



Organisation for Economic Co-operation and Development

DSTI/CP(2018)4/FINAL

Unclassified

English - Or. English

6 June 2018

**DIRECTORATE FOR SCIENCE, TECHNOLOGY AND INNOVATION
COMMITTEE ON CONSUMER POLICY**

Summary of Workshop on Protecting Consumers in Peer Platform Markets

JT03433067

Foreword

This document summarises a workshop on Protecting Consumers in Peer Platform Markets, organised by the OECD's Committee on Consumer Policy (CCP) on 8 November 2017. It highlights some of the key themes and issues raised during the workshop discussions. The final agenda for the workshop is attached as an annex. Presentations and other materials are available on the workshop webpage: <http://www.oecd.org/going-digital/topics/digital-consumers/peer-platform-markets-workshop/>.

The CCP approved the declassification of this summary at its 95th Session on 18-19 April 2018.

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Workshop Summary

Peer-to-peer transactions have long played a role in commerce, but today's online platforms enable them on a much greater scale. Early examples include platforms for the (re)sale of goods (e.g. online auction and classified listings sites). Newer models include the short-term rental of accommodation and transport or mobility services. Sometimes described as the "sharing" economy or "collaborative consumption", the business models at issue -- "peer platform markets" (or PPMs) -- involve commercial exchange.

PPM business models open up economic opportunities for the individuals supplying the goods or services ("peer providers") and for the platforms making the connections ("peer platforms"). For consumers of these services ("peer consumers"), there can be advantages in terms of price, selection, convenience and social experience.

In addition to these benefits, PPMs raise new policy and regulatory challenges, including consumer protection issues. A [2016 report](#) by the OECD's Committee on Consumer Policy (CCP), *Protecting Consumers in Peer Platform Markets*, describes PPMs and outlines a set of issues for further research and consideration. On 8 November 2017, the CCP held a workshop to continue the policy discussion on how to protect consumers in PPMs.

Following a brief welcome, the workshop opened with a session focused on the evidence that is now emerging about consumer experiences in these markets. That session began with a launch and presentation of the main findings from an [OECD survey](#) of consumer trust in and attitudes towards PPMs. Two other sessions explored policy issues oriented around the other two main actors on PPMs: the peer providers that supply the goods or services and the platforms that are at the heart of PPMs.

This workshop summary highlights some of the key themes and issues raised during the workshop discussions. The final agenda for the workshop is attached as an annex. Presentations and other materials are available on the workshop webpage: <http://www.oecd.org/going-digital/topics/digital-consumers/>

Main Points

The policy context for peer platform markets remains dynamic

As a general matter, the policy environment continues to change, including at the local or municipal level. This is particularly the case for accommodation and transportation platforms. In general, there is interest among some workshop participants in treating peer platforms as part of a broader policy dialogue on platforms generally, rather than a separate area of focus. However, even within PPMs there is considerable variation in business models and platform approaches. For example, many platforms now enable a mix of professional and non-professional providers to provide services or goods, which complicates the policy analysis.

At national level, France described its efforts to move ahead legislatively, with a new set of obligations and requirements applying to platforms generally, rather than just PPMs. The United Kingdom expressed a number of ideas about policies that could address the responsibilities of platforms in the space. The United States explained how its authorities have been able to enforce existing consumer protection laws to discipline platform actors and Canada highlighted that it too could use existing laws. The European Commission described the extensive research they have done into this issue to help shape further action, and a number of governments noted that they too are studying the issue, from Australia to Norway.

Although there are gaps, the evidence base is improving

The evidence available -- particularly the findings from the OECD survey -- does not suggest that there is a deficit of consumer trust that requires policy intervention. To the contrary, the platforms seem to be successful in attracting consumers and providers to their platforms on the whole, and in many cases have established higher levels of trust than conventional businesses in the same markets.

Policy makers can point to evidence about what drives consumers to these markets, namely the value proposition of cost, convenience and choice. They can also cite evidence showing that consumer trust in peer platforms is market and platform-specific, multifaceted, and motivated by a number of factors, rather than just one single over-riding one. Policy makers can also point to evidence showing that the most important trust indicia for consumers are whether the PPM offers a secure payment system and provides for the security and confidentiality of their personal data. But there remains a lack of clarity about the extent to which the trust that consumers place in PPMs is fully merited. In particular, a significant proportion of consumers did not feel confident about their rights if something were to go wrong, and a proportion of consumers had experienced problems when using PPMs. To understand whether further protections are required, more evidence on the frequency and severity of consumer problems on these platforms may be needed, as well as comparable evidence on the frequency and severity of consumer problems with more traditional businesses in the same markets.

There remains interest among a number of workshop participants in looking deeper at the efficacy and transparency of platform rating and review mechanisms. The respondents to the OECD study did not highlight this issue as posing particular challenges; however, the architecture, design features, and functioning of ratings and review systems may not be readily apparent to consumers.

Some of the biggest issues facing peer consumers are not specific to peer platform markets

Many of the challenges facing consumers in the context of PPMs are commonplace across the range of digital economy activities. For example, the OECD study highlighted that payment and data security are the top consumer concerns in PPMs, but these concerns would presumably be relevant across the digital economy.

