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The Sharing Economy: A Positive Shared Vision for the Future

by

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Introduction

It is well known, of course, that the Internet, with its ease of researching and accessing all manner of information virtually instantaneously, has enabled the creation of uncountable new businesses that are based on novel ways of meeting evolving consumer demands through innovative online applications. This is why it is universally acknowledged that the Internet is almost unparalleled as an engine of economic growth.

Unfortunately, several state and local governments throughout the United States have been attempting to regulate or even ban some of the newest Internet-based businesses that participate in what increasingly is called the "sharing economy."[1] These new business models, which utilize online applications, are delivering innovation, economic growth, and consumer satisfaction. Nevertheless, some governments see them as disruptions to existing marketplaces and want to take preventive action against them. In order for the new sharing economy business models to succeed in enhancing overall consumer welfare and our nation's economy, a market-oriented and deregulatory perspective must become a shared vision.

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[1] Brad Tuttle, "7 Cities Where the Sharing Economy Is Freshly Under Attack," *MONEY.com*, June 9, 2014, http://time.com/money/2800742/uber-lyft-airbnb-sharing-economy-city-regulation/.

The "sharing economy"[2] is a term now being applied to new markets of individual buyers and sellers that have emerged from the ability of Internet users to avail themselves of innovative online applications. These new online applications facilitate the exchange of goods and services in a way which easily enables a range of peer-to-peer connections and which reduces transaction costs. Individuals have always been able to sell or borrow goods and services through yard sales and community markets, but the Internet has changed the process with a faster, easy-to-use information exchange.[3] For over a decade now, companies like E-bay and Craigslist have used the Internet to lower the transaction costs of modern commerce. But more recently, an influx of new companies and Internet-based applications has emerged enabling individuals to more easily "share" their underutilized things,[4] including, for example, their homes, apartments, and cars.

The Positive Impact on the Economy of Sharing Applications

Internet-based applications like Airbnb and Uber exemplify this emerging use of technology and are changing the way consumers live. Airbnb allows individuals to make their houses, apartments, or rooms available through the company's online applications. It is advantageous for travelers, because it allows for additional and often less expensive lodging options, other than just hotels. Often these host options are located in areas away from central business districts which may be more convenient for guests – and where hotel options are limited. Uber is an online application that connects individuals who need a ride with drivers in the area who offer rides. In many cities, a driver will be at your location in a matter of minutes with just the touch of a smartphone. Both the Airbnb and Uber applications require credit card information before booking a room or ride, which eases the process and reduces the uncertainty for both sides of the transaction. Drivers do not have to worry about payment after transporting someone and Airbnb hosts know that they have been paid up front.

Launched in 2008, Airbnb has built a community of over 500,000 hosts making rooms, apartments, or houses available around the world.[5] A recent round of fundraising valued the company at $10 billion.[6] Launched in 2009, Uber has already entered over 70 cities.[7] It is now valued at over $18 billion.[8]

The sharing economy's positive impact is one of fostering innovation, creating personal wealth, and enhancing consumer welfare, satisfaction and convenience. In a survey conducted by Vision Critical and Crowd Companies, 75 percent of respondents mentioned convenience as a reason for

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[2] Some have criticized the term for its definition of sharing, because the exchange of money is involved. For more information, see: http://www.forbes.com/sites/deborahljacobs/2014/03/17/why-the-sharing-economy-is-bad-for-friendship/. It is also referred to as the "peer-to-peer economy," "collaborative economy," and "mesh."
[3] "The Rise of the Sharing Economy," *The Economist*, March 9, 2013, http://www.economist.com/news/leaders/21573104-internet-everything-hire-rise-sharing-economy.
[4] "All Eyes on the Sharing Economy," *The Economist*, March 9, 2013, http://www.economist.com/news/technology-quarterly/21572914-collaborative-consumption-technology-makes-it-easier-people-rent-items.
[5] For a visual representation, watch the map in the background as you scroll down through time: "Airbnb Annual: Global Growth, Local Love," *Airbnb*, accessed July 21, 2014, https://www.airbnb.com/annual/.
[6] Seth Fiegerman, "Airbnb Closes Funding Round at $10 Billion Valuation," *Mashable*, April 18, 2014, http://mashable.com/2014/04/18/airbnb-closes-round-of-funding-at-10-billion-valuation/.
[7] "Uber," accessed July 22, 2014, https://www.uber.com/about.
[8] David Goldman, "Uber Valued at $18.2 Billion," *CNNMoney*, June 6, 2014, http://money.cnn.com/2014/06/06/technology/innovation/uber-funding/index.html.

