



Anna Moskal

**Collaborative Platforms
in the European Union
from the Standpoint
of Sustainable
Development**

COLLABORATIVE PLATFORMS IN THE EUROPEAN UNION
FROM THE STANDPOINT OF SUSTAINABLE DEVELOPMENT



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BOGDANA SZLACHTY**

136

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OF SUSTAINABLE DEVELOPMENT**



Cracow 2022

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Cover photo
Adobe Stock

ISBN (PDF) 978-83-8138-753-8
<https://doi.org/10.12797/9788381387538>

KSIĘGARNIA AKADEMICKA PUBLISHING

ul. św. Anny 6, 31-008 Kraków
tel.: 12 421-13-87; 12 431-27-43
e-mail: publishing@akademicka.pl

Online bookstore: <https://akademicka.com.pl>

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Preface

This monograph is a final product of the research conducted in the “Talent Management” grant at the Jagiellonian University in Cracow, Poland. It reflects my research interests, which are located at the complex nexus of new technologies, law, and economy. In this paper, I aim to find the best hypothetical model for regulating collaborative platforms in the European Union from the standpoint of sustainable development.

The idea behind this research stems from my fierce passion for travelling, which has given me the opportunity to observe both the beneficial and harmful effects of collaborative platforms, such as Airbnb, Uber, and Blablacar, in various parts of the world. What caught my attention, besides the numerous controversial opinions and ongoing fierce debate on this issue, was a large array of legislative approaches taken by the national and local authorities towards these new business models. Their actions range from a complete lack of regulation, through rules of varying levels of restrictiveness, to total bans. The problem of regulating collaborative platforms is particularly cumbersome in the context of the European Single Market, which was established specifically to remove barriers within the European Union and ensure legal certainty across Member States. Hence, I decided to limit the scope of my research to this region.

The research conducted for this work has been supported by the Anthropocene Priority Research Area budget under the program “Excellence Initiative – Research University” at the Jagiellonian University. Thanks to this funding, I had the opportunity to participate in the Circular Economy and Sustainable Strategies course at the University of Cambridge. Not only did it broaden my knowledge and understanding of the circular economy, but it also enabled me to discuss my initial ideas on the regulation of Uber with Professor Khaled Soufani, who is an expert on economic growth and innovation. Furthermore, thanks to the grant, I was able to share interim results of my research at several national and international conferences, and expose my ideas to the opinions of professionals from around the world. These fruitful and insightful discussions helped me develop feasible solutions and recommendations for legislators. Therefore, I would like to express my appreciation to the Jagiellonian University for their trust in my research and provided funding.

My thanks also go to the Ryoichi Sasakawa Young Leaders Fellowship Fund for funding my five-month research stay as a visiting scholar at King's College London (KCL), during which I was able to access the rich collections of the KCL, Oxford University, and Cambridge University, including the most recent publications on the regulation of collaborative platforms in Great Britain. The contacts established during my stay at KCL have proven to be immensely helpful in understanding British policies and regulations. Overall, my research stay in London allowed me to add a new subchapter on the approach of the United Kingdom to collaborative platforms before and after its withdrawal from the EU on 1 January 2021.

I would like to express my sincere appreciation to my supervisor, Professor Piotr Bajor, who supported me in this endeavour and warmly welcomed my idea of conducting research in the intersection between law, economics, and new technologies. I am extremely grateful for his critical eye and excellent advice, which has always pointed me in the right direction, as well as for unceasing guidance and words of encouragement throughout the elaboration of this research. I am also thankful for his encouragement and assistance in seeking grants and fellowships, which enabled me to conduct my research abroad and broaden my perspectives both personally and academically.

In truth, the production of this work would not have been possible without the support and love of my family and friends, to whom I dedicate the results of this work. First of all, my parents and siblings for their unwavering support and love. Second my friends, Małgorzata Szymańska, Alex Roy, Szymon Pazera, and Aleksandra Sobarnia, whose encouragement helped me proceed with my work and application for the SYLFF scholarship. Last but not least, I would like to say special thanks to my partner Jack Davies for discussing my ideas and sharing his thoughts on the subject, as well as for language consultation.

