

Deloitte Access Economics

The sharing economy and the Competition and Consumer Act

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Executive Summary

Overview of the sharing economy

The Australian Competition and Consumer Commission (ACCC) commissioned Deloitte Access Economics to conduct research into the sharing economy.

The defining feature of the sharing economy is the existence of a platform connecting buyers and sellers in a market and reducing transactions costs, where the buyers and sellers are individuals or small businesses. Essentially, the sharing economy emerged because developments in information and communications technology have significantly lowered transactions costs.¹

Platforms also provide coordination benefits, reducing bargaining costs and the need for individual contracts to be negotiated for every transaction. They can also assist with policing and enforcement through peer review structures and requirements for background checks, safety checks, or insurance.

Current state of play and future of the sharing economy

In Australia the sharing economy has started to grow over recent years, particularly in the transport and accommodation sectors, with high-profile businesses like Uber and Airbnb becoming household names and disrupting traditional businesses. Other sectors with growing sharing businesses include peer-to-peer lending, task services, and household goods sharing. The sharing economy is even more developed in the United States and some European economies.

There is an almost universal view among academic, market and technology commentators that the sharing economy will continue to grow. This will include the geographic and service-line expansion of existing players and the potential development of new services around urban living, broadband and additional task services.

At present, sharing economy operations may not fully comply with existing laws. As laws and regulations were designed with the traditional economy in mind, there are instances where their application remains uncertain, including in the areas of taxation, insurance and employment law.

However, our focus in this report is on competition and consumer issues that are of most relevance to the ACCC (and the enforcement of *Competition and Consumer Act 2010* (CCA)) but that may also be of interest to state-based offices of fair trading.

¹ Institute of Public Affairs (IPA), The sharing economy: how over regulation could destroy and economic revolution, https://ipa.org.au/portal/uploads/Sharing_Economy_December_2014.pdf.

Competition and the sharing economy

There are three aspects to competition in the sharing economy— first, between suppliers that offer goods and services over sharing platforms; second, between sharing platforms themselves; and third, between sharing platforms and their providers and traditional businesses. By facilitating the growth of trade overall in certain sectors, it is likely that sharing economy platforms encourage competition **between suppliers**.

Competition **between sharing platforms** depends on a range of factors, including:

- the extent of sunk costs incurred in starting up a platform (for example, platform and technology research and development, advertising or promotion to establish a reputation in the market);
- economies of scale that preclude viable entry below a minimum efficient scale;
- customer switching costs (e.g. search costs, transaction costs) and customer inertia in switching platforms;
- network effects that provide an advantage to platforms with an existing user base; and
- actions by incumbents to deter new entry (e.g. price wars, the creation of strategic user switching costs through contracting).

Where there are high sunk costs in starting up a platform, significant economies of scale, high customer switching costs and inertia, and significant network effects, sharing economy platforms are more likely to gain a significant share of a particular sharing market, and hence to dominate that market. As the sharing economy continues to gain market share, the barriers to entry may evolve as platforms grow, and it is unclear whether barriers to entry will be lower or higher in future.

Indeed, where significant network externalities are present, it may be optimal for only a limited number of platforms to exist. This can encourage more competition in the market for the services that the platforms supply and raise consumer welfare overall. Nevertheless, this need not mean that the market should be limited to only one platform.

A bigger issue for competition is ‘regulatory neutrality’ **between sharing economy providers and traditional businesses**. Regulatory neutrality need not involve identical regulations for the sharing economy and traditional businesses, as long as the same effect is achieved from regulation. At present, sharing economy providers have fewer regulations applied to and/or enforced against them, and this affects traditional businesses’ ability to compete. The scale and speed of the roll-out of sharing economy platforms, as well as differences in the way they operate compared to regular businesses, have overwhelmed regulators’ ability to enforce regulations applying to platforms. This means that platforms may be able to side-step complying with regulations that already apply to them.

It is conceivable that a lack of regulatory neutrality may strengthen traditional businesses’ incentives to engage in anti-competitive conduct in order to maintain market share, for example, by colluding over sharing particular markets, or engaging in exclusive dealing to require that employees only work for the traditional business. It may also lead to an increase in the number of complaints to the ACCC about sharing platforms’ conduct from traditional businesses or their representatives.

The sharing economy and the *Competition and Consumer Act 2010*

Businesses in the sharing economy, like all businesses, are subject to Australia's existing competition laws. Part VII of the CCA gives the ACCC the power to exempt sharing platforms from various competition laws where the Commission is satisfied that doing so would be in the public interest.

There are five main issues that could arise in respect of applying the CCA to the sharing economy:

- sharing platforms could impose exclusivity on users of the platform, especially suppliers;
- horizontally or vertically integrated platforms could leverage market power in one product/service market into other product/service markets, rendering non-integrated platforms unable to compete;
- sharing platforms could engage in predatory pricing to drive competing platforms out of the market;
- the ACCC is likely at some point to receive informal merger applications from sharing economy platforms as they seek to grow scale; or
- the ACCC may be asked to coordinate development of a prescribed industry code under Part IVB of the CCA, or to conduct inquiries under Part VIIA into the pricing behaviour of sharing platforms.

While the above circumstances — and any others that the ACCC could face in relation to the sharing economy — might appear at first blush to be new and different, they are more likely to reflect a different slant on familiar issues.

The key legislative issue relating to competition and the sharing economy is not related to the CCA but rather to industry-specific regulation that currently restricts competition and protects incumbent operators in the traditional economy. In some cases, sharing economy businesses may be operating in breach of these regulations.

Consumer protection and the sharing economy – self-regulation complements but does not substitute for the Australian Consumer Law

Consumer protection issues are commonly raised in the context of the sharing economy, as are concerns about the capacity of the existing regulatory framework to deal with these issues.

The Australian Consumer Law (ACL), Australia's national consumer protection law, is administered by the ACCC and protects consumers against conduct such as misleading representation and unfair contract terms. The ACL does not address all consumer issues — common law and industry-specific regulation also play a key role. The various rules that sharing platforms impose on themselves also form part of the regulatory framework.

To date, most of the consumer protection issues raised in the sharing economy context have concerned conduct covered *not* by the ACL but rather by other laws and regulations — in particular, personal safety concerns (albeit these fall within the ACCC's ambit if the platform or suppliers make representations about ensuring personal safety).

Given the ACCC's stature and role in protecting consumers, it is unsurprising that the ACCC can be a disgruntled consumer's first port of call.

In order to determine whether changes to the current regulatory framework are needed, careful consideration of the nature and size of the problem to be addressed is required. Any response should balance the severity of the perceived problem (and the ability of regulation to address it) with the constraints regulation places on the development of sharing platforms.

Application of the ACL to sharing platforms and suppliers

Whether it is the sharing platform or suppliers that engage in conduct that potentially breaches the ACL depends upon the types of activities the sharing platform facilitates.

The platform could merely be an 'information publisher' or it might also engage in marketing, price-setting and payment-processing. Figure i provides an overview of where sharing platforms' or suppliers' conduct could potentially be considered a breach of the ACL. Black dots indicate where the party's conduct might be a breach of the ACL.

Figure i: Sharing platforms' and suppliers' conduct and the ACL

	Sharing platform	Supplier
Misleading or deceptive conduct	●	●
Unconscionable conduct	●	●
Unfair Contract Terms	●	
Unfair practises Division 1:		
• Specific false or misleading representations & conduct about goods & services	●	●
• Wrongly accepting payment for goods & services	●	●
• Failing to supply gifts & prizes/not supplying them as offered	●	●
• Bait advertising	●	●
• Misleading representations about business activities (e.g. profits that can be made)	●	
Unfair practises Division 4: multiple and single pricing	●	●
Unfair practises Division 5:		
• Referral selling	●	●
• Harassment and coercion	●	●
Consumer transactions for goods or services:		
• Display of consumer guarantees	●	●
• Unsolicited agreements	●	●
Ensuring the safety of consumer goods and product related services		●
Supplying goods that do not comply with information standards		●

Source: Deloitte Access Economics, 2015

For most ACL provisions, it seems possible that both the sharing platform and suppliers could engage in conduct that breaches the ACL. On the other hand, it is difficult to see how sharing platforms could breach ACL provisions relating to product safety and information standards where they are not in direct control of the good/service at the point of supply. The degree of control the sharing platform exercises over the safety of the goods/services supplied, and its degree of control over the information that suppliers provide about the good/service, will affect its ability to ensure that these ACL obligations are complied with.

In considering whether a particular platform is more likely than another to raise concerns under the ACL, the ACCC needs to consider the specific features of that platform. Figure ii

provides an overview of selected features of various sharing platforms. Black dots indicate where the platform has the particular feature listed.

Figure ii: Features of selected sharing economy platforms

	Uber	Lyft	VRBO	Airbnb	Zopa	HomeAway	Flipkey	Pawshake	Funding Circle	Prosper	DogVacay	TaskRabbit	Airtasker	Lending Club	OpenShed	Kickstarter	Blablacar	JustPark	Parkhound	MonkeyParking
Supplier in Australia can use	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Multinational	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Source of revenue: ● = supplier/consumer ● = other (e.g. advertisers)	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Consumer offered Standard Form Contract	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Supplier offered Standard Form Contract	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Separate contract executed between supplier and consumer	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Relationship with supplier: ● = employee; ● = other	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Involves product/service where safety is a concern	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Sets prices paid by consumers	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Manages payments	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Markets/provides own information about suppliers' product	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●

Source: Deloitte Access Economics, 2015

It is not clear that sharing platforms, or suppliers that supply services via sharing platforms, inherently have any greater or lesser incentive to engage in conduct that would be contrary to the ACL than businesses in the traditional economy.

There are, however, features of the sharing economy likely to engender more complaints to the ACCC about platforms and suppliers than about businesses offering similar services in the traditional economy:

- Sharing economy businesses tend to rely more heavily on user reviews for marketing than businesses in the traditional economy, raising the prospect of misleading or deceptive conduct and representations where users make misleading claims that are not appropriately mediated by the platform.
- Sharing platforms' greater use of digital technologies means they are more able to adopt dynamic pricing than traditional businesses.
- The international nature of many platforms and their use of internationally standardised Standard Form Contracts raise the prospect that terms which do not comply with Australian laws could be included in the contracts, including terms which purport to carve the platform out of local regulations.
- Suppliers on platforms are more likely to be individuals than businesses, and may be unaware of their obligations under the ACL.

Establishing the need for regulation

While there is the potential for consumer protection issues to arise from the sharing economy, regulation should only be promulgated where a clear problem can be identified. Further, options available to regulators range from light-handed self-regulatory approaches to enforced standards. Regulation should balance the severity of the perceived problem (and the ability of regulation to address it) with the constraints regulation places on the development of the platform and on effective competition more broadly.

Platforms tend to adopt self-imposed rules and reputational mechanisms to address many of the concerns around consumer outcomes, in particular outcomes related to information asymmetries and personal harm. If these mechanisms are successful, they may obviate the need for formal regulation, or may lead to some form of self-regulation being the preferred outcome.

Self-imposed consumer protection mechanisms can be classified into two groups:

- **Enforced quality** – standards or requirements that platforms impose on their members, including history checks, qualifications, licences and minimum equipment standards; and
- **Reputational quality** – ratings and review mechanisms that allow both sides of the platform to establish a reputation as a signal of quality to future counterparties.

Neither enforced nor reputational quality protection mechanisms are unique to sharing economies. Businesses in all markets place some degree of quality assurance on their practices and have incentives to develop a positive reputation.

However, the strength and ubiquity of reputational mechanisms distinguish sharing economies. Reputational mechanisms developed by platforms have a variety of features, including bi-directional feedback, with both suppliers and consumers providing feedback on the other party; summary statistics, such as star ratings; and variations such as whether feedback is compulsory or each party is made aware of the rating.

The academic literature on the effectiveness of these mechanisms is also in its infancy and no firm conclusions are available on how well they overcome problems with information asymmetries and consumer protection, or whether the incentives facing platforms align with the wider interests of society.

Research in the area typically focusses on various biases that may emerge in online review systems. These include non-response bias, reciprocity bias and the occurrence of fake reviews or ‘phoenixing’. Enforced quality mechanisms, such as criminal record checks and minimum equipment standards, help protect against more egregious harm. Nonetheless, the overall effectiveness of these mechanisms is difficult to assess in the absence of data. Information, such as instances of violent actions or traffic accidents on ridesharing platforms or insurance claims on accommodation sharing platforms, would provide some evidence of how well self-imposed mechanisms work in the sharing economy.

Review systems may have implications for the ACL if they provide misleading representations of the quality of the platform or of the services provided on that platform. Because platforms have control over how reviews are displayed (such as the order of reviews or removing reviews), it is possible that consumers are not offered an accurate

representation of the feedback of other users. Further, the biases identified above may exacerbate these issues. Where platforms do not take steps to remove these sources of misleading information, or inform consumers of how the review systems are managed (including which reviews are published or removed, and why), they may be in breach of the ACL. Whether actions can be taken to mitigate bias depends on platform features as discussed in the previous section.

Overall, empirical evidence (such as complaint numbers or accident rates) is needed to determine whether sharing economy platforms have higher rates of consumer protection issues than traditional businesses. The use of and reliance on review systems reveals that while the systems may be imperfect, consumers trust and act on the information provided by them, and that they are effective to some degree. More information could be collected to inform whether a heavy-handed regulatory response to these platforms is justified. Instead, some level of oversight, with a focus on achieving desired outcomes, should form part of a future regulatory approach in markets where the possibility of consumer harm is high.

This may include enforcing a level of transparency, for example, requiring certain information to be collected by platforms, or formalising some level of self-regulation, such as quality assurance practices or dispute resolution schemes. Should these not be successful in achieving the desired consumer outcomes, more interventionist approaches may be considered on a case-by-case basis.

Existing regulations may be sufficient to regulate the sharing economy in some areas. For example, consumers have recourse to dispute resolution mechanisms governed by current law. As noted above, review systems may fall under misleading and deceptive conduct provisions in the ACL and not require additional regulation (although some guidance on what is required of platforms to address concerns of misleading conduct may be needed).

Steps in assessing the need for regulation and future research

Most sharing economy platforms are relatively new. Regulators across the world are assessing how they fit into existing regulatory frameworks. This report identifies some of the features that will be of concern to regulators and outlines some guiding principles for regulation.

Broadly, these principles should echo those of existing regulatory frameworks, and include:

- defining the market, in this case determining when a platform or activity forms part of the sharing economy;
- monitoring key aspects of these platforms in Australia;
- assessing whether the platform is covered by the Australian Competition Law;
- assessing the extent and severity of consumer protection or competition issues in the market in which the platform operates;
- analysing existing self-imposed or self-regulatory mechanisms to determine whether a formal regulatory response is needed; and
- if a regulatory response is needed, determining how the desired outcomes are best achieved without adversely affecting the ability of the platform to function.

At this stage there is little concrete evidence on which to base a more specific approach to regulating sharing economies. The box below sets out some directions for future research that would provide regulators with more evidence on how best to proceed.

A future research program into regulatory issues in the sharing economy:

- How large are the barriers to entry in starting up a sharing platform? Do these differ across platforms? Will these change over time? What is the quantum of the economies of scale and network effects associated with sharing platforms? What are the customer switching costs and do customers display inertia?
- What is the relationship between different sharing platforms and their users? From a legal perspective, would the ACL apply to either or both of the sharing platform and providers?
- How significant are biases in feedback mechanisms and what are the features of an 'efficient' or optimal feedback mechanism?
- How effective are self-imposed mechanisms in ensuring consumer protection relative to traditionally regulated markets providing the same good or service?
- Will the benefits of the sharing economy be experienced more by low-income or higher-income consumers? Will there be a digital divide affecting participation in the sharing economy?

Deloitte Access Economics

1 What is the sharing economy?

The Australian Competition and Consumer Commission (ACCC) commissioned Deloitte Access Economics to conduct research into the sharing economy.

This research will assist the ACCC in its understanding of markets in the sharing economy, disrupted markets and the responses of regulatory agencies, particularly in the administration of competition and consumer law. It also looks to the future of the sharing economy in Australia and the industries which are likely to be affected.

The sharing economy is also known as the “collaborative economy” and the “peer-to-peer market”. There are many possible definitions of the sharing economy and what it includes. The breadth of the sharing economy can reach from sharing of physical assets and providing services, to linking people with surplus goods, space or time to those who can make use of them.

This chapter discusses attributes of businesses that may be considered as part of the sharing economy, and the definition used in this report.

1.1 Platforms reducing transaction costs

The key defining characteristic of the sharing economy is the existence of a platform connecting buyers and sellers and reducing transactions costs. As explained by Ronald Coase in 1960, every market exchange has a transaction cost.

“In order to carry out a market transaction it is necessary to discover who it is that one wishes to deal with, to inform people that one wishes to deal and on what terms, to conduct negotiations leading up to a bargain, to draw up a contract, to undertake the inspection needed to make sure that the terms of the contract are being observed, and so on”.²

This transaction cost is made up of search and information costs, bargaining and decision costs and policing and enforcement costs. In some cases, mutually beneficial transactions that could occur do not because transaction costs are too high. Overall, this leads to resources being wasted in inefficient outcomes, since transaction costs (like taxes) drive a wedge between marginal valuation and marginal cost.

Essentially, the sharing economy emerged because developments in information and communications technology have significantly lowered transactions costs.³ For example, owners of under-utilised assets can more easily find users willing to pay for the use of their assets, allowing access to excess capacity, potentially from users around the world.

² Coase, Ronald, ‘The Problem of Social Cost’ Journal of Law and Economics 3 (1960): 15

³ Institute of Public Affairs (IPA), The sharing economy: how over regulation could destroy and economic revolution, https://ipa.org.au/portal/uploads/Sharing_Economy_December_2014.pdf.

Sharing economy platforms also provide coordination benefits. These platforms reduce bargaining costs by reducing the need for individual contracts to be negotiated for every transaction. They can also assist with policing and enforcement through self-regulation structures and requirements for criminal checks or insurance.

That said, the mere existence of a platform need not change the basic nature of an industry. Some of the offerings popularly categorised as part of the ‘sharing’ economy are hardly novel, but are now facilitated by the lower transactions costs and the trust mechanisms of platforms, supporting trade between strangers. For example, people have always been able to ‘share’ personal assets with others – either for a fee or payment in kind – and while online platforms have increased the volume and value of these transactions, they do not represent a change in the way the market operates.

1.2 Asset ownership

Ownership of an asset confers the right to use or ‘dispose’ of property as the owner sees fit, including allowing others to use or access it with or without charge. The sharing economy brings together more owners and potential renters, facilitating mutually beneficial exchanges that might not otherwise have occurred.