sharing and a little more than half mentioned price.[9] While Internet applications may provide services at lower prices relative to the taxicabs or hotels, the convenience of having the services at your fingertips is also a major factor attracting users.

And Internet applications have the ability to signal to users the supply and demand situation of the market at any given time. Whether drivers and riders in an specific area through Uber or hosts and guests in an specific area through Airbnb, this easily and readily accessible information pushes prices down through competitive forces and allocates goods and services more efficiently. In other words, one might choose a hotel or taxicab because it is too costly or difficult to check the price of another nearby. But these sharing applications virtually eliminate that cost through the convenience of their service. This keeps the price of lodging and riding relatively low while providing consumers with different options that may better meet their demands.

Because the valuation of time and convenience is such a big factor in many of these transactions, it is hard to give an accurate calculation the positive value of these services in purely monetary terms. However, because users of these services currently make up 24 percent of the population in the United States, Canada, and the United Kingdom combined, the sharing economy is clearly growing to become a global phenomenon with a positive economic impact.[10]

Firms and individuals operating within the sharing economy have been able to become successful due what Mercatus scholar Adam Thierer calls "permissionless innovation." This is the idea that companies have a greater incentive to start up and engage in entrepreneurial activity when little to no barriers to entry into the market exist, which include licenses, regulatory costs, and/or government fees.[11] The absence of regulatory barriers and entry fees – at least ones that are not necessary to protect public health or safety – incentivize more innovative ideas and investments. However, as discussed below, the lack of regulatory barriers and entry costs does not mean that there is no means of addressing truly harmful or illegal behavior that may occur through the use of these Internet applications.

Markets Have Efficient Self-Regulating Mechanisms

Problems can arise in any situation where two individuals come together in a transaction to exchange goods or services, whether the transaction arises in a sharing economy model or traditional business model. In either event, reasonable precautions should be taken to address foreseeable harms, but they certainly are not necessarily the same precautions. And existing laws and regulations may make no sense if applied to sharing models. While there could be legitimate concerns about health and safety issues of transactions through Internet applications, companies within the sharing economy have the incentive to regulate themselves to make sure things do not go wrong, or if they do, that there are appropriate remedies to address culpable wrongs. For

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[9] Jeremiah Owyang, Alexandra Samuel, and Andrew Grenville, *Sharing Is the New Buying: How to Win the Collaborative Economy* (Vision Critical and Crowd Companies), accessed July 21, 2014, http://www.visioncritical.com/sites/default/files/pdf/sharing-new-buying-collaborative-economy-report.pdf.
[10] Ibid.
[11] Adam Thierer, *Permissionless Innovation: The Continuing Case for Comprehensive Technological Freedom*, (Arlington, VA: Mercatus Center at George Mason University, 2014).

example, for every transaction, Airbnb has an insurance policy covering up to $1 million in damages in case of an accident, so long as there is no liability from the host.[12] Also, most applications within the sharing economy invite feedback ratings. That way, if someone leaves a mess when occupying a room through Airbnb, the host can give the guest a poor rating to warn future sharers. Similarly, if a guest feels that his or her experience was poor, he or she can assign a poor rating for the host. Insurance policies and feedback mechanisms help keep parties on both sides of the transaction feeling safe and satisfied.

Of course, a poor rating or existing insurance policy might not be enough to stop harmful conduct or accidents from occurring. But there should not be fear of these occurrences through a transaction originating on an Internet-based sharing application any more than there should be through a transaction originating in a non-sharing application. There are laws and regulations already in place that protect against theft, fraud, and other criminal conduct, for example, as well as consumer protection laws and regulations enforced by the Federal Trade Commission and other state and local consumer protection agencies. In other words, companies like Airbnb and Uber are subject to health, safety, and consumer protection laws and regulations of general applicability just like entities that operate under legacy business models.

