

Good Sharing, Bad Sharing

Why we need a political regulatory framework for the Sharing Economy

by Reinhard Loske

The Sharing Economy is booming. Whether car, bike or ride sharing, couch surfing or clothes swapping, urban gardening or food sharing, crowdfunding or office sharing, co-working or freeware: all these segments of the economy are currently enjoying huge growth all around the world, especially in North America, Europe and Australia, but increasingly also in Asia. The South Korean capital Seoul, for example, has for some time now been calling itself Sharing City. There are a number of very different motives behind this development, from increased awareness of environmental and financial costs to a newly-discovered pleasure in cooperative activity.

However, two of the drivers of sharing are clearly of predominant significance: firstly, the increasingly widespread recognition, especially among younger people, that, in order to have access to goods, services and knowledge, (the ability) to use something is more important than (the compulsion) to own it; and secondly, the enormous and growing possibilities offered by the internet, and the ease and speed with which it brings together supply and demand in any given market.

It's hardly bold to prophesy a big future for Sharing. But how are we to evaluate this trend? Is it a good thing and a source of new opportunities for society, for the economy and for the individual, or is it instead a bad thing and a source of risk? My answer is that the Sharing Economy could just as easily develop into a generator of social cohesion and sustainable development as it could into a permanent competition of all against all and the total domination of our lives by economics – and the concurrent rise of globally active digital monopolies with a tendency towards totalitarianism. However, none of these developments is bound to be inevitable. It depends on the political and legal framework we construct for the Sharing Economy - regionally, nationally and at the European and global levels.

An analysis of the very many publications and public statements on the general topic of the Sharing Economy in recent years reveals two broad basic perspectives, one optimistic and one pessimistic.

The Sharing Economy: a social dumping hell or a paradise of sustainability?

On the one side are the often euphoric arguments of those, such as Jeremy Rifkin,¹ who believe that the shared utilisation of cars, tools, toys, buildings, appliances, machinery, clothes, foodstuffs and software offers enormous potential reductions in resource use and pollution, promotes social cohesion through cooperation and accountability, and replaces egotistical motives step by step with altruistic ones. This view ascribes to the practice of sharing, which it is assumed will replace the competitive ideology underlying day-to-day social interactions, a transformative and ultimately revolutionary power. Coming over the horizon is nothing less than the end of capitalism as we know it

A very different perspective on the Sharing Economy is taken by a highly unusual coalition made up of professional and occupational associations, the avant-garde of the internet, and consumer rights and data protection groups. For example, trade unions have joined with internet experts such as Evgeny Morozov to warn of a 'dumping hell' leading to a never-ending competitive race to the bottom.² In their view, 'platform capitalism' threatens the erosion of the achievements of the welfare state and a thoroughgoing de-solidarisation of society; in other words, the exact opposite of what the Sharing optimists predict. Their fear is that those things we used to do out of fellow-feeling and without weighing up our own potential benefit we will only do in future out of calculated self-interest and for money.

Small and medium-sized enterprises, for example taxi firms or hotels, find themselves driven by unfair regulation into a ruinous competition that threatens their very existence. Their trade associations stand shoulder to shoulder with the unions on this issue - otherwise a rare event.³ And consumer rights and data protection groups draw attention to the dangers of lax security standards, a lack of insurance cover and an all-too-liberal attitude towards personal data in the Sharing Economy. But at the same time they have to recognise that ever-growing numbers of people are using these sharing

¹ Rifkin, Jeremy: *The Zero Marginal Cost Society: The internet of things, the collaborative commons, and the eclipse of capitalism*. Palgrave Macmillan, 2014

² <http://www.theguardian.com/commentisfree/2014/sep/28/sharing-economy-internet-hype-benefits-overstated-evgeny-morozov>

³ <http://www.theguardian.com/commentisfree/2015/jun/21/airbnb-uber-sharing-economy-dotcommunism-economy>

opportunities, meaning that they are choosing voluntarily to enter this new world.