I would also like to thank all my readers for getting to know this book. I hope you find this publication inspiring and thought-provoking, and truly enjoy reading it.

Cracow, 6th July 2022
Anna Moskal

Knowing where we stand, identifying the most pressing sustainability challenges and critically examining our performance is essential if we are to ensure a sustainable Europe in a sustainable world.

Paolo Gentiloni
European Commissioner for Economy

List of acronyms and abbreviations

AI	Artificial Intelligence
CEI	Collaborative Economy Index
CJEU	Court of Justice of the European Union
CDC	Chinese Centre for Disease Control and Prevention
CPI	Consumer Price Index
ECDC	European Centre for Disease Prevention and Control
ESI	Economic Sentiment Indicator
EU	European Union
GDP	Gross Domestic Product
ICTs	Information and Communication Technologies
IoT	Internet of Things
JRC	Joint Research Centre
LCA	Life Cycle Assessment
MGDs	Millennium Development Goals
SDGs	Sustainable Development Goals
SEUK	Sharing Economy UK
TEU	Treaty on the European Union
TFEU	Treaty of the Functioning of the European Union
UK	United Kingdom
UN	United Nations
US	United States of America

1. Introduction

Background

This publication addresses the issue of the collaborative economy in the European Union from the perspective of sustainable development. Collaborative economy platforms facilitate connections between peers interested in sharing underutilised resources, which can include everything from rooms, things, and objects, to people's time and skills. The collaborative economy, as a sector of the ecosystem of digital economy platforms, introduced a new triangular business model in which platforms play the role of intermediaries. They provide users with easy access to a wide range of products and services at lower prices compared to the traditional market. Although the concept of sharing and exchanging goods has long been practised, the Internet has allowed people to expand far beyond the real-life social networks of individuals or the region they live in. Due to progressive globalisation and the rapid expansion of digitalised society, as well as problems arising from urbanisation and overpopulation, collaborative platforms have flourished worldwide in the last two decades.¹ The collaborative economy, with its novel and innovative business models that completely revolutionised traditional markets and significantly shifted people's lifestyles and preferences, turned out to be a widely discussed socioeconomic phenomenon. The impact of the collaborative economy on the overall economy and society is so extensive that it is seen as one of the most remarkable components of the fourth industrial revolution, together with artificial intelligence (AI), the Internet of Things (IoT), big data, blockchain, cybersecurity, and 3D printing.²

The phenomenon of collaborative economy has drawn wide attention from various parts of society and generated a great deal of heated debates in the media and academic discourses in recent years. On the one hand, collaborative plat-

¹ V. Hatzopoulos, *The Collaborative Economy and EU Law*, Oxford 2018, p. 2.

² See, e.g., K. Yeji, L. Minhwa, "Typology and Unified Model of the Sharing Economy in Open Innovation Dynamics," *Journal of Open Innovation: Technology, Market, and Complexity* 5, Number 4, 102, 2019; K. Schwab, *The Fourth Industrial Revolution: What It Means and How to Respond*, Foreign Affairs, published online on 12 December 2015, at <<https://www.weforum.org/agenda/2016/01/the-fourth-industrial-revolution-what-it-means-and-how-to-respond/>>, 1 June 2022.

