commitment to the community, act in the public — social, economic, political — arena and place himself/herself in relation to others in order to take care of the general, common interest (i.e. the so-called 'mulier activa' ⁽²⁾);

7. highlights the need for a distinction between the various forms of sharing economy. They all use the same social paradigm, the act of sharing, collaborating, and cooperating. Yet they are very different from one another. There is room to spell out those forms of SE that perpetuate in some way the same social and economic dynamics as the pre-existing economic model and apply to each of them a different legal regime. The profit/non-profit divide and distinction between the type of company or association running SE projects, as well as the impact on cross-border trade in terms of EU law, can be important criteria in drawing the line between different forms of SE and providing calibrated regulatory approaches;

8. points out that a first distinction could be drawn between the SE in the strict sense and collaborative forms of SE by framing collaboration and cooperation as added layers of sharing. A distinction could in fact be made between SE initiatives that create and ossify a distinction between different typologies of users (consumers-users vs providers-users) and SE initiatives that foster a peer-to-peer approach in which every user can be a provider and consumer at the same time, or even be involved in the platform governance. Account could also be taken of the model of governance and control of the financial transaction, distinguishing between situations in which the platform merely serves as a tool for connecting individuals (who conclude the agreement independently) and those in which the intermediary retains control of the transaction ⁽³⁾. Further cooperation might suggest a commons-based approach to SE ⁽⁴⁾. If the actors involved do not just share a resource but collaborate to create, produce or regenerate a common resource for the wider public, the community, they are cooperating, they are pooling for the commons;

9. considers that two main categories and four forms of SE seem to emerge:

— SE in the strict sense or on-demand economy:

— 'access economy', for SE initiatives whose business model implies that goods and services are traded on the basis of access rather than ownership. It refers to renting things temporarily rather than selling them permanently,

— 'gig economy', for SE initiatives based on contingent work that is transacted on a digital marketplace,

⁽²⁾ See C. Iaione, Economics and law of the commons, 2011 and Poolism, in www.labgov.it, 28.8.2015.

⁽³⁾ G. Smorto, *I contratti della sharing economy [Contracts in the sharing economy]*, in *Il Foro Italiano*, 2015, Issue 4, pp. 222-228.

⁽⁴⁾ D. Bollier, *Think like a commoner: a short introduction to the life of the commons*, 2014. S. Foster, *Collective action and the Urban Commons*, 2011; C. Iaione, *The Tragedy of Urban Roads*, 2009.

— Pooling economy:

— ‘*collaborative economy*’, SE initiatives that foster a peer-to-peer approach and/or involve users in the design of the productive process or transform clients into a community,

— ‘*commoning economy*’ for SE initiatives that are collectively owned or managed;

10. notes that the European Commission quotes a recent study⁽⁵⁾ to evaluate the SE’s potential to increase global revenues from around EUR 13 billion now to EUR 300 billion by 2025. However, according to the CoR, the growth of SE should only partially be considered a revolution and/or a consequence of the crisis. For some aspects it might also represent the reverse-transformation⁽⁶⁾ or transition⁽⁷⁾ of some sectors of the current economic model to long-standing economic traditions and economic models (e.g. cooperative economy, social economy, solidarity economy, handicraft production, commons economy etc.) and even to ancient forms of economic exchange (e.g. the bartering economy), which are alternatives to capital-intensive forms of the market economy;

11. points out that technological innovation is playing a key role in the development of the SE, with most SE initiatives being based on the use of collaborative platforms through which the transactions and exchanges of goods and/or services are carried out. For this reason, it is necessary to step up the measures being taken to combat the digital divide, especially since the aim is to adopt a single digital market;

12. emphasises that in situations where new SE-based services exert an aggressive crowding out effect on traditional services, public authorities at national, regional or local level do most often bear an important responsibility insofar as:

— market access requirements set by public authorities both in terms of fiscal policy or professional requirements have created mono- or oligopolies without having the conditions of a market failure,

— systems monitoring the quality of services provided may not have been put in place;

Design principles for an EU initiative on the SE

13. SE can improve the quality of life, foster growth (in particular in local economies) and reduce environmental effects. It can also generate new, good quality jobs, reduce the cost as well as increase the availability and efficiency of some goods and services or infrastructure. However it is important that services offered through SE do not lead to tax avoidance, unfair competition or are in violation of local and regional regulation or national and European law; The evaluation of all possible positive and negative impacts and the definition of the public policy objectives should also be key drivers of any regulatory initiative on the SE;

14. considers that free access to the market for newcomers needs to be guaranteed. Data collection by SE platforms/initiatives may cause ‘imbalances in economic power’. Data are the raw material of the SE and in some cases they need to be open source as much as possible. This is sometimes necessary in order to lower barriers to entry to the SE and to allow evaluation of the effects of SE initiatives or ventures and favour data-driven regulation at all levels of government. SE platforms should be asked to build in the platform technical mechanisms to feed public, relevant, but not sensitive or strategic data to LRAs. In any case, the EU and national governments should support LRAs in developing data collection operations. Data protection should also be one of the key drivers and the ‘*mulier activa*’ should be able to own her data;

⁽⁵⁾ Consumer Intelligence Series: The Sharing Economy. PwC 2015, <https://www.pwc.com/us/en/technology/publications/assets/pwc-consumer-intelligence-series-the-sharing-economy.pdf>

⁽⁶⁾ K. Polanyi, *The great transformation: The political and economic origins of our time*, 1944.

