

Sharing Economy Regulation in the Czech Republic: the Theoretical Framework of Analysis

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Abstract

Sharing economy is currently one of the main phenomena, primarily in the context of developing Smart Cities and smart economy. The most well-known examples of sharing economy have been in the fields of accommodation and car sharing. However, the possibilities of sharing economy are much larger. The quick development of sharing economy soon encountered the restrictions of traditional regulatory frameworks of national economies and decision-making processes of municipalities and cities, which were not ready for this phenomenon. This resulted in massive protests of traditional economy branches that request that the regulatory measures do not change - these were often implemented before the invention of the internet or the development of IT technologies. Politicians have had similar reactions, without effectively solving problems connected to the commencement of sharing economies. The paper focuses on defining the term sharing economy and on the possibilities of a new regulatory environment that would be governed by the principles of the so-called better regulation. The text defines clear criteria how to evaluate sharing economy and how to correctly estimate its potential for the development of cities, municipalities, and national economies.

Keywords: sharing economy, regulation, Czech Republic, Public Policy.

Introduction

Although the topic of collaborative (sharing) economy is very popular, the collaborative economy itself has got a quite small market share in both the EU and the Czech Republic. This is probably the main reason why it isn't regulated as much as other sectors. However, it is growing rapidly and in specific branches of economy, traditional business models

must deal with a competition based on new, “unknown” pillars – online platforms, mobile applications, sharing of knowledge and business without borders. According to the European Commission, the collaborative economy generated gross revenue in the EU around 28 billion € in 2015. Revenues in the EU in five key sectors almost doubled compared with the previous year and are set to continue expanding robustly. (EC 2016) Some experts estimate that the collaborative economy could generate additional 160-572 billion € in the EU economy in a close future. Nevertheless, this future cannot do without transparent and stable regulatory conditions. The management of all these new opportunities will be very challenging because it is new phenomenon and the agreement of all involved interest groups in this area is nowhere near. The biggest challenge will be finding a solution that is fair and efficient and implementing it into current state of economy. Some interest groups are already asking for a bit of fairness regarding the problematics of services provided by P2P (peer-to-peer) platforms. It is important to balance between fairness and effectiveness. Some say instead of regulating the collaborative economy, we should deregulate the traditional economy to make the conditions for all participants equal. However, the arguments reflecting a broad research of economic theory are missing. Therefore, we are going to determinate the most urgent problems as market accessibility, taxation, employment in the area of collaborative economy, also quantify and qualify their impacts and and suggest a complex theoretical environment for sharing economy regulation.(Pildes and Sunstein 2005)

A phenomenon of sharing economy is usually represented by car-sharing (e.g. Uber), accommodation (e.g. AirBnB) and crowdfunding (e.g. Kickstarter). These services always existed, but they weren't usually picked in the past due to high searching costs and this is probably why they were often overlooked even though they were cheaper or in other ways more suitable alternative. The problem of high search costs was solved by modern technologies such as GPS, high speed internet, social networks and mobile applications.

In the past, people used to say “you are what you wear” but “you are what you can access” (Belk 2014). It is much more suitable in today's era. The collaborative economy brings disruptive innovations in this matter and its scale is as big as a discovery of a video for broadcasting industry. This revolution produces a whole new sector filled with new possibilities. The possibilities are connected with lowering the transaction costs, using capital that lays idle, new matchmaking systems between customers and providers and many more. This leads to higher effectiveness in the end, which is beneficial to whole society as it can solve other seemingly unrelated problems. These platforms could also lower the costs of public sector, since most of the platforms have their own self-regulation system, which lowers the need for regulation and consumers' protection – these standard regulations are rather costly. Therefore, the regulation of sharing economy should follow an existing state of digital development.

The fact that sharing economy is a major challenge for decision-makers could be proven by protests against it. The current state of collaborative economy in the Czech Republic is quite stormy. There have been several protests against P2P platforms and collaborative economy itself. Taxi drivers did most of the protesting as they feel that Uber and other

P2P platforms providing car-sharing/carpooling services are not respecting legislative rules of the game. One example for all is the protest that was held in Prague where the Taxi drivers, protesting against Uber among other things, blocked 2 out of 3 traffic lanes in one of the most important traffic artery for eight hours (Bun 2016). Another pressing matter is that subjects providing accommodation have to pay certain fees to municipality for providing such services and there is a suspicion that people using P2P platforms such as Airbnb are not doing so. There is no evidence for this claim but the municipality of Prague is already investigating this matter (Černý 2017).