forms offer consumers more choice at lower prices, create new jobs, and meet the need for communication and connection in society. The European Commission, based on a PwC study,³ estimated that gross revenue in the European Union from collaborative platforms would be € 28 billion in 2015, and expects an increase of up to € 572 billion by 2025.⁴ Thus, many look at collaborative platforms in the hope of huge economic profits they can generate. Moreover, supporters of the collaborative economy claim that it promotes more eco-friendly business models by extending the lifespan of objects and encouraging recycling.⁵ On the other hand, the most popular collaborative platforms, such as Uber and Airbnb, are frequently described as cutthroat global corporations that disrupt the traditional market and significantly contribute to environmental damage. They are accused of hiding behind the umbrella term of a sharing economy to operate in an unregulated or not fully regulated space. Therefore, opponents of the collaborative economy consider it a “low cost” access economy,⁶ which benefits from underpaying workers. Critics also point out that rating systems, which are commonly used by most collaborative platforms, destabilise social relations. The rapid growth of collaborative platforms in the EU in recent years has raised valid burning questions for local, national, and European-level regulators. They have to assess the economic, social, and environmental profits and costs of these new form of business models, as well as address a series of complex regulatory challenges in a number of areas, including unclear employment status of the workers, tax enforcement, anti-discriminatory rules, data privacy, cyber security, market access, and unfair competition.

Literature Review and Relevance of the Subject

Although numerous books and articles have been dedicated to the phenomenon of collaborative/sharing economy,⁷ only a small percentage of them examine

³ PwC, *Assessing the Size and Presence of the Collaborative Economy in Europe*, April 2016. The study has been requested by the European Commission (DG GROW) in order to assess the size and presence of the collaborative economy in Europe. The study is available at: <<https://www.pwc.es/es/publicaciones/digital/evaluacion-economia-colaborativa-europa.pdf>>, 1 June 2022.

⁴ European Commission, *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/2016/0356, Brussels 2016, p. 2.

⁵ A. Acquier, V. Carbone, “Sharing Economy and Social Innovation,” in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *The Cambridge Handbook of the Law of the Sharing Economy*, Cambridge 2018, pp. 51-64.

⁶ F. Bardhi, G.M. Eckhardt, “Accessed-Based Consumption: The Case of Car Sharing,” *Journal of Consumer Research*, Volume 39, Issue 4, December 2012, pp. 881-898.

⁷ See, e.g., N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*; R. Belk, G. Eckhardt, F. Bardhi, *Handbook of the Sharing Economy*, Northampton–Cheltenham 2019; D. McKee, F. Makela, T. Scassa (eds), *Law and the “Sharing Economy” – Regulating Online Market Platforms*, Ottawa 2018; L. Pettersen, “Sorting Things Out: A Typology of the Digital Collaborative Economy,” *First Monday*, Volume 22, Number 8, August 2017.

the issue specifically within the EU,⁸ and even fewer analyse it from an environmental perspective.⁹ To the best of the Author's knowledge, prior to the publication of this work, there had been no published papers that focus on the evaluation of the approach of the European Union towards collaborative platforms from the standpoint of sustainable development.

Given that sustainability has become one of the top priorities of the EU and that digitalisation is described both as a potential "fire accelerant" and as an ecological "game changer,"¹⁰ the Author believes that it is vitally important to develop the most optimal legal framework to ensure that collaborative platforms operate in the EU in the most sustainable, inclusive, and effective manner. Achieving this goal can help to unlock growth potential for the entire economy by creating jobs, prosperity, and commonwealth in the EU, as well as minimising the detrimental impact of collaborative platforms on the environment and traditional markets. Overall, the Author hopes that this study will add a new perspective to the lively debate on the future of collaborative platforms and provide feasible solutions and recommendations for EU legislator in a field in which research and professional practice frequently seem to be in discord. The results of this research will help develop optimal regulatory responses of governments at local, national, and EU levels, as well as the models of self-governance employed by platforms.

Research Objective

The main research objective of this paper is to find the best hypothetical model for regulating the collaborative economy in the EU with a view to mitigate the disruptive socio-environmental impacts of collaborative platforms. In order to

⁸ See, e.g., V. Hatzopoulos, *op. cit.*; N.C. Rodrigues, "The Regulation of Collaborative Economy in the European Union," *UNIO – EU Law Journal*, Volume 5, Number 1, January 2019; European Parliamentary Research Service, P. Goudin, *The Cost of Non-Europe in the Sharing Economy: Economic, Social and Legal Challenges and Opportunities*, PE 558.777, January 2016; C. Cauffman, *The Commission's European Agenda for The Collaborative Economy – (Too) Platform and Service Provider Friendly?*, Maastricht European Private Law Institute, Working Paper No. 2016/07 <http://dx.doi.org/10.2139/ssrn.2883845>; M.M. Munkøe, "Regulating the European Sharing Economy: State of Play and Challenges," *Intereconomics*, Volume 52, Issue 1, January 2017, pp. 38-44.