Doubts about Sharing are now being voiced even from ecological and anti-consumptionist quarters. It may be true, they argue, that Sharing has the potential to reduce environmental pollution and conserve resources, since in theory fewer goods need to be produced and bought; however, as the whole thing shifts from a practice inspired by socio-ecological concern to a growth-oriented Business Case, as exemplified by companies like Uber, Airbnb, Car2go and DriveNow, so the focus moves from reducing consumption to stimulating multi-optional consumption for everyone, everywhere, at any time. If everything becomes cheaper, so the argument goes, you can afford more of everything, which raises rather than reduces resource throughput.⁴ And then it has absolutely nothing to do with sustainability any more.⁵

Certainly, both positions can claim some plausibility. But good counter-arguments can also be put forward against both positions, because both have blind spots.

The Sharing optimists fail to recognise clearly enough that it is in the nature of modern capitalism to use new social practices, germinating in niches and often altruistically motivated, as a form of fresh cell therapy, and to transform them into Business Cases (or at least to try). Just as it succeeded in channelling the hunger for authenticity into retro furniture and vintage clothing, or the yearning for untouched nature into SUVs weighing over a ton, so capitalism is currently trying to use its magic wand to transform communism into consumism and thus to turn spheres of human interaction hitherto uncolonised by economics into business markets. The capacity to twist ideals into commodities is what some so admire about capitalism, and what others despise. And any political analysis which fails to take account of this ever-present drive to commodification and its often disastrous social and ecological

⁴ <http://www.economistinsights.com/sustainability-resources/opinion/sharing-economy-sustainable>

⁵ Paech, Niko: Die Sharing Economy: Ein Konzept zur Überwindung von Wachstumsgrenzen?, in: Wirtschaftsdienst, 95. Jg, Heft 2: 87-105 (<http://archiv.wirtschaftsdienst.eu/jahr/2015/2/oekonomie-des-teilens-nachhaltig-und-innovativ/#res4>)

consequences is culpably mistaken, even naïve; especially so if its aim is to derive from the analysis appropriate regulatory proposals.⁶

The Sharing pessimists, meanwhile, recognise realistic dangers, but they often assume that the status quo deserves to be upheld per se. But, one is tempted to ask them, are there not cartels whose unearned rents ought to be blown out of their hands by the fresh wind of competition? Can young low-budget travellers really be blamed for preferring free or cheap overnight stays to expensive hotels? Is it really such a bad thing if people are no longer happy to devote themselves body and soul to the formalised world of work, of employers and employees, but would rather put together a mix of autonomy and heteronomy that suits them? Is it not a potential gain for the ecological balance sheet if hitherto niche activities like car sharing are now being taken up by big car companies and offered on the mainstream market, even if the motivation behind it certainly isn't environmental concern? In short: isn't it a bit simplistic to interpret the many and varied Sharing forms and experiments only as a threat to a perfectly good status quo?

The problem with both of these exaggerated perspectives is that they are ultimately forms of automatism: on one side the path leads inevitably to a paradise of social and ecological sustainability, on the other to a hell of social dumping and the economic downfall of society. But what about a perspective that sees a third and a fourth option, that is open to dynamic tension and dialectical resolution? Perhaps such a perspective is harder to sell in the ravenous media markets than the monolithic theses of either Global Salvation or Global Catastrophe through Sharing, even if it is perhaps closer to reality. Where is the broad discussion about the possibility of steering the trend in a chosen direction by means of a political regulatory framework?

