# Lithuanian Free Market Institute position on the European agenda for the collaborative economy

The European Commission (EC) has issued a European agenda for the collaborative economy (Agenda). A clear point of view on sharing economy was essential in the wake of these new business models. This relatively new phenomenon provides the European Union (EU) with an opportunity to create more jobs, more economic value, and spur innovation. It is estimated that even though the sharing-economy now contributes only EUR 28 billion to the EU economy per year it can grow to up to EUR 572 billion per year. In order to use as much potential as possible, both the EU and its Member States have to implement a regulatory model that is flexible and applicable to different business models. The following analyzes key areas addressed by the EC in the Agenda.

### Market access requirements

Any market access barriers whether it be authorization schemes or licensing requirements, imposed by the governments must be implemented only if they are necessary in order to attain a clearly identified public interest objective. Any Imposed limits must be justified, legitimate and objective. One of the main purposes for market access requirements is to ensure the consumer protection. But such regulatory practices have morphed into a governmental instrument to limit the number of businesses or to limit the supply of goods and/or services. This has happened in the taxi industry in France where after setting the license limit for taxi drivers to 14 000 in 1930s it has only reached 18 000 by the time of the riots against Uber in 2015.

The necessity for governments to ensure consumer safety in areas where the sharing economy thrives, has decreased significantly mostly because of the autoregulation and feedback methods employed by platforms themselves. Platform owners usually issue a set of requirements that service provider has to meet before being able to use the platform. This acts as an *ex ante* regulation. After using the platform and interacting with consumers, the service providers are subject to an evaluation system. Customers can leave reviews and on how the service provider has performed or delivered in their transaction. This works as an *ex post* regulation. Because of the mobile technologies, which enable these evaluations, they take effect instantly. This allows other customers to see how the provider has performed before. Even the slightest decrease in the quality of services can instantly result in a poorer consumer evaluation and eventually lesser customer activity. System provides the results instantly therefore it is more flexible and more receptive to any quality changes than the rigid licensing systems imposed by governments. Thus the EC is right to advocate against absolute bans and refraining from any quantitative restrictions.

Despite this general idea of avoiding unnecessary restrictive measures, EC somehow argues for the differentiated regulatory regime. Below a certain threshold defined by the market player’s economic criteria which may differ according to a sector, service providers may be subject to less restrictive requirements. Thresholds, established in a reasonable way are claimed to have a possible positive impact for the non-professional providers.

There is no clear evidence, that this would benefit anyone else except for a small part of market players. Purposefully creating differentiated regulatory regime will stifle and eventually the only losing party will be a consumer. There is no clear reason why bigger market players which use digital platforms to do business should be subject to a stricter regulatory regime.

Sharing economy is a chance for the EU to reform its approach on different business sectors. Digital platforms have let peer-to-peer service providers to compete against established market players and grab a significant part of their market share. This has shown that the customers are comfortable with quality standards maintained by platforms and their users, and that the requirements imposed by the governments are becoming obsolete. Therefore, neither the EU nor the Member States should apply differentiated regulatory regime. Instead, they should review old regulations and modernize them into those fitting the new business models.

### Worker status in the collaborative economy

One of the most important opportunities presented by the collaborative economy is a possible increase in jobs and more ways for the EU citizens to earn a living. The flexibility of these business models is exceptionally attractive to people who are not able or willing to work full time. This includes students, young parents, people who want to have an extra source of revenue. But by arguing for a wider use of labor laws based on labor patterns, flexibility, which is so attractive to both consumers and service providers, may be sacrificed.

The application of labor laws relies heavily on three main criteria of the EU law which define the employment relationship: the existence of a subordination link; the nature of work; the presence of a remuneration. The problem is that based on these criteria most of collaborative economy business models and the relationship between service providers and digital platforms could be categorized as labor relationship which can eventually lead to higher taxation and lesser flexibility. Subordination criterion can be applied whenever a provider of the underlying service is not free to choose which services it will provide and how. A lot of collaborative economy businesses are one sector oriented. Which means that by limiting its activities to one sector it may also be categorized as a subordination relationship. The nature of work criterion would be met if a service provider is pursuing a genuine economic value, excluding services on a small scale as to be regarded as purely marginal and accessory. This criterion lacks certainty as it may be evaluated based on working hours, productivity, revenue and many other economic criteria. Such uncertainty can make it possible for legislators or courts to *ad hoc* classify any nature of work as the field of labor relationship. Remuneration criterion may also be met by numerous collaborative businesses due to the fact that they establish pricing policies and bonus systems, which significantly impact remuneration.

Neither the EU nor the Member States should seek to apply strict labor laws in the field of collaborative business models. Flexibility both in terms of regulation and working hours is what led to the flourishing of sharing-economy in the first place. By applying the traditional labor rules governments would only diminish the most significant competitive advantage of collaborative economy business models.

### Taxation

Difference in taxation models and compliance rules has been named as one of the biggest problems for businesses that want to sell their goods or services in the EU. Therefore, an application of functionally similar tax obligations to businesses providing comparable services has been called for. Even though an increased clarity and transparency is a justifiable goal, development of commonly agreed standards can lead to tax system harmonization which may be harmful.

Differences between tax systems may serve as a stimulus to trade. Taxes constitute a significant share of costs and a large share of the price of factors of production, labor in particular. It is tax diversity (which is usually determined by the necessity to accommodate to local conditions and traditions) that provides serious incentives to produce cheaper goods and services and to offer them on the international market. Non-existence of centralized tax harmonization promotes beneficial trade rather than undermining it.

A common approach towards tax administration may not necessarily help create the system that is applicable and welcome everywhere in the EU. The EC rightly encourages Member States to facilitate and improve tax collection by using the possibilities provided by collaborative platforms, as these already record economic activity. Member States should work on finding the best fitting tax administration model for their country while still competing with other countries’ tax systems.

### Conclusion

* Member States should follow Agenda guidelines in terms of refraining from using restrictive market access policies for collaborative economy business models only. These new businesses have developed tools that help to maintain quality standards, therefore no additional governmental intervention is necessary.
* Differentiated regulatory regimes for different digital platform users should not be imposed because that would be harmful for the competition and end-users.
* Applying labor laws for digital platform and service provider relationship may lead to lesser flexibility of collaborative economy businesses which is one of the main factor why platforms became so popular among market players in the first place.
* Member States should use the possibilities created by the digital platforms to set up tax administration system that would be simple and efficient. At the same time Member States should compete among themselves with their tax tariffs and administration systems in order to make their tax environments inviting to the collaborative economy businesses.