⁹ See, e.g., Öko-Institut e.V., *Impacts of the Digital Transformation on the Environment and Sustainability*, Issue Paper under Task 3 from the "Service contract on future EU environment policy," Berlin, 20 December 2019, at <https://ec.europa.eu/environment/enveco/resource_efficiency/pdf/studies/issue_paper_digital_transformation_20191220_final.pdf>, 1 June 2022; S.K. Curtis, M. Lehner, "Defining the Sharing Economy for Sustainability," *Sustainability*, Volume 11, Number 3, January 2019; R. Perelet, "Environmental Issues in a Digital Economy," *The World of New Economy*, Volume 12, Number 4, June 2019, pp. 39-45; A. Acquier, V. Carbone, D. Massé, "How to Create Value(s) in the Sharing Economy: Business Models, Scalability, and Sustainability," *Technology Innovation Management Review*, Volume 9, Issue 2, February 2019, pp. 5-24.

¹⁰ Öko-Institut e.V., *op. cit.*, p. 11.

grapple conceptually what the rise of collaborative platforms means and discover how to address this practically, the following challenges posed by this novel phenomenon will have to be addressed: clarifying terminological chaos and inconsistencies when describing the collaborative economy, eliminating legal grey areas without curbing the innovative character of new business models, reconciling the conflicting interests of public authorities, stakeholders, and customers, investigating particular regulatory problems in specific areas of law (especially in labour law and tax law), balancing the needs of the technosphere and the natural environment, and unifying differentiated practices in various sectors and Member States. The current size and future development trends of the collaborative economy in Europe, as well as the present approach towards regulating the collaborative economy on a national and EU level, ought to be examined in order to develop the most optimal regulatory framework of the sector.

Taking the above-described efforts is necessary to address the main research question, which is: “How should the collaborative economy sector be regulated in the European Union from the standpoint of sustainable development?” A full and comprehensive answer to this question needs to indicate the type of regulation (lack of regulation, self-regulation, top-down regulation imposed by public authorities or collaborative regulation), the novelty of applicable regulation (expanding existing rules or creating new regulations), the timing of regulation (*ex ante* vs *ex post*), the scope of regulation (horizontal cross-cutting rules or sector-specific provisions, one-size-fits-all approach or rules based on certain level of frequency/profitability of performed activities), the authority to impose regulation (regional and national or EU legislator), and finally what type of legal instruments on the EU level (regulations, directives, decisions, or soft law), if any, should be adopted.

Research Hypotheses

This paper verifies the following research hypotheses. The optimal EU’s model for regulation for the collaborative economy should be based on existing rules, which would be tailored to specific sectors and consist of an *ex post* framework (with the exception of situations in which people’s lives and health are at stake). Instead of choosing top-down or bottom-up regulations, the EU legislator should balance collaborative regulation after consultation with representatives of the collaborative economy sector as well as national and local authorities. The most effective model for the collaborative economy should be centralised at the EU level and built on already developed solutions, which are effectively implemented in some Member States. In the Author’s opinion, a directive is the most appropriate legal instrument to implement new provisions.

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Summary

This publication addresses the issue of the collaborative economy in the European Union from the perspective of sustainable development. From the simple idea of renting, lending, reselling, or swapping underutilised resources (e.g., tools, space, time, and skills), the collaborative economy developed into a complex, novel, and innovative economic sector which has completely revolutionised traditional markets and shifted consumer preferences and lifestyles. Today's collaborative economy consists of a wide array of business models which vary significantly in their ideological roots, values, technological resources, size, and legal forms. This multifaceted socio-economic phenomenon has become a subject of fierce debate in both media and academic discourses. While supporters of the collaborative economy firmly believe that it is a promising opportunity for individual activism, sustainable development and environmental progress, opponents call it a misleading mystification of an unruly and unjustly idealised "low cost" access economy. Whether collaborative platforms should be seen as profit-driven corporations which hide their disruptive business model under greenwashing slogans, or as pioneers in transforming commercial business models into sustainable and environmentally friendly companies, is highly disputed.