We suppose the pressure on regulators will be even bigger. Estimates of the size of collaborative economy in the Czech Republic vary, but generally we can say that current state is around 0,1 % GDP and is expected to rise to 0,5 % GDP in 2020 (Bostl 2016). The problem is that such estimations can't be accurate, because there is no proper generally acknowledged definition of what the collaborative economy is, so it is impossible to measure it. Anyway, the legal framework regarding collaborative economy in the Czech Republic is very vague. There are no special regulations regarding collaborative economy yet. We can't expect that it is going to change in close future. So far only rigid general rules, laws and regulations e.g. Trade Act, Income Tax Act, Road Transport Act, etc. are applied on collaborative economy, which leaves many parts of the system uncovered. We can't expect that the situation is going to change in close future because of the election cycle, however, the new government serving 2017-2021 will have to upgrade the legislation according to collaborative economy requirements. As far as individuals (voters) like sharing, politicians must follow this fact.

Moreover, sharing economy regulation has a significant behavioural aspect. Human behavior tends to be heavily context dependent - we buy more things when we are hungry, we use alternative (even though more dangerous) means of transport after a major plane crash or we prefer rebates over deductibles. In last 30 years, these violations of expected utility are being addressed by the behavioral economics. This contemporary branch of economics - interested in the nature of human decision making and judgment - connects insights from economics, psychology, cognitive science and evolutionary biology. The cornerstone of this field is a program of heuristics and biases by a Nobelist Daniel Kahneman and Amos Tversky. A heuristic (or a rule-of-thumb) reduces the complex tasks of decision making to simpler judgmental operation (Tversky and Kahneman 1974).

However, any reduction of task complexity almost inevitably leads to errors in decision-making (Allais 1953). Facing limited information processing time and ability, brains of hominids were equipped with function-specific mechanisms with special design for solving problems such as mating, problems of food choice, predator avoidance and social exchange (Haselton, Nettle a Andrews 2015). Given the brief modern period, the same mechanics is used in solving more complex tasks than what they were designed for. This is probably the reason for why the decisions are prone to breakdown in systematic ways (Haselton, Nettle a Andrews 2015). As long as both sides of markets are composed of predictably irrational individuals who systematically fail in acquiring, processing and

evaluating information, cognitive biases might be viewed simply as a fourth type of market failure (Bennett et al. 2010). Like in a case of the other three causes of the market failure (market power, information asymmetry and externalities), also this failure needs to be somehow fixed to secure an efficient market.

Adam Oliver suggests that by appealing to the cognitive affects and processes that people employ when making automatic decisions, we might expect that behavioural economic-informed interventions will have more effect than interventions that are otherwise informed (Oliver 2013). In line with this statement, the United Kingdom BIT - Behavioural Insights Team (aka. "the Nudge Unit") has pioneered an increasing trend in the mainstream application of behavioral economics insights into public policy making. In recent years, leading countries across the globe have started running their own "nudge units". The growing interest in the importance of behavioral economics in the public sector is also obvious from activities of the European Union which has established its own 'Foresight and Behavioural Insights Unit' or of the United States which has established 'Social and Behavioral Sciences Team'. Unfortunately, this progress seen in other countries has not been matched in Czech Republic which is somewhat lacking in the development and application of these new trends.

The basic method for delivery of well-designed behaviorally informed public policies is an experimental approach. The core idea is that all policies should be first tested in controlled conditions and only then - if proved functional - put to work. By 'controlled conditions' we usually mean between-subjects experimental studies in form of a laboratory experiment or a field experiment. These studies are based on asking subjects to evaluate either real or hypothetical prospects that are manipulated by the investigator while using either real or hypothetical rewards and costs can be used (money, health, level of comfort or discomfort). Participants of experimental studies are usually divided into two (or more) groups where one group do not face any treatment and the other does. The treatment is usually a measure or set of measures by which a proposed policy aims to modify the behaviour of subjects (Wilkinson and Klaes, 2012). To better demonstrate the idea, we present a few examples.

