Consumer Protection and China's Sharing Economy

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Abstract: The sharing economy is providing consumers with more affordable, more convenient access to shared goods and services. However, the business model of sharing economy has posed challenges for both consumers and regulators. The Chinese central government has drafted policies to promote the sharing economy while protecting the consumers rights. Due to the lack of an effective exchange of information, and ambiguity in regulatory requirements, it is not easy to achieve the goal of consumer protection in the sharing economy. China needs to take a more positive and specific role in guiding policies towards a sustainable sharing economy for the long-term.

1. Introduction

The sharing economy has attracted the attention of a large number of consumers by affording easier and cheaper access to certain products and services. According to a Chinese state report, more than 700 million people participated in the sharing economy in 2017; that is almost half the country's population[1]. In the meantime, the rise of the sharing economy has introduced unforeseen challenges for consumers, incumbent businesses, regulators and policymakers. Most people engaging in the sharing economy face risks, and the regulatory position as to who is ultimately responsible can be uncertain Lloyd's, 2018. China also reported that complaints about hiring and rental services soared in 2017, in a staggering eightfold increase from 2016[2]. To support the growth of the sharing economy and enhance consumers' rights protections, the Chinese government has drafted policies and passed laws regulating sharing services throughout the nation. In August 2018, Didi Chuxing, China's popular ride-sharing service, fired two senior executives and suspended a car-pooling service after the second killing of a female passenger in recent three months. These episodes in China have raised questions about its ability to protect consumers who engaged in sharing economy.

2. The Rise of China's Sharing Economy

The "sharing economy" is linguistically defined as "an economic system in which assets or services are shared between private individuals, either for free or for a fee, typically by means of the Internet"[3]. These sharing practices have been highlighted by different terms, such as "collaborative consumption", "peer-to-peer economy systems" and, most frequently now, the "sharing economy"[4]. The sharing economy is defined by the Chinese government as "the integration of massive, decentralized resources to meet the diversified needs of the economic activities, by using the Internet and other modern information technologies"[1]. Fueled by forward-thinking investors and venture capital firms, startups pop up across the country to offer a wide range of sharing services. Various businesses, including cars, bicycles, homes, expensive fashion, everyday clothing, bags, and accessories, are hurled into the sharing economy in China.

China's sharing services are a fast-growing market. The sharing economy market transaction volume reached over 4.92 trillion yuan $ 778 billion in 2017, an increase of 47.2% compared to the previous year. The market value of sharing economy reached 4.5 trillion yuan $ 680 billion in 2017, a growth of 30% compared with last year[1]. China's sharing economy has grown from a fringe concept to an economic powerhouse, reshaping various industries such as tourism and mobility at a lightning pace.

3. Benefits And Risks for Consumers in The Sharing Economy

3.1. Benefits for Consumers

Although there are several drivers of the sharing economy, the main reasons for consumers jump on its wave are convenience and affordability. Firstly, the sharing economy provides consumers with convenient access to varied resources and services with a tap on their smartphones. Take the rideshare context for example, people experience the convenience of posting comments on drivers through ridesharing mobile apps[5].

Secondly, the sharing economy system facilitates the provision of higher quality goods and services at a competitive price[6]. From an economics perspective, customers choose Airbnb or Uber because they believe the price is low in comparison with hotels or taxis. The sharing economy has helped reduce transaction costs by connecting peers to peers, without the presence of a middleman. In addition, the sharing economy offers customers a unique, personal and socially-integrated experience[6]. Yet while its increasing popularity brings benefits to consumers, the sharing economy nevertheless poses a number of risks.

3.2. Risks to Consumers

3.2.1. Trust Issues

Trust often plays an important role in maintaining long-term, sustained relationships with consumers. In the context of the sharing economy, due to the dearth of detailed information about providers before consumption, online consumers put considerable emphasis on trust and transparency when dealing with online providers. The most widely diffused mechanisms for increasing trust are digital reputation systems that rely on users' ratings, references, and feedback.