The Sharing Economy – between community interest and profit

What we need first of all is to differentiate, based on both what is actually happening and what is needed in practice. It is important to distinguish between that part of the Sharing Economy which works primarily in the community interest and that part which is primarily oriented towards profits, in order not to lump everything together and to ensure that like organisations are

⁶ Loske, Reinhard: Why the Post-growth debate Is Not a Wrong Turn, in: Gaia, Vol. 24 , Nr.. 4/2015: 236-239 (http://www.loske.de/pdf/GAIA4_2015_236_239_Loske.pdf)

treated alike and dissimilar ones differently.⁷ Food sharing, city gardens, car-pooling networks, repair cafés, clothes swap parties, shared cars, recycling exchanges and the temporary letting of empty properties are clearly something completely different to commercial booking platforms for accommodation or transport, free-floating car sharing offers, appliance and tool hire, agricultural machinery rings, co-working spaces and subscription clothes rental services.

Of course, there are grey areas, for example when primarily community-interest platforms for free accommodation or transport finance themselves increasingly via advertising revenues and then pass on the data they collect, or conversely when commercial suppliers provide substantial support for 'good causes'. But often the legal form of incorporation is enough to indicate whether a Sharing activity is primarily community-oriented or primarily commercial. So in the first category, it is associations, foundations, cooperatives, community interest companies and municipal enterprises which predominate, and in the second category, private partnerships and companies.

Once these definitional clarifications have been undertaken, the next thing is to design appropriate frameworks and regulatory regimes for both systems. The aim must be to create an adaptive framework which guarantees a consistent orientation towards the welfare of the community, sustainability and fair competition, but which is adaptable enough to respond reflexively to technical and social innovations, and if necessary to unintended consequences.

What should an intelligent form of political framework for the Sharing Economy then look like? First of all, one needs to be clear that although we are just at the beginning of a systematic debate on this issue, individual phenomena are already popping up on a regular basis which dramatically highlight the need for political regulation.

A glance at the news over the past year demonstrates this very clearly. Some examples: 'Frankfurt District Court bans Uber cab service nationwide' (18.3.2015), 'San Francisco is serious about Airbnb regulation' (2.7.2015), '(German) Transport Minister Dobrindt plans priority parking for Carsharing' (22.4.2015), 'New Law in France on Food Sharing' (4.6.2015), 'New Regulation

⁷ Loske, Reinhard: Politische Gestaltungsbedarfe in der Ökonomie des Teilens. Eine Betrachtung aus sozial-ökologischer Perspektive, in: ifo Schnelldienst, 67. Jg., H. 21/2014: 3-27 (<https://www.cesifo-group.de/de/ifoHome/publications/docbase/details.html?docId=19107212>)

Rules Will Rock the Crowdfunding World in the US' (1.4.2015), '(German) Environment Minister Hendricks wants to promote Urban Gardening' (10.6.2015), 'Revision of (German) renewable energy legislation slows down energy cooperative start-ups' (21.7.2015).

The headlines are enough to show that, from a political perspective, there appear to be both more desirable and less desirable developments with regard to Sharing, and this applies to Europe as well as America. Practices such as urban gardening, food sharing, car sharing and crowdfunding are judged as worthy of support, presumably in part because they help give cities a modern and dynamic image; whereas commercial online agencies for transport services or private accommodation are either restricted or completely banned because they can bring with them unwanted consequences for local traders or for the community life in the district.

It is clear that regulatory decisions elsewhere often have secondary effects with huge consequences for the future of the Sharing Economy. One example is the most recent amendment of the Renewable Energy Act in Germany, which - by reducing the feed-in tariff and in other ways tilting the market in favour of big investors - brought about a dramatic collapse in the number of energy cooperatives being set up. Although the cooperative production and consumption ('prosumption') of (usually) 'green' energy represents an especially promising form of the Sharing Economy, the interests of this sector were simply overridden. Whether the collapse in the number of new energy cooperatives was politically intended or not, the result of a momentary lack of attention in the legislative process or rather a favour to the big electricity companies, is something that remains hidden in the political shadows.

The challenge for political regulation is in my view threefold. In those areas where Sharing is community oriented, the policy requirement is for it to be supported, stabilised and protected from hostile takeovers. Where it is a profit-oriented economic activity like any other, fair competition, tax justice and the maintenance of social, safety and environmental standards must be guaranteed by means of adequate regulation. In the places where decisions are made on fundamental issues of economic and social policy, systematic consideration must in future be given to whether those decisions will contribute to the building up of social capital or to its erosion.