This publication aims to assess the economic, social, and environmental costs and benefits of collaborative platforms, as well as address a series of complex regulatory challenges in a number of areas, including unclear employment status of workers, tax enforcement, anti-discriminatory rules, data privacy, cyber security, market access, and unfair competition. Given that sustainability has become one of the top priorities of the EU, it is vitally important to develop optimal legal framework to ensure that collaborative platforms operate in the EU in the most sustainable, inclusive, and effective manner. Therefore, the main research objective of this paper is to find the best hypothetical model for regulating the collaborative economy in the EU in order to mitigate disruptive socio-environmental impacts. Achieving this goal unlocks growth potential for the entire economy by creating jobs, prosperity, and commonwealth in the EU, as well as by minimising the detrimental impact of collaborative platforms on the environment and traditional markets.

This publication encompasses a doctrinal legal-dogmatic approach, as it examines various regulatory approaches to collaborative economy platforms adopted by the European Union and its Member States, as well as by the United Kingdom. The methods applied in this research include black letter law analysis, international comparative research, cross-disciplinary analysis, case study, and literary criticism. The literature examined for this paper contains academic publications on collaborative economy (books, chapters in books, articles in journals, online publications), reports of nongovernmental organisations and private companies, as well as printed and online media news.

To the best of the Author's knowledge, prior to the publication of this work, there have been no published papers that focus on the evaluation of the collaborative economy sector in the EU from the standpoint of sustainable development. The Author hopes that this fresh perspective shall contribute to the lively debate on the future of collaborative platforms and provide feasible solutions and recommendations for EU legislator in a field in which research and professional practice frequently seem to be in discord.

Keywords:

collaborative economy; sharing economy; European Union; sustainable development; collaborative platforms; digital economy

Streszczenie

Niniejsza praca podejmuje temat problematyki tzw. gospodarki współpracy (*collaborative economy / sharing economy*) w Unii Europejskiej z perspektywy zrównoważonego rozwoju. Począwszy od prostej idei opartej na wynajmowaniu, wypożyczaniu, odsprzedawaniu lub wymianie niewykorzystanych zasobów (tj. narzędzi, przestrzeni, czasu czy umiejętności), gospodarka współpracy stała się nowatorskim i innowacyjnym sektorem gospodarki, który całkowicie zrewolucjonizował tradycyjne rynki oraz znacząco wpłynął na preferencje konsumentów oraz ich styl życia. Po dwóch dekadach dynamicznego rozwoju gospodarka współpracy obejmuje obecnie szeroki wachlarz modeli biznesowych, które różnią się pod względem reprezentowanych wartości, zasobów technologicznych, wielkości i prawnych form działania. To rewolucyjne zjawisko społeczno-gospodarcze stało się w ostatnich latach szeroko dyskutowanym tematem debat medialnych i akademickich. Zwolennicy gospodarki współpracy wierzą, że ten innowacyjny sektor stanowi obiecującą szansę dla indywidualnego aktywizmu, zrównoważonego rozwoju i postępu ekologicznego, przeciwnicy natomiast uważają, że jest to wyidealizowana, niskokosztowa gospodarka, destrukcyjnie wpływająca na środowisko i kulturę pracy. Szczególnie kontrowersyjna wydaje się działalność platform współpracy, a dokładnie to zagadnienie, czy powinny one być postrzegane jako nastawione na zys korporacje, które ukrywają swój destrukcyjny model biznesowy za marketingowymi sloganami ekologicznymi, czy też jako pionierzy w przekształcaniu komercyjnych modeli biznesowych w modele zrównoważone i przyjazne dla środowiska.