However, the reliability of these reputational ratings has been a subject of constant debate since the rise of sharing economy. On one hand, ratings reduce information asymmetry and constitute a form of self-regulation that may not require regulatory intervention. On the other, they are criticised for not being fully reliable[7]. Recent studies have shown that the information provided through reputation/rating systems is often skewed, poor, insufficient, and may be manipulated or distorted[8]. Dina Mayzlin and Yaniv Dover also found evidence for both negative and positive manipulation of hotel reviews.

The reliability and security of the sharing platform is essential for sustained business growth. A breach of trust may lead to financial loss for the providers and a decline in their customer base. Consumers need assurances that the platforms they use are safe and reliable. If unconvinced, new customers avoid joining existing platforms and simply move on to another.

3.2.2. Liability Risks

Consumers supposedly benefit from cheaper and more convenient choices as a result of more competition, but face risks due to the lack of consumer protection and liability rules[9]. In traditional industries, employers are liable for injuries their employees inflict on customers. For example, taxi companies share responsibility for damage caused to passengers by their taxi drivers. However, the sharing platform breaks down traditional industry categorizations and, as a result, presents a challenge when labeling the nature of the business, by creating an ambiguous relationship between the provider and user; employer and employee; and owner and consumer[10]. The relationships between the providers and the platforms are more like partnerships than employment relations; this requires a different allocation of liability and statutory protection[11].

The practices of certain platforms may give the impression they assume at least partial responsibility in case of problems, but their terms and conditions exclude or limit liability[12]. With companies such as Airbnb insisting that they are simply a "communication platform", they often absolve themselves of responsibility when users experience problems related to quality or safety[13]. Likewise, Uber has claimed that it is not formally liable for poor driver conduct. Although it uses checks and a rating system to maintain standards, Uber does not employ its drivers. Consequently, the issue of legal liability in the sharing economy often goes unresolved.

3.2.3. Privacy Concerns

The platform-mediated sharing process typically involves an exchange of personal information. In order to participate in the sharing economy, both providers and consumers must disclose a certain amount of information to the platform organization, in exchange for access to the platform on which the exchange takes place[14]. Every time consumers scan the QR code on a bicycle or basketball, handbag or umbrella, they provide information about their habits, locations, behaviors and payment histories[15]. Such data collection can generate concerns about privacy[16]. The conflict between privacy protection and good services poses a great challenge for the sharing economy.

According to a Tencent survey, privacy exposure has been the top concern in China's sharing economy[17]. Similarly, another report shows that 38.4% of 174,000 users have experienced personal information leakage, due to the access to goods and services facilitated by sharing platforms[1]. Generally, two possibilities contribute to privacy leaks to that. One is hackers illegally obtaining information by invading platform websites; the other is platforms selling users' information to third parties, without the prior consent of consumers, to obtain illegal benefits, which is the main factor for this case.

4. China's Regulation Policy for the Sharing Economy

4.1. The Failure of The Traditional Regulatory Approach

Sharing platforms differ substantially from traditional service providers, and the sharing economy does not fit neatly into existing regulatory frameworks[11]. In 2015, Didi Chuxing was found to have violated the law for failing to prevent drivers of private cars and unlicensed vehicles from offering rides through those platforms. A Beijing agency claimed to have caught 207 cases of such illegal operations so far this year[18]. Yet the existing legislation regulating traditional marketing does not apply to the operating model of ride sharing. As long as they exist outside traditional taxi regulations, ride-sharing drivers do not take special licensing exams or carry expensive commercial insurance, which may result in unsafe and unreliable service[19]. Besides, taxi companies that operate in the more traditional sphere of the service economy assert that it is unfair for sharing platforms to participate in the industry without incurring the same costs demanded by safety regulations[13].