The self-regulating mechanism that applies to these new sharing Internet applications has led to 91 percent of sharers satisfied with their most recent experience.[13] As stated earlier, the sharing economy has been very successful due to the permissionless innovation of the Internet. Thus, inhibiting innovation through laws and regulations based on hypothetical fears does not help the economy or the welfare of consumers. Preemptive regulatory action based on conjectural harms leads to inefficient economic outcomes and often unintended consequences. For example, requiring a standard above the general level of safety regulations for Uber drivers could lead to more reckless driving if the regulation created a false sense of security for the drivers and riders. The manner in which potential problems arise is through the development of the market process in light of experience. Attempting to anticipate problems by supposing harm, and then presuming the need to apply legacy regulatory models, creates an unnecessary and costly burden in the market.

If purveyors of sharing applications engage in harmful, unhealthy, or unsafe activities, competition is probably the most important regulatory mechanism to address any real problems. In competitive markets, poor consumer satisfaction generally means that a company will lose market share, or even fall out of the market. If a company is not operating safely or if it is putting its users in unhealthy conditions, a competitive market allows for unsatisfied consumers to choose alternatives. It is important to point out that neither Airbnb nor Uber are by no means monopolies. They may be the most prominent applications of their nature, but Airbnb competes with VRBO, Roomorama, and others, while Uber competes with Lyft and Sidecar. If Uber allows for dangerous vehicles or Airbnb engages in some problematic activity, consumers have other alternatives from which to choose.

[12] "Peace of Mind. Guaranteed.," *Airbnb*, accessed July 23, 2014, https://www.airbnb.com/guarantee.
[13] Owyang, Samuel, and Grenville, *Sharing Is the New Buying: How to Win the Collaborative Economy*.

Fear of Competition Is Not a Valid Basis for Regulation

The sharing economy is booming, consumers are satisfied with the services they are receiving, and the markets are largely self-regulating. So, where is the incentive for the government to regulate? Regulatory capture is a term that applies to businesses seeking rents, awards or some form of favoritism from government authorities in order to restrict competitors in the market.[14] It is often thought that regulations hurt all businesses in much the same way, but that is not necessarily true. Regulations may restrict competition by imposing costs on new entrants that they cannot afford to bear as well as established business incumbents. These costs may push new entrants out of the market or at least decrease their competitiveness. Because regulatory costs are more easily absorbed by established businesses as opposed to new entrants, they can gain from seemingly "equal" regulations.

This phenomenon is applicable to the sharing economy because many existing businesses feel threatened by the entry of these disruptive new Internet-based sharing applications. But just because businesses and individuals may lose profit or market share from a new technology or innovative idea does not mean roadblocks should be erected. If that were the case, horse-drawn buggies, telegrams, and typewriters would not be a thing of the past. Capitalism allows for free markets to pick winners and losers based on efficiency and consumer satisfaction, while regulation can often lead to government picking the winners and losers, based not on sound public policy rationales, but rather on lobbying and political prowess.

So, for example, incumbent hotel industry and apartment building owners have the incentive to push for regulations that adversely impact Airbnb and its competitors if they believe they risk losing customers to individuals making their houses and apartments available online. This is not a new phenomenon. As Nobel Laureate Ronald Coase put it well in his famous 1959 paper, *The Federal Communications Commission*: "When rights, worth millions of dollars, are awarded to one businessman and denied to others, it is no wonder if some applicants become overanxious and attempt to use whatever influence they have (political and otherwise), particularly as they can never be sure what pressure the other applicants may be exerting."[15]

