



INTERFACE :

SHARING ECONOMY

Digital technology and online platforms are profoundly changing our economies and our societies. The conference being organised jointly by Confrontations Europe, Coop des Communs, the P2P Foundation, Smart, CECOP-CICOPA Europe and Ouishare (with the backing of the EESC) aims to create a better understanding of these changes and of what a European regulatory framework might look like.

The first fact that we verify is that technological determinism does not exist. Digital technology, and online platforms in particular, are a source of tremendous opportunity. Their purpose and the way they function provide a foundation for new forms of solidarity and emancipation.

Digital technology fosters a certain degree of horizontality where verticality once prevailed. However, platforms can also create new forms of insecurity and operate in a predatory manner. The adjectives used to describe them, such as “participatory” and “collaborative”, can prove misleading.

Platforms are bringing long-standing issues to the fore: the relationship between the various actors in the chain of production of a product or service, their role in the creation of value, and the way that value is distributed.

Establishing the role of the different stakeholders and incorporating social and societal factors into corporate strategy and governance are vital to changing our development models. This applies to the whole of the economy, regardless of the purpose or status of the company in question. Cooperatives, mutual societies, the associative sector etc. have long encouraged the participation of workers and beneficiaries, and have

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governance structures that ensure consistency between their activities and their values. Their experience and their outlook on today's new and changing world are invaluable in defining European regulations and in navigating the difficult task of striking a balance between fostering innovation and entrepreneurship on the one hand, and protecting the ‘common good’ and social justice on the other.

Marcel GRIGNARD, *President, Confrontations Europe*

EXPERIMENTS IN PLATFORM COOPERATIVISM



1D LAB

Three major recording companies control 75% of value-creating power while the rest is split between very small companies, putting cultural diversity at risk.

1D LAB, a general interest cooperative (SCIC) created in 2010, has invented a new, fairer and more sustainable value-sharing system. It has developed an innovative business model called the Territorial Creative Contribution, through which it sells user subscriptions (mainly to institutions such as libraries, schools and works committees) then shares the proceeds between the beneficiaries: the creators (fixed share + variable share) and a solidarity-based savings fund intended to promote creativity. The remainder is allocated to various operating and investment costs (essentially research and development). Its spearhead product, the 1D Touch streaming platform, features a library of music tracks and video games that will soon be supplemented by digital books and comics.

As an innovation lab and a design office, ID Lab has developed an alternative cultural guide (Diversitycities) to re-embed culture in every region of France.

FRANCE BARTER

FRANCE BARTER, a general interest cooperative established in 2014 in the Lyon area, is a digital platform that allows its membership of microenterprises and SMEs to trade in-kind products and services via an internal exchange system called the barter. This system, which is already quite widespread across the Atlantic, enables a network of small businesses to barter with each other and thus take maximum advantage of their under-used assets (rooms, employees, un-

sold products) without tapping into their cash holdings. This B2B version of the sharing economy is still relatively unknown but could really benefit from greater integration into Europe's economic fabric. The annual membership fee is €235, of which €100 are invested in shares in the cooperative. The platform takes a 5% commission on the transactions performed. It came into being when two major players in the inter-company exchange market decided to merge their respective networks.

ENSPIRAL

ENSPIRAL is a community of micro-entrepreneurs set up in New Zealand in 2010 by a group of computer engineers, the aim being to develop solutions to social and environmental problems. Enspiral now comprises some 250 freelancers and fifteen or so projects managed jointly by its members. The latter include a national media company, an applications development agency and a co-working space.

The community uses remote collaborative and decision-making tools like Loomio, a software application developed by Enspiral's engineers that enables users to set up a community and test the level of commitment to such and such an idea with a view to implementing joint actions. It does not replace real dialogue but enables asynchronous communication, which is very useful when it comes to working across time zones.

The Enspiral community uses an internal crowdfunding system called CoBudget, through which the members reinject part of their personal profits and jointly select the projects they wish to finance.

THE COLLABORATIVE ECONOMY: HOW IS EUROPE APPROACHING THE ISSUE?

Carole ULMER | *Director of studies, Confrontations Europe*



For the European institutions, the collaborative economy is as much a challenge as an opportunity. The European Commission has published two communications which shed light on its position regarding these new areas of regulation. The first, dated 25 May 2016, presents its approach to online platforms. The second, dated 2 June, discusses a European agenda for the collaborative economy.