Benefits to owners of idle assets include the ability to recover the cost of time, space or money allocated to an asset that would otherwise have not been used. The benefit to renters of idle assets is that they can consume the services of those assets for less than they would need to spend to purchase and own the asset outright.

For large and costly assets such as cars, some users may simply be unable to consume their services without the opportunity to rent rather than own. This may be because they face a financial constraint on their ability to borrow or a space constraint on their ability to store an asset if owned rather than rented.

Bringing idle asset capacity to market through rental intensifies the use of assets and reduces waste. To the extent that externalities from creating new assets are not correctly priced, reductions in the creation of new assets permitted by more intensive use of existing assets can improve environmental amenity.

To be classified as part of the sharing economy, the **platform should be owned and operated separately from the services exchanged**. The ultimate owners of the assets, e.g., cars, houses, etc., whose services are exchanged on the sharing platform can be individuals, businesses or a mix of both.

For example, GoGet is commonly regarded as part of the sharing economy since members ‘share’ the services of a fleet of cars. However, the platform where car services are offered for rental by the hour is owned and operated by GoGet as are the cars. This is not an arrangement where the owners of cars make the services of their cars available to carless renters over an independently owned platform where bids and offers are transacted electronically and in real time. In this sense, GoGet is no different from traditional car rental firms like Hertz or Avis, who also own fleets of vehicles and make them available for rental online and for collection and drop-off at specified locations.

The services of assets made available over sharing platforms need not be restricted to physical assets. They can include the services of financial assets, as occurs in the case of peer-to-peer lending. Again, ‘shared’ lending requires a platform owned and operated independently of the ‘peers’, who may be either individuals or businesses. Loans arranged on a bilateral basis by financial brokers, on the other hand, do not qualify as part of the sharing economy because there is no platform upon which the peers interact independently of the broker.

1.3 Peer review systems

Peer review, incorporated into the platform, is another typical feature of the sharing economy. At present, many sharing economy operations are illegal. The law is clear and has not changed, and while there is much debate on whether regulation is required or not, the starting point should be that some of these platforms, or the operations resulting from the platforms, do not currently abide by the law.

Peer review provides a system where goods and services can be rated, with the aim of ensuring minimum standards. The methods that platforms have developed to overcome consumer protection concerns to some degree mimic the outcomes that more direct regulation would seek to achieve.

1.4 Our focus for this study

Popular conceptions of the ‘sharing’ economy cover a broad spectrum of activities. In this report, we limit our attention to genuinely peer-to-peer exchanges that take place over an independently owned and operated platform; where consumer law applies because the exchanges qualify as ‘trade and commerce’ rather than informal, non-commercial arrangements; and where self-regulation is currently the only form of regulatory oversight or discipline.

Apart from sharing the services of assets, people can ‘share’ their own time (labour) over sharing platforms. Examples include TaskRabbit, where people bid and offer for errands to be run, and Airtasker, where people with various skills offer their time to those in need of their services. While these applications of the sharing economy are essentially online versions of the labour market, they involve the use of peer-to-peer platforms and hence come within our definition of the sharing economy.

Broadly, our focus in this report covers applications where a platform connects individuals or businesses that are separate from the platform, and in an arena where transactions are governed by self-regulation rather than traditional regulation.

Airbnb and Uber fall into this category. These are platforms that connect people offering spare accommodation or spare car space with those in need of these services, and that have a strong dependence on self-regulation for the review of services provided.

Peer-to-peer lending operations are also covered, including platforms such as Prosper, LendingClub, Kickstarter, Funding Circle and Zopa. At the other end of the spectrum, brokerage businesses that facilitate lending between businesses are considered part of the traditional economy and outside the scope for this study.

2 Current state of play in sharing economy markets

In Australia, the sharing economy has grown significantly over recent years, particularly in the transport and accommodation sectors. While still representing a relatively small market share relative to traditional businesses, its presence has disrupted these industries and the way they operate.

Participation in the sharing economy has increased particularly quickly in recent years. After the GFC, people have sought to save money by infrequently renting an item when required rather than purchasing outright, and have also adopted ways to make money from assets they already own. While renting an object may be more expensive in the long run, it allows for short term use of an asset at a fraction of the cost, with consumers perceiving it as more accessible. The growth in smartphone penetration, estimated at 75% in 2014, has also facilitated take-up, with people being able to access information and connect to others at all times.⁴

The sharing economy has boomed in the United States and Europe. Part of the reason for more widespread adoption in countries such as the United States is sheer provider and consumer numbers – the more buyers and sellers that a platform can bring together in the sharing economy, the more effectively it works. To this end, the markets in Australia are still developing.

In September 2014, the UK Government sought an independent report on the sharing economy focussed on establishing the UK as a global centre for the sharing economy whilst ensuring fair treatment for all operators. The report, *Unlocking the sharing economy – An independent review* provided a number of key recommendations around how to foster innovation, trust and identity, insurance, tax clarification and the development of a new industry trade body.⁵

The European Sharing Economy Coalition was launched in 2013, with the purpose of placing a greater emphasis on sharing and collaboration, raising awareness of the sharing economy, ensuring it is a political priority, increasing the size of the sharing economy in the EU and funding pilot projects and platforms across European cities.

Across geographical borders, the Sharing Cities Network is an initiative which 50 cities across 15 countries have signed up to, ranging from Melbourne to Seoul to Amsterdam. The Sharing Cities Network aims to create online hubs to share skills and assets, and share

⁴ TNS 2014, Survey cited at <http://www.adnews.com.au/adnews/answering-marketers-prayers-smartphone-penetration-hits-75>.

⁵ Woskow, D 2014, *Unlocking the sharing economy An independent review*, Report for the Minister of State for Business, Enterprise and Energy, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/378291/bis-14-1227-unlocking-the-sharing-economy-an-independent-review.pdf.

council buildings with community groups (such as opening up space on rooftops for community gardens).

Growth in the sharing economy

There is significant potential for growth both domestically and overseas. Statistics are cited such as: only 1% of tourists visiting New York stay in Airbnb properties, and that while there are around 1 billion cars globally, there are only 2.3 million members of car sharing programs.⁶ It is estimated that revenue in the global car sharing market is expected to grow from US\$1 billion in 2013 to more than US\$6 billion in 2020.⁷

Growth will depend on trust and reputation, particularly on the effectiveness of ratings and review systems, as discussed in Chapter 5. The response of the sharing economy to the challenges presented by regulation will also influence its ability to increase its market share in particular industries.

One study has found that the long-term benefits of the sharing economy will be greatest for low income consumers, though it is uncertain whether these results can be generalised. Based on data from sharing economy service Getaround, Samuel Fraiberger and Arun Sundararajan from New York University (2015) found that in the long run, below-median income consumers obtain the greatest welfare gains through broader inclusion, higher quality rental-based consumption and new ownership facilitated by rental supply revenues⁸. The sharing economy can facilitate a higher standard of living for people who otherwise could not afford to own certain assets, with the shift to renting expected to be most evident for lower income consumers.

That said, it is unclear whether the findings from this research apply in practice. Fraiberger Sundararajan noted that international experience suggests that low income earners are not participating in the sharing economy as much as people with higher incomes for a number of reasons. These include the need to have a credit card and smartphone to access platforms. Survey data also suggests that lower income people are less trusting of their neighbours or society in general, and trust is a key prerequisite for sharing economy transactions⁹.

Market impact of the sharing economy

Growth in the market share of the sharing economy has provided significant challenges for traditional businesses. There are questions as to the impact of this growth – whether the growth is new, with lower transactions costs facilitating exchanges which otherwise would

⁶ The Conversation 2013, The sharing economy spooking big business, <http://theconversation.com/the-sharing-economy-spooking-big-business-19541>.

⁷ Reidy, C 2013, The sharing economy spooking big business, <http://theconversation.com/the-sharing-economy-spooking-big-business-19541>.

⁸ Fraiberger, S and Sundararajan, A 2015, 'Peer-to-Peer Rental Markets in the Sharing Economy' draft, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2574337.

⁹ Cited by the New Zealand Herald, Promise of the 'sharing economy' is what it could do for the poor, http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11418648

not have occurred, whether the growth is directly in competition with the traditional economy, or somewhere in between.

Zervas et al (2015) estimated Airbnb's impact on hotel room revenue, taking into account the different patterns of Airbnb adoption across cities. Using data from 2008 to 2013, the authors found that in Austin (Texas), where the number of Airbnb rooms is the highest, there is an 8-10% negative impact on hotel revenue¹⁰. Further, for every 10% increase in the size of the Airbnb market, there is a 0.37% decrease in monthly hotel room revenue.

It was found that Airbnb's influence was greater on lower-priced and non-business hotels, with evidence that such hotels were responding to the competition by lowering their prices, which ultimately benefits all consumers. The study concluded that Airbnb was therefore in competition with incumbent businesses.

In contrast, Airbnb has commissioned its own studies on its impact, finding that its business model is complementary to the hotel industry. In Portland, it found that 96% of Airbnb properties are located outside the main hotel areas, implying that instead of direct competition, Airbnb provides different alternatives to travellers.¹¹

In San Francisco, a study found that the average number of trips per taxi had fallen from 1,424 per month in March 2012 (close to when Uber entered the market) to 504 in July 2014. While the decline cannot be attributed solely to the presence of ride-sharing, this is a significant change.

¹⁰ Zervas, G, Proserpio, D and Byers, JW 2015, 'Estimating the impact of Airbnb on the hotel industry', <http://people.bu.edu/zg/publications/airbnb.pdf>

¹¹ Airbnb Community Generates \$61 Million in Economic Activity in Portland, <https://www.airbnb.com.au/press/news/new-study-airbnb-community-generates-61-million-in-economic-activity-in-portland>

Peer-to-peer platforms hark back to older times

Rachel Botsman is considered something of a guru on the subject of the sharing economy, having written a book called *What's Mine Is Yours* while running a consultancy firm specialising in the area.

"It's amazing, actually – over the last three years, it's now a case of what's not being shared. There's everything from people's back gardens, parking spaces, homes, skills, [and] workspaces. People are realising they can share or access versus needing to individually own."

Ms Botsman insists the rise of peer-to-peer commerce is not a passing fad, but rather a massive global movement transforming people into businesses.

"I believe the collaborative revolution that's happening will be as big as the industrial revolution. The sharing economy is the first manifestation of this, because what's happening is a very deep social and economic shift enabled by technology."

While there are fears people are becoming more isolated in the digital age, Ms Botsman argues the opposite is true.

"We used to swap, we used to trade, we used to rent, we used to barter," she said. "Now these village squares, through technology, are becoming like a global village. "It's much easier for these behaviours to exist on a scale that's never existed before."

Source: Adapted from <http://www.abc.net.au/news/2014-08-05/airbnb-uber-proving-a-hit-as-australia-turns-to-sharing-economy/5650484>

2.1 Transport

The transport sector has seen significant disruption through the launch of ride-sharing platforms like Uber, Lyft and Sidecar.

At this stage in Australia, the main player in the ridesharing sector is Uber, which launched in Australia in October 2012. Uber launched its ridesharing service, UberX, in April 2014 in Sydney and since then has expanded to Brisbane, Melbourne and Perth. Uber also operates in Adelaide, but only with its premium UberBlack service.

At present, there are no significant ridesharing competitors to Uber in Australia. However, globally there are a wide range of ridesharing platforms which compete with Uber, especially in the United States.

While these services are similar in that they each deliver passengers to destinations agreed through a platform, platforms vary on:

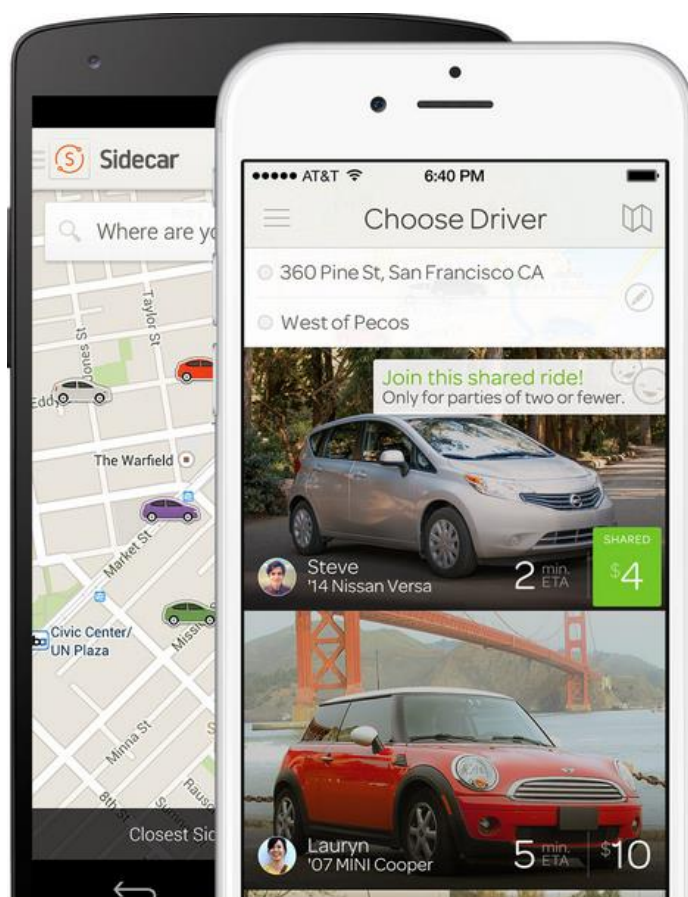
- whether the price is set by the platform or by the provider;
- whether consumers can actively choose the driver and the type of vehicle that they engage or have it chosen for them by the platform; and

- the level of ‘formality’ in the transaction.

Internationally, Lyft is the most significant competitor to Uber. Lyft provides a similar ride-sharing service in terms of cost, safety, customer support and ease of interaction. Lyft’s main differentiator is its informality. While Uber effectively operates like a taxi service in terms of professionalism, Lyft cars are marked with a pink moustache and drivers are encouraged to ‘fistbump’ passengers upon entering the vehicle.

Sidecar, which is a ridesharing service operating in ten major US cities, varies from Uber and Lyft in that it allows consumers to choose their driver, vehicle and price before they get into the vehicle. An example of the type of screen which is offered to a passenger is shown at Figure 2.1. Drivers offering rides set their own prices and can filter the types of passengers that they get offered to tailor the types of rides that they want to give (e.g. longer rides or a rides to their home neighbourhood at the end of the day).

Figure 2.1: Sidecar sample screen



A UK ridesharing platform, Blablacar, also allows passengers to contact car owners of their choice, and drivers can also accept or decline requests. Another feature is that users can state their desired level of engagement with the driver, ranging from ‘bla’ (no talking) to ‘bla-bla-bla’ (sharing your life stories).

The New Zealand government, along with private companies and governmental organisations, is working towards developing regulation for ridesharing. At present, it is

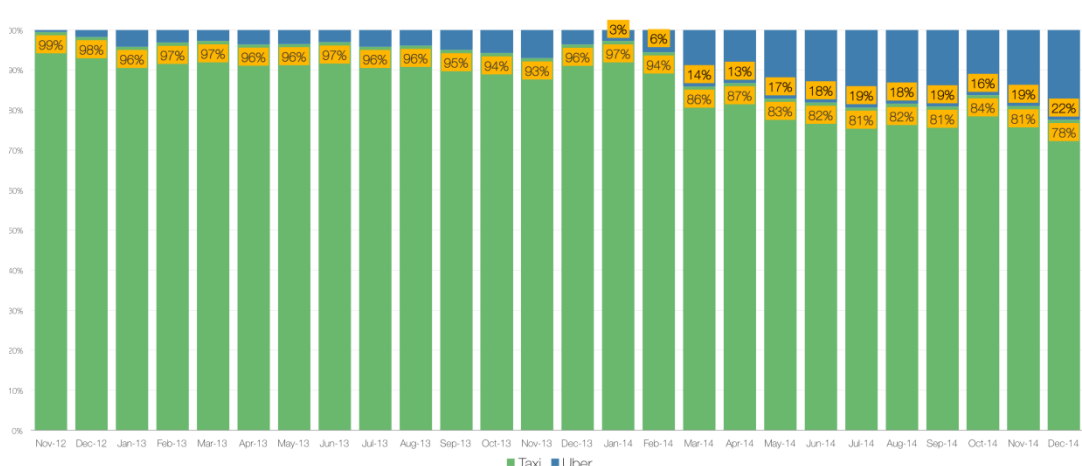
going through a process of identifying which regulations are required, while permitting Uber to continue operating as rules are reviewed. This is a step forward from the police crackdown earlier in 2015, when Uber drivers were fined for using their smartphones as meters. This action ultimately resulted in a report of police harassment being lodged with the Independent Police Complaints Authority.

Uber claims that approximately 10% of Sydneysiders have used a ride sharing service. In addition to its ridesharing service, UberX, Uber also operates a range of more conventional booking services including UberBlack and UberTaxi.

Uber's market share has grown dramatically in recent years. The following chart considers the proportion of people who spent money on Uber services relative to the proportion who paid for taxi services electronically. This has jumped from 1% of transactions in November 2012 to 22% in December 2014.¹² It should be noted that these statistics refer to market share only, and that the total number of taxi licences available are determined by the NSW Government in annual decisions.

When the proportions of cash vs electronic payments are taken into account, it is estimated that \$1 is spent on Uber services for every \$12 spent on taxis in December 2014.¹³

Chart 2.1: Uber vs electronic taxi transactions in Australia



Source: Pocketbook Australia 2015

It is clear that the sharing economy confers significant benefits for transport consumers, but there are also critics. The taxi industry has been vocal in its protests – industry concerns include insufficient checks and balances on drivers and vehicles, non-compliance with the law, inadequate insurance and workers' compensation, no industrial relations arrangements and surge pricing¹⁴, and the impact of these on the taxi industry.

¹² Pocketbook Australia Pty Ltd, The Rise and Rise of Uber in Australia, <https://getpocketbook.com/blog/the-rise-and-rise-of-uber-in-australia/>.

¹³ Ibid.

¹⁴ NSW Taxi Council 2015, Presentation to the IPART Round Table Review of Taxi Licences and Fares in Sydney, <http://nswtaxi.org.au/sites/default/files/IPART%20ROUND%20TABLE%20PRESENTATION%20-%2027%20JANUARY%202015.pdf>.

Further, it has been estimated that the average typical UberX partner in Sydney drives around 20 hours a week and earns \$2,500 a month¹⁵ while a typical taxi driver drives for around 45 hours per week¹⁶ and earns \$43,000 per annum (around \$3,600 per month), which would be of concern for the taxi industry. While an Uber driver must pay costs such as petrol, depreciation, and insurance out of their earnings, it is still clear that their earnings still tend to be higher, for a job that may also be secondary to other employment. A 2015 study by Uber found similar results in the US, with Uber drivers in the top 20 US markets averaging more than \$19 per hour in earnings compared with \$12.90 in average hourly wages for taxi drivers.¹⁷

The Australian Taxi Industry Association (ATIA) has launched the 'Grab a Cab!' campaign to encourage the public to only use regulated, licenced taxis, with an example of its marketing shown in Figure 2.2.