Additionally, China's current legal system confers on the sharing economy no specific legal status, and imposes no liability on platform operators. Article 44 of the Consumer Law states that consumers can claim compensation from internet trade platforms that cannot provide real names, addresses and contact information for the sellers or service providers, when consumers suffer damages arising from the purchase of goods or services through such platforms. However, the Consumer Law does not contain express and implied warranties and remedies in other cases, where platforms have provided real information on the providers. It is questionable whether this law is sufficient to safeguard the rights of consumers. As of August 2016, the Regulations on the Implementation of the Law on the Protection of Consumer Rights and Interests, released by the State Administration of Industry and Commerce, requires online platforms to establish systems to compensate consumers and actively mediate disputes[20]. Even so, the regulations fail to specify how third-party platforms ought to address consumer complaints, and the extent of platform liability.

In other cases, regulative consumer protection does not yet exist or is still limited or under discussion for private-to-private sharing economy transactions[21]. Since early 2017, Wukong, Dingding, Kuqi, Xiaolan, Xiaoming and other bike-sharing companies have experienced financial difficulties and a lack of funds for necessary investments. Although local governments have issued guidelines for the bike-sharing market, there are no clear requirements concerning details such as how to manage and use deposit funds. With business failures, platform-retained deposit refunds have caused great concern among consumers. According to the China Consumers Association, by the end of November 2017, at least six well-known bike-sharing startups had shut down, and more than RMB 1 billion USD $150 million in deposits could not be refunded to users[22]. Continued application of these outmoded regulatory regimes is likely to harm consumers[23].

4.2. The Conflict Between State Policy and Local Implementation

With the sharing economy winds beginning to gust, Chinese policymakers are keenly aware of the importance of this portion of the economy and its sustained growth. In its Thirteenth Five-Year Plan, the Chinese government declared the sharing economy to be a "national priority"[24]. Since 2015, the Chinese central government has issued multiple policies to encourage the growth of the sharing economy[25]. These policies are a specific indication by the Chinese government of its acceptance of and willingness to cooperate with the booming sharing economy, as opposed to fighting its growth[26].

In the policy implementation process, we find conflicting regulatory goals and interests between national policymakers and local governments. Local governments have sought to maintain control over access to local job opportunities, social welfare allocation, and the protection of local industries, including the traditional taxi sector[27]. For example, in July 2016, the State Council issued "The Guiding Opinion of the General Office of the State Council on Deepening Reform and Promoting the Healthy Development of the Taxi Industry" (hereinafter referred to as GOSC Opinion), to regulate fast-growing third-party taxi booking services like Uber and Didi. The regulations required platforms to dispatch only licensed cars and drivers, ensuring the legitimate rights and interests of passengers without undue price increases. Also, The Interim Measures for the Administration of Online Car Hailing Operations and Services (hereinafter referred to as Interim Measures), promulgated by the Ministry of Transport, provides specific norms and standards regarding online car hailing operations and services, and the measures to be taken to safeguard passengers. The Interim Measures also reserved broad discretion to local governments, particularly regarding the power to impose restrictions on cars and drivers registered with ride-hailing companies[28]. When local governments make implementation rules, they nevertheless tend to interpret the concepts as strict requirements as to standards for ride-hailing cars, and usually prescribe a minimum price and/or certain price criteria, indicating that ride-hailing car costs shall be high-end.

In October 2016, the new ride-share regulations issued by Beijing, Shanghai and Shenzhen set tighter restrictions on vehicle size and licenses, and required data on a driver's household (residency). Under the new rules, ride-hailing companies must stop using out-of-town drivers, and hire only local residents to sit behind the wheel[29]. These proposals would likely result in a sharp drop in the market supply of ride-sharing vehicles, a significant decrease in the number of drivers, and a steep rise in costs. Where regulations act as barriers to the entry of peer platform market participants, consumers may experience structural detriment due to higher prices or reduced choices[30].

