

Before the
FEDERAL TRADE COMMISSION
Washington, DC 20530

In the Matter of)
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Sharing Economy Workshop) Project No. P15-1200
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**COMMENTS OF
THE CONSUMER ELECTRONICS ASSOCIATION**

The Consumer Electronics Association (“CEA”)¹ respectfully submits these comments on the Sharing Economy Workshop hosted by the Federal Trade Commission (“FTC” or “Commission”) on June 9, 2015. CEA supports innovative sharing economy companies and platforms because they are providing consumers with greater choice, flexibility, productivity, and lower prices, in addition to having an overall positive economic impact in the United States and around the world.

These benefits will be stifled if regulators favor incumbents with anticompetitive laws. CEA agrees with Chairwoman Ramirez that “competitive markets are the foundation of our economy,”² and applauds the Commission for its outreach to state and local agencies that warns against protectionist regulations.³ Whether a sharing economy company succeeds should depend

¹ CEA is the principal U.S. trade association of the consumer electronics and information technologies industries. CEA’s more than 2,000 member companies lead the consumer electronics industry in the development, manufacturing, and distribution of audio, video, mobile electronics, communications, information technology, multimedia, and accessory products, as well as related services, that are sold through consumer channels. Ranging from giant multinational corporations to specialty niche companies, CEA members cumulatively generate more than \$286 billion in annual factory sales and employ tens of thousands of people in the United States.

² Chairwoman Edith Ramirez, Prepared Statement of the Federal Trade Commission Before the United States House of Representatives Committee on the Judiciary, *Oversight of the Enforcement of the Antitrust Laws* (May 15, 2015), https://www.ftc.gov/system/files/documents/public_statements/642691/150515antitrustoversight.pdf.

³ See Letter of the FTC to City Council of Chicago, Apr. 15, 2014; Letter of the FTC to Colo. Pub. Utils. Comm’n, Mar. 6, 2013, (“Colorado Letter”); Letter of the FTC to Colo. Pub. Utils. Comm’n, Nov. 3, 2008; Letter of the FTC to D.C. Taxicab Comm’n, June 7, 2013 (“DC Letter”); Letter of the FTC to Mun. of Anchorage, Apr. 19, 2013. All of these letters are available online at <https://www.ftc.gov/policy/advocacy/advocacy-filings>.

on consumer adoption of, and trust in, its platform, not the regulations that govern it. The Commission should continue advocating for the removal of unnecessary barriers to competition.

CEA fully appreciates that sharing economy platforms can raise data privacy and security concerns. However, there is no need for sharing economy-specific data privacy and security regulation. The Commission's Section 5 authority is sufficient to address privacy or security practices that are unfair or deceive consumers, and its existing business guidance is applicable to sharing economy platforms. To supplement these tools, the Commission should encourage the development of industry self-regulatory frameworks, which can respond quickly and flexibly to consumer concerns.

I. The Sharing Economy Substantially Benefits Consumers

Sharing economy companies leverage the power of Internet connectivity, mobile devices, and innovative software platforms to deliver products and services to consumers. These products and services range from transportation, to lodging, to hiring someone to perform discrete tasks or provide expert advice.⁴ Estimates of the economic impact of the sharing economy vary widely and differ by industry sector.⁵ Globally, the sharing economy could generate as much as \$110 billion annually in the near future, with revenues reaching \$335 billion by 2025.⁶

⁴ *Directory*, COLLABORATIVE CONSUMPTION, <http://www.collaborativeconsumption.com/directory/>.

⁵ See, e.g., *The Rise of the Sharing Economy*, THE ECONOMIST (Mar. 9, 2013), <http://www.economist.com/news/leaders/21573104-internet-everything-hire-rise-sharing-economy> (estimating that the “peer-to-peer rental market alone is worth \$26 billion”).

⁶ See Sarah Cannon & Lawrence H. Summers, *How Uber and the Sharing Economy Can Win Over Regulators*, HARV. BUS. REV. BLOG NETWORK (Oct. 13, 2014), <https://hbr.org/2014/10/how-uber-and-the-sharing-economy-can-win-over-regulators>; Jack Preston, *Airbnb, Spotify and Uber Lead the Charge as the Sharing Economy Continues to Disrupt Markets and Sectors Across the World*, VIRGIN ENTREPRENEUR (Aug. 18, 2014), <http://www.virgin.com/entrepreneur/global-sharing-economy-revenues-could-hit-335-billion-by-2025>.