The act of regulatory capture creates several inefficiencies in the market. The first is simply that regulations will be created that hurt consumers and producers in the cause of protecting those that lobby. The services of Internet applications like Airbnb and Uber, which have shown demonstrable positive impacts on the economy, could be banned or at least severely restricted. Fearing they will lose their market share to these new Internet applications, hotel companies and taxicab commissions are working to persuade policymakers to apply unnecessary regulatory restrictions. The incumbents typically argue that if they were required to incur regulatory barriers in order to enter the market, why shouldn't these new Internet services have to do the same? The answer is simple, of course: If the laws or regulations applicable to the existing incumbent businesses no longer make sense today, they should be changed. It always harms consumers

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[14] Adam Thierer, "Regulatory Capture: What the Experts Have Found," *Technology Liberation Front*, accessed July 21, 2014, http://techliberation.com/2010/12/19/regulatory-capture-what-the-experts-have-found/.

[15] Ronald Coase, "The Federal Communications Commission," 2 *Journal of Law and Economics* (1959), 1, at 37.

when public policymakers attempt to "level the playing field" by subjecting entities to regulatory restrictions that are not needed. The proper way to respond to "level the playing field" claims is to remove unnecessary regulations wherever they apply, not to expand them to new entities.

The other inefficient aspect is the opportunity cost of lobbying efforts. The money put towards trying to persuade state and local governments could be put towards higher wages for employees, lower prices for consumers, or investing in further innovations and efficiencies. The "millions of dollars" that Ronald Coase mentions is no exaggeration either. Today, a New York City taxicab medallion, a mandated certification for taxi drivers, goes for up to $1.3 million.[16] In other words, taxi drivers in New York City are willing to pay $1.3 million in the hope they will be protected from competition from other commercial drivers.

Airbnb's Battle Against Regulation in New York

Airbnb is a good example of how the sharing economy can benefit consumers, and also change the incentives of typical homeowners and renters. People are more willing to go out of town because they can use Airbnb as a means for lodging, while also making their living space available while they are gone. It has been especially helpful in New York, where there are often complaints about very high rent and lodging prices.

The Airbnb community is expected to generate $768 million in economic activity in New York City in 2014 and support 6,600 jobs.[17] Rent in New York City increased 11 percent from 2005 to 2012 after adjusting for inflation, according to a recent New York University report.[18] The median income of renters increased just 2 percent, so it is not surprising that 62% of hosts in New York City depend on Airbnb to pay their rent or mortgage.[19]

Airbnb and Uber have been under attack by regulators in several states across the country, but New York's treatment of Airbnb is an important example on which to focus. A Bloomberg *Businessweek* article explained the situation well.[20] A 2010 law prohibits New Yorkers from renting out their apartments for less than 30 days, without being present. After complaints from many New York hotels and apartment complexes about Airbnb, Attorney General Eric Schneiderman started investigating these transactions, but Airbnb refused to release information about its hosts.

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[16] *New York City Taxi and Limousine Commission 2013 Annual Report* (New York City: NYC Taxi & Limousine Commission), accessed July 21, 2014, http://www.nyc.gov/html/tlc/downloads/pdf/annual_report_2013.pdf.
[17] David Hantman, "New York and the Airbnb Community," *The Airbnb Public Policy Blog*, April 21, 2014, http://publicpolicy.airbnb.com/new-york-airbnb-community/.
[18] *NYU Furman Center & Capital One Release Affordable Rental Housing Landscape Illustrating NYC Rental Housing Trends* (New York, NY: NYU Furman Center, April 24, 2014), http://furmancenter.org/files/pr/NYUFurmanCenter_NYCRentalLandscape_23APR2014.pdf.
[19] Hantman, "New York and the Airbnb Community."
[20] For more information on Airbnb's battle for New York see: Felix Gillette and Sheelah Kolhatkar, "Airbnb's Battle for New York," *BusinessWeek: Technology*, June 19, 2014, http://www.businessweek.com/articles/2014-06-19/airbnb-in-new-york-sharing-startup-fights-for-largest-market#p2.

Meanwhile, Airbnb had to expend resources to conduct its own public-relations, advertising, and lobbying operations in an attempt to change the 2010 law or avoid its application.[21] Both sides of the issue (Airbnb vs the incumbent hotels) could be using this lobbying money to better serve consumers. Therefore, consumers, whether Airbnb guests or hotel occupants, are now worse off, while Airbnb hosts are also worse off because this money could have been used, for example, to reduce the price of transactions. or increase the amount of the insurance policy.