⁽⁷⁾ M. Bauwens, *A commons transition plan*, available at: <http://commonstransition.org/>

15. points out that an important precondition in the SE is trust and reputation management⁽⁸⁾. Thus trust and reputation must be accurately and independently managed (e.g. regulation, certification, third-party arbitration). It should be further analysed whether SE actors can effectively carry out self-regulations⁽⁹⁾. Peer-review could ensure trust. The establishment of independent bodies providing ratings, preferably co-owned by the peers, is a policy option that should receive major attention. Insurance coverage must also be evaluated. In any case data and reputation 'portability' should be one of the main policy objectives;

16. underlines that SE impact evaluation results are not always positive in terms of environmental protection, social cohesion, equality and social justice, sound land use, or urban governance⁽¹⁰⁾. It should also be considered that for-profit businesses sometimes abuse SE platforms and do not provide workers with social security cover, thereby harming both public well-being and national, regional and municipal finances. The EU and LRAs need to support and encourage only the development of those SE initiatives or platforms that produce positive social, economic, environmental impacts. Community-building, urban commoning, inclusion, non-discrimination, local economic development, young people's entrepreneurship, environmental awareness and person-to-person solidarity are the public policy objectives that should be advanced through the SE;

17. believes that if working conditions of SE actors are framed within the EU in the same way as those of an 'employee', SE actors should receive the appropriate treatment. In an increasingly 'flexible' context of economic exchange, the SE is potentially disruptive to labour relations. SE effects on personal economic security and social welfare must be thoroughly scrutinised. The Commission, in cooperation with Member States, social partners and where applicable LRAs, must study in detail the employment and working conditions of SE workers, in order to ascertain whether regulatory action is needed in this area. The SE could give birth to a new social class, the collaborative class, that needs social and economic safeguards;

18. emphasises that all antitrust, internal market, tax regulations and consumer protection rules should in principle be applied in the SE in the same manner as in all other economic sectors. SE initiatives should not be entitled to use the sharing paradigm only to disrupt pre-existing markets by aiming at a cost-reduction strategy based on avoiding the regulatory costs applicable to those similar services and products which are not provided by means of platforms. Considers however that regulation of pre-existing markets should be subject to regular review in order to verify its ability to allow for continued innovation processes. The debate on the circular economy and the Digital Single Market could be some of the areas where the SE should be taken into consideration. At the same time the EU Commission and Member States should ensure a coordinated approach to regulating the SE at European level where a European approach is necessary, in order to strengthen the single market and enable successful SE initiatives to spread easily across borders; in all other cases, regulation should remain the prerogative of national, regional or local governments according to the subsidiarity principle;

19. notes that the European Commission made scant mention of the sharing economy in its communication on 'A Digital Single Market Strategy for Europe' (COM(2015) 192) but welcomes the Commission's commitment in its Communication on 'Upgrading the Single Market' to develop a European agenda for the collaborative or sharing economy, to give guidance on how existing law — including the Services Directive, the E-Commerce Directive and consumer law such as the Unfair Commercial Practices Directive, the Unfair Contract Terms Directive and the Consumer Rights Directive — applies to the collaborative economy and to assess possible regulatory gaps. Underlines that the CoR is ready to play an active role in developing this agenda and suggests closer cooperation with the European institutions in this field;

⁽⁸⁾ T. Wagner, M. Kuhndt, J. Lagomarsino, H. Mattar, *Listening to Sharing Economy Initiatives*, 2015, Nesta & Collaborative Lab, *Making Sense of the UK Collaborative Economy*, 2014.

⁽⁹⁾ M. Cohen, A. Sundararajan, *Self regulation and innovation in the peer to peer sharing economy*, 2015.

⁽¹⁰⁾ P. Parigi P., State B., Dakhllallah D., Corten R., Cook K., *A Community of Strangers: The Dis-Embedding of Social Ties*, 2013; S. Shaheen, *Greenhouse Gas Emission Impacts of Carsharing in North America Final Report*, 2010.

