



Legal and regulatory debates on the “collaborative economy” in Europe

Brasilia - June 13, 2016

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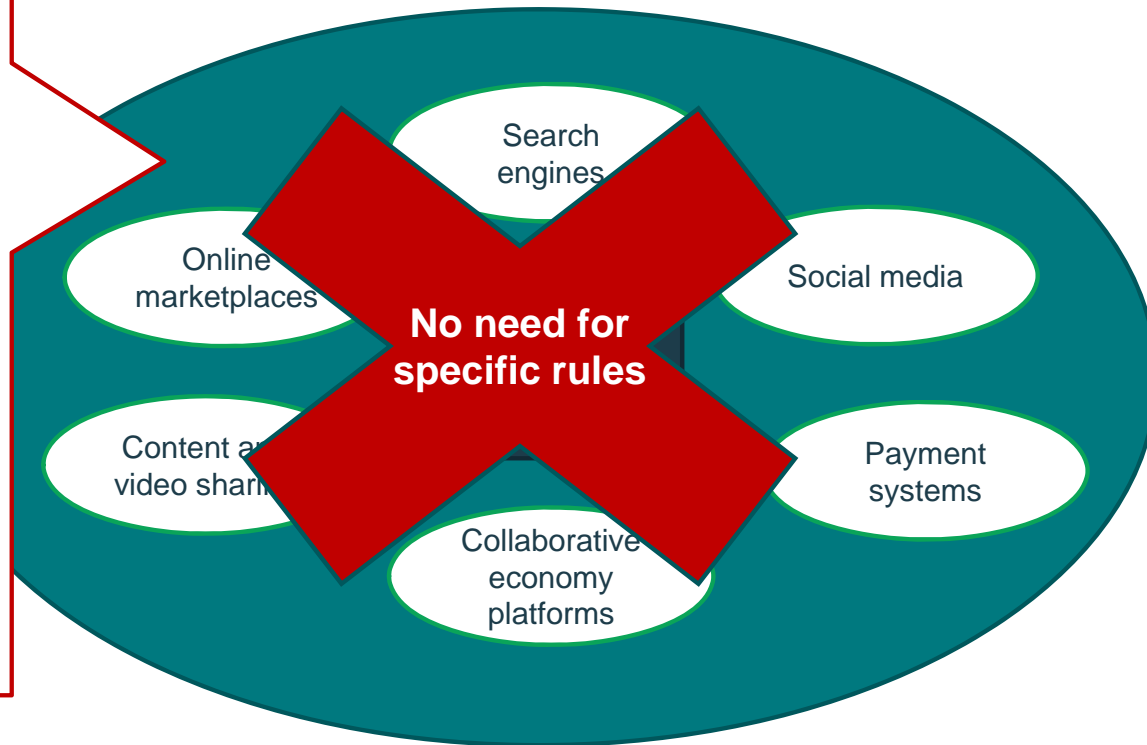
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For any other questions contact me at elena@cullen-international.com

EC Communication on Online Platforms

May 25, 2016

“Online platforms are already subject to EU legislation such as consumer and data protection rules, and competition law. New initiatives will only be taken to tackle any specific problems identified and only if it is established that better enforcement of existing rules is not sufficient to address these.”








EC Communication on the Collaborative Economy

June 2, 2016

- No specific EU regulation planned
- Member states are free to decide how to approach the collaborative economy...
- ...provided they are compliant with EU laws

**Until today member states have taken
divergent approaches**

	Government studies or debates?	Court rulings?	
DE 	✓	✓	UberPOP is illegal in Germany
FR 	✓	✓	Constitutional Court rules in 2015 that UberPOP is illegal in France
IT 	✓	✓	Interim rulings order to stop Uber in Italy and in Spain
ES 	✓	✓	
UK 	✓	X	Legal action against Uber over drivers' working rights

EC Communication on the Collaborative Economy

June 2, 2016

The collaborative economy involves 3 types of actors:

- Service providers  Occasional (peer-to-peer)
- Users  Professional
- Intermediaries (“platform”) connecting providers and users

Market access requirements (i.e. is a “permit” needed?)

Type of provider	Current EU rules	Recommendations for member states
Professional	Yes, but market entry conditions must be: <ul style="list-style-type: none"> - Non discriminatory - Necessary for public interest objective - Proportionate 	Review existing rules, taking into account specific service features Bans or quantitative restrictions should be “ <i>measures of last resort</i> ”
Peer-to-peer	Undetermined. EU laws do not specify when a peer to peer becomes a professional	Introduce quantitative thresholds (e.g. revenue)
Online platforms	<p>The Court of Justice of the EU has to decide:</p> <ol style="list-style-type: none"> 1. Uber is providing only an Information Society service? 2. a transport service? 3. a combination of both? <p>If it considers that Uber is also providing the underlying transport service, it will be subject to transport legislation in member states</p>	

Consumer legislation (interpretation?)

- EU consumer legislation does not apply to C2C transactions.
- Importance of determining when a person providing a service (e.g. a Uber driver) qualifies as a trader (B2C and not C2C)

According to the Commission, a person providing a service through a collaborative economy platform can qualify as a trader when all the following factors are met:

- **Frequency of the services**
- **Profit-seeking motive**
- **Level of turnover**

No administrative burdens on private individuals providing services occasionally

Taxes



- Some member states have agreements with collaborative platforms for the collection of taxes.
Estonia: cooperation between the tax authorities and ride-sharing platforms (whereby the transaction between driver and user is registered by the platform, it sends the data relevant for taxation purposes to the tax authorities).
- The EC encourages member states *“to facilitate and improve tax collection by using the possibilities provided by collaborative economy platforms”*
- Calls on platforms to cooperate with tax authorities *“to establish the parameters for an exchange of information about tax obligations.”*



THANK YOU!

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