Consumers have wholeheartedly embraced sharing economy platforms and benefit from them in numerous ways.⁷ The sharing economy introduced new sources of supply for goods and services, offering consumers greater choice, convenience, quality, and lower prices.⁸ Consumers also can take advantage of previously unavailable opportunities for profitable trade, particularly for underutilized resources such as spare rooms, automobiles, or the labor of underemployed individuals.⁹ Sharing economy platforms that facilitate borrowing can alleviate the burden of ownership—43 percent of consumers agree that “owning today feels like a burden.”¹⁰ Moreover, sharing economy platforms enjoy a high level of consumer satisfaction. A recent survey of U.S. adults familiar with the sharing economy concluded that 86 percent agree it makes life more affordable, 83 percent agree that it makes life more convenient and efficient, 78 percent agree it builds a stronger community, 81 percent agree it is less expensive to share goods than to own them individually, and 57 percent agree access is the new ownership.¹¹

Beyond individual benefits to consumers, the sharing economy will have positive effects on society as a whole. For example, research indicates that sharing economy platforms may enable lower income consumers to take advantage of services that would have been inaccessible otherwise. In their study, New York University professors Samuel Fraiberger and Arun Sundarajan found, with statistical significance, that sharing economy markets have an even

⁷ See Christopher Koopman et al., *Sharing Economy and Consumer Protection Regulation*, at 5 (Dec. 8 2014), <http://mercatus.org/sites/default/files/Koopman-Sharing-Economy.pdf>.

⁸ See generally Jeremiah Owyang, *People are Sharing in the Collaborative Economy for Convenience and Price*, WEB-STRATEGIST.COM (Mar. 24, 2014), <http://www.web-strategist.com/blog/2014/03/24/people-are-sharing-in-the-collaborative-economy-for-convenience-and-price/>.

⁹ PricewaterhouseCoopers, *Customers Intelligence Series: The Sharing Economy*, at 22 (Apr. 18, 2015), <http://www.pwc.com/us/en/industry/entertainment-media/publications/consumer-intelligence-series/sharing-economy.jhtml>.

¹⁰ *Id.* at 17.

¹¹ *Id.* at 9.

greater beneficial impact on lower-income persons than high-income persons because ownership is a more significant barrier to consumption to people with less wealth.¹² Furthermore, sharing economy platforms have ancillary benefits that go beyond economic impact. In a study of its presence in San Francisco, Uber discovered that it “creates opportunities for well-paying and flexible work,” “helps drive down DUI rates,” and can “reduce congestion,” among other obvious conveniences such as being able to request a ride from indoors at night and immediately ascertain the availability of rides in a given area.¹³

II. The FTC Should Continue to Advocate Against Anti-competitive Barriers to Sharing Economy Companies

CEA agrees with the Commission’s view that “any restriction to competition designed to address [threats to consumer welfare] should be narrowly crafted to minimize its anticompetitive impact.”¹⁴ Although sharing economy platforms often complement products and services offered by incumbent businesses, they sometimes compete for the same audience.¹⁵ In these situations, state and local regulators have reacted with proposals that attempt to raise barriers to sharing economy companies, sometimes to the point that they would be excluded from a market

¹² See Samuel P. Fraiberger and Arun Sundarajan, *Peer-to-Peer Rental Markets in the Sharing Economy*, NYU Stern School of Business Research Paper, Mar. 6, 2015, SSRN at <http://ssrn.com/abstract=2574337>.

¹³ *Five Years In, A Closer Look at Uber’s Impact in San Francisco*, UBER NEWSROOM (June 20, 2015), <http://newsroom.uber.com/2015/06/uscm/>. See also Ashwini Chhabra, Head of Policy Development, Uber Technologies, Remarks at Sharing Economy Workshop at the FTC (June 9, 2015), <https://www.ftc.gov/news-events/audio-video/video/sharing-economy-workshop-part-3>.

¹⁴ See Colorado Letter, *supra* note 2, at 1.

¹⁵ Kate Toran, San Francisco Municipal Transportation Agency Interim Director, reported that the introduction of Uber in October of 2012 caused a decline in taxicab service in SF. “. . . [T]he average trips per taxicab in the city had declined from 1,424 a month in March 2012 to only 504 as of July 2014.” Megan Garber, *San Francisco Has Seen a 65% Decline in Cab Use*, THE ATLANTIC (Sept. 17, 2014), <http://www.theatlantic.com/technology/archive/2014/09/what-uber-is-doing-to-cabs-in-san-francisco-in-1-crazy-chart/380378/>.

entirely.¹⁶ Such proposals are anticompetitive and supplant consumer choices with those of regulators.