Challenge 1: supporting the community-oriented Sharing Economy

There are countless opportunities for intervention under the first thematic heading, especially for city and town councils, above all in terms of helping spontaneous initiatives develop into viable, robust, properly structured entities. Just a few examples:

- City gardens, and classes for experiencing and learning about nature outdoors, can be supported by providing access to municipal open spaces, by encouraging exchange between traditional allotment holders and urban gardeners and thereby also providing a cultural stimulus - for example for the integration of migrants, who often bring with them surprising gardening skills. Furthermore, urban gardening can be supported as a form of statutory ecological offsetting mechanism for construction projects in the city.
- New repair cafés or architectural salvage yards can be supported by training colleges, chambers of commerce or the local waste disposal team.
- In order to help creative initiatives and other start-ups find suitable rooms, a community agency can be set up to find empty premises and to help prepare them for productive use.
- Sustainable transport projects like car or bike sharing can be supported by providing priority parking in public spaces and by integrating them with public transport networks.
- To prevent food waste, supermarkets, restaurants, canteens and private households can be encouraged to offer surpluses to food banks or to charities for the needy.
- To encourage a non-commercial market mechanism for clothing exchange and tool and toy hire, church and neighbourhood communities and environmental groups can be supported in building up such structures.
- To foster community spirit, a local currency can be set up, or a local exchange trading system (LETS) where services are exchanged between residents directly or for credit, so that a local social economy develops.

In such areas of the community-oriented part of the Sharing Economy, as a rule one is dealing politically with a high measure of idealism and goodwill on

almost all sides. The critical factor here is usually the staying power and commitment of those involved. Often the success of such projects is dependent on the engagement of a small group of especially active people, which is why in the longer term a degree of professionalisation is essential.⁸ Genuine resistance to social sharing projects nowadays is quite unusual. In fact, many local councils increasingly recognise that the absence of such socio-cultural innovation is a severe locational disadvantage in inter-community competition.

This general goodwill towards social sharing projects is often attributed in anti-capitalist circles to the fact that they are no more than harmless niche phenomena which do not seriously question the dominant forces of accumulation, growth and profit-making of the overall system, and which for that reason ultimately cannot develop genuinely transformative power. Of course, it is also possible to see it quite differently: that here, pioneers are demonstrating what in the not-too-distant future may become the new mainstream.

Challenge 2: regulating the for-profit Sharing Economy

But it is certainly true that the political conflicts in the second area, where the aim is the regulation and also the containment of the commercial part of the Sharing Economy, are likely to be considerably sharper. Gigantic future markets, powerful actors and the fundamental operating system of the economy of the future are all involved. Our starting point here is the basic infrastructure for the new Sharing Economy: the internet. Without this network, even the growth of the Sharing Economy so far would not have been possible, and in the future it will inevitably be an even more crucial determinant of the balance between the for-profit and community sectors.

We know from the theory of networked infrastructures that they demonstrate a tendency towards the creation of monopolies and to abuse of market power by the network providers. From the perspective of fair competition, the optimal arrangement is when networks (for electricity, gas, water, rail transport or telecommunications) are operated not by those who want to sell

⁸ Loske, Reinhard: Neue Formen kooperativen Wirtschaftens als Beitrag zur nachhaltigen Entwicklung. Überlegungen zur Wiedereinbettung der Ökonomie in Gesellschaft und Natur, in: Leviathan, 42. Jg., H. 3/2014: 463-485 (<http://www.nomos-elibrary.de/10.5771/0340-0425-2014-3-463/neue-formen-kooperativen-wirtschaftens-als-beitrag-zur-nachhaltigen-entwicklung-ueberlegungen-zur-wiedereinbettung-der-oekonomie-in-gesellschaft-und-natur-jahrgang-42-2014-heft-3#select-abstract-row>).

the relevant products or services, but by independent third parties. The separation of network and distribution, so the theory tells us, guarantees what is called network neutrality. This delivers the economic optimum: low prices and equal access without discrimination for all network users.