Figure 2.2: ATIA campaign against ride-sharing



Source: Australian Taxi Industry Association (ATIA) 2015

Uber has also faced challenges with governments, experiencing bans in Sydney, Melbourne, Amsterdam, Brussels, Berlin, Paris, London, Madrid, Cape Town, Vancouver, New York, San Francisco, New Delhi, Seoul and Manila.¹⁸ Recently, however, there has been a move to work with authorities rather than against them to come to appropriate ways forward. In its submission to the *Competition Policy Review*, Uber expressed that it was ready to discuss the regulation of ride sharing with state governments.

That said, Uber faces ongoing challenges. In July 2015, Uber was fined \$7.3 million in its home state of California for not complying with laws related to fair treatment of all passengers.¹⁹ It was found that Uber had failed to provide information on passengers

¹⁵ Katie, 'Uber's Letter to the Transport Ministers of Australia' Uber Blog, 6 November 2014, www.blog.uber.com/Transport-Minister-Letter

¹⁶ 2013 Taxi driver survey, http://www.transport.wa.gov.au/mediaFiles/taxis/taxis_driver_survey_2013.pdf

¹⁷ Uber Study Shows Its Drivers Make More Per Hour And Work Fewer Hours Than Taxi Drivers <http://techcrunch.com/2015/01/22/uber-study/>

¹⁸ Are Airbnb and Uber creating a new black economy?, <http://www.smh.com.au/business/are-airbnb-and-uber-creating-a-new-black-economy-20150214-13dg7p.html>.

¹⁹ Colin Barnett will lead Libs for 2017 election, backs Uber taxi service <http://www.perthnow.com.au/business/companies/colin-barnett-will-lead-libs-for-2017-election-backs-uber-taxi-service/story-fnkjkuhs-1227444661051>

requiring accessible vehicles, rides that were requested and not accepted, and information related to driver safety.

Uber driver: Christopher Port

Christopher Port, 67, used to run his own business relocating trucks across Queensland, but after a downturn last year he closed it down.

These days, he uses his personal car to make him money. Christopher is a driver on Uber, a ride-sharing application that has become a popular alternative to taxis across the world. Whenever he feels like it, the Brisbane resident logs on and looks for passengers who need a lift. "I was looking for something I could do, when I wanted to do it," he said.

There are plenty of other people who, like Christopher, are using their cars to earn some extra cash. Christopher says passengers benefit too. "I think they get a much cleaner, tidier vehicle and they get a few complimentary things on board," he said. "We normally offer water and lollies. It's a personalised service."

Source: Adapted from <http://www.abc.net.au/news/2014-08-05/airbnb-uber-proving-a-hit-as-australia-turns-to-sharing-economy/5650484>

2.2 Accommodation

Airbnb is an accommodation sharing site, originally developed to fill a niche in supplying temporary bed and breakfast facilities when hotel space was limited.²⁰ It is a platform which connects people who seek to rent out an unused space with short-term renters and travellers.

While Airbnb has a natural leaning towards urban areas, its geographic reach in Australia spans the whole country, with rentals available in areas such as Mildura, Alice Springs and Broken Hill.

Airbnb has experienced exponential growth. Starting out in 2008, Airbnb is now valued at around US\$13 billion, with more than 25 million users across 34,000 cities worldwide. It has also faced its share of legal and regulatory challenges internationally. These include breaching the terms of lease, and hosts not declaring income from renting. As the average Airbnb host in Australia earns about \$5,000 a year, with scope for greater earnings by some, there is the potential for tax avoidance problems with undeclared income, particularly as the business and sector continues to grow.²¹

²⁰ Airbnb: The story behind the \$1.3bn room-letting website
<http://www.telegraph.co.uk/technology/news/9525267/Airbnb-The-story-behind-the-1.3bn-room-letting-website.html>

²¹ Are Airbnb and Uber creating a new black economy?, <http://www.smh.com.au/business/are-airbnb-and-uber-creating-a-new-black-economy-20150214-13dg7p.html>

Airbnb's general stance in Australia is that abiding by local laws is the responsibility of hosts, not Airbnb, but notes that many of the laws are outdated and predate sharing economy platforms and services.²²

Self-regulation via reviews are also important in Airbnb's operation – with guests giving places star ratings based on accuracy of descriptions, communication with the host, cleanliness of the room, its location, check-in experience and value. On the host's side, issues include noisy renters and rooms being trashed. Airbnb now provides hosts with a guarantee that covers property loss or damage from vandalism.

Some of the alternatives to Airbnb are FlipKey, HomeAway, VacationRentals and VRBO. Many of the alternative sites only offer accommodation in particular countries (such as the USA and UK) rather than being international services.

While studies suggest that Airbnb properties may provide direct competition for hotel businesses, the hotel industry in Australia is still experiencing growth. Deloitte Access Economics' Tourism and Hotel Market Outlook 2015 estimates that the Australian hotel sector experienced robust growth in 2014, with growth in occupancies and average daily rates of 2.2% during the year, and revenue per available room increasing by 4.4%.²³

2.3 Other sectors

Services, space and other assets

While the sharing economy is best known for its impact on the transport and accommodation markets, there are a number of other sectors in which sharing economy businesses have made their mark. These include:

- labour hire (TaskRabbit, Airtasker);
- pet care (DogVacay, Pawshake);
- parking availability (Parkhound, MonkeyParking); and
- space availability (JustPark, Open Shed).

Other innovative opportunities include those being pursued by the Melbourne City Council, including community owned energy projects, solar leasing projects, use of city rooftops to grow vegetables and host beehives. These initiatives can be difficult to catalogue as there are many individual applications of the sharing economy which continue to evolve over time.

²² Are Airbnb and Uber creating a new black economy?, <http://www.smh.com.au/business/are-airbnb-and-uber-creating-a-new-black-economy-20150214-13dg7p.html>.

²³ Deloitte Access Economics Tourism and Hotel Market Outlook 2015, <http://www.deloitteaccessseconomics.com.au/uploads/File/DAE%20Tourism%20Hotel%20Outlook%20Feb%202015.pdf>

Peer-to-peer lending

The sharing economy has also disrupted traditional lending markets, with the emergence of non-bank networks such as Prosper, LendingClub, Kickstarter, Funding Circle and Zopa. Lending can be for individuals or institutions, or in the case of Kickstarter, to assist in funding start-up companies.

These peer-to-peer lending networks are convenient for both parties and remove some of the complexity and high costs associated with traditional lending as they have minimal administrative, marketing and infrastructure costs. With these lower costs, peer-to-peer lending can often offer rates either comparable with, or below, traditional markets. That said, there may be greater risks than in the traditional sector, particularly where there may be reduced insurance or guarantees relating to default.

2.4 Other regulation

While Chapter 3 addresses competition and consumer law, and Chapter 5 addresses self-regulation, there are many other regulations which could have an impact on the operations of the sharing economy. These are discussed below.

Taxation

Taxation is an important issue for all businesses. At present, some share of earnings from the sharing economy in Australia may go undeclared and therefore (illegally) evade taxation. As earnings can amount to thousands of dollars per year, the avoided tax can become significant over time, particularly as the sharing economy continues to expand its market share. One of the criticisms about evading taxation is that the funding contributes to infrastructure relied upon by both the sharing economy and traditional economy including roads and law enforcement.

The Australian Taxation Office (ATO) has published information about the sharing economy and tax, which suggests that the tax laws which apply to activity in the traditional economy apply in the same way to activity conducted in the sharing economy²⁴. As such, they classify earnings from the sharing economy as assessable income regardless of whether a business is being run.

Where sharing economy participation is a regular money-making exercise for someone, this may be considered an enterprise, even if it is not a business, and hence subject to GST obligations. This has significant implications for the sharing economy as previously the general view was that sharing economy suppliers are like businesses, and therefore had a \$75,000 threshold before paying GST²⁵. The decision by the ATO suggests that all sharing economy drivers must have an ABN and register for and pay GST on the gross fare (as taxi

²⁴ The sharing economy and tax, <https://www.ato.gov.au/Business/GST/In-detail/Managing-GST-in-your-business/General-guides/The-sharing-economy-and-tax/>

²⁵ Taxi office red flags Uber, Airtasker and Airbnb in sharing economy crackdown, <http://www.businessinsider.com.au/tax-office-red-flags-uber-airtasker-and-airbnb-in-sharing-economy-crackdown-2015-5>

drivers currently do), regardless of their earnings. UberX drivers in Australia have been given until August 1 to get an ABN, register, and begin charging GST, before the ATO begins to crack down on non-compliance.

A summary of sharing economy examples and their tax obligations is summarised in Table 2.1.

Table 2.1: Taxation and the sharing economy

Example	Earnings subject to income tax?	Earnings subject to GST?
Renting out rooms in a house	Yes	No
Renting out a car space	Yes	Yes
Doing odd jobs	Yes	No
Driving passengers for a fare	Yes	Yes

Source: ATO (2015)

In the US, there has been some progress towards approaches for taxing the sharing economy. For example, in the City of Portland, Airbnb collects tax on behalf of the homeowners and pays this directly to the council. There have been questions about the transparency of the approach because it only reports tax in aggregate, rather than for individuals involved, but it is a step forward when compared with other cities worldwide.²⁶

David Hantman, Head of Global Public Policy at Airbnb, also noted in a panel discussion at the FTC's June 2015 Sharing Economy Workshop that Airbnb had offered for all income earned to be subject to tax.²⁷ Interestingly however, there are some jurisdictions where laws prevent Airbnb from collecting tax as they are not deemed to be the right party to do so.

Insurance

There are questions around insurance in the sharing economy, with new types of arrangements meaning that current insurance instruments and policies are insufficient to meet evolving needs.

For example, in the transport sector, it is unclear what insurance should be held for mixed private and commercial use of a car, though NRMA has recently started offering cover for Australian ride-share drivers who indicated they infrequently use their vehicle for business purposes.²⁸ In the accommodation sector, there is uncertainty around the insurance required for temporary boarders where the residence is not a licensed hotel.

²⁶ Andrew Leigh 2015, Sharing the benefits of the sharing economy - Policy Forum, http://www.andrewleigh.com/sharing_the_benefits_of_the_sharing_economy_anu_policy_forum.

²⁷ Video available online at <https://www.ftc.gov/news-events/audio-video/video/sharing-economy-workshop-part-3>

²⁸ Are you insured if you use UberX? NRMA offers cover for ride-share drivers... but experts claim it's useless because controversial app is 'illegal', <http://www.dailymail.co.uk/news/article-3108721/Are-insured-use-UberX-NRMA-offers-cover-ride-share-drivers-experts-claim-s-useless-controversial-app-illegal.html>

While Airbnb has a \$1 million host guarantee to insure hosts against damage to property or theft by guests, it is unclear what insurance should be held by hosts for their guests. Anecdotally, hosts have been concerned about their liability if guests were to injure themselves within their apartment (for example slip on the floor or fall down the stairs). Airbnb has sought to address this by providing data on their 35 million stays to insurance companies to assist in the development of new insurance products, which are reportedly relatively cheap, reflecting the low number of reported incidents.²⁹

Employment law

There are also implications relating to employment law, and whether participants in the sharing economy are considered to be independent contractors or employees. The *Competition Policy Review* supports the push for changes to contractor law to make the labour market more competitive, away from a position where some enterprise agreements restrict employers' choice of contractor.

In June 2015, the California Labor Commission ruled that Uber drivers were employees, not independent contractors. The basis of this ruling is that while Uber claims to be a platform connecting consumers with its drivers, it actually sets most of the terms of employment, and is involved from vetting of drivers through to terminating them if they have low ratings. This ruling, if more broadly applied to Uber, would mean that it no longer fits under the definition of the sharing economy used in this report.

At present, the ruling is being appealed and currently only applies to one driver, though there is the potential for wide-ranging implications. For example, the ruling puts the onus on Uber to cover workers' compensation, employee expenses and other charges.³⁰

It is yet to be seen whether a similar ruling would occur in Australia, given the different definitions of employees and independent contractors. That said, indicators such as hours of work, expectation of work, superannuation, tools and equipment, method of payment and leave more align with independent contractors in Australia³¹, and there are other factors which suggest an independent contractor relationship as opposed to an employer-employee relationship.³² Ultimately, this would be a matter for the Courts in Australia to decide.

²⁹ David Hantman, Panel 3 discussion at FTC Sharing Economy Workshop, <https://www.ftc.gov/news-events/audio-video/video/sharing-economy-workshop-part-3>.

³⁰ US ruling could damage Uber model, <http://www.skynews.com.au/business/tech/2015/06/18/us-ruling-could-damage-uber-model.html>

³¹ Contractors and employees – what's the difference?, <http://www.fairwork.gov.au/about-us/policies-and-guides/fact-sheets/rights-and-obligations/contractors-and-employees-whats-the-difference>

³² Are Uber Drivers Independent Contractors Or Employees?, <http://www.fglaw.com.au/are-uber-drivers-employees/>

3 Regulatory disruption of the sharing economy

The literature surrounding regulation and the sharing economy is at a fairly nascent stage in its consideration of the issues the sharing economy presents for regulation. Regulators around the world are similarly grappling with the issues. Opposing sides of the debate argue that:

- Sharing economy services operate outside the rules and regulations which exist to “protect public safety, ensure people pay their fair share and guarantee workers’ rights.”³³ They compete with existing providers without being held to the same standards and rules.³⁴
- Rapid growth of the sharing economy alleviates the need for much top-down regulation, because it does a better job of serving consumer needs. Continued application of outmoded regulatory regimes is likely to harm consumers.³⁵

The debate at times fails to define ‘regulation’ and to distinguish between its different forms. The Australian Government’s *Guide to Regulation* defines ‘regulation’ as:

“Any rule endorsed by government where there is an expectation of compliance.” (The Australian Government Guide to Regulation, 2014)

Adopting this definition, Figure 3.1 sets out a spectrum of regulatory responses, including the distinction between ‘regulation’ and ‘self-regulation’. (Self-regulation is discussed in detail in Chapter 5.)

³³ Leigh, A. (2015), ‘Sharing the Future: Competition in the App Age’, National Press Club Canberra, March 24.

³⁴ Ranchordás, S. (2015), ‘Does Sharing Mean Caring? Regulating Innovation in the Sharing Economy’, preliminary version, *Minnesota Journal of Law, Science & Technology*, Winter; FTC (2015), ‘Sharing Economy Workshop’, Panel 3.

³⁵ Koopman, C., Mitchell, M., and Thierer, A. (2014), ‘The Sharing Economy and Consumer Protection Regulation: The Case for Policy Change’, Mercatus Center at George Mason University; Allen, D. & Berg, C. (2014), *The Sharing Economy: How Over-Regulation Could Destroy an Economic Revolution*, Institute of Public Affairs; Kaplan, R. (2014), ‘Regulation and the Sharing Economy’, *New York Law Journal*, vol 252(12); FTC (2015), ‘Sharing Economy Workshop’, Panel 3.

Figure 3.1: Spectrum of regulatory responses

	None	Better enforcement of existing	'Light touch'	Self-	Quasi-	Co-	Explicit
Definition	Reliance on market, general liability laws (e.g. negligence or breach of contract) and insurance laws	N/A	Principles/ outcomes based regulation	Industry-written and enforced rules	Rules developed in conjunction with government that are not part of explicit government regulation, but seek to influence behaviour	Industry developed and administered rules underpinned by legislation allowing for enforcement	'Black-letter law'
Examples	N/A	Creation of 'apps' to assist gathering information on breaches of regulation, information and education campaigns etc	Typically describes provisions within a broader instrument – a provision states a broad principle if the principle is flexible and covers a wide range of circumstances at a high level of abstraction	Voluntary industry codes of conduct, e.g. Code of Banking Practice, Insurance Brokers Code of Practice	Guidance notes, industry-government agreements, accreditation schemes	Prescribed codes under the <i>Competition and Consumer Act 2010</i> , e.g. Franchising Code of Conduct, Horticulture Code of Conduct	Primary and subordinate legislation – <i>Competition and Consumer Act 2010</i> , <i>Corporations Act 2001</i> , <i>Work Health & Safety Act 2011</i>
When to adopt	Costs regulation > benefits regulation	Existing regulation is effective	When it is desirable to provide discretion over how parties meet an obligation	Consequences of market failure are low Market is likely to move towards optimal outcome by itself	Increasing probability and consequences of risk		High perceived risk or public interest Achieving compliance is seen as critically important
Creation and amendment	N/A	N/A	Industry, government	Industry	Industry, government	Industry, government	Government
Enforcement	N/A	N/A	Industry appointed and/or government dispute resolution/enforcement body	Industry appointed dispute resolution/enforcement body	Industry appointed dispute resolution/enforcement body	Government dispute resolution/enforcement body	Government dispute resolution/enforcement body

Source: Australian Government Guide to Regulation, Deloitte Access Economics

In the debate about regulation and the sharing economy, regulation is typically articulated as being of a ‘command and control’ and prescriptive nature, and in turn as being sluggish in responding to the dynamic nature of the sharing economy — either in terms of stifling its growth, or not providing regulatory coverage where it is needed.

At times the debate also fails to distinguish between regulations that create regulatory burden with no clear benefit, versus regulations that are in place to make markets work better, for example to:

- address equity issues and/or inefficient allocation of resources;
- address abuse of market power;
- correct for information asymmetry;
- overcome externalities;
- ensure the delivery of public goods; and
- curb irrational market behaviour.³⁶

Australia’s competition and consumer protection laws provide examples of regulations that are in place because they facilitate better economic outcomes than would arise in their absence. This chapter provides an overview of Australia’s competition and consumer protection laws (the *Competition and Consumer Act 2010* (CCA) and the Australian Consumer Law (ACL)), which are the key regulations administered and enforced by the ACCC. The chapter then considers competition and consumer protection issues that could arise in the sharing economy under those regulations.

3.2 Overview of competition and consumer laws in Australia

In Australia, the main Act which regulates competition and consumer protection in markets is the *Competition and Consumer Act 2010* (CCA). The CCA covers most aspects of market exchange, including relationships between suppliers, wholesalers, retailers, and consumers. The objective of the CCA is to,

“enhance the welfare of Australians by promoting fair trading and competition, and through the provision of consumer protections.” (Section 2 CCA, 2010)

The CCA consists of thirteen parts. The first three focus on the purpose of the CCA and establish the role of the ACCC, the National Competition Council, the Australian Competition Tribunal and the Australian Energy Regulator. The parts that follow cover various aspects of competitive behaviour and define what is considered to be unlawful. Broadly, these parts cover:

- misuse of market power;
- infrastructure access (the National Access Regime);

³⁶ Australian Government (2014), *The Australian Government Guide to Regulation*.