A number of factors must be considered when addressing these matters, including market regulation, intellectual property, taxation, user protection, personal and non-personal data management, financing, social protection and labour law.

At this stage, the European Commission has no intention of regulating the collaborative economy and has not, therefore, laid down any rules, arguing in particular that business models are changing too quickly. It maintains that online platforms are beneficial to consumers, business, society and innovation, and warns against focusing too much attention on the big American platforms. According to the Commission, legislation could also deal a fatal blow to the development of a myriad of promising startups in Europe.

There are four guiding principles underlying its approach: proportionality, the need to establish a level playing field, the responsibility of platforms and transparency. The Commission recommends a sector-by-sector analysis to assess the need for legislation depending on the level of professionalisation. The idea is that collaborative economy transactions that are not carried out for profit should be exempted from the strict rules and requirements applicable to profit-driven transactions. Its approach therefore seems to be to adjust requirements according to the nature of the actors involved. How should these actors be classified?

According to the European Institutions, the first step should be to distinguish between services provided in a professional capacity and those

provided on an occasional basis. Thus the Commission commends Member States that have introduced thresholds, below which some services can be provided on an occasional basis without being hampered by regulation. Conversely, the European Commission condemns the radical decisions taken recently by some Member States to ban certain services (for example, Spain's decision to ban Uber).

The second step should be to differentiate between providing a service (for which a legislative corpus already exists) and acting as an intermediary. For example: does Uber provide an information society service or a transport service, or both? To define a platform as a service provider, three factors must be considered: the level of control the platform exerts over prices; the terms and conditions under which the service is delivered; and the assets used.

Lastly, the Commission invites platforms to "act responsibly" by increasing transparency for users in particular, and also by cooperating with the tax authorities and complying with labour law obligations.

Finally, some of the European Commission's programmes consider future scenarios for the Internet. For example, the "Collective Awareness Platforms for Sustainability and Social Innovation" initiative developed by DG Connect, which classifies platforms according to their data management procedures. The idea behind such an approach is clear: do we or do we not wish to help law-abiding platforms? A word to the wise!

FOR A EUROPEAN FRAMEWORK THAT FOSTERS SOCIAL INNOVATION

Sandrino GRACEFFA | *Managing Director, SMart*



The concept of platform cooperativism is an attractive one, but there are a number of obstacles to its development.

Firstly, the cooperative model encompasses a very broad variety of situations, from small cooperatives in which workers share their tools (for example, potters sharing a kiln) to supermarket chains like Leclerc.

Secondly, legal form is not a guarantee of virtue: some cooperatives adopt a collective (horizontal) governance structure, while others use a more “conventional” (vertical) decision-making process. In addition, producers’ cooperatives alter the role of workers, who have a dual status both as paid employees (subordinates) and co-owners of the capital stock and/or the work tool (entrepreneurs).

This blurs the lines between traditional categories and can either prompt fear or paint a romantic picture of small businesses where decisions are taken jointly in a horizontal management structure. This idealistic perspective prevents the development of large-scale, open cooperatives. As a result, cooperatives are confined to a small-scale economy, much like social and solidarity enterprises.

The biggest problem, however, is of a financial nature: dividends are limited in the cooperative model, which can be off-putting to conventional investors. Those who stand to gain the most from investing in cooperatives are stakeholders (including users), public authorities (services of general interest) and, lastly, mutual insurance companies and cooperative banks looking to reinvest the profits they have managed to rake in.

However, the most successful digital platforms have managed to attract substantial investment in projects that “look good” (using the traditional

capitalistic model). They claim to be part of the sharing economy but there is very little actual sharing involved in the most well-known digital platforms, and the sharing economy existed before its digital form (think about local supply chains, car-pooling, etc.).

The real problem with netarchical digital platforms is of a social nature: it is not so much that they fail in their role of employers and see themselves merely as intermediaries (they do provide an opportunity for thousands of people to work independently), but that some people (including those who work for digital platforms) do not have access to social protection.

SMart works in the opposite way to these platforms by assuming the role of an employer to afford the best possible protection to independent and irregular workers. Regardless of the working method, it is urgent to develop a system of labour taxation and social security contributions that delivers real social protection, including for those working for digital platforms.