Celem pracy jest ocena wpływu platform współpracy na ekonomię, społeczeństwo i środowisko, a także przedstawienie szeregu złożonych wyzwań regulacyjnych w wielu obszarach prawnych, w tym m.in. niejasnego statusu zatrudnienia pracowników, egzekwowania podatków, przepisów antydyskryminacyjnych, prywatności danych, cyberbezpieczeństwa, dostępu do rynku i nieuczciwej konkurencji. Biorąc pod uwagę to, że zrównoważony rozwój stał się jednym z najważniejszych priorytetów UE, niezwykle istotne jest opracowanie takich ram prawnych, które zapewnią, że platformy współpracy będą działać w sposób zrównoważony i efektywny. Stąd też głównym celem badawczym niniejszej pracy jest wypracowanie możliwie optymalnego i efektywnego modelu regulacji gospodarki współpracy w Unii Europejskiej z perspektywy zrównoważonego rozwoju. Osiągnięcie tego celu może pomóc w uwolnieniu potencjału wzrostu całej gospodarki przez tworzenie nowych miejsc pracy oraz zminimalizowanie szkodliwego wpływu platform współpracy na środowisko i tradycyjne rynki.

Do zbadania postaw i regulacji prawnych wobec platform gospodarki współpracy, wypracowanych przez Unię Europejską i jej państwa członkowskie, a także przez Wielką

Brytanię, zastosowano podejście prawno-dogmatyczne. Metody wykorzystane w tym badaniu to analiza aktów prawnych, międzynarodowe studium porównawcze, analiza interdyscyplinarna, studium przypadku i krytyka literacka. Literatura analizowana na potrzeby niniejszej pracy obejmuje publikacje akademickie na temat gospodarki współpracy (książki, rozdziały w książkach, artykuły w czasopismach, publikacje internetowe), raporty organizacji pozarządowych i przedsiębiorstw prywatnych, a także wiadomości przedstawiane w mediach internetowych i prasie.

Zgodnie z wiedzą Autorki przed opublikowaniem tego opracowania nie wydano żadnych prac naukowych, które koncentrowałyby się na ocenie sektora gospodarki współpracy w UE z perspektywy zrównoważonego rozwoju. Autorka ma nadzieję, że to świeże spojrzenie przyczyni się do rozwoju debaty na temat przyszłości platform współpracy oraz dostarczy praktycznych rozwiązań i rekomendacji dla ustawodawcy UE w dziedzinie, w której badania i praktyka zawodowa często wydają się rozbieżne.

Słowa kluczowe: gospodarka współpracy, gospodarka dzielenia się, Unia Europejska, zrównoważony rozwój, platformy współpracy, gospodarka cyfrowa

This publication makes a notable contribution to the highly discussed and lively topic of the collaborative economy in the European Union from a sustainable development perspective. The author provides readers with novel and comprehensive data regarding the economic, social, and environmental costs and benefits of collaborative platform activity in Europe. The main research objective of this publication is to find the best hypothetical model for regulating the EU's collaborative economy in order to mitigate disruptive socio-environmental consequences. Achieving this goal unlocks substantial growth potential for the entire economy by creating jobs, prosperity, and common wealth in the EU, as well as by minimizing the detrimental impact of collaborative platforms on the environment and traditional markets. Additionally, this book sheds light on a series of complex regulatory challenges in a number of areas, including an unclear employment status of workers, tax enforcement, anti-discriminatory rules, data privacy, cyber security, market access, and unfair competition. This book is a must-read for those who are searching for the most up to date information on the socio-environmental impact of the collaborative economy, the EU's and UK's policies towards digital platform regulation, and the contribution of the EU to the achievement of the Sustainable Development Goals. The author firmly believes that this fresh perspective makes a substantial contribution to the lively debate on the future of collaborative platforms and provides feasible solutions and recommendations for EU legislators in a field where research and professional practice frequently seem to be discord.



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