- anticompetitive agreements between competitors (e.g. cartels, primary boycotts, price signalling);
- anticompetitive agreements between suppliers and customers (e.g. third line forcing, resale price maintenance);
- secondary boycotts;
- mergers and acquisitions;
- industry codes of conduct;
- the ACCC's prices surveillance powers; and
- industry specific access and anti-competitive conduct regulation – in particular, for the telecommunications sector.

With regards to consumer protection, the ACL is a separate schedule to the CCA. The ACL is Australia's national fair trading and consumer protection law. Broadly, it includes the following protections:

- General protections which create standards of business conduct in the market, including:
 - a general ban on misleading and deceptive conduct in trade or commerce;
 - a general ban on unconscionable conduct in trade or commerce and specific bans on unconscionable conduct in consumer and some business transactions; and
 - a provision that makes unfair contract terms in consumer contracts void.
- Specific protections which address identified forms of business conduct, including in relation to:
 - specific unfair practices in trade or commerce;
 - consumer transactions for goods or services;
 - the safety of consumer goods and product related services; and
 - the making and enforcement of information standards.³⁷

Importantly, the CCA and the ACL generally apply to all sectors of the Australian economy, other than where a more limited application has been found to provide a net benefit to the public. With respect to the sharing economy, the Government commissioned *Competition Policy Review* concluded that Australia's competition laws need to be fit for purpose for the digital age — the review did not however find that any changes to the CCA need to be made to accommodate the digital age, suggesting the laws are already largely fit for purpose.³⁸

³⁷ Australian Government (2010), 'ACL: An Introduction', accessed at http://www.consumerlaw.gov.au/content/the_acl/downloads/ACL_an_introduction_November_2010.pdf, on May 15 2015.

³⁸ Harper, I., Anderson, P., McCluskey, S. & O'Bryan, M. (2015), *Competition Policy Review: Final Report*.

3.3 Competition and the sharing economy – conceptual framework

The *Competition Policy Review* concluded that community expectations will demand that providers in the digital economy compete on the basis of the quality, value and responsiveness of the products and services they offer to consumers.³⁹ Competition provides incentives to improve economic efficiency – to:

- produce goods and services at least cost (technical or productive efficiency);
- allocate resources to their highest valued use (allocative efficiency); and
- innovate to create new products and production processes (dynamic efficiency).⁴⁰

These efficiencies play a vital role in enhancing community welfare. In terms of the sharing economy therefore, competition between:

- suppliers that offer goods and services over sharing platforms;
- different sharing platforms; and
- the sharing economy and the traditional economy

has the potential to promote efficiencies that enhance the welfare of Australians.

Markets tend to exhibit higher levels of competition where:

- They are not heavily concentrated (though concentrated markets can still exhibit vigorous competition between firms).
- There is a high likelihood of timely and sufficient new entry. Put another way, there are not high barriers to entering the market.
- There is actual or potential competition from imported goods or services.
- There are a range of goods or services that are substitutable for the goods or services supplied in the market in question.⁴¹

When it comes to the sharing economy, and in particular sharing platforms, competition depends on a range of factors. For example the extent of:

- Government regulations and policies that are enacted to dissuade new platform entry.
- Sunk costs incurred in starting up a platform, and that increase the risks of failed entry (for example, platform and technology research and development, advertising or promotion to establish a reputation in the market).
- Economies of scale, which may preclude viable entry below a minimum efficient scale.
- Customer switching costs (e.g. search costs, transaction costs) and customer inertia in switching platforms.

³⁹ Ibid.

⁴⁰ ACCC (2014), 'Reinvigorating Australia's Competition Policy: ACCC Submission to the Competition Policy Review'.

⁴¹ ACCC (2008), *Merger Guidelines*.

- Network effects – that is, the platform becoming more valuable as the number of users increases. Network effects provide an advantage to platforms that have an existing user base over prospective entrants that do not.
- Actions by incumbent platforms to deter new entry (e.g. price wars, the creation of strategic user switching costs through contracting – including exclusive long-term contracts and termination fees).

Regulation (such as the CCA) has a role to play in promoting competition. Such regulation is not about the pursuit of competition for its own sake – rather, it seeks to facilitate competition to promote efficiency and economic growth, whilst accommodating situations where competition does not achieve efficiency.⁴²

There is no clear reason why the sharing economy should not be subject to Australia's existing competition laws – other than where it can be demonstrated that competition would not achieve efficiency.

In the context of sharing platforms, it could be argued that there are efficiencies in individual platforms having greater scale (i.e. more users on their platforms, and therefore more transactions taking place). Certainly this is the case when an individual platform is considering the economics of its own business. However, this does not obviate the prospect of competition between platforms. 'Tipping' refers to a platform becoming a dominant platform because all buyers and sellers use that platform. 'Multi-homing' refers the ability for users to transact across multiple platforms for similar good or services. Tipping would allow the single platform provider to use its dominant position to extract rents from its users by charging higher prices (and/or offering lower service quality); whereas the ability to multi-home negates this effect. Achieving the optimal level of platform entry, and therefore competition, in the market for a particular sharing good or service relies on the ability of users to multi-home; what the optimal number of platforms is will depend on the scale economies associated with the particular platform.

Platforms' desire to build scale (particularly at the expense of competing platforms) could mean that they have a greater incentive to engage in anti-competitive conduct than business in markets in the traditional economy where scale is not an issue.⁴³ Having said this, whilst the specific cases and conduct that the ACCC may be faced with could at first blush appear different to those to which the ACCC is more accustomed, they are more likely to reflect a different slant on familiar issues.

A bigger issue for competition is 'regulatory neutrality' between sharing economy providers and traditional businesses. Regulatory neutrality need not involve identical regulations for the sharing economy and traditional businesses, as long as the same effect is achieved from regulation. Sharing economy providers have fewer regulations applied to and/or enforced against them, and this affects traditional businesses' ability to compete. The scale and speed of the roll-out of sharing economy platforms, as well as differences in the way they operate compared to regular businesses, have overwhelmed regulators' ability to enforce

⁴² Hilmer Review pp. xvi & 6.

⁴³ Consultation with Stephen King.

regulations applying to platforms. This means that platforms may be able to side-step complying with regulations that already apply to them.

A lack of ‘regulatory neutrality’ may also strengthen traditional businesses’ incentives to engage in anti-competitive conduct in order to maintain market share, for example, by colluding over sharing particular markets, or engaging in exclusive dealing to require that employees only work for the traditional business. It may also lead to an increase in the number of complaints to the ACCC about sharing platforms’ conduct from industry bodies representing traditional businesses.

3.4 Competition issues that could arise in the sharing economy

This section of the report sets out competition issues that could arise in the sharing economy.

3.4.1 Trends towards horizontal and vertical integration

As discussed in Chapter 4, as platform businesses grow, there may be a move towards them offering additional products and services off their platforms — either in different markets (horizontal integration) and/or up- and down-stream from their primary product/service (vertical integration). Uber, for example, has started offering a food delivery service.

These trends raise the prospect of any integrated platforms with market power using that market power to force or incentivise their suppliers and/or consumers to support the integrated business model, in order for the platform to maximise revenues. For example, a ridesharing service with market power could move into markets such as the delivery of parcels, or credit cards; and then make it compulsory for its drivers to also deliver parcels, or transact using specific credit cards. Increased integration could also allow an integrated platform to cross-subsidise across the different arms of its business — making it difficult for non-integrated platforms to compete on the basis of price (such as is seen in the supermarket and petrol station markets). Importantly though, in order for the platform to engage in this type of ‘leveraging’, it must have a degree of market power in at least one of the markets it operates in.

An example of this type of conduct has previously occurred in the credit card market. In this market, platforms grew their network size and then leveraged this to offer new payment products, which they made compulsory for existing users. For instance, if a merchant had signed up to honour Visa, they had to also accept all Visa products regardless of the fees. This ‘honour all cards’ rule was banned by the Reserve Bank of Australia in 2007.

The CCA is likely to be sufficiently able to deal with these issues, as they already arise across a number of sectors of the economy, for example (as noted) supermarkets and petrol stations, and telecommunications. Of note though, the *Competition Policy Review* recently recommended that section 46 of the CCA be re-framed to prohibit a corporation that has a substantial degree of power in a market from engaging in conduct if the proposed conduct has the purpose, or would have or be likely to have the effect, of substantially lessening

competition in that or any other market.⁴⁴ Such a re-framing could assist the ACCC in its pursuit of any of the aforementioned ‘leveraging’ conduct.

3.4.2 Exclusive dealing

The discussion above on multi-homing and tipping outlines that there is likely to be an incentive for sharing platforms to maximise the number of consumers and suppliers on their platform, and minimise the number on their competitors’ platforms.

One way in which a sharing platform could seek to do this would be to impose exclusivity on users of the platform (suppliers in particular).⁴⁵ Conceptually, it is possible for, for example, Lyft to require that its drivers only drive for Lyft. If this were to occur it would provide fertile ground for tipping to occur, since the existing drivers would be locked in.

However, whilst the incentive to engage in this conduct may exist, it is questionable whether sharing platforms would have the ability to sustain it.⁴⁶ In particular, it is possible that consumers and suppliers would ‘retaliate’ in response to demands for exclusivity by turning to competing platforms that do not require it. If there are low barriers to entry, this would enable new entrants to enter the market, increasing the prospect of consumer and supplier retaliation. In turn, this may reduce the incentive to require exclusivity in the first place.

In practice, sharing platforms generally currently do not impose exclusivity arrangements on users. As David Plouffe of Uber noted at a recent Grattan Institute event, a driver can drive for Uber, Lyft, or anyone else.⁴⁷

The prospect of traditional economy businesses engaging in exclusive dealing — in particular taxi companies requiring taxi drivers not to drive for Uber — has also been raised. Whilst this type of conduct is certainly possible, we are not currently aware of any evidence that such restrictions are in place.

3.4.3 Resale price maintenance

The CCA precludes a supplier from forcing an intermediary to sell its product at a specified minimum price.

Whether or not issues could arise in relation to sharing platforms will depend on whether the platforms actually engage in price setting, or whether they are merely ‘information providers’ that re-publish suppliers’ prices. To the extent that platforms do have some control over pricing, and receive a percentage of the price transacted between consumers and suppliers, they could have an incentive to ensure suppliers’ prices do not fall below a certain level.

⁴⁴ Harper, I., Anderson, P., McCluskey, S. & O’Byrne, M. (2015), *Competition Policy Review: Final Report*.

⁴⁵ King, S. (2015), ‘The three regulatory challenges for the sharing economy’, *The Conversation*.

⁴⁶ Consultation with Stephen King.

⁴⁷ Grattan Institute (2015), ‘Policy Pitch - Regulating the peer-to-peer economy’, Panel discussion Melbourne 9 February.

The *Competition Policy Review* found that, having regard to the potential for resale price maintenance to become more commonplace in the online economy, it is prudent to retain the per se prohibition against the conduct for the time being. It noted however that policymakers should monitor this type of conduct, since the per se prohibition may become unnecessary in future. It considered that allowing notification (to the ACCC) of resale price maintenance would be an appropriate next step.⁴⁸

3.4.4 Mergers and acquisitions

As noted above, sharing economy platforms have an incentive to grow their market share due to the presence of economies of scale and network externalities. They may also have an incentive to acquire other platforms that offer products and services in horizontal or vertical markets (as discussed above). From this perspective, it is likely that the ACCC will at some point in the future receive informal merger applications from sharing economy platforms.

There is some precedent in relation to ‘platform’ mergers. In 2012 the ACCC opposed the proposed acquisition by Carsales.com of assets associated with Trading Post from Telstra. The ACCC concluded that the proposed acquisition would likely result in a substantial lessening of competition through the removal of a close and effective competitor of Carsales.com. It found that:

- the proposed acquisition would increase the already high barriers to entry for the supply of online automotive classified advertising; and
- by adding significant inventory and audience to its websites, the acquisition would reinforce the network effects or ‘virtuous cycle’ that Carsales enjoys through having the largest inventory and audience in the market.⁴⁹

The issues that the ACCC would need to consider in relation to a sharing platform merger are likely to be similar to those considered in this matter; but in any event, they are unlikely to necessitate any departures from the ACCC’s long and well established conceptual approach to reviewing merger applications.

The *Competition Policy Review* recommended that there should be further consultation between the ACCC and business representatives with the objective of delivering more timely decisions in the informal merger review process.⁵⁰ This is particularly important for sharing economy platforms due to the fluid and dynamic nature of the sharing economy.

3.4.5 Predatory pricing

Predatory pricing occurs when a company with substantial market power or share of a market sets its prices at a sufficiently low level with the purpose of damaging or forcing a competitor to withdraw from the market. The company is then able to recoup the lost earnings once the competitor has exited the market. It is precluded by both section 46(1)

⁴⁸ Harper, I., Anderson, P., McCluskey, S. & O’Byrne, M. (2015), *Competition Policy Review: Final Report*.

⁴⁹ ACCC (2012), ‘ACCC to oppose Carsales acquisition of Trading Post’, Media Release 20 December.

⁵⁰ Harper, I., Anderson, P., McCluskey, S. & O’Byrne, M. (2015), *Competition Policy Review: Final Report*.

and section 46(1AA) of the CCA (the latter being a specific prohibition of predatory pricing). The *Competition Policy Review* considered the effectiveness of these provisions in prohibiting predatory pricing and recommended amendments to section 46(1) that would allow section 46(1AA) to be repealed.

The question has been raised as to whether sharing platforms would be likely to engage in predatory pricing to force competing platforms out of the market. This could occur in the following ways:

- the platform offering listing fees for suppliers and consumers that are ‘so low’ that competing platforms are forced out of the market because parties don’t list with them — the platform then raises its listing fees once its competitors exit the market; or
- the platform reducing its commission from each transaction, allowing suppliers to achieve higher margins on that platform compared to competing platforms — the platform then raises its commission once its competitors exit the market.

Certainly it is possible that a particular platform could offer sustained low listing rates or commissions over a period of time to drive out competing platforms. However, it is not clear whether they would have the ability to subsequently raise listing rates or commissions in order to recover their losses and make monopoly profits. Whether they do will depend on the extent to which the scale and network effects gained via driving out competitors are sufficient to preclude alternative platforms from entering the market in the future. The extent to which scale and network effects create high barriers to entry for sharing platforms is still being discovered; and is an area the ACCC should consider for future research.

It is highly unlikely that individual sharing economy suppliers would engage in predatory pricing. In the first instance, an individual supplier is unlikely to have market power, nor the incentive or ability to engage in predatory pricing. Sharing economy suppliers are often individuals without the financial capital to sustain losses over long periods of time — hence it is unlikely that they would have the capacity to drive their competitors (either other sharing economy suppliers or traditional economy businesses) out of the market. Further, as soon as they sought to increase prices in response to driving competitors out of the market, given the ease with which new suppliers can enter the market, any short term profits would be competed away.

It is also unlikely that sharing platforms that set the prices their suppliers can charge consumers (e.g. Uber) would engage in predatory pricing with respect to those consumer prices (e.g. to drive taxis out of the market). This is because it would not only be the platform sustaining losses over a sustained period of time, but also the suppliers contracted to the platform. Indeed, when Uber and Sidecar offered free ride shares in Texas for a week in 2013, the drivers were compensated.⁵¹ It seems unlikely that individual suppliers would be willing to sustain such losses (absent compensation from the platform) over an extended period of time in order to assist the platform to maximise profits at a later time, for the reasons outlined above. Having said this, as noted above, the platform could instead engage in predatory pricing with respect to the commission it takes from suppliers, whilst maintaining the same level of consumer prices.

⁵¹ The SXSW Transportation Wars Are On, As Uber And SideCar Launch Free Ride Sharing In Austin, <http://techcrunch.com/2013/03/07/uber-sidecar-sxsw/>

In any event, the same difficulties that arise in the traditional economy when attempting to prove that a business is involved in predatory pricing will arise for the sharing economy. In particular, the initial signs of predatory pricing can appear pro-competitive, and there is often no clear evidence of an anti-competitive purpose that the ACCC can use to uphold an allegation.

In the first case of predatory pricing to be considered by the Australian High Court, *Boral v ACCC* (2003), the High Court found that Boral was not able to recoup its losses through charging supra-competitive prices and therefore did not engage in predatory pricing, despite two competitors exiting the market. On the other hand in *ACCC v Cabcharge Australia Ltd* (2010), the Federal Court found that Cabcharge sold its taxi meter units at substantially below its direct cost of acquisition, and so did engage in predatory pricing, despite no competitors exiting the market.

In the food and grocery sector, the ACCC conducted lengthy investigations into whether ‘shopper docket discounts’ offered by the major supermarket chains were lessening competition in retail fuel markets. Ultimately these investigations culminated in the major supermarket chains undertaking to limit the quantum of the discount offered (as opposed to the ACCC taking action in relation to predatory pricing). The ACCC has since successfully taken action against Woolworths for a breach of its undertaking.

3.4.6 Calls for ACCC intervention

The CCA includes certain ‘tools’ which allow the ACCC to intervene in regulating and monitoring markets – in particular, Industry Codes and Prices Surveillance powers. It is possible that, in response to perceptions that the sharing economy is not effectively regulated under the broader CCA (and/or ACL), or in relation to issues not covered by the CCA (and/or ACL), the public and/or policy makers may call for the ACCC to coordinate development of an industry code (in relation to, for example, addressing safety concerns associated with ride-sharing services), or to conduct inquiries into various pricing behaviours.

Part IVB of the CCA allows industry codes to be prescribed under the CCA, such that any breach of these codes would be treated as a breach of the CCA. In order for a code to be prescribed under the CCA, a case would need to be made that there is a real problem in need of a solution; and there would need to be evidence that the benefits of a code would outweigh the costs of the additional regulation. At the current point in time, it is difficult to envisage there being sufficient evidence to robustly demonstrate a problem, nor the benefits and costs of prescribing a code.

Part VIIA allows for prices surveillance in those markets where (in the view of the relevant Minister) competitive pressures are not sufficient to achieve efficient prices and protect consumers. It allows the ACCC to:

- Hold price inquiries in relation to the supply of goods or services, and to publicly report the findings.
- Examine proposed price rises on ‘notified’ goods, subject to instruction from the Minister.
- Monitor the prices, costs and profits of an industry or business under the direction of the Minister, and to publicly report the results.

An area where calls for such price monitoring could arise is in relation to types of pricing like Uber's 'surge pricing', because such pricing practices attract public backlash.⁵² This type of 'dynamic pricing' is not unique to the sharing economy. For example, it occurs in relation to airline ticketing and hotel room pricing.