Material and Methods

Hypotheses:

It is very important to be aware of a fact that overregulating this sector will take away all the positive things that it can bring to the whole society. Therefore, we can test several hypotheses for a formulation of concluding recommendations:

- Definition of collaborative economy: What is and what isn't part of the collaborative economy and what are the key factors for determining it? The definition is rather based on a way of service provided rather than on a type of service provided.

- **Legislation:** A new legislative framework should include the collaborative economy and it should keep in mind that it is an evolving, flexible new sector with no real space for rigid regulations could cause severe damage.
- **Transparency:** The most serious problem for consumers is an ambiguity of conditions for providing services. Online platforms and real-time trackable services provide better conditions for limiting information asymmetry between supply side of the market and demand side of the market than rigid laws, which are very administratively very costly to enforce.
- **Taxation:** Every individual follow opportunity how to control own money. By making paying taxes and social security obligation more simple, easy and possibly online, P2P platforms provide very efficient conditions for tax obligation fulfillment.
- **Behavioral aspect:** When regulation sharing economy, some aspects from behavioral economics could be used on both supply and demand side. This approach could bring Pareto efficient moves in the society.

Methodology

Since we were trying to examine the legal framework of collaborative economy in the Czech Republic, we need a lot of data about the problem. We will do interviews with members of involved parties and a thorough research of the Czech legal framework in this area. After we transform this data into information, we evaluate possible adjustments of the legal framework. We used cost-benefit analysis and regulatory impact assessment to evaluate possible regulatory policies.

Regulatory Impact Assessment (RIA) is an efficient method of policy analysis which is intended to assist policymakers in the design, implementation and monitoring of improvements to regulatory systems, by providing a methodology for assessing the likely consequences of proposed regulation and the actual consequences of existing regulations. A modern government, however, has to ensure a balance between the legislative activity at the state level and the efficient operation of local governments, communities and settlement. The process of Regulatory Impact Assessment in the Czech Republic adheres to the Guidelines for Regulatory Impact Assessment (RIA). (Baldwin 2010; Jacobs 2006).

Identification of all new, large-scale impacts in areas of the state budget and other public budgets, administrative burden for public authorities and economic and legal relations between public authorities and private entities is defined as the main task of the Regulatory Impact Assessment process. Genuinely, the process of Regulatory Impact Assessment affects decision-making with nationwide and regional effectiveness, which helps to understand the current situation and possible outcome of proposed legislative change. Then we can decide whether to regulate, deregulate or better regulate and predict the resulting effect – the EU15 aims to stimulate debate on regulatory policy and how to do it better, to bring about real reform that improves lives.(Alonso, Clifton and Díaz-Fuentes 2015)

The main approach used in the process of impact assessment is an analysis of costs and benefits – Cost & Benefit Analysis (CBA). This universal method is used to evaluate project proposals spilling over into the public sector. It compares positive effects (benefits) on one side and negative effects (costs) on the other. In general, the recommended procedure is an essential element of the impacts analysis on actors, the quantification of the impacts and their conversion to a common comparative basis, ideally financial unit. Based on this procedure, it is possible to extend the CBA by other economic, mathematical or econometric tools such as net present value, discounting formulas, regression analysis, scenario analysis and probit/logit model, etc. This allows a comparison of non-financial benefits to the financial statements and to compare the broader social benefits with the zero option (no action). Implementation of the local CBA element into decision-making of state and local government bodies produces enormous research potential. (Hahn and Tetlock 2008).