Further, peer consumers appear not to have in-depth knowledge of their rights, nor to carefully read online terms and conditions, both of which apply across the e-commerce marketplace. Cross-border complexities raised by PPMs are likewise a long-standing concern in e-commerce markets in general.

The legal issues remain complex, but existing tools can be effective

The applicability of consumer laws to PPM transactions remains unsettled in some countries. The legacy of legal limitations on intermediary liability has to be factored in as well. The 2016 revisions to the OECD E-commerce Recommendation already make clear the general point that basic consumer protections should apply to peer platform transactions, but do not spell out how they should actually operate in any detail.

At the same time, some enforcement authorities have begun to use existing legal frameworks to address PPMs. Countries that have laws that are not explicitly reliant on the term "consumers" have an easier time applying these laws to PPM transactions, particularly in the context of protecting peer providers, who would not be considered consumers in many regimes.

Session I: Drivers of consumer trust in PPMs -- Assessing the evidence

STI Director **Andrew Wyckoff** welcomed workshop participants, highlighting that digitalisation has been propelled to the top of the global policy agenda, from G7 to G20 and beyond. He noted that one response is the OECD's Going Digital project: An effort to develop a comprehensive policy approach that allows stakeholders to navigate the change to ensure the benefits of the digital transformation are harnessed for more inclusive growth.

Moderator **Mr. Dirk Pilat**, Deputy Director, Science, Technology and Innovation, OECD, introduced the session, highlighting the importance of building the evidence base, noting the interesting findings in the new OECD survey. He oriented the discussion around two key questions:

- What are the key drivers of trust for peer consumers when transacting in a peer platform market?
- To what extent do the kinds of trust-enhancing mechanisms and initiatives put in place by peer platforms respond to the key drivers articulated by peer consumers?

Mr. Alan Terry, Vanilla Research, introduced the results of the survey, which was implemented in 10 markets: Australia, Canada, Chile, Germany, Italy, Japan, Mexico, Norway, Turkey and the United States, covering 900 users in each market, and 100 who have taken steps to use, but not actually used, PPMs. He reported on usage, levels of trust, drivers of trust, specific issues around ratings and reviews, terms and conditions, problems with transactions, and barriers to use, as presented in the OECD report.

Ms. Antonia Fokkema, DG Justice and Consumers, European Commission, recalled the research done in the EC, both by means of survey and through focus groups. That research confirms a number of the findings from the OECD, including the drivers for use of PPMs (price and convenience), but also highlights some issues needing further attention. These include the reluctance by consumers to give negative reviews, transparency around consumer rights and the role of the platforms, as well as the extensive data at the disposal of platforms.

Ms. Lisbet Berg, Consumption Research Norway Oslo, described research carried out on Norwegian consumers of PPM services, echoing the importance of low prices as key drivers for consumers as with the other studies. One difference in the Norwegian research is a finding that, outside transportation, trust was slightly higher in conventional markets than PPMs. Citing behavioural biases she focused on consumer reluctance to give

negative ratings, which may lower the trustworthiness of the ratings, and is not offset by ratings architecture put in place by platforms.

Ms. Stacy Feuer, Federal Trade Commission, United States summarised research, workshop and report findings by the FTC, highlighting the dynamic character of PPMs. She emphasised that trust is relational, contextual and variable, and depends on the specific market (including the conventional businesses in that market) and platform. She remarked on the striking finding in the OECD study that consumers trust PPMs more than conventional businesses, questioning whether conventional businesses were suffering from – or creating – trust gaps. The OECD data showed that consumers are pragmatic in how they approach PPMs, not easily dissuaded from the value proposition, even when they experience problems – and even when the platforms did not resolve the problems to consumers’ satisfaction. Noting the importance of secure payment systems and data security to consumers, she suggested that policy makers consider a mix of policy and market-based approaches to platforms rather than monolithic or overly-narrow policy responses

The discussion highlighted that even if trust seems to be largely present, questions regarding detriment and the legal responsibilities of platforms remain. In addition, more information about consumer behaviour and platform approaches to ratings and reviews was suggested as likely to be helpful. For example, platform control over the ordering of reviews and the incentives provided to participants can affect review reliability.

Session II: Policy approaches to the role of peer providers

The second session was moderated by **Mr. Alex Schofield**, Competition and Markets Authority, United Kingdom. He highlighted key questions for the panel including:

- When peer providers are considered as needing to comply with consumer protection laws, should the rules and standards apply in the same way as would be the case for more traditional businesses?
- How do these types of trust-building mechanisms interface with existing consumer laws and other types of consumer protection and public safety regulations? How do they compare to other, more formal types of self-regulation, which often involves codes of conduct, accountability measures and enforcement mechanisms?

Ms. Amaya Apesteguía, Organisation of Consumers and Users, Spain, noted that many platforms are hybrids in terms of the types of providers that use them. This raises a need to clarify questions related to legal rights and dispute resolution. Relatedly, when does a peer provider become a professional? She highlighted the importance of consumers having the same level of protection when using PPMs as in the traditional economy, noting that issues related to asymmetric information and reputation are particularly challenging in this respect.

Mr. Bryan Cowell, Competition Bureau, Canada, provided an enforcement agency perspective. He noted that in Canada the relevant legislation looks at the conduct in question rather than the status of the actors, and therefore would apply to peer providers. However, resources and enforcement