It is however difficult to envisage that such price monitoring or inquiries could be justified. A case would need to be made that the particular sharing platform does not face sufficient competitive pressures (including from the traditional economy), that prices are not efficient and that they are harming consumers.

At present (using Uber's surge pricing as an example, because it is the most frequently raised as a concern), Uber faces competition from taxis and other modes of transport (and in some counties, other ride-sharing services). This means that if consumers do not wish to catch an Uber during a time of high pricing, there are alternatives. Indeed Uber's surge pricing could actually be welfare-enhancing for consumers, because it incentivises an increase in the supply of drivers — as such, dynamic pricing balances the supply of and demand for Uber services.

On the other hand, if consumers did not have alternatives to turn to, surge pricing could raise concerns. In these circumstances, surge pricing would likely reflect pricing to maximise Uber's profits (specifically, via price discrimination) at the expense of consumer welfare.

Concerns would also arise (under the ACL's misleading and deceptive conduct provisions) if Uber were to advertise that prices are high due to high demand, when demand is not in fact high. This issue is discussed further in section 3.5.1 and Appendix A.

3.4.7 Authorisations, notifications and clearances

Part VII of the CCA gives the ACCC the power to grant authorisation and immunity from some sections of the CCA, based on an assessment of the public benefits and anti-competitive detriments of particular conduct. This takes place through the notification or authorisation process.

The implications of these provisions are that where a sharing economy platform considers that it should be exempt from particular provisions of the CCA (on the basis of the public benefits generated by its exemption) there is an avenue for the ACCC to consider the issue.

The *Competition Policy Review* recommended that the CCA be amended to allow for the ACCC to consider block exemptions. Block exemptions would remove the need to make multiple individual applications for exemptions and create 'safe harbours' in relation to conduct that is unlikely to raise competition concerns. If sharing platforms were able to take advantage of such block exemptions, it would reduce the costs they face in having conduct authorised, and offer them a greater degree of regulatory certainty — it may therefore help the sharing economy to grow more quickly than if it was not available.

⁵² Thomsen, S. (2014), 'Uber's Surge Pricing Quadrupled Fares In Sydney's CBD, Then A Backlash Saw Them Offer Free Rides Instead', *Business Insider*, 15 December.

It is quite possible that sharing economy platforms could seek such exemptions in the future. Whether or not they should be granted will, as for any other authorisation or notification application, depend on the specifics of the matter at hand.

3.5 The sharing economy and the Australian Consumer Law

The ACCC's role in relation to the ACL is to inform businesses and consumers of their rights and obligations, monitor markets and emerging markets for unfair practices, and address harmful conduct including by taking action against businesses and individuals that break the law.

In 2013–14, the ACCC was involved in 53 court proceedings relating to consumer protection enforcement; accepted 14 consumer protection-related undertakings; and received payment for 23 infringement notices from nine traders, with penalties totalling over \$220,000.⁵³ In addition to undertaking these actions, the ACCC encourages and assists voluntary compliance by individual businesses and industry sectors. Initiatives range from individual trader compliance programs to sector-wide initiatives, including charters and voluntary codes of conduct tailored for individual industries. It also uses educational campaigns to ensure consumers and small businesses are fully aware of both their rights and responsibilities under the ACL, and to encourage compliance by businesses with the ACL.

In 2013, the ACCC prioritised online consumer issues⁵⁴ and in 2014 comparator websites. For example, in 2014, the ACCC released a report examining the Comparator Website industry in Australia; and in 2013 a compliance guideline, *Online reviews—a guide for business and review platforms*. The latter is aimed at helping review platforms comply with the ACL and reviewed businesses ensure the integrity of online reviews.⁵⁵ Three guiding principles are included in the guideline:

- be transparent about commercial relationships;
- do not post or publish misleading reviews; and
- omitting or editing reviews may be misleading.

In addition, tips for consumers who rely on online product reviews were added to the ACCC's website. The tips encourage consumers to seek information from multiple sources and to look at multiple reviews, as well as to check whether review platforms have commercial arrangements with reviewed businesses.

The ACCC also identified concerns about specific online review practices that were escalated for further investigation. Two matters have since been the subject of court action.⁵⁶

⁵³ ACCC Annual Report 2013-14.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid.

The ACL operates under a ‘multiple regulator model’. It is a single national law enforced in all jurisdictions by the various jurisdictions’ consumer regulators. ACL regulators work to employ the most effective means of addressing consumer harm through cooperative and complementary enforcement action, to avoid unnecessary duplication of effort in the effective administration of the ACL, and to ensure a consistent approach to dispute resolution and enforcement action.⁵⁷

3.5.1 Is the sharing economy likely to raise concerns under the ACL not seen in the traditional economy?

It is not clear that sharing platforms, or suppliers that supply services via sharing platforms, inherently have any greater or lesser incentive to engage in conduct that would be contrary to the ACL than businesses in the traditional economy.⁵⁸ As with any business, the risk of them engaging in conduct that breaches the ACL is likely to increase as their degree of market power increases, because there is less prospect that the competitive process will expose their unfair treatment of consumers. To the extent that barriers to entry are low – many of today’s sharing economy start-ups have very few capital assets of their own, and their main outlays are on the costs of administration and marketing⁵⁹ – the incentive to engage in conduct that harms consumers may be tempered by competition.

In addition, given risk averse consumers’ scepticism towards sharing economy products and services, the platforms may have a stronger desire to become ‘trusted third parties’ by introducing or ensuring suppliers’ compliance with legislated guarantees of service quality, service delivery, safe payment processes, insurance against risk, and so on.⁶⁰

There are nonetheless features of the sharing economy which mean that there may be more complaints about sharing platforms and suppliers breaching the ACL than for businesses in the traditional economy:

- Sharing platforms and suppliers tend to rely more heavily on user reviews for marketing purposes than suppliers in the traditional economy – complaints about misleading or deceptive conduct and misleading representations (specifically in relation to user reviews) may therefore be raised to a greater degree than in the traditional economy. Indeed complaints may be higher simply because rating and actively assessing performance is a key feature of the shared economy.
- Sharing platforms’ greater use of digital technologies mean they are more able to engage in dynamic pricing than traditional economy businesses that don’t make use of these technologies – when combined with representations around why prices are changing (e.g. due to peak demand) this raises the prospect of misrepresentations and misleading or deceptive conduct. In industries where consumers are accustomed to

⁵⁷ Australian Government (2010), *Compliance and enforcement: How regulators enforce the Australian Consumer Law*.

⁵⁸ King (2015), ‘The three regulatory challenges for the sharing economy’, *The Conversation*.

⁵⁹ Ure (2015), ‘Impact of the Sharing Economy’, *Intermedia*, March 2015 Vol 43 Issue 1; Koopman, Mitchell and Thierer (2014), *The Sharing Economy and Consumer Protection: the case for policy change*, Mercatus Research; King (2015), ‘The three regulatory challenges for the sharing economy’, *The Conversation*.

⁶⁰ Ure (2015), ‘Impact of the Sharing Economy’, *Intermedia*, March 2015 Vol 43 Issue 1.

uniform pricing, dynamic pricing could also lead to consumer confusion, and an increase in complaints. (Dynamic pricing is discussed in further detail above and in Appendix A.)

- Sharing platforms commonly make use of Standard Form Contracts – when combined with the international nature of the platforms and their desire to use a single standardised contract, this raises the prospect that terms which do not comply with Australian laws could be included in the contract. There are added complexities for consumers where Standard Form Contracts are executed with both the sharing platform and the supplier.
- The international nature of many of the platforms creates costs and complexities for their owners in understanding and complying with local regulations — this may in turn create greater incentives for them to seek to carve themselves out of those regulations (particularly when combined with their use of Standard Form Contracts).
- Suppliers are more likely to be individuals than businesses, and may hence lack awareness that they have obligations under the ACL, let alone awareness of what those obligations are.⁶¹

To the extent that these features are present in the traditional economy however, consumer complaints are equally as likely in relation to traditional economy businesses. Whilst the *volume* of issues arising under the ACL in relation to the sharing economy could be greater than for the traditional economy, those issues are unlikely to be new — though they may present themselves in different guises.

It is also possible that the ACCC will receive complaints from consumers about sharing economy platforms or suppliers that do not actually relate to breaches of the ACL. Commonly raised examples in the literature and public debate include rentals on Airbnb not meeting hotel fire standards, community chefs on sites like Kitchensurfing not following local health regulations and ride-sharing services not having a suitable type or level of insurance.⁶² These issues relate to compliance with the relevant fire standards, local health regulations and insurance laws, rather than compliance with the ACL. However, as found in the recent Woskowsky review in the United Kingdom, consumers often find it difficult to know what should happen if something goes wrong.⁶³ In these situations, the ACCC is likely to be a first port of call. It will be important for the ACCC to distinguish between complaints that fall within its ambit in enforcing the ACL, and those that fall within other enforcement agencies' domains.

Finally, consumers may have difficulty differentiating between the platform and the service provider and direct their complaint towards the wrong party. In these cases, it will be important for the ACCC to identify which party is at fault, and how best to resolve the complaint going forward.

⁶¹ Woskowsky, D. (2014), *Unlocking the sharing economy An independent review*, Report for the Minister of State for Business, Enterprise and Energy.

⁶² Rauch & Schleicher (2015), 'Like Uber, But for Local Governmental Policy: The Future of Local Regulation of the "Sharing Economy"'; FTC (2015), 'Sharing Economy Workshop', Panel 3.

⁶³ Woskowsky, D. (2014), *Unlocking the sharing economy An independent review*, Report for the Minister of State for Business, Enterprise and Energy.

Complaints that could arise under the ACL are explored in further detail in Appendix A.

3.5.2 Who in the sharing economy should be obligated to comply with the ACL, and are they currently covered?

The key questions in relation to the application of the ACL to the sharing economy appear to be whether:

- the sharing platform and/or the supplier should be subject to obligations under the ACL, and once this question is answered; and
- whether the relevant party is currently subject to obligations under the ACL.

In relation to the first question, it is arguable that the obligation to comply with a particular ACL provision should only be placed on the party that could engage in conduct that would breach that provision. This is based on the idea that placing liability for a risk with the party best able to manage it will lead to the most efficient management of the risk. Whether a given sharing platform can control whether a particular ACL provision is complied with will depend on the specifics of the platform's legal relationship with consumers and suppliers. This includes consideration of whether the platform is merely an 'information publisher' or whether it engages in a broader range of activities such as marketing, price setting and payment processing, as well as whether suppliers are classed as employees of the sharing platform or otherwise.

For example, King argues that sharing platforms merely bring buyers and sellers together, and in turn differ from sites like Booking.com that are essentially reselling third party services.⁶⁴ He argues that this means the platforms should not have to vet and verify all the information put up by users to ensure, for example, compliance with misleading and deceptive conduct provisions. He notes that, in contrast, suppliers should not be able to use sharing platforms to exaggerate their goods and services (for example, claiming a set of skills on Freelancer that you do not in fact have).⁶⁵

The definition of the relationship between sharing platforms and suppliers is still being tested. Most recently, the Californian Labor Commission has ordered Uber to reimburse a driver more than \$4000 in employee expenses, on the grounds that drivers for the ride-sharing service are employees, not independent contractors.⁶⁶ The Californian Labor Commission found that Uber had been dishonest in painting itself as a company running a mobile platform that connects drivers with riders instead of as a cab service, thereby freeing it from responsibility of its drivers; and that Uber and its management team were "involved in every aspect of the operation," including vetting prospective drivers and terminating them if their rating levels were low.⁶⁷ The ramifications of this case for other regulators' considerations of the relationship between sharing platforms and suppliers will be a key issue for the ACCC to monitor going forward.

⁶⁴ King (2015), 'A caring sharing economy?', *The Conversation*, 26 March 2015.

⁶⁵ Ibid.

⁶⁶ 'Landmark US ruling deems Uber driver an employee, not a contractor', news.com.au, accessed at <http://www.news.com.au/finance/business/landmark-us-ruling-deems-uber-driver-an-employee-not-a-contractor/story-fnda1bsz-1227403558557> accessed on 18 June 2015.

⁶⁷ Ibid.

Figure 3.2 provides an overview of the features of various sharing platforms and their relationship with consumers and suppliers. In light of these features, Table 3.1 sets out a summary of which party (the sharing platform or the supplier) could engage in conduct that breaches the ACL. Black dots indicate where the party's conduct might be a breach of the ACL.

Figure 3.2: Features of selected sharing economy platforms

	Uber	Lyft	VRBO	Airbnb	Zopa	HomeAway	FlipKey	Pawshake	Funding Circle	Prosper	DogVacay	TaskRabbit	Airtasker	Lending Club	OpenShed	Kickstarter	Blablacar	JustPark	Parkhound	MonkeyParking
Supplier in Australia can use	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Multinational	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Source of revenue: ● = supplier/consumer ● = other (e.g. advertisers)	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Consumer offered Standard Form Contract	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Supplier offered Standard Form Contract	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Separate contract executed between supplier and consumer	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Relationship with supplier: ● = employee; ● = other	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Involves product/service where safety is a concern	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Sets prices paid by consumers	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Manages payments	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Markets/provides own information about suppliers' product	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●

Source: Deloitte Access Economics

Table 3.1: Sharing platforms' and suppliers' conduct and the ACL

	Sharing platform	Supplier
Misleading or deceptive conduct	●	●
Unconscionable conduct	●	●
Unfair Contract Terms	●	
Unfair practises Division 1:		
• Specific false or misleading representations & conduct about goods & services	●	●
• Wrongly accepting payment for goods & services	●	●
• Failing to supply gifts & prizes/not supplying them as offered	●	●
• Bait advertising	●	●
• Misleading representations about business activities (e.g. profits that can be made)	●	
Unfair practises Division 4: multiple and single pricing	●	●
Unfair practises Division 5:		
• Referral selling	●	●
• Harassment and coercion	●	●
Consumer transactions for goods or services:		
• Display of consumer guarantees	●	●
• Unsolicited agreements	●	●
Ensuring the safety of consumer goods and product related services		●
Supplying goods that do not comply with information standards		●

Source: Deloitte Access Economics

In relation to the second question (whether the sharing platform and/or the supplier is currently subject to obligations under the ACL), most ACL provisions apply to persons engaging in trade or commerce in connection with the supply of good or services — this may be within Australia or between Australia and other places, and includes any business or professional activity (whether or not carried on for profit). ‘Supply’ includes, for goods, sale, exchange, lease, hire or hire-purchase; and for services, providing, granting or conferring. These definitions appear to suggest that both sharing platforms and suppliers that use sharing platforms have the potential to be subject to the ACL, depending on the specifics of the relationships between the sharing platform, suppliers and consumers.

A number of ACL provisions do not however apply to persons who are in the business of providing information. So, as noted by King, in light of a High Court finding that the ‘publishers’ exemption’ extends to Google, this exemption could extend to peer-to-peer sites.⁶⁸ This would mean that they avoid liability for, for example, ‘misleading and deceptive’ conduct relating to information posted by users.

Having said this, the publishers’ exemption is not a blanket carve out. For example, if a sharing platform is in the business of providing information but publishes its own advertisement or information about the supply of goods and services, that advertisement and information is subject to the misleading or deceptive conduct provisions of the ACL. Internationally, in Italy, TripAdvisor has been found guilty of misleading and deceptive conduct because it could not guarantee that the reviews provided by suppliers were independent, when TripAdvisor claimed that they were.⁶⁹

Whether or not a particular sharing platform is subject to the ACL will turn on the facts of the case at hand and in particular the legal relationship between the sharing platform, consumers and suppliers. A comprehensive review of existing sharing platforms’ legal relationships with third parties is beyond the scope of this project; however, is a task worth undertaking to establish which ACL provisions would apply to which sharing platforms.

Any identified gaps could be dealt with by amendments to the application of the ACL. Alternatively, non ‘black-letter law’ approaches could be adopted, such as the light-handed regulation, self-regulation, or quasi-/co-regulatory approaches. (The efficacy of self-regulation of the sharing economy is discussed in Chapter 5 of this report). For example, the United Kingdom’s Woskow Review has recently recommended that a sharing economy trade body set out minimum standards around ensuring: suppliers are given clear, impartial information on what regulations they need to comply with; user reviews and ratings are unbiased; and abuses such as fake reviews are identified and dealt with.⁷⁰

In Australia, consumers and suppliers that use sharing platforms should be clearly informed about which of their rights and obligations under the ACL stand in relation to their use of sharing economy platforms. Sharers are often unclear on what regulations actually apply to

⁶⁸ King (2015), ‘A caring sharing economy?’, *The Conversation*, 26 March 2015.

⁶⁹ Grattan Institute (2015), ‘Regulating the peer-to-peer economy’, transcript of Policy Pitch 9 February 2015.

⁷⁰ Woskow, D. (2014), *Unlocking the sharing economy An independent review*, Report for the Minister of State for Business, Enterprise and Energy.

them.⁷¹ Consumers and suppliers should also be informed about the circumstances in which sharing platforms have obligations to comply with the ACL. Both the ACCC and sharing economy platforms could play a role in the provision of this information.⁷²

⁷¹ Ibid.

⁷² Ibid.

4 Future of the sharing economy

There is an almost universal view among academic, market and technology commentators that the sharing economy will continue to grow.

While the nature of disruption means that it is almost impossible to predict how the sharing economy will grow, it is likely that growth will occur through:

- **Broader availability and use of existing sharing economy services** across geographies and demographic groups, as well as market entry of existing global players into the Australian market.
- **Expansion of existing sharing economy services to capture other parts of the sectors in which they already play** through sharing economy firms developing a broader range of services both horizontally (e.g. an accommodation service expanding from rooms in the homes of individuals to underused space in existing hotels) and vertically (e.g. an accommodation service offering cleaning services to its providers).
- **The development of entirely new sharing economy services.**

Each of these modes of growth for the sharing economy presents different challenges for policymakers, with potential opportunities and challenges emerging.

4.1 Broader availability and use of existing sharing economy services

The most predictable path towards growth in the sharing economy is the continuation of the existing exponential growth trend of the expansion of sharing economy services based on continued expansion of their footprint across geographies and demographic groups, as well as the Australian entry of firms which are operating in the United States.

4.1.1 Geographic reach

Unlike other aspects of the digital economy, such as online retail or cloud computing, which are able to be quickly delivered to a very wide geographic area quickly, the existence of physical assets which are to be shared often means that sharing economy firms are slowed in their growth by geographic constraints. For example, it is difficult to create a network connecting people willing to share a car without rolling out a physical network of cars across a critical mass of an urban area.

Even for firms which are less geographically constrained such as an accommodation service like Airbnb, the strongest level of growth tends to focus in and around the area in which they were initially founded. In addition, sharing economy services benefit from the scale of large, dense cities which create a viable market to share a particular asset or service. Therefore, cities with a densely populated inner city are particularly attractive to many sharing economy firms, especially in their start-up stage.