4.3. Objectives of Multilateral Governance

A wide range of actors participate in the sharing economy, including individual users, social enterprise, local communities and governments. The governance model of the sharing economy should leap out of the thinking set of either the government or the market, and find a governance mechanism of interest sharing and benefit equilibrium through the participation of multiple subjects, including the government, enterprises, and the public[31]. The Chinese government is trying to design a better sharing-economy marketplace under its guidance, enterprises' self-regulation and industries' self-discipline.

4.3.1. Platform Enterprises

In order to comply with all relevant policies and regulations, earn its reputation and gain credibility over time, platform enterprises need to pay attention to supervision of registered users' security and credit reviews. This form of self-regulation is not the same as deregulation or no regulation. Rather, it is the reallocation of regulatory responsibility to parties other than the government[32]. Unfortunately, there are barriers standing in the way of building an effective self-regulation system in China.

For one thing, China has not established a sound social credit system for both providers and consumers. The platform enterprises cannot easily obtain the information they need. In consequence, the effectiveness of security credit review is lessened because of the difficulty of enterprise docking and accessing governmental data[33]. As Didi Chuxing claimed, as a result of data governance policies, it is difficult for a company to verify the residency status of its drivers, although residency requirements are encoded in local government rules[34]. Furthermore, information resources are separated among various platforms, and each platform tends to establish its own information system and database. Due to the lack of a good mechanism for information exchange, a service providers' and consumers' information disclosure system has not been established[35]. Thus, providers' and consumers' credit record data is insufficient for users to make definitive judgments. The difficulties in obtaining public data, and the urgent need to establish a statistical monitoring system, still exist.

4.3.2. Industry Associations

As significant non-governmental stakeholders of the sharing economy, industry associations are expected to play a regulating role in sharing-economy businesses by establishing standards, ethics, and licensing requirements; administering licensing exams; collecting fees; or even taking punitive actions against bad actors. In December 2015, the Commission on the Sharing Economy in China (CSE)founded by the Internet Society of China, became the first non-governmental organization dedicated to promote development in China's sharing economy. In June 2016, the Internet Society of China released the "Self-Discipline Convention for China's Internet-based Sharing Economy Services" to increase consumer confidence and protection. More than forty sharing economic enterprises, including Didi Chuxing, Ctrip and Qunar, joined the Convention, an indication that the sharing economy has taken a new step in jointly maintaining a fair market environment and improving overall service levels[36].

Nevertheless, the majority of sharing economy associations have not created self-regulatory frameworks with clear or workable standards. For example, the Hangzhou B&B Industry Association, established in December 2016, aims to improve collaboration and self-discipline within the house-sharing business. However, the association provides no standards or guidelines for housing sharing services, such as fire safety or the architectural quality of a building, which are essential to ensure a rental property in habitable condition. More importantly, industry associations in general lack the power or means to discipline their members for disorderly behavior, unless the authority is granted by law.

4.3.3. Resource Providers

Resource providers share data with organizations in exchange for the option to provide services on the sharing platform, and with consumers for revenue. In contrast to consumers, providers are often asked to disclose who they are, as well as the resources they share[14]. They use multiple types of content, such as text, photos, videos and maps to provide more information about their offerings.

In order to counteract risk and complexity, providers require a sufficient amount of trust to overcome these obstacles. However, in most cases, there is an inadequate level of data protection in China, and providers' privacy is unduly threatened. In this context, sharing services pose the same potential risks for resource providers as for consumers. The lack of protection for provided information may have a chilling effect on the willingness of providers to deliver relevant information.

In addition, providers are often concerned about potential risks when engaging in the sharing economy, such as damage to assets, theft and lack of sufficient safeguards in the event something goes wrong. Under current Chinese law, platforms are not held liable to providers for any loss or damage. Nor are many of the described risks covered by standard insurance policies, either, leading to a decrease in providers' intention to commit to transactions.

In sum, multiple governance has been recognized as the objective of the Chinese policy on the sharing economy, while the structure of current regulation framework shows that the roles and responsibilities of multiple stakeholders involved in the regulatory initiatives need to be further explored, to ensure consumer protection.