If these considerations are applied to the internet, and in particular to search engines, then it is easy to see how much market power the US digital companies already have. Google, for example: since the company not only has the market-dominating search engine, with a share of over 90 percent of the market, but also offers its own services as well as being a shareholder of Sharing Economy enterprises such as Uber, it is hardly possible to assume network neutrality here. There is a powerful incentive to use the search engines to favour its own services or those of associated service providers.

It was for this reason that in November 2014 the European Parliament recommended the splitting up of Google and the separation of its search engine from its services. The EU's competition Commissioner therefore initiated competition proceedings against Google in April 2015 for abuse of market power, proceedings which are yet to reach their conclusion.⁹ The outcome of these proceedings, and the consequences which will be drawn, are of substantial significance for the future of the internet economy in general and of the Sharing Economy in particular. For it makes a huge difference whether a search for services comes up first with primarily local and/or less commercial providers or else with global operators with a strong interest in profit and in data gathering. Such an important factor for the future structure of the economy and society as the infrastructure of the digital economy must not be allowed to remain subject to the profit and growth drive of a single company, but rather needs to be under societal and political control.

The legal regulation of the different Sharing services is comparable in terms of complexity to the issue of network regulation and the ensuring of network neutrality. Here, too we need to start with a plea for differentiation.

There is a difference between a student allowing someone to use her room for a couple of days during the holidays for a small financial consideration or for a present, and the systematic and quasi-commercial letting of private accommodation for longer periods and for quite substantial sums. Of course,

⁹ http://europa.eu/rapid/press-release_IP-15-4780_en.htm

both should be subject to taxation according to the rules, but the latter undeniably has social consequences as well, in terms of de facto competition being created for hotels, bed and breakfast providers and youth hostels, or because local rent levels are pushed upwards, or because entire urban districts, particularly in especially 'trendy' parts of bigger cities, start to lose their character because of high residential turnover.

There is a difference between someone who is driving their car from A to B offering, via a lift-sharing agency or platform, to take other people willing to contribute to the costs, and the systematic advertising via an app of travel services for which the intermediary takes a fee but leaves all other risks to be shared between the driver and passenger. In this case, too, everything has to abide by the legal rules, but the involvement of a commercial actor, who under the fashionable and popular flag of ride sharing is actually providing a taxi service, has a corresponding impact on third parties, from licensed radio cabs to public transport providers, who may lose customers.

There is a difference between people who live in the same residential district sharing a couple of neighbourhood cars or creating a car pool, and big car companies making available a large number of cars in one city in order to make urban automobility without car ownership a more attractive prospect. Both are forms of car sharing, and yet one can say without any element of moral judgement that they follow very different guiding principles and therefore should not be treated the same in terms of wider social policy or regulation.

There is a difference between someone collecting money for a specific project on a one-off basis, perhaps with professional help, and the systematic raising of substantial sums for third-party projects as a business model. Both are crowdfunding, both can serve social or commercial purposes, and in both cases the money collected must be carefully used and accounted for. But if the latter activity becomes established on a large scale, it is likely to have consequences not only for banks but also for charities which collect money for 'good purposes'. Since the internet makes it easier to directly invest, spend, donate or to raise money, the importance of intermediaries declines – and most definitely if they are not able to come to terms with this new reality.

The regulatory tasks which arise out of the Sharing Economy and its ways of operating are challenging, but manageable. The basic principle should be that

the more commercial part of the Sharing Economy must not be strangled by over-regulation simply because it conflicts with the interests of established groups or classes and creates additional pressures for change in some sectors. To do so would be downright foolish, in view of the dynamism of this sector and of its close interlinking with the wider internet economy. What is needed is rather a commensurate level of regulation of the Sharing Economy and a flexible and adaptive legal framework which limits the negative social impacts of commercialism and maintains a strong focus on the welfare of the community as well as on the fiscal interests of the state.