20. notes that dossiers relating to the sharing economy are being handled by several European Commission directorates-general (DGs) (including CNECT, GROW, COMP, JUST, MOVE, TAXUD, EMPL, REGIO and TRADE) and that it is essential to ensure coordination between different Commission departments; suggests therefore that the European Commission establish a working group for coordination between DGs involved in SE matters;

21. welcomes, however, the European Commission's plan to launch a public consultation at the end of September 2015 on EU regulatory approaches to the sharing economy;

22. believes that EU sectoral regulation is necessary for the commercial aspects of the sharing economy to ensure legal certainty and fair competition for operators, especially with respect to taxation;

23. encourages the European Commission and Member States to establish incentives for collaborative economy to support and implement the principles of the social economy (in particular with regard to the principles of solidarity, democracy and participation, and cooperation with the local community);

24. at local and regional level — and in addition to fostering the development of local economies — SE initiatives can become a tool for promoting, taking care of and regenerating commons, such as mobility, welfare, the urban landscape and the environment. From this perspective, the role of public administrations should be to support the consolidation of a 'collaborative institutional ecosystem' ⁽¹¹⁾. To this end, the task of the local authorities must be to facilitate and coordinate the various SE initiatives, promoting those that strengthen participation and cooperation with the 'mulier activa', those that are inclusive, both at the planning stage and in the management and delivery of the service, and those that respect the principles of transparency, openness and accountability;

25. also considers it important to observe the areas in which the SE is developing and how it is affecting macroeconomic indicators so that it does not turn into a system for tax optimisation;

For an SE agenda

26. considers that any hard regulatory initiative should keep a sectoral approach and take into account the scale of the SE initiative as a criterion to draw regulatory lines. EU institutions and legislation should provide a sound framework, institutional and legal guidance and ongoing access to expertise and other assistance appropriate for implementation;

27. calls, however, on all EU institutions dealing with the issue of the SE to adopt a holistic approach in addressing the SE as an economic, political and social phenomenon and to coordinate their efforts, in view of the widespread changes the SE could cause to current economic systems, through a comprehensive public policy drawing up an SE public policy agenda built collaboratively;

28. recommends an EU SE Agenda to be based on the following pillars:

— defining a methodological protocol rooted also in an *ex ante* urban and territorial impact assessment and developed in close partnership with all levels of government, with the cooperation of a community of policymakers, scholars, practitioners, experts, SE ventures, initiatives and platforms, to promote the transition towards sharing and collaborative cities,

— promoting, in respect of the principles of subsidiarity and proportionality, a level playing field at European level, while allowing enough flexibility for local solutions, as well as encouraging pilot projects and the creation of networks of cities and regions with best practices in the field of SE, such as the Sharing economy Start Up Initiative ⁽¹²⁾,

⁽¹¹⁾ See the City of Bologna's 'Regulation on collaboration between citizens and the city for the care and regeneration of urban commons' and, more recently, the document 'Sharexpo, linee guida per la sharing economy e i servizi collaborativi a Milano' (Sharexpo, guidelines for the sharing economy and collaborative services in Milan).

⁽¹²⁾ Supported with a EUR 2 500 000 appropriation, approved by the European Parliament in its reading of the 2016 EU General Budget on 28 October 2015.

- fostering the development of educational programmes and communication campaigns (e.g. Sharitaly) to raise awareness about the potentials and the risks of SE,
- developing a definition of clear and shared criteria for a community-based qualification system and establishing a set of indicators to monitor and measure the impact of SE initiatives and practices,
- being enforced effectively so as to fight tax avoidance and ensure consumer protection, licensing and respect of health and safety regulations,
- being regularly updated and monitored to avoid unnecessary burdens and ensure continued sustainability and efficiency in a rapidly changing environment;

29. considers that many of the sectors touched by SE have a, sometimes disruptive, impact at the local and regional level and that it should therefore be possible for them to be governed or regulated as necessary by local and regional authorities (LRAs) in compliance with the principle of local autonomy in order to allow LRAs to adapt SE initiatives and ventures to local conditions;

30. insists that a SE regulatory initiative should not be detached from a vision of urban and local governance⁽¹³⁾, as well as of rural areas. Collaborative and polycentric governance experiments in different European cities seem to be emerging as the most suited approach to accompany and foster a sound and fair development of SE initiatives. A collaborative/polycentric governance approach for SE would allow groups of citizens, associations, third sector organisations, unions, knowledge institutions, social businesses and start-ups the use of open, vacant, abandoned publicly-owned spaces and assets at their disposal, getting inspiration from some LRAs initiatives (e.g. Bologna Regulation on collaboration for the urban commons⁽¹⁴⁾).

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⁽¹³⁾ S. Foster, C. Iaione, *The City as a Commons*, 2015.

⁽¹⁴⁾ For more examples see *the Sharing cities project* run by Neal Gorenflo of Shareable and *the Sharitories toolkit* designed by the Ouishare Community.