5. Conclusion

The sharing economy offers consumers not only flexibility in accessing goods and services, but also the ability to choose less expensive options and save money. Despite the benefits of this business model for consumers, commercial activity in the sharing economy may challenge existing regulatory structures and pose risks to consumers. China has witnessed explosive growth in its sharing economy, but still faces legal and regulatory hurdles, which have detrimental effects on consumer protection.In order to protect consumers' interest and safety in sharing economy, Chinese government should take a much more positive and specific role in guiding policies towards a sustainable sharing economy for the long-term.

References

[1]Data are from the State Information Center (SIC)(March 20, 2018), 2018 Development Report of China's Sharing Economy.
[2]Data are from State Administration for Industry and Commerce (SAIC)(March 15, 2018). National Consumer Protection Report from Administration for Industry and Market Regulation.
[3] Finck, M. & Ranchordas, S. (2017). Sharing And The City. Journal of Transnational Law, 495: 15-18.
[4] Koopman, C. et al. (2015). The Sharing Economy and Consumer Protection Regulation: The Case for Policy Change. The Journal of Business, Entrepreneurship & the Law, 82: 531-535.
[5] Kem, Z.K. et al. (2016). Understanding Participation in Sharing Economy. Pacific Asia Conference on Information Systems.
[6] Nguyen, H. N. (2016). The Customer Value in Sharing Economy: The Case of Airbnb. Retrieved August 27, 2018, from https://tampub.uta.fi/bitstream/handle/10024/100387/GRADU-1482240821.pdf?sequence=1.
[7] Zakaria, N. & Kaushal, L. A. (2017). Global Entrepreneurship and New Venture Creation in the Sharing Economy. Hershey: IGI Global. Pennsylvania:120-123.
[8] Celata, F., et al. (2017). The Sharing Economy as Community Marketplace? Trust, Reciprocity and Belonging in Peer-to-peer Accommodation Platforms. Cambridge Journal of Regions, Economy and Society, 10(2): 352.
[9] Codagnone, C. & Martens, B. (2016). Scoping the Sharing Economy: Origins, Definitions, Impact and Regulatory Issues. Institute for Prospective Technological Studies Digital Economy Working Paper.
[10] Lobel, O. (2016). The Law of the Platform. Minnesota Law Review, 87: 101-102.
[11] Katz, V. (2015). Regulating The Sharing Economy. Berkeley Technology Law Journal, 304: 1080-1085.
[12] Hausemer, P. et al. (2017). Final Report, Exploratory Study of Consumer Issues in Online Peer-to-Peer Platform Markets. European Comission.
[13] Turnbull C. (September 2, 2016). Strength in Numbers: Opportunities in China's Sharing Economy. China Business Review. Retrieved May 26, 2018, from https://www.eastwestbank.com/ReachFurther/News/Article/Opportunities-In-Chinas-Sharing-Economy.
[14] Ranzini, G., et al. (2017). Privacy in the Sharing Economy. Report from the EU H2020 Research Project Ps2 Share: Participation, Privacy, and Power in the Sharing Economy. 3. Retrieved May 26, 2018, from https://www.bi.edu/globalassets/forskning/h2020/privacy-working-paper.pdf.
[15] Larmer, B. (2017). China's Revealing Spin on the "Sharing Economy". The New York Times. November 20.
[16]Lao, M. et al. (2016). The "Sharing"Economy: Issues Facing Platforms. Participants & Regulators: A Federal Trade Commission Staff Report. 61.
[17]CIW Team. (June 14, 2016).Privacy and Security Are Top Concerns in China's Sharing Economy.