To conclude, social innovation is essential to promote platform cooperativism and other socially sustainable solutions. This will require some experimentation, as social innovation cannot be achieved without altering the boundaries of existing frameworks at least a little. It would however be feasible to **create a regulatory framework that fosters social experimentation in partnership with the various stakeholders**. Ideally, the framework would be designed at European level then implemented at other different levels.

THE RULES OF THE GAME OF «PLATFORM COOPERATIVISM»

Guido SMORTO | *Professor of comparative law, University of Palermo and Open University of Catalonia*



«Platform cooperativism» has recently become the most successful expression to describe the ongoing debate on shared governance and property in the platform economy and the attempt to define new organizational structures and an entire ecosystem truly alternative to large-scale, for-profit corporations that are exploiting the online cooperation among «peers».

Such a discussion is enriched almost every day by initiatives whose objective is developing new instruments, both theoretical and practical, on how to come up with collaborative platforms that are truly expression of a social and solidarity economy. Investigations and analysis are more animated than ever, dealing with organizational models, decision-making tools and funding schemes. Software that facilitate collaborative decisions (Loomio, Enspiral) and new legal solutions for tax and labour law (FreedomCoop) are generated.

New instruments are conceived to foster self-government capacity and the creation of online communities (Fairshares), and innovative tools are invented to find innovative ways to coordinate capital and labor (Mastly, Timefounder). Based on blockchain, original instruments are engineered for creating decentralized organizations (Backfeed, Comakery) and local currencies in accordance with social economy values (Colu).

These experiments also invest funding schemes other than venture capital (Purpose Capital, The working world, Transform Finance, Community Shares) and payment systems (Fairpay). And thought-provoking solutions are created in the field of intellectual property and privacy in opposition to traditional copyright law (copyleft, copyfair) and the intrusive arrogance of capitalistic platforms.

The resulting picture is extremely vital, even if these experiments face enormous difficulties in conceiving utterly new solutions in order to coordinate risks, ownership, control and profits. However, what is mostly missing is a full and

engaged debate on market regulation and on the effects of legal rules on the competitiveness. Using the recognised distinction drawn by Lawrence Lessig, the discourse on platform cooperativism is mostly focused on the architecture but very little on legal rules.

On the contrary, an adequate reflection on «competitive legal strategies» would be highly desirable, especially in Europe where the process of creation of EU rules is taking place. Moving on to the substance, what does debating the European rules for platform cooperativism mean?

The first response concerns the distributional effects of these new economic environment. Thus examining its impact on different social groups, geographical areas and gender equality, and investigating how it affects the relationship between labour and capital. Secondly, it requires a deeper analysis on how the digital economy affects those principles and values that guide our societies, from the “commodification” of new goods and services to the economic and political consequences of big data.

But it is not just a question of justice and fairness. The current debate too often points only to the potential and actual injustices of this new economy, thus ignoring the more technical analysis on market failures, just when the Services Directive, the e-Commerce Directive and the *acquis communautaire* on consumer protection are called into question. Due to this indifference, the debate on platform cooperativism too often ignore the profound readjustment of the rules of the game that is taking place especially on the role and the limits of self-regulation, thus fuelling the risk that these changes may result in a massive deregulation.

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Guido SMORTO | *Professor of comparative law, University of Palermo and Open University of Catalonia*



Searching for solutions to the many challenges of cooperative platforms, the sole reliance on self-government abilities is clearly not enough. And rules in tune with cooperative values are essential both for the creation of public policies

and for the development of solutions designed around the principles of co-creation and co-management. Only then, social enterprises may compete on equal terms in the emerging online markets.

FOR DIVERSIFIED COOPERATIVE MODELS «IN COMMONS»

Nicole ALIX | *President, La Coop des Communs*

After their conference on cooperative digital platforms, partners from co-ops, commons, cities and trade-unions decided to continue to work together, to promote the common interest through open cooperative platforms and to integrate rights of workers and users in their ownership and regulation.

Digital platforms will suit the kind of social market economy we want for Europe if we :

Raise awareness on innovative experiences, for instance cooperative platforms either

created by the workers or users and through multi-stakeholder cooperatives, to promote common and sustainable goods and services.

Exchange on regulatory issues

The EU regulation now relies on «laissez faire» and doesn't give a chance to social economy to compete effectively and fairly.

Promote partnerships between cooperative worlds, commons, cities ...

Alliances are needed to foster experimentation in distributing the value, horizontal democracy, and promoting general interest.