The vast majority of existing sharing economy firms were founded in the United States, with a significant number being founded in the San Francisco Bay Area and then expanding to other large cities in the United States (such as New York, Los Angeles, Chicago). In Australia, both sharing economy firms based locally and international entrants to the local market have focused initially on the inner city areas of Sydney and Melbourne for their initial growth⁷³.

As these services have grown, they tend to broaden their geographic reach both to smaller cities such as Brisbane, Perth and Adelaide and within the large cities out to middle and outer suburbs.

Uber has already rolled out its UberBlack service to all five mainland state capitals, with UberX only unavailable in Adelaide due to the regulations imposed on hire cars by the South Australian Government which require hire cars to charge a minimum fare of \$20 and be “large and luxurious”⁷⁴. It has also launched its service in Geelong and has plans to expand to other regional centres.

Expansion into outer suburbs and into regional centres often fills gaps in the market which were not otherwise filled by existing providers. In its submission to a NSW Independent Pricing and Regulatory Tribunal Inquiry, Uber provided a submission which analysed the spatial pattern of ride requests and provided a map showing how Uber rides were connecting to existing public transport services, expanding the effective reach of those systems.

4.1.2 Broader demographic reach

The emergence of sharing economy firms has been met with significant criticism that the market focus of firm tends to be on the affluent part of the consumer market which reflects the demographics of those who tend to found tech companies – young people who are relatively affluent, living in inner cities. This reflects the adoption track of many digital businesses including online retail and others.

Over time, it is likely that a significant number of older people, people with disabilities and people from different cultural backgrounds would be among groups which the sharing economy would be likely to expand to. The sharing economy has many advantages for people who have needs different from the mainstream including its ability to aggregate a market for the delivery of niche services and to receive more detailed feedback about the actual quality of service received.

One example of the expansion of services to new demographic groups is UberAssist, which is a version of the Uber service focused on vehicles which are accessible for people with disabilities.

⁷³ UberX first launched in Sydney before commencing services in Melbourne, Brisbane and Perth.). Sydney is among Airbnb’s largest cities globally, while many (even quite large) regional centres still report a relatively low number of rooms available relative to their population.

⁷⁴ Washington, D. (2015), ‘SA taxi industry facing huge shake-up’, Indaily, published on 30 April 2015 at <http://indaily.com.au/news/2015/04/30/sa-taxi-industry-facing-huge-shake-up/>

Expanding the demographic reach of sharing economy services is not without challenges; particularly in terms for demographic detail gathered to facilitate the feedback mechanism could result in discrimination against particular groups. A study by two professors at the Harvard Business School found that on Airbnb when other aspects such as location, rental characteristics and quality remained constant that non-black hosts were able to charge 12 per cent more for rentals than black hosts. They argue that this pointed to 'risk of discrimination in online marketplaces, suggesting an important unintended consequence of a seemingly-routine mechanism for building trust'⁷⁵.

4.1.3 Market entry into Australia

The most significant driver of growth for the sharing economy has continued to be firms which are based outside of Australia choosing to expand into the Australian marketplace. Australia is an attractive destination for expansion for North American-based sharing economy firms, given its status as a developed economy which is English speaking, has a similar legal system as well as a core of early adopter consumers which are already participating in the sharing economy.

Potential overseas entrants to Australia's sharing economy market include firms which are competitors to existing sharing economy firms, as well as firms which would bring entirely new products or services to the Australian market. Australia's ridesharing market currently has one major player, Uber, but there is speculation in the business media that its US-based competitor Lyft may enter the Australian market⁷⁶.

4.2 Expansion of existing sharing economy firms

An important driver of the future of the sharing economy is likely to be the expansion of existing sharing economy firms into adjacent market segments in an attempt to maintain their strong levels of revenue growth as existing markets mature. This expansion is likely to extend horizontally (i.e. developing complementary service offerings to their existing business) and vertically (i.e. acquiring other parts of the value chain).

4.2.1 Broader market offering – greater horizontal integration

As platform businesses grow, there may be a move towards offering additional products off their platforms.

One example of a sector where sharing economy firms are expanding by broadening their product offering is the transport sector.

In the ridesharing sector, both Uber (UberPool) and Lyft (Lyft Line) are developing services which would enable different consumer users to actually share rides similar to a public

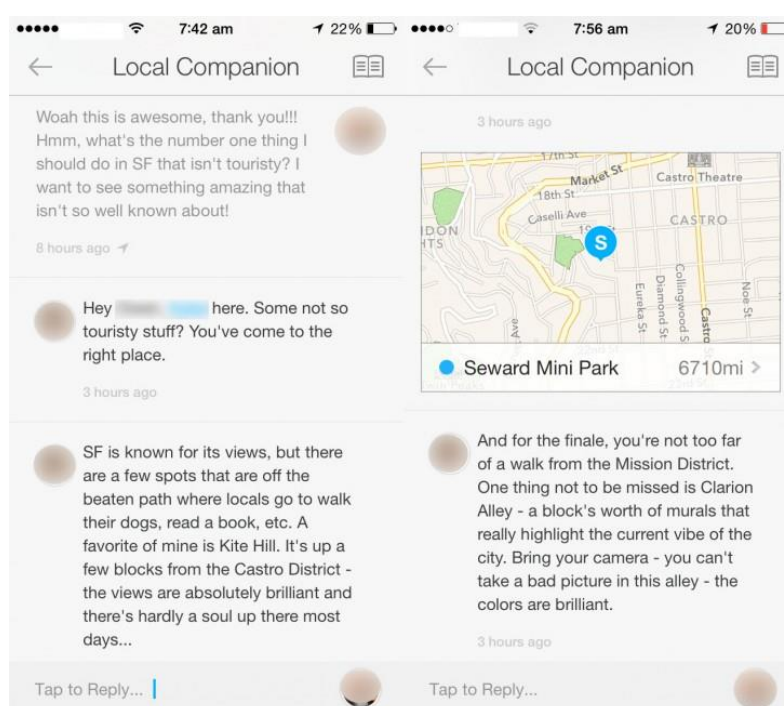
⁷⁵ Edelman & Luca (2014), 'Digital discrimination: the Case of Airbnb.com', published as a working paper at http://www.hbs.edu/faculty/Publication%20Files/14-054_e3c04a43-c0cf-4ed8-91bf-cb0ea4ba59c6.pdf, p 4.

⁷⁶ StartUp Smart (2015), 'Australian launch in the offing for Lyft, according to executive from partner app Moovit', published on 31 March 2015 at <http://www.startupsmart.com.au/growth/start-up-profiles/australian-launch-in-the-offing-for-lyft-according-to-executive-from-partner-app-moovit/2015033114450.html>

transport service. Both services use technology to dynamically match different riders to create 'routes' on the fly which transport people at a reduced price compared to a regular ridesharing service. Uber's CEO Travis Kalanick recently stated that around half of all Uber rides in San Francisco (the launch market for UberPool) were already UberPool rides, despite the service being in full operation for less than a year⁷⁷.

In the accommodation space, Airbnb has been testing an expansion to their offering called 'Local Companion' which aims to expand their offering to include a traveller's whole trip once they arrive at a destination.

Figure 4.1: Airbnb Companion



The Airbnb Companion service provides advice to users about hotels, activities, restaurants and day-to-day travel in the city, similar to a traditional hotel concierge. However, as shown in Figure 4.1, the focus of the companion is to provide a localised advice service which is more aligned to the needs of the Airbnb's user base than a traditional concierge service targeted at the top end of town business market.

Trends towards horizontal integration can raise the prospect of any existing platforms with market power using that market power to force their suppliers to support the integrated business model, in order for the platform to maximise revenues. This issue is discussed further in chapter 3.

⁷⁷ Re/code (2015), 'Uber CEO: Half of All Rides in SF Are for its Carpool Service', published on June 3, 2015 at <http://recode.net/2015/06/03/uber-ceo-half-of-all-rides-in-sf-are-for-its-carpool-service/>

4.2.2 Greater vertical integration

In terms of vertical expansion, sharing economy firms are likely to consider how they can add services up or down the value chain which continue to grow the efficiency of the sharing network either for consumers or for producers.

One example of how this has occurred so far is the interest that companies like Uber have taken in developing the technology which would enable greater autonomy for vehicles (such as self-driving cars).

Uber has invested in a joint centre with Carnegie Mellon University which is undertaking research and developing in 'mapping and vehicle safety and autonomy technology'⁷⁸ and its CEO has previously indicated strong interest in Uber entering the market for autonomous vehicles saying that in a world where the cost of rides in autonomous vehicles was low enough, the idea of car ownership might "go away"⁷⁹.

Another example is the accommodation sharing platform VRBO. This platform offers accommodation suppliers packages whereby VRBO provides assistance with building the suppliers' listing and managing inquiries and bookings; as well as a 'full-service property manager' who handles onsite property management (guest check-in/checkout, cleaning and maintenance). Accommodation suppliers enter a post code for their property; a list of property managers in their area is displayed with information about their services and fees; the accommodation supplier is then able to contact the property manager.

4.3 New sharing economy firms and services

4.3.1 Common themes

Firms emerging in the sharing economy share a range of similar themes which tend to suggest where and how new sharing economy firms might emerge.

These themes include:

- the sharing of significant homogenous assets or services, needed irregularly;
- enabled by a technology platform; and
- a bias towards goods or services demanded by residents in urban areas.

4.3.1.1 Significant homogenous assets or services, needed irregularly

In order for sharing to be worthwhile, the assets or services which are shared need to be of such significant value that it is worth the asset or service being shared. It is unlikely that it would be worthwhile to establish a sharing service for goods of such low value that the

⁷⁸ Uber (2015), "Uber And CMU Announce Strategic Partnership And Advanced Technologies Center", published on 2 February 2015 at <http://newsroom.uber.com/2015/02/uber-and-cmu-announce-strategic-partnership-and-advanced-technologies-center/>.

⁷⁹ Newman, Jared (2014), "Uber CEO Would Replace Drivers With Self-Driving Cars", *Time Magazine*, published on 28 May 2014 at <http://time.com/132124/uber-self-driving-cars/>.

overwhelming majority of consumers can afford to purchase their own, such as paper and pens or basic kitchen pots and pans.

This has been reflected in the sharing economy so far in the high purchase price of the assets that are most commonly shared (i.e. accommodation and vehicles). However, it is possible to contemplate future sharing economy firms which shared goods which were much lower value, particularly in urban contexts (see 'Urban living' below).

It would also be unlikely that it would be viable to offer goods to be shared if they were required on a permanent or a regular basis. For example, carsharing is unlikely to be viable for home to work journeys by car, if a person was to commute by that mode every day. However, what is 'regular' or 'permanent' use is different depending on the sharing economy offering. It could be possible for a ridesharing service, if priced low enough, could be competitive for 'home to work' travel.

For sharing to reliably occur through a platform, the goods and services provided need to be homogenous enough to maximise the number of potential users and to enable substitution of a different good or service is possible in the event of unforeseen circumstances. This is particularly true as services grow to scale and is even the case for the delivery of services which seem at first highly varied. For example, most Airbnb rentals are for a short-term bed in a room in a conventional property, even if the locations and types of those properties, hosts and living arrangements are diverse.

Once sharing economy firms reach scale, the development of differentiated products can be an important growth opportunity for sharing economy firms to develop market niches and continue their growth. However, elements of the customer experience remain homogenised so that consumers can reliably book through a sharing economy service (e.g. even though carsharing firms offer vehicles from a range of classes, within classes, these vehicles tend to be of a very limited range of makes and models).

4.3.1.2 Mass sharing enabled by technology

Sharing economy firms usually rely on the use of a technology platform to enable mass sharing of assets which have disparate ownership or location and services which are delivered by disparate providers.

Assets and services have always been shared, both within family groups, across groups of neighbours and across the community. Firms which include an element of asset sharing are present in some form in a wide range of sectors (e.g. car rental, hotels, concerts). However, in the past, the absence of a technology platform to bridge the gap between informal providers and consumers meant that these assets or services were delivered by a formal provider which owned the assets directly, based in a staffed location (e.g. a car rental office or a regular hotel).

Informal sharing still occurred, but other than through the classifieds and community noticeboards, there was little way to facilitate this activity and given the lack of alternative options for regulation, operators were often formally and heavily regulated by government, meaning that informal sharing took place outside of the legal economy.

In many cases, the technology platforms which sharing economy firms use enable sharing between 'peers' or between comparatively very small producers, but at an aggregate level

across the whole platform which achieves the scale necessary for both groups. Of course, while technology is common to all sharing economy firms, 'peer-to-peer' ownership is not. Car sharing and equipment hire firms are both examples of sharing economy firms which can, but do not necessarily have distributed ownership.

4.3.1.3 Sharing is intricately tied with cities (at least, at first)

One of the major reasons why cities emerged was that they enabled the efficiencies and benefits which flow from sharing. Instead of all households needing to have their own well, cities allowed for the development of a network of pipes and water infrastructure – and centralised water treatment and management meant that the water delivered was of a vastly higher quality than would have been possible under a distributed model.

The density which cities create is essential for most parts of the sharing economy, at least before services reach a critical mass. For example, it would be very difficult for an emerging car sharing service to start its operations in small country towns, where only a few people in the town may be members of the scheme. The presence of a large number of potential consumers for a service in a city like San Francisco, New York or indeed, Sydney or Melbourne is an essential ingredient in getting to scale.

However, as detailed above in 4.1.1, as sharing economy firms gain scale and market presence, expansion into less dense regions becomes possible, and to some extent necessary to maintain growth.

This would tend to suggest that most future sharing economy services are likely to address market demands which exist in cities, rather than those of people in regional areas. Of course, the spatial aspect is less important for services which are shared entirely online. It is also possible to contemplate sharing economy firms which dealt with problems in regional and rural areas (e.g. primary producers could share capital equipment), though these are likely to be much fewer in number.

4.3.2 New markets for the sharing economy

While it is ultimately impossible to predict the exact future of how the sharing economy may develop, based on these themes and some early development activity in aspects of the market, there are some signs about how the market could grow.

4.3.2.1 Urban living

As discussed above, dense living in cities, especially in apartment blocks and groups of townhouses present a range of opportunities for the development of sharing economy firms.

One class of assets which could see the development of sharing economy firms in the future, especially in these urban settings, is household appliances. Many people living in apartment complexes already share laundries (including washing cleaners and dryers). A sharing economy firm could develop a platform which enabled the sharing of expensive household appliances including high-end kitchenware (e.g. Thermomix, KitchenAid and baking appliances), specialised electronics (e.g. speakers for parties), garden equipment (e.g. lawn mowers) and sporting equipment. Similarly to the development of appliance

sharing is the potential for the sharing of ‘clothes’. Clothes hire is already common in the formal economy, and the development of a peer-to-peer sharing economy platform which easily enabled the sharing of clothes would have a ready market.

There is a high reported willingness to participate in sharing of household appliances, however, in order to be successful, the services would need to reach a critical mass which would allow for the distribution of appliances at a convenient walk from a large number of sharing members.

Services are already emerging globally to enable these kinds of sharing in urban areas. Examples include Streetbank⁸⁰, Spinlister⁸¹, TradeYa and Swapdom⁸².

Another type of sharing economy platform that could develop could exist around the provision of community gardens or access to public spaces such as rooftops. Many apartment buildings have rooftops which are accessible only to their residents or have not been developed. The development of a platform which enabled the sharing of access to these semi-private spaces could enable property owners to continue to manage access to these areas, while gaining an additional income stream.

4.3.2.2 Broadband

Most of the broadband services which are currently delivered to homes and small businesses within Australia are for a service where the ultimate user of those services is the customer of the internet service provider (ISP), or have a direct relationship to that provider. In the case of a residential ISP client, the users are typically family, friends or housemates of the customer, and for small business ISP clients, the users are employees or customers (e.g. such as the free WiFi used in a café).

There are some examples of publicly available, shared broadband, but this is typically provided by ISPs themselves, or by providers charging for the service which they are making available publicly on a fee for service basis.

One prospect for the future of the development of the broadband market is that consumers could choose to share their internet connections which they have available at home in return for the ability to share internet connections which other people choose to make available in other locations or for a share of the revenue stream which a platform charges for internet access.

The Spanish-based company Fon operates 15.3 million ‘fon spots’ across several countries including Spain, Germany, the United Kingdom and Japan⁸³ which operate on this basis around the world. Fon has recently partnered with Telstra to commence operations in Australia, which will initially focus on conventional public wifi hotspots based in payphones.

⁸⁰ Streetbank allows sharing of appliances and goods owned by others in a local neighbourhood. It is mainly focused on the UK.

⁸¹ Spinlister enables the sharing of bikes and other sporting goods like surfboards and snowboards in the US, UK and the Netherlands.

⁸² TradeYa and Swapdom enable ‘trades’ of clothes and other household goods via a new online platform.

⁸³ Fon (2015), ‘How It Works’, published at <https://corp.fon.com/en/how-it-works>

On 26 June 2015, Telstra launched a new shared broadband offering by offering Telstra customers new modems which will enable internet connection sharing⁸⁴.

4.3.2.3 Sharing services

Many of the key sharing economy firms which have developed to this point have focused on sharing assets or sharing services in conjunction with assets, with only some focusing on sharing services exclusively and many have more been more akin to 'labour hire' arrangements rather than truly shared services. Significant opportunities exist for the development of platforms for sharing economy firms which focus on sharing services among consumers, rather than 'sharing' the time of person acting in the role of a producer.

Child care services are an example of a service sector where this could occur. Services already exist to connect parents with child carers who have received background checks⁸⁵ and of course, many parents already share formal child care services through the existing formal child care system and through Family Day Care schemes administered by the government. It is possible to contemplate a technology solution which dynamically matched child carers with several children from multiple families in an area which was geographically nearby. This would be particularly useful for parents looking to use child care services during the day on a weekend or on an unpredictable, irregular basis.

The sharing of services could even disrupt services which are currently delivered by Government agencies, such as education. A platform could develop which matched language students with teachers and grouped them together to form "classes" which could operate on a much less structured basis than the connection of students to courses from the current VET system.

4.3.2.4 Sharing experiences

Related, but not necessarily identical, to the development of platforms which enable the sharing of services are sharing economy services which permit the sharing of 'experiences' among a broad group of participants.

The development of crowdfunding, especially in the independent film and music sectors, is growing into platforms which enable the sharing of experiences, such as Tugg. Tugg is a platform developed in the United States, which recently launched in Australia, which allows for filmgoers to pre-commit to attend the showing of a particular film at a cinema if the cinema chooses to exhibit the film, creating a critical mass of consumers for niche films which may not otherwise be shown at cinemas.