Retrieved March 23, 2018, from
https://www.chinainternetwatch.com/17745/sharing-economy-2016/.
[18] Wang, Y. (June 3, 2015). Beijing Declares Taxi-Hailing App Didi Kuaidi's Private-Car Services Illegal. Retrieved April 23, 2018, from
https://www.forbes.com/sites/ywang/2015/06/03/beijing-declares-taxi-hailing-app-didi-kuaidis-new-services-illegal/#5543871c744b.
[19] Gasser, U. (2016). The Sharing Economy: Disruptive Effects on Regulation and Paths Forward. Retrieved July 26, 2018, from
http://institute.swissre.com/research/risk_dialogue/magazine/Digital_Economy/sharing_economy_disruptive_effects.html.
[20] State Administration for Industry & Commerce (SAIC).(August 5, 2016).The Regulations on the Implementation of the Law on the Protection of the Rights and Interests of Consumers, Art.50.
[21] Hawlitschek, F. Et al.(2016). Trust in The Sharing Economy. Swiss Journal of Business Research and Practice, 70(1): 28-30.
[22] Zhao, Y. R. (January 4, 2018). Five Chinese Bike-sharing Startups Bankrupted in 2017. Retrieved May 22, 2018, from
https://alltechasia.com/5-bike-sharing-startups-went-bankrupt-2017/.
[23] Koopman, C. et al. (2015). The Sharing Economy and Consumer Protection Regulation: The Case for Policy Change. The Journal of Business, Entrepreneurship & the Law, 82: 531-535.
[24] National People's Congress of China(NPC).(2016). The 13th Five-Year Plan for Economic and Social. Development of the People's Republic of China.
[25] State Council of China. (2015). Guiding Opinion on the Development of Innovation and Promotion of Mass Entrepreneurship; Central Committee General Office State Council General Office. (2016). Outline of the National Informatization Development Strategy.
[26] Harsono, H. (2016). Embracing The Sharing Economy for Growth in China. Retrieved May 23, 2018, from
https://techcrunch.com/2016/04/10/embracing-the-sharing-economy-for-growth-in-china/.
[27]Zou, M. (2017). The Regulatory Challenges of 'Uberization' in China: Classifying Ride-Hailing Drivers. International Journal of Comparative Labour Law and Industrial Relations, 33(2): 288.
[28] Ministry of Transport And Other Authorities,(2016). The Interim Measures for the Administration of Online Car Hailing Operations and Services, Article 8, Article 13 and Article 15.
[29] Cao Li. (2016). China's New Ride-Hailing Rules Focus on Where Drivers Call Home. The New York Times. December 21.
[30] Organisation for Economic Cooperation and Development (OECD). (2016). Protecting Consumers In Peer Platform Markets. Retrieved June 25, 2018, from
https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DSTI/CP20154/FINAL&docLanguage=En.
[31] Brugnoni, E.,et al. (2016). Innovation And Governance: The Role of Sharing Economy. IFIP World Information Technology Forum Conference Paper.
[32] Cohent, M. & Sundararaja, A. (2015). Self-Regulation and Innovation in the Peer-to-Peer Sharing Economy. University of Chicago Law Review. 82(1): 116.
[33] Commission on The Sharing Economy in China (CSEC). (2016). The Development of China's Sharing Economy from a Global Perspective. Retrieved May 26, 2018, from
http://english.boaoforum.org/boaoelenew/27996.jhtml.
[34] Shanghai Municipal Government. (April 18, 2018). Authorities Step Up Fines for Illegal Ride-Hailing. Retrieved March 16, 2019, from
http://www.publicnow.com/view/7D04C6D8788956E90547D591AEBDE27CA2E4A76B?2018-04-18-05:30:08+01:00-xxx4223.
[35]Zhou, Z.H. (2016). The Development of Service Economy: A General Trend of The Changing Economy in China. Springer. Singapore: 198-199.

[36] Zhang, M.M. (April 3, 2018). A Look at China's Bike-sharing Phenomenon. Retrieved June 12, 2018, from https://www.counterpointresearch.com/look-chinas-bike-sharing-phenomena/.