Criteria:

The paper is proposed to meet a key goal, i.e. to design a regulatory framework for both central and local authorities regulating sharing economy (Weatherill 2007). The framework follows up these points:

- Market access requirement: Sharing platforms' creation and operation are not regulated because they are merely the "notice-boards", where producers and consumers meet. The only exception are the crowdfunding/collaborative finance platforms, which are regulated and supervised by the Czech National Bank. Collaborative finance platforms have to acquire same licenses as traditional investment platforms and they also have to fulfill other requirements such as regular reporting, regular trainings and they must comply with several others strict laws. The main topic is not the regulation of platforms, but the regulation of the actual service providers (e.g. Uber drivers). The biggest disputes in the Czech Republic are in the taxi service and car-sharing/carpooling area. Where taxi drivers provide the service under Road Transport Act and a taxi concession. To become a taxi driver, one has to take 4 steps: obtain a taxi driver's ID, pass a taxi driver's exam, register the car as a taxi and acquire a Trade license in form of taxi concession. The car of a taxi driver must be marked and equipped with a taximeter. Municipality of Prague also applies a maximum price cap (1€/km) on top of all that. Carpooling is defined as a contract based on Civil Code. The nature of carpooling is that the driver satisfies his own needs e.g. driving to work and another individual just shares the cost with the driver. In other words, carpooling isn't a profit-seeking activity a but a cost-sharing activity. The mentioned dispute is about legality of such service. Uber pop defines itself as a carpooling and consequently they don't fulfill the same obligations as taxi drivers do (mentioned above) even though they provide very similar service. Representatives of traditional industries are trying to make it sound like a serious problem, but rather than problem it is a glitch in a legal system. The dispute can go on forever, if the

legislative framework doesn't change. The project should analyze this issue, use best practices and make recommendation for regulators. (Adelle 2012)

- Consumers' protection: Even though it might seem that this area will be problematic, the opposite is true. The legislation in most cases treats the customer to customer service C2C interactions as the business to customer service B2C interactions, where the provider of service is considered as B (business). All the rules and laws regarding the Czech or EU policy in terms of protection of users are mostly applicable. Details are often specified in contracts (e.g. cancelation policy). Huge perk of collaborative economy in terms of protection of users is self-control, self-regulation and user-based ratings, which significantly lowers the transaction costs of verifying counterparties and improves the safety of both the provider and the consumer. The project will cover this area.
- Employment: There are no available data regarding the influence of collaborative economy on employment and we can assume that collaborative platforms have created new opportunities for economic activity, i.e. the overall effect is rather positive. However, there are almost no employees of P2P platforms in the Czech Republic. The cooperation is mostly based on contracts, which means that the platform and the providers (e.g. Uber drivers) are in a partnership agreement. The project team will deal with this point and include economics effect into project conclusions.
- Tax obligation: The whole sector of collaborative economy is very complex and therefore very difficult to control, which causes the problems with taxation and tax evasion. This can become tricky, because entities that don't pay taxes have an advantage and they are pushing out those who pay taxes, which makes the impact on the state budget more significant. Difficulties pile up in situation mentioned earlier. There is a blurry line between carpooling and taxi service, which means that the situation around paying taxes is unclear. The tax obligation is transferred to the service providers (e.g. Uber driver) and they should, according to tax experts, pay income tax. The providers also get the services from platforms from abroad (e.g. Uber – Netherlands), "therefore they should pay value added tax from the commissions, similarly to people who advertise through Google AdWords." (4Liberty Review 2016).

Conclusion

Sharing economy has been becoming an essential topic in public policy in the Czech Republic (Peterka, Soběhart and Jílková 2018). Sadly, municipalities, as well as state institutions, still choose to implement restrictions and bans which causes higher prices, dissatisfied customers, and costs connected to poorly calibrated regulations. The Czech academic environment has also not been paying enough attention to the sharing economy topic; Czech scientists rather reflect on events presented in Czech press without producing their own analyses or solution propositions. Mainstream media and politics are controlled by powerful interest groups (cab drivers, hotel owners) who demand bans and

the enforcement of the current policy, which does not reflect the change in user preferences and new challenges in connection to the sharing economy. An institutional framework has not been created yet in the Czech Republic, which would make it possible to discuss not only new challenges in the area of sharing economy but also the need for revising the current regulatory framework which by itself causes more issues than effective solutions. This paper aims to introduce a theoretical framework which would be a base for creating an effective regulatory set of rules for the actions of key players on the sharing economy market.

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