The Risks and Opportunities of the Sharing Economy

Guest Editorial

*Sofia Ranchordás**

In July 2014 I took my first Uber-ride in Washington, DC. Surely, I had heard earlier about the smartphone application that provided rides to local destinations in someone's private car, but the thought of stepping into a stranger's car without a taximeter and without any certification issued by a public authority was daunting. The low fares and convenience were nonetheless irresistible. At the time a number of questions arose in my mind: Are these rides safe? How does Uber control the identity of drivers? Are the risks that I incur worth the convenience and the lower price of this transaction? Is it fair to allow Uber drivers to compete on the market without complying with the same requirements applicable to taxi drivers? As the protests against Uber increased, I found myself questioning whether Uber and other sharing-economy platforms were examples of a more informal economy in a positive or a negative sense. In other words, someone must be paying for the low prices, the labor flexibility, and the on-demand transactions offered by sharing-economy platforms.

It was soon clear that these advantages of the sharing economy were hiding an ugly truth: low wages, tax evasion, no social security rights, and regulatory uncertainty regarding required insurances, food and fire safety. Notwithstanding these issues, sharing-economy platforms have transformed our economy in a significant way as alongside professional platforms such as Uber or Airbnb, an array of truly collaborative initiatives have emerged. In multiple cities throughout the world, individuals can easily exchange children's clothes, share leftovers, and offer a non-lucrative ride to a stranger. Sustainable, efficiency, financial, and sometimes charitable concerns have reminded humankind that sharing is inherent to survival.

Despite the growing interest of policymakers and lawyers in the sharing economy, the regulation of its risks and opportunities remains a challenging topic. This Special Issue provides a bird-eye view of some of the most pregnant issues in the sharing economy. This issue delves into different layers underlying the common legal analysis of the sharing economy. 'Sharing' underused goods is a longstanding practice which is not limited to the judicial controversies faced by Uber and Airbnb that often occupy the headlines of media outlets. Rather, as the articles in this issue show, sharing-economy transactions also take place outside the private transportation and accommodation sectors. In addition, the emergence of a digital sharing or platform economy is shedding light on new dimensions of the concept of social capital, the broader implications of the automation of labor, and is exposing the new dynamics of a 21st century capitalism characterized by on-demand consumption, prosumerism, and new economic and power relations. As Sabeel Rahman explains in his article, "the sharing economy might well be something of a misnomer" but it is a popular brand which has made multiple businesses successful.

This issue is timely as it follows the European Commission's recent Communication "A European Agenda for the Collaborative Economy". In the Communication, the Commission explains that the term "collaborative economy refers to business models where activities are facilitated by collaborative platforms that create an open marketplace for the temporary usage of goods or services often provided by private individuals (...) Collaborative economy transactions generally do not involve a change of ownership and can be carried out for profit or not-for-profit."[1] The six articles in this issue employ the terms sharing economy and collaborative economy often interchangeably while highlighting the differences be-

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1 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "A European Agenda for the Collaborative Economy," COM(2016) 353.

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tween more commercial and collaborative transactions.

The issue starts with an article by *K. Sabeel Rahman* exploring the deeper implications of the sharing economy. This contribution examines the complex relationship between on-demand economy and the broader challenges of modern capitalism. As Rahman explains, the sharing economy has caused profound shifts in economic power and exposed the weaknesses of conventional regulatory mechanisms. Rahman's article also exposes a fundamental paradox in the sharing economy: while this alternative form of transactions was supposed to suggest economic liberation, flexibility, and the reduction of bureaucracy, in reality, many sharing-economy platforms have replaced old regulations by their own: The platform rules.

The second article by *Mariana Zuleta Ferrari* discusses the relationship between the sharing economy, trust, and social capital. In the absence of regulatory certainty, individuals appear to be willing to embrace the risks of online transactions with strangers who do not hold any traditional certification. They do so because they trust the exchange system and the feedback provided on peer-to-peer review instruments.

The risks of the sharing economy are not limited to the potential violation of someone's trust. Instead, as *Karolina Zurek* explains in her article on food sharing, unregulated sharing can carry multiple risks to an individual's life and public health. Zurek delves into the different types of food-sharing from harvest sharing to public refrigerators, and discusses possible regulatory solutions for the risks of sharing perishable goods.

Peer-to-peer transactions have been problematic in the financial sector where the risks to investors and lenders have been under scrutiny in several jurisdictions. As *Rainer Lenz* explains in his article on peer-to-peer lending, this alternative form of sharing money for investment purposes is transforming traditional banking services and disrupting financial regulation. In his contribution, Lenz clarifies how peer-to-peer services operate, what their risks are, and provides an overview of the current regulatory challenges.

Besides food and financial resources, energy is another area of the sharing economy which has remained overlooked. In the fifth article of this issue, *Anna Butenko* analyses the risks and opportunities of energy production by consumers (prosumerism) and inquires whether energy sharing complies with the current legal framework in the Netherlands. Butenko's article also assesses this question from an innovation policy perspective, discussing the disconnects between regulation and the innovative character of energy-sharing initiatives.

The sixth article of this special issue by *Gabriel Domenech-Pascual* reflects upon the challenging nature of the sharing economy from a regulatory perspective. This article acknowledges the risks inherent to sharing-economy initiatives and provides an overview of the different regulatory instruments to be considered by regulators, including regulatory variation, experimental regulations, and the compensation of traditional industries.