In May 2014, Airbnb and Mr. Schneiderman reached an agreement whereby Airbnb will provide anonymized data about hosts in New York, excluding names, apartment numbers, and other personally-identifiable information. The Attorney General's Office will have one year to review the data and then can request further information on specific hosts. [22]

While the agreement may be welcome as an alternative to an outright ban or further obstructive measures, it should really be up to the discretion of homeowners and apartment owners to decide if guests are allowed to share their living space through Airbnb or other Internet applications. The 2010 law should not be construed or applied in a way that suppresses competition that could help lower the price of lodging in New York and increase consumer choice and convenience.

It is understandable that local governments would want to regulate Airbnb in order to receive some of the tax revenue, but Airbnb transactions are taxed just like hotels and apartment complexes. New York City is expected to receive more than $36 million in sales tax revenue in 2014 alone from Airbnb hosts.[23] The sales tax on an Airbnb transaction is the host's responsibility to include in the price and pay to the local government. However, local governments can make an agreement with Airbnb to automatically include the tax for each transaction in a specified location, but so far only Portland and its surrounding county, Multnomah County, have come to these terms.[24] San Francisco and other cities could also be working on an agreement.[25] If other local governments adopted these terms with Airbnb, it would be much less costly for governments and compliant hosts to ensure these taxes are collected. Hosts are also required to pay federal income tax, and Airbnb keeps a file on each host's yearly earnings to assist with tax compliance. [26]

Conclusion

Rachel Botsman, author of *What's Mine is Yours: The Rise of Collaborative Consumption*, said in reference to the sharing economy that "technology is enabling trust between strangers."[27]

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[21] Ibid.
[22] David Hantman, "Agreement in New York," *The Airbnb Public Policy Blog*, May 21, 2014, http://publicpolicy.airbnb.com/agreement-new-york/.
[23] Hantman, "New York and the Airbnb Community."
[24] "FAQ: What Local Taxes Apply to My Listing and How Do I Collect Them? | Airbnb Help Center," accessed July 23, 2014, https://www.airbnb.com/help/article/653.
[25] David Hantman, "San Francisco, Taxes and the Airbnb Community," *The Airbnb Public Policy Blog*, March 31, 2014, http://publicpolicy.airbnb.com/san-francisco-taxes-airbnb-community/.
[26] "FAQ: How Do Taxes Work for Hosts? | Airbnb Help Center," accessed July 22, 2014, https://www.airbnb.com/help/article/481.
[27] Rachel Botsman, "The Case for Collaborative Consumption" (presented at the TED, Sydney, Australia, May 2010), http://www.ted.com/talks/rachel_botsman_the_case_for_collaborative_consumption/transcript.

Trust between the users of these applications allows for mutually beneficial gains from trade, but this is not a new phenomenon. Trust between strangers established through the incentives of trading occurred long before the Internet. But online applications offer a new, additional means of enabling trust, thereby facilitating trading and sharing in a way that creates new consumer choices and positively impacts the economy.

Hopefully, those opposed to the rise of the sharing economy, with the proliferation of innovative and disruptive new Internet services and applications, will not continue to succeed in using laws and regulations in a way designed to stifle the services merely because they possibly may adversely impact preexisting businesses, whether traditional hotels, taxicabs, or anything else. Using laws and regulations in this anticompetitive way, rather than as a means to protect public health or safety in a properly targeted way, will harm consumers.

Instead of worrying about the worst possible outcomes that could happen from using the applications of these new emerging business models, public policymakers should focus tightly on addressing any real-world problems in the least intrusive, least costly way. If the focus of public policymakers is on the worst possible outcomes, entrepreneurs and consumers will be too afraid to try new things. Innovation will be stifled.

A positive shared vision for emerging technologies in the rising sharing economy requires a market-oriented perspective. This will foster the greatest amount of consumer welfare and consumer satisfaction among willing buyers and sellers.

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