Specific proposals:

There should be a limit on the number of days on which private accommodation can be let, although the upper limit of 90 days set by the City of San Francisco is in my view too high. At the same time, appropriate measures should be taken to cap the agency fees charged by enterprises such as Airbnb.

The requirements (with respect to licences to carry passengers, local street knowledge and insurance) for drivers working for online agencies like Uber need to correspond roughly to those which apply to taxi drivers, though the additional costs must not be borne only by the drivers.

Car sharing using dedicated base stations should receive more support than free-floating car sharing, for example through the intelligent management of parking space or optimal integration with public transport.

Crowdfunding should be supported through a legal framework that encourages small investors to finance community projects. And politicians should give more prominence to how the ethical banks - who have long provided information on how they use the assets they control and on their targeted support for projects in the areas of renewable energy, energy conservation, organic farming, education and social integration – can function as role models for the banking system.

Challenge 3: protecting and growing social capital

This list could easily be continued. Basically, however, it simply points to the wider context which society seeks to place around the economy in order to (re-

Embed it within social ends. This third area is concerned principally with fundamental values, fundamental attitudes, and fundamental orientation. Many of the phenomena we can observe today in the Sharing Economy in fact have their roots in changes elsewhere - upstream, so to speak. That applies to positive as well as negative developments.

The fact that people want to cultivate gardens together or to swap clothes is the result of putting a new value on nature and of a raised awareness for resources, and therefore undoubtedly shaped by a genuine shift in fundamental values. The fact that people join in with crowdfunding to support worthwhile projects is perhaps due to a new desire to make a difference, and to the understanding that money can also be a means of social engineering. But it is just as true to say that the fact that people take part in food sharing and food saving is perhaps not just a sign of a greater awareness of the value of food, but also a symptom of an unhealthy farming system and an unspeakable throwaway culture. The fact that some people are now dependent on things that others don't need or want any more perhaps points to the failure of the welfare state and the growing gulf between rich and poor. And the fact that many young people, laptops under their arms, are trying to get into the hip coworking spaces just so that they can be among other people is not necessarily a sign of emancipation and freedom, but points at least as much to rapidly spreading social isolation and to an exaggerated mania for flexibilisation in the world of work.

It can hardly be denied that many of the manifestations of the Sharing Economy have their origins mainly in the pleasure of the new and in genuine entrepreneurial spirit, whereas others arise out of adversity and even need. In that sense, the real questions that we as a society have to answer need to be addressed first, before we concern ourselves with the specifics of the Sharing Economy. How fair do we want our society to be? What do we think society means, and how does it relate to the spirit of enterprise? How sustainable should our economy be and what kind of world do we want to leave behind for future generations? Whether we are able to design a regulatory framework which succeeds in making a socio-ecological success of the Sharing Economy will depend on the answers to these questions, and on the default values that we set as a result of those answers. If we let things drift, then it really is

possible that we will have to adjust to the 'social dumping nightmare' in which some will become specialists in success and the others in failure.

Reinhard Loske is Professor of Sustainability and Transformation Dynamics at the University of Witten/Herdecke, Germany. Previously he was Senator (Minister) for Environment and Europe in Bremen (2007-2011) and a Member of the Federal German Parliament (1998-2007) for the Green Party.

The German version of this text was published in "Blätter für deutsche und internationale Politik":

(<https://www.blaetter.de/archiv/jahrgaenge/2015/november/sharing-economy-gutes-teilen-schlechtes-teilen>).

The French version appeared in "Le

Temps":(<http://www.letemps.ch/opinions/2016/02/25/economie-partage-vraiment-plus-belle-vie>).

This English version was translated from the German by Ray Cunningham.