Another example of a sharing economy platform developing around sharing experiences is the League of Kitchens in New York. The League of Kitchens is platform which connects participants to one-off cooking workshops taught by an amateur migrant home cook who is an expert in their cuisine. These workshops are shared with several other participants and are taught in the host's own home.

⁸⁴ Reilly, C. (2015), 'Telstra breathes fresh Air into national Wi-Fi network', published on 26 June 2015 at CNet at <http://www.cnet.com/au/news/telstra-breathes-fresh-air-into-national-wi-fi-network/>

⁸⁵ See for example, UrbanSitter (<https://www.urbansitter.com/>)

5 Effectiveness of self-regulation

Regulation seeks to increase the welfare of society when markets would not otherwise achieve optimal outcomes, and where there is some confidence that government action could improve on the market outcome. Basic principles of regulation include:

- Regulating only where a market failure can clearly be identified, and where government action can effectively reduce this failure;
- Applying the minimal level of regulation to achieve the desired outcome while minimising the regulatory burden on the market; and
- Allowing the market flexibility in reaching the desired regulated outcome to the extent that this can be achieved without prescription.

These basic principles should apply equally to sharing economies and more traditional markets. However, some features of platforms may mean that the approach to regulation may optimally differ between these types of markets, even where the desired outcomes are the same. This section identifies how commercial pressures on platforms may lead them to self-impose rules that achieve the same outcomes as formal regulation, and outlines the extent to which this can be relied upon to maximise social welfare.

The self-regulation discussed in much of the literature around sharing economies is somewhat weaker than the formal obligations to which self-regulation typically refers and refers to platforms achieving efficient outcomes independent of any formal guidance or codes. These self-imposed rules can take on a variety of forms.

As outlined in this section, there is likely to be scope for formalised self-regulation, potentially consisting of combinations of standards, information collection or dispute resolution mechanisms. These would seek to ensure that the incentives of platforms are aligned with those of society generally, without resorting to more heavy-handed approaches that limit the ability of platforms to achieve regulatory outcomes in the most efficient way.

5.1 Why might platforms self-impose rules that obviate the need for explicit regulation?

The revenue earned by sharing economy companies is a function of the quantity of transactions undertaken via their platform, giving platforms an incentive to provide an environment conducive to trades taking place. In particular, this has meant resolving consumer protection concerns, around both safety and quality, for trades between individuals who do not have prior business relationships.

Suppliers in traditional markets also have reputational incentives to provide high quality products. However, there are some features of sharing economy platforms that are likely to further this incentive. One is the need to build network effects given the two-sided nature of the sharing markets. Low quality consumer experiences early in a network's development may jeopardise its growth. The two-sided nature of these markets also means

that platforms need to support both consumers and suppliers, with protection for suppliers including, for example, promises to make good on any damage to property incurred through the use of a platform. Second, the online nature of these platforms make lower quality more transparent, and indeed this is increased through the use of ratings systems on most platforms, discussed further below.

The methods that platforms have developed to overcome consumer protection concerns to some degree mimic the outcomes that more direct regulation would seek to achieve. This section reviews the mechanisms developed by platforms, their likely success, and therefore whether platforms left to their own devices can be relied upon to achieve consumer protection goals as some literature has suggested.

The more developed sharing economy platforms have mechanisms designed to avert consumer concerns around safety and quality. Those common to almost all platforms include:

- User ratings to ensure quality and incentivise providers to communicate information about a product or service;
- The ability for the platform to disqualify providers for poor performance;
- Screening providers and users to ensure they are fit to participate on the platform (screening could be for either qualifications or character traits);
- Verified identification of providers and users;
- Online payment platforms are used to remove the need for cash payments, ensuring security of transactions; and
- Insurance to cover providers or users for damage incurred while using services on the platform.

The mechanisms employed by sharing economy platforms can usefully be separated into two broad categories:

- Enforced quality – those rules imposed by platforms that mandate certain standards or provider history (such as qualifications, absence of criminal record, or standards of vehicle or accommodation); and
- Reputational quality – mechanisms developed by platforms to allow users to rate each other and develop a ‘reputation’ for the quality of service provided.

There may be linkages between these two types of mechanisms, for example where platforms enforce a minimum performance rating for providers to continue to operate⁸⁶. However, the broad split between enforced and reputational quality self-regulatory approaches are useful in that while the former aligns with traditional approaches to regulation, the latter is relatively unique to sharing economy platforms.

Further, it is the expansive use of reputational mechanisms that separate the sharing economy from traditional markets. Most businesses will provide some form of quality

⁸⁶ Uber drivers with a rating of less than 4.5 out of 5 may be excluded from providing services. Platforms may also use rankings for purposes other than enabling reputational quality, for example not matching users and providers who have previously rated each other below a certain threshold.

assurance in their operations through the use of self-imposed rules or guidelines on processes or staff. All businesses also have some incentive to develop a positive reputation. However, the active use of reputational feedback systems to ensure quality and overcome information asymmetries by sharing economies is a distinguishing feature of these markets, and the ability for these mechanisms to provide quality assurance that might otherwise be achieved through more explicit rules is of significant importance to regulators.

In summary, there is in principle the ability and incentive for platforms to facilitate self-regulation that would largely mimic more traditional direct regulation in markets such as transport and accommodation. Whether or not this regulation will in fact achieve the same level of desired outcomes of direct regulation is less clear. Possible reasons that it may not are covered in the sections below.

5.2 Self-imposed regulation: Enforced quality

Direct regulation of the quality and safety of products in traditional markets has arisen due to two main aspects of consumer protection:

- Consumers may be unaware of what constitutes 'quality' therefore requiring professional standards to be set; and
- Information asymmetries exist between the buyer and seller meaning that consumers may be unable to observe the quality of the good or service purchased until after the transaction has been finalised.

Sharing economy platforms enforce quality standards for these same reasons. Further, the extent of enforced quality has tended to correlate with the level of risk in an activity. For example, the requirements placed on rideshare drivers (including criminal and driver record checks and strict vehicle requirements designed to ensure that both driver and vehicle are fit for purpose) tend to be more onerous than other shared markets given the high level of safety risk inherent in transportation activities.

Of importance for the regulation of these platforms is whether they have the incentives to provide the optimal level of quality that could otherwise be enforced through more direct regulation. As stated above, ensuring the perception of consumer protection is fundamental to the ability of platforms to gain market share. However, platforms also have an incentive to make access sufficiently simple that it does not place an obstacle on growing the market share, or on the important network effect of these markets at an early stage.

This may create a tension between providing sufficient levels of enforced quality, while not placing too large of a burden on providers, or on the platform itself in verifying the level of quality provided. Where this tension resolves in terms of the level of enforced quality required by a platform is unclear in principle. Further, given that is the level of 'perceived' quality that is important in ensuring growth in consumers, where this quality is difficult to observe by consumers there may be an incentive for platforms to err on the less restrictive side so as not to impede growth on the providers side of the market.

Along these lines, there has been some concern internationally⁸⁷ around the quality of criminal record checks undertaken by ridesharing companies. While platforms such as rideshare companies tend to advertise criminal record checks as ensuring safety, there can be significant variation in the rigour of these checks, meaning that drivers with records that would otherwise disqualify them from the platform have been allowed to participate.

There may be a role for the government to play in facilitating record checks (both criminal and, for example, driving history) or in providing minimum standards for these checks. Similarly, the government may be able to assist in verifying the identification of participants (which may occur through informal means such as linking to social media profiles). For example, in the UK the government has recently established its own ID verification scheme, *GOV.UK Verify*, which allows citizens to create a secure ID with which to access online government services. The UK Government has stated its intention to open this service up more broadly, including to sharing economy platforms.

More generally, it would be useful for regulators to collect information on the level of enforced quality platforms provide. This would be particularly useful in areas that are difficult for consumers to directly observe, or where there is most likely to be tension between increasing market share through less onerous requirements on providers and achieving consumer protection outcomes.

Ultimately the question of whether platforms have the incentive to provide a sufficient level of enforced quality is difficult to answer *ex ante*. This will likely differ across platforms depending on the ease at which consumers can observe the level of enforcement undertaken by the platform and the risks inherent in the activities undertaken through that platform. Suppliers may choose to test the market with different combinations of risk and cost trade-offs, a practice which is of concern for regulators only to the extent that certain minimum standards are breached.

The question of the strength of self-regulatory incentives could, however, be assessed *ex post* if sufficient information were to be made available on the performance of platform transactions. This may include information on:

- The level of consumer complaints around the quality of good or service provided, and whether the service met the advertised quality;
- The ‘accident’ rate or level of insurance claims;
- The rate of violent crimes perpetrated on users of the platform in the course of providing or consuming a service; and
- The number of providers disqualified from the platform.

There currently appears to be little evidence on which to assess the actual performance of sharing economy platforms. More generally, increased transparency of the activities of the sharing economy will assist policy-makers in determining whether a self-regulatory approach is sufficient to ensure consumer protection in these markets.

⁸⁷ In the US both Uber and Lyft use commercial background checking companies to undertake criminal record checks. While thorough, concerns have been raised that these are not as effective as record checks undertaken through official channels such as the FBI. California sued Uber for misleading claims around consumer safety when it claimed that it had the most stringent background checks in the industry.

5.3 Self-imposed regulation: Reputational quality

Reputational systems have been around since the early days of online retail sites such as eBay and Amazon. Some commentators have argued that these systems have successfully overcome trust and quality issues by providing strong incentives, indeed stronger incentives than in traditional markets, for suppliers to offer high quality services given that future demand may be closely tied to current levels of service quality.

Platforms have used these rankings both to promote trust between users and providers of the service and to inform the platform of low quality providers which can then be disqualified from the platform. As noted earlier, more novel uses of ratings can include using them in matching algorithms to ensure individuals are matched with more preferred providers in the future. The personalised nature of services over the sharing economy may also increase quality. For example, Allen and Berg (2014) draw on this explanation in demonstrating the low default rates for the peer-to-peer lending platform Zopa. A car sharing platform found that the incidence of damage was reduced when keys were picked up and delivered back to the car owner rather than a central collection point.

Similar to rating systems, platforms have also provided incentives for providers to complete qualifications or more in depth quality assessments in exchange for a signal of their higher quality. For example, providers on Airtasker can register for AirtaskerPRO in which they undergo a video interview with an Airtasker manager in exchange for receiving an AirtaskerPRO profile designed to signal higher quality. Similar incentives have been provided on other platforms for performing other quality-improving tasks such as watching videos on safety or customer service.

However, whether reputational quality can be relied on to provide positive consumer outcomes depends on, among other things:

- The ability for users to distinguish between low and high quality products or services;
- Any bias, either conscious or subconscious, in the ratings process or in the presentation of ratings; and
- The proportion of low quality providers in the market and how the platform responds to low ratings.

While users of online retail sites such as eBay are well placed to inform of whether a product was delivered in good condition and met the advertised description, more complex sharing economy services such as certain jobs delivered via Airtasker, or even the driving practices of a rideshare driver may be more difficult for an untrained user to assess. Where this is the case, ratings may be an imperfect measure of true quality.

Further, consumers may define quality differently. Where one rideshare user may rate a driver highly due to their personable nature, with less weighting on their driving style, another user may place greater emphasis on safety. The subjective nature of ratings also raises the possibility that they could be based on discriminatory views of the user, rather than objective assessments of quality. We are not aware of any research which assesses whether consumers are good judges of quality on sharing economy platforms.

Potentially of more concern are the possibilities for bias to enter into the rating process. Bias may take a range of forms, from reviewers reporting extreme values in rating systems, or only reporting positive outcomes, to more deliberate attempts to skew rating systems for personal gain. These biases may undermine the role that trust and reputation play in the sharing economy, leading to quality being overstated relative to actual consumer experiences.

Some researchers have highlighted the very high ratings prevalent on some platforms. For example, Dellacoras and Wood (2007) consider the ratings given by eBay users, which result in over 99% of sellers receiving positive reviews. They analyse those transactions where no rating was given and conclude that under reasonable assumptions the true level of satisfaction is likely to be significantly lower than this level. Similarly, Slee (2013)⁸⁸ analyses the responses of the rideshare site Blablacar and finds that of the roughly 190,000 ratings given, 98.9% were for five out of five stars. The remaining 1.1% of ratings were for a rating of one star, with only six ratings of between two to four stars.

The expectations of consumers are likely to adjust in response to this positive skew. Discussion at the FTC conference on sharing economies indicated evidence that consumers with some experience of online ratings systems were able to develop a relatively sophisticated understanding of review systems and 'see through' these biases. This is reflected, for example, in the understanding that most ridesharing ratings are for a score of 5 out of 5, and that a driver with a score of 4 is significantly below average.

This positive bias can be partially explained through the reciprocity inherent in some rating systems where both providers and users are required to provide ratings. The potential for mutually damaging tit-for-tat ratings can lead to incentives for high quality ratings even where a low quality of service was received. The Blablacar example also demonstrates the tendency for extreme ratings (of either the highest or the lowest rating) to be given.

Given that future business opportunities can be tied to high ratings, providers may attempt to engage in more direct manipulation of ratings, for example through the creation of fake user profiles. Platforms can use a variety of sophisticated algorithms to detect such behaviour, but these may be imperfect. Chrysanthos Dellacoras, an expert in online ratings systems at Boston University, champions the potential for reputational systems to develop on these platforms, but states that:

'In general, it is impossible to design a totally manipulation-resistant reputation system. No matter what mechanisms one puts in place, creative and determined users are bound to find a way around them. For that reason, community administrators must constantly monitor such systems, organically evolving their designs.'

The possibility for suppliers to fake reviews (either positive for themselves, or negative for competitors) has been in existence since online commerce took hold in the 2000s and is addressed in the ACCC's guidance for online review platforms. Further, there is some evidence that fake reviews are a real part of the reputation market. For example, it has

⁸⁸ Tom Slee, *Some obvious things about internet reputation systems*, available at: http://tomslee.net/wordpress/wp-content/uploads/2013/09/2013-09-23_reputation_systems.pdf

been estimated that around 16% of reviews on the ratings site Yelp are fake⁸⁹. Similarly, Dina et al (2014) analyse reviews for hotels on Tripadvisor, where any user can rate any hotel, with those for the same hotels on Expedia where only those who have booked at the hotel are able to give a rating. They find that those hotels which have a greater incentive to leave fake reviews (hotels which are smaller and not affiliated with a major chain) receive higher feedback on Tripadvisor relative to Expedia relative to those who do not have this incentive. Further, other hotels in the vicinity of these faking hotels have a greater proportion of negative reviews on Tripadvisor relative to Expedia.

A similar problem arises with the issue of phoenixing, where providers with bad reviews create new profiles to effectively remove any negative reputation. The ease at which this can be done depends in large part on the set-up costs and verification processes adopted by a platform. It is likely that both phoenixing and fake reviews are less of a problem in sharing economy platforms than in traditional online review sites given that profiles are more directly linked to a verifiable identification. However, we are not aware of any studies that have attempted to quantify the proportion of fake reviews on platform ratings systems.

Where ratings reveal low quality services have been delivered, platforms can use this information to disqualify providers. However, this disqualification occurs only after the, possibly multiple, instances of low quality services have been provided. The aggregate costs of these services to consumers will depend on the proportion of low quality providers on the platform and the speed at which they can be removed, both of which are likely to differ across platforms.

This ex-post removal of low quality providers is second best relative to ex-ante removal, which may be achieved through more traditional regulatory approaches. Nonetheless, low quality providers cannot be completely eliminated through traditional approaches and if sufficient checks have been undertaken up front by the platform, the ex-post removal of these providers will still represent an improvement relative to the status quo. The question is the extent to which these ex-post evaluations are relied upon to weed out low quality providers in lieu of sufficient up-front quality enforcement.

Overall, reputational quality represents a promising feature of sharing economies, and one that can correct information asymmetries present in traditional markets. However, rating systems are not without their flaws. A significant amount of academic research has emerged in recent years that provides guidance on how the design of these systems can determine their effectiveness. Regulators may usefully work with platforms to standardise ratings systems in accordance with the literature's findings on best practice, subject to these findings being sufficiently clear that some level of standardisation can be beneficial. The ACCC's publication *What You Need to Know About: Online Reviews – A guide for business and review platforms* goes some way down this path. Providing similar guidance in the sharing economy context that builds on research into the design of review systems and provides more specific guidance on the construction of these systems may be useful in the future.

⁸⁹ See discussion in Session 2 of the FTC conference.

5.4 Designing feedback mechanisms

Reputation systems in traditional markets, and even in earlier online retail markets, were traditionally one-sided. The supplier needed to build the trust of the consumer before a transaction would progress, and this was particularly important in online trade where the identity of the supplier was relatively unknown to the consumer. The trust that the supplier had in the consumer was less important in ensuring trade as the risk of damage to the supplier was low.

In sharing economy platforms, however, bi-directional ratings systems are generally needed as trust typically needs to be developed between both sides of the market: in rideshare platforms both driver and rider want to be sure that the person on the other side of the transaction is reliable and safe, and similarly with accommodation sharing. This adds an additional layer of complexity to existing uni-directional ratings systems, and can increase the sources of bias inherent in these systems.

A significant amount of attention has turned to whether the reciprocal nature of ratings systems can alter the incentives consumers face. As noted above, tit-for-tat retaliation can provide a disincentive for participants to rate negative experiences truthfully. Research has shown that reciprocity does in fact change the frequency and nature of feedback in ratings systems where it is a feature. For example, Jian et al (2010) show that on eBay an estimated 23% of buyers provided feedback only when the seller provided feedback first, and 20% of sellers adopted a similar strategy. Further, the correlation between the feedback given is twice as high when the seller responds second, indicating that their feedback is based to some extent on the feedback provided by the buyer rather than being a true reflection of their experience (Bolton et al, 2011).

Platform ratings systems are relatively new and still evolving to meet the challenges provided in ensuring accurate feedback. For example, in 2014 Airbnb changed the nature of its reciprocal ratings system such that reciprocal reviews were only provided to the counterparty once both sides had provided a rating, or once the rating period had elapsed. Airbnb also allows for a significant amount of one-sided feedback that is not provided to the counterparty. It is likely that the sophistication of ratings systems will continue to evolve as experience from current systems is gained. The relatively small quantity of academic research on the topic will also likely develop over time, making clear which systems perform well and in which respects.

Overall, there are a variety of different features which sharing economy rating systems can adopt, and ways in which platforms can ensure that the reviews convey information efficiently. These include:

- **Reciprocity** – ensuring that bi-directional feedback is available is important. Bias inherent in the incentives provided by reciprocity can be overcome through simultaneously publishing reviews, or allowing reviews to be anonymous.
- **Silent or one-way feedback** – it may be beneficial for some feedback to be one-way only, as occurs on both Uber and Airbnb where feedback is a mix of both reciprocal review and one-way information whereby providers submit feedback only seen by other providers.