The FTC's continued diligence is necessary to ensure that sharing economy platforms are not subject to anticompetitive regulation.¹⁷ The Commission's outreach to state and local jurisdictions explaining the negative effects of anticompetitive regulations has been invaluable. For example, the District of Columbia Taxi Commission proposed regulations that would have effectively banned Uber service in the District of Columbia, protecting incumbent taxi interests.¹⁸ Commission and advocate pressure helped dissuade the DC government from adopting its proposal, permitting consumers to enjoy an alternative and competitive transportation option.

III. Regulators Should Avoid New Data Privacy and Security Regulations for Sharing Economy Platforms

Sharing economy platforms rely on data to connect participants and provide services.¹⁹ For example, it is necessary to know a rider's location to connect him or her with a driver. Use of this data has ancillary benefits too; for transportation services, accurate location data eliminates the need to provide directions, freeing participants to do other tasks. Sharing economy

¹⁶ See, e.g., Madeline Stone, *Uber Has Been Banned in East Hampton, And People Are Freaking Out*, BUSINESS INSIDER (Jun. 5, 2015), <http://www.businessinsider.com/uber-banned-in-east-hampton-2015-6> (noting that East Hampton, New York enacted "a mandate that requires all taxi drivers to have a physical address in the town").

¹⁷ Commissioner Ohlhausen warns that "... just as government should not directly decide how future competition should unfold, so too is it inappropriate for existing competitors to exercise control over firms they compete with." See Comm'r Maureen Ohlhausen, Remarks at Sharing Economy Workshop at the FTC, at 4 (June 9, 2015), transcript available at https://www.ftc.gov/system/files/documents/public_statements/671141/150609sharing_economy.pdf.

¹⁸ DC Letter, *supra* note 2, at 5-7.

¹⁹ See generally Staff Report of the FTC, *Issues Facing Platforms, Participants, and Regulators*, at 1-2, (June 9, 2015), https://www.ftc.gov/system/files/documents/public_events/636241/sharing_economy_workshop_announcement.pdf.

companies understand that data shared via their platforms can be sensitive or personal, and they take the obligation to secure that data seriously.

To the extent that sharing economy platforms raise data privacy and security concerns, regulators have the necessary tools to address them. The FTC's Section 5 authority enables it to evaluate, and if necessary, initiate case-by-case enforcement proceedings against companies that have committed unfair or deceptive acts or practices.²⁰ Furthermore, the FTC's guidance to businesses on good data privacy and security practices is relevant and applicable to sharing economy platforms.²¹ The Commission's existing, case-by-case evaluation of potential privacy and security harms provides companies with the flexibility to innovate while protecting consumers and permits companies to respond nimbly to consumer concerns, including through self-regulatory mechanisms.²²

On the other hand, premature regulation of data itself, rather than harmful uses of data, will significantly constrain sharing economy companies' ability to provide innovative services to consumers. Constraining when, where, how, and to whom data can flow chokes off the essential resource on which sharing economy platforms—indeed, all Internet of Things platforms—rely. Instead, if regulators identify a consumer protection issue with a sharing economy platform, they should carefully evaluate whether existing laws are applicable. If new regulations become necessary, regulators should favor technology-neutral and use-based solutions that focus squarely on alleviating tangible, demonstrated consumer harms.

²⁰ 15 U.S.C. §45(a). *See also* FTC, *Start With Security: A Guide for Business* (June 30, 2015), <https://www.ftc.gov/system/files/documents/plain-language/pdf0205-startwithsecurity.pdf>.

²¹ *See* FTC, *Blog Posts Tagged with Consumer Privacy*, <https://www.ftc.gov/news-events/blogs/terms/247>.

²² *See* Comments of the Consumer Electronics Association, Spring Privacy Series: Consumer Generated and Controlled Health Data, at 10-11 (filed June 9, 2014), https://www.ftc.gov/system/files/documents/public_comments/2014/06/00012-90404.pdf.

IV. Conclusion

Internet-enabled sharing economy platforms have clearly benefitted consumers, and we are still discovering their potential. At this nascent stage, regulators must resist the temptation to create anticompetitive laws that protect incumbent industries—rather than consumers—at the expense of sharing economy companies. With respect to data privacy and security, regulators should employ their existing tools to prevent unfair and deceptive practices on a case-by-case basis and encourage the development of self-regulatory models.

Respectfully submitted,

CONSUMER ELECTRONICS ASSOCIATION

/s/ _____

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