- **Is feedback optional** – ratings systems that allow feedback to be optional remove potentially useful information. Research has also indicated that a significant portion of negative experiences translate to no rating being given, creating a positive bias in the system overall. Mandating reviews, or publishing the proportion of transactions that lead to no feedback being given can potentially increase the information provided to future transactions.
- **What feedback is provided** – simple rating systems may limit the provision of feedback to ‘star’ ratings out of five, with the average of these ratings provided to future counterparties. More detailed feedback mechanisms will include text-based feedback which allows a richer source of information to be conveyed. There is evidence that consumers are able to infer significant information from text that is not available from simple star ratings.
- **The weighting of past results** - rating systems that weight all past results equally can mean that a participant’s rating does not reflect recent or current performance accurately. Publishing an average rating that weights recent results more heavily provides a continual incentive for high quality, and reduces the ability for a participant to ‘milk’ past results. For example, there is some evidence that the probability of receiving a lower review is higher just prior to a participant leaving a platform, although the direction of causation here is difficult to determine⁹⁰.

These points are based on intuitive or heuristic statements about the features and incentives of different ratings systems, and there is currently no research that we are aware of on what an optimal ratings system might look like. It is also likely that optimal ratings systems would depend on the context of the market in which the platform operates, including the relative risks to each side of the market from a negative transaction outcome and the frequency of transactions.

Feedback mechanisms have clearly been important in developing trust in sharing economies and allowing platforms to grow. The speed of growth in many of these platforms is to some extent testament to the effectiveness of these mechanisms in building trust between counterparties. However, whether this growth indicates the efficient transmission of information is an open question currently. For example, Ockenfels and Resnick (2012) state that *‘as far as we know, there is no field study measuring transaction efficiency as a function of the accuracy of reputation information, and such a study would be valuable’*. This sentiment was echoed in the recent FTC conference on the sharing economy where participants noted that there was no economic research on whether biases in existing mechanism significantly altered efficient behaviour and information provision in these markets.

The question of whether platforms have the incentive to provide efficient feedback mechanisms is also an open question. As Chrysanthos Dellacoras stated at the recent FTC conference, *‘What we’re not sure is whether [platforms] have the incentive to make [the feedback mechanism] optimal for buyers. Whether the solution that is optimal for the platform is also the optimal solution for the social planner’*. For example, platforms may have the incentive to lock in participants by using their entire history of ratings to establish a strong reputational asset, rather than basing ratings on most recent feedback only, even if

⁹⁰ See Ockenfels and Resnick (2012), page 5.

this is sub-optimal from the perspective of information efficiency. Nonetheless, the complexity and continued development of these mechanisms by platforms to overcome biases and information barriers indicates that to a large extent platforms have attempted to build mechanisms that build trust and information transmission. Remaining questions around information efficiency may be small relative to the benefits that current mechanisms provide.

Of more direct concern for the ACL is the incentive that platforms have to ensure that information disclosed through feedback mechanisms is accurate and does not mislead consumers. This issue has been raised in relation to ACL and discussed in Chapter 3 above. Platforms both design their review systems and have control over which reviews are disclosed and the form in which they are presented. In making this information available to consumers it may be interpreted as a representation of the quality and features of a service and therefore be subject to the ACL⁹¹.

Particular features that may trigger a finding of misleading conduct include:

- whether the platform has taken action to mitigate bias in the review system;
- whether it excludes any reviews from the system, and how transparent it is in determining which reviews are excluded;
- how the order of reviews are displayed to consumers (for example, are higher ranked reviews placed at the top such that consumers are not informed about the ‘average’ level of quality); and
- the extent to which claims of quality are made in reference to the review system where the points above are not adequately addressed.

To the extent that misrepresentation is already captured by the ACL additional regulation may not be needed to ensure that the ACL applies to review systems. However, some level of guidance, for example in the form of a guidance note or discussion paper, may support communication with platforms in what is expected of them and how the ACL will be interpreted with respect to review systems.

Finally, feedback mechanisms do not need to be separated completely from other enforced aspects of self-regulation. For example, early on in a supplier’s participation in a platform when their reputation is not well established, trust may be built through the platform communicating aspects of their quality. This may take the form of history checks or platform guarantees, effectively ensuring that the platform and not the consumer takes on the risk of negative outcomes. Platform guarantees can also provide some assurances around a participant’s ‘end-game’ where quality may drop immediately prior to a participant exiting a platform, again providing a promise that a platform will make good on any loss incurred by a counterparty.

⁹¹ Noting that whether a platform is subject to the ACL will depend on the relationship between it and suppliers as discussed in Section 2. That is, the form of the review system will not trigger the platform being covered by ACL but may have implications for those platforms that are covered.

5.5 Other issues

While internal incentives may ensure some level of self-imposed quality mechanisms, there are areas of traditional regulation that are less likely to be captured by these incentives. These include:

- accessibility – requirements on providers to facilitate access by certain disadvantaged members of society;
- externalities – cost imposed on other members of society outside of the sharing market; and
- transparency – the disclosure of information to the government or regulator to allow sufficient oversight of activities or practices.

Various traditional markets are regulated to ensure reasonable accessibility to all members of society. For example, taxi companies are required to provide a certain proportion of vehicles capable of carrying a wheelchair, and hotels are required to provide facilities for the similarly disadvantaged. Where these disadvantaged groups represent only a small part of the market there is little incentive for platforms to ensure accessibility.

Externalities by definition are unlikely to be internalised, except voluntarily by platforms or their users. While some commentators have argued that sharing economies may reduce externalities by reducing the latency of goods⁹², there are some markets where externalities are more likely to be present. For example, when an apartment in a secure building is rented on Airbnb other residents in the building may feel this security has been compromised.

Finally, there are already concerns about the lack of transparency provided in relation to the workings of various platforms. Both pricing and matching are undertaken using complex algorithms which are not apparent to consumers. While these algorithms are used to better match demand and supply for products, the opacity of the process will mean that both consumers and regulators will be forced to take this statement at face value. Transparency more generally over the performance of a platform, as noted above, would be useful to regulators in assessing the appropriateness of self-regulatory actions being taken.

Each of the points identified above will need to be treated on a case-by-case basis. However, the discussion identifies in principle where self-regulation may fall short of a desired outcome. There may be a role for government in overseeing appropriate standards for accessibility and transparency, and there seems to be no reason why these standards should be lower than those relating to traditional businesses. Further, externalities should be addressed in the same way as those in more traditional markets, subject to the size of the problem and the cost of regulation.

⁹² Most particularly if ridesharing reduces the number of cars on the road this will reduce externalities associated with congestion, pollution and road wear, at least to the extent that these are not already internalised through charging.

5.6 Summary

Platform providers certainly have incentives to provide a high quality and safe service, and both enforced and reputational quality mechanisms can support these incentives. Whether these result in a similar level of quality to that which would be socially optimal (and therefore improve on a more direct regulatory approach) will depend on the particular case in question. Quality and reputation are one area of concern for platforms, but their financial concerns extend to other areas (such as securing adequate network size) and these pressures may work against an optimal level of consumer protection.

As noted by Andrew Leigh in the Labor Party's recently released discussion paper on the sharing economy:

*"it is not clear that these internal processes and feedback mechanisms are sufficient to guarantee public safety or consumer rights. The lack of transparency about how these schemes operate, coupled with a lack of legal enforcement mechanisms, raises questions about whether Australian consumers are appropriately protected when using sharing economy services"*⁹³

Hence, while the broad framework of the sharing economy's self-imposed regulatory approach has significant potential, there may be scope for government to work with platforms to ensure that this framework secures the desired level of consumer outcomes. This may comprise, for example:

- ensuring the reputational mechanisms platforms use are appropriately designed to facilitate the correct dissemination of information to consumers;
- working with platforms to standardise various aspects of enforced quality (for example, agreeing on a standard process for criminal record checks); and
- ensuring transparency through the provision of information to authorities (for example, number of providers on a platform, incident or claims rates, and algorithms used for pricing or matching).

Such an approach would be unlikely to impair the functioning or dynamic nature of these platforms and would provide consumers with assurances, particularly in aspects of the platform they cannot readily observe.

More broadly, the process for deciding how to regulate sharing economy platforms should be no different from that applying to traditional markets. Consideration should be given to:

- whether there are particular public safety or consumer protection standards that need to be met;
- whether there are reliable self-regulatory mechanisms in place on a platform to achieve these outcomes;
- where not, or where the cost of these mechanisms failing is high, what minimum standards need to be in place; and

⁹³

https://d3n8a8pro7vhmx.cloudfront.net/andrewleigh/pages/3724/attachments/original/1429683593/Sharing_the_future_-_Discussion_Paper_-_Australian_Labor.pdf?1429683593

- what other market failures exist that require direct regulation.

In practice, this is likely to result in a degree of ongoing oversight from regulators to ensure socially optimal outcomes are met by these platforms, and enforcing minimum standards where appropriate. Beyond this, communicating expected consumer outcomes from these markets, while allowing platforms flexibility in how these outcomes are met should be broadly sufficient. There will inevitably be some level of industry-specific monitoring and oversight, with the extent of this tied to the risks or costs of market failure, and broadly commensurate with the level of oversight of existing markets in which these platforms operate.

Given this, there is scope to ask what sort of regulation might be explored in reference to the sharing economy. As noted in Section 3, there is a spectrum of regulatory responses, reflecting the extent to which requirements are imposed on industry, of which self-regulation is one approach. Within self-regulation there is a range of mechanisms that can be used to promote efficient behaviour. The Department of Treasury lists seven options available to industry⁹⁴:

- information campaigns;
- service charters;
- internal complaints handling procedures;
- accreditation and licensing;
- quality assurance systems;
- standards; and
- industry codes and dispute resolution schemes.

Each places different obligations on members of the industry and can be used to address different perceived weaknesses in the market. The discussion above indicates that self-regulation may be at first limited to agreeing on certain minimum standards, information disclosure, and dispute resolution schemes where a need for these arises. This approach can be refined once clearer evidence of a problem in particular markets arises, or where further research indicates how intervention might be usefully targeted.

⁹⁴ Available at: http://archive.treasury.gov.au/documents/1131/HTML/docshell.asp?URL=04_chap3.asp

References

- Bolton, G, Ebeling, F, and Ockenfels, A. 2011. *'Information Value and Externalities in Reputation Building'*. International Journal of Industrial Organisation, Vol 29, Issue 1.
- Coase, Ronald, 'The Problem of Social Cost' Journal of Law and Economics 3 (1960): 15
- Deloitte Access Economics (2015) Tourism and Hotel Market Outlook 2015, <http://www.deloitteaccess economics.com.au/uploads/File/DAE%20Tourism%20Hotel%20Outlook%20Feb%202015.pdf>.
- Dina, M, Dover, Y and Chevalier, J. 2014. 'Promotional Reviews: An Empirical Investigation of Online Review Manipulation.', American Economic Review, 104(8): 2421-55.
- Fraiberger, S and Sundararajan, A 2015, 'Peer-to-Peer Rental Markets in the Sharing Economy' draft, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2574337.
- IBISWorld 2014, OD5063 Car Sharing Providers in Australia Industry Report.
- Institute of Public Affairs (IPA), The sharing economy: how over-regulation could destroy an d economic revolution, https://ipa.org.au/portal/uploads/Sharing_Economy_December_2014.pdf.
- Jian, L, Macki-Mason, J, and Resnick, P. 2010. *'I Scratched Yours: the prevalence of reciprocation in feedback provision on eBay'*. The B.E. Journal of Economic Analysis & Policy. Vol 10, Issue 1.
- NSW Taxi Council 2015, Presentation to the IPART Round Table Review of Taxi Licences and Fares in Sydney, <http://nswtaxi.org.au/sites/default/files/IPART%20ROUND%20TABLE%20PRESENTATION%20-%2027%20JANUARY%202015.pdf>.
- Pocketbook Australia Pty Ltd, The Rise and Rise of Uber in Australia, <https://getpocketbook.com/blog/the-rise-and-rise-of-uber-in-australia/>.
- Reidy, C. 2013, The sharing economy spooking big business, <http://theconversation.com/the-sharing-economy-spooking-big-business-19541>.
- Sydney Morning Herald 2015, Are Airbnb and Uber creating a new black economy?, <http://www.smh.com.au/business/are-airbnb-and-uber-creating-a-new-black-economy-20150214-13dg7p.html>.
- TNS 2014, Survey cited at <http://www.adnews.com.au/adnews/answering-marketers-prayers-smartphone-penetration-hits-75>.
- The Conversation 2013, The sharing economy spooking big business, <http://theconversation.com/the-sharing-economy-spooking-big-business-19541>.

University of Melbourne 2014, The Sharing Economy, <http://voice.unimelb.edu.au/volume-10/number-3/sharing-economy>.

Woskow, D 2014, Unlocking the sharing economy An independent review, Report for the Minister of State for Business, Enterprise and Energy, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/378291/bis-14-1227-unlocking-the-sharing-economy-an-independent-review.pdf.

Appendix A – Selected issues on ACL provisions

Misleading or deceptive conduct

Misleading or deceptive conduct in the sharing economy has the potential to arise:

- in relation to conduct and/or representations made by the sharing platform – for example, via advertising that its online reviews are 100 per cent accurate; and
- in relation to conduct and/or representations made by the individual suppliers – for example via suppliers posting their own false reviews.

It is not immediately clear that sharing economy platforms would be inherently more or less likely than businesses in the traditional economy to engage in misleading or deceptive conduct. Certainly though their incentive to do so should not be discounted – companies like Airbnb and Uber have to advertise to drive both demand and supply.⁹⁵

However, to the extent that *suppliers* that use the platforms adopt user reviews more than suppliers in the traditional economy for marketing, it is possible that there will be a higher number of complaints about false reviews associated with sharing economy suppliers than suppliers in the traditional economy. This is not however specific to the sharing economy; it could take place in relation to any transaction where user reviews are adopted (e.g. Urbanspoon, TripAdvisor). Put another way, this is a feature of user reviews rather than the sharing economy as such.

To the extent that sharing economy platforms make claims about the reliability of their user review systems that are misleading or deceptive, this conduct should be considered misleading or deceptive.

Uber's 'surge' pricing has also been raised in the context of misleading and deceptive conduct. Uber's conduct could be misleading if it claims that prices are high due to high demand, when in fact demand is not high. Again though, it is not clear that a sharing economy platform has any greater or lesser incentive to engage in this type of conduct than a business in the traditional economy.

Unfair contract terms

Suppliers and consumers of sharing services will sometimes execute a 'Standard Form Contract' with the sharing platform in order to be able to sell and buy services via the platform. The same types of issues that can arise with Standard Form Contracts in the traditional economy are likely to arise in the sharing economy. In particular, such contracts can be lengthy and complex, so it can be a rational response for consumers and suppliers to

⁹⁵ Ure (2015), 'Impact of the Sharing Economy', *Intermedia*, March 2015 Vol 43 Issue 1.

not read them; and even if they do, they may not understand them. In turn, the sharing platform has the ability to include terms that are ‘unfair’.

It is not clear that sharing platforms have any lesser or greater incentive than businesses in the traditional economy to include terms which do not comply with Australian laws in Standard Form Contracts. However, to the extent that sharing economy platforms are more likely to be domiciled overseas than businesses that use Standard Form Contracts in the traditional economy (for example, utilities services providers) there may be a greater prospect that the Standard Form Contract falls foul of Australian unfair contract terms protections. Further, international platforms may have an incentive to ‘contract out’ of local laws and regulations — for example, Homeaway.com includes a term in its Standard Form Contract which states that:

“We are also not responsible for...the compliance with laws, rules or regulations that may be applicable to any holiday rental property in any jurisdiction.”

Whilst ultimately a legal question, it would seem that the current Unfair Contract Term protections in the ACL would protect consumers that execute Standard Form Contracts with sharing platforms, because the protections apply to ‘consumer contracts’. These are defined as contracts for a supply of goods or services to an individual whose acquisition of the goods or services is wholly or predominantly for personal, domestic or household use or consumption. In the case of a Standard Form Contract with a sharing platform, the service provided is one of being matched with a supplier.

The application of the protections may however be more complex if a Standard Form Contract is executed between the consumer and the supplier each time the two parties share a good or service (e.g. each time accommodation on Airbnb is booked), but the Standard Form Contract is prepared by the sharing platform. An unfair term in the agreement between the supplier and the consumer could be voided, even though the supplier may not have drafted the contract.

Consumer transactions for goods or services – display of consumer guarantees

Under the ACL, consumers have guaranteed rights that (amongst other things) the supplier has the right to sell the goods it is selling, and that the goods are of acceptable quality and match their description. They also have guaranteed rights that services are carried out with reasonable care and skill and within a reasonable time.

It is not difficult to envisage circumstances in which consumers that have purchased, for example, a night in accommodation via Airbnb, find the quality of their experience unacceptable or not matching the accommodation’s description. It is also possible that the supplier of the room may not have a right to lease out the room (for example, if it has a rental contract that precludes it from sub-leasing). It is possible that a transport service provided by a Lyft driver might not be carried out with reasonable care, or within a reasonable timeframe.

In all of these cases, the supplier of the product or service could be argued to have not complied with the consumer's guaranteed rights under the ACL. It seems reasonable that the suppliers should have to comply with these provisions of the consumer law.

Ensuring the safety of consumer goods and product related services

The ACL includes provisions about the safety of consumer goods and product-related services. For example, a business must not supply particular kinds of consumer goods and product-related services unless they comply with any relevant safety standard in force, and a business must not supply consumer goods and particular kinds of product-related services if they are subject to an interim or permanent ban.

Safety is an issue that is often discussed in relation to the sharing economy.⁹⁶ For example, media attention surrounding Uber has focussed heavily on safety concerns. The Institute of Public Affairs has however found that there is little evidence that Uber is any less safe as a transportation platform than alternative transport services.⁹⁷ The public health hazards associated with leftover food sharing sites such as LeftoverSwap are also frequently raised.⁹⁸

Whether or not the ACL provisions around product safety apply to sharing economy services such as ride-sharing and accommodation sharing, or the sharing of goods (for example, bikes, leftover food) will depend on the specifics of the case at hand; however it is likely that the ACCC would be the first port of call for consumer complaints if they are unclear on which other avenue to take.

⁹⁶ FTC (2015), 'Sharing Economy Workshop', Panel 3.

⁹⁷ Institute of Public Affairs (2014), *The Sharing Economy – how overregulation could destroy an economic revolution*.

⁹⁸ Cohen and Zehngesot (2014), 'What's old becomes new: regulating the sharing economy', *Boston Bar Journal*; King (2015), 'The three regulatory challenges for the sharing economy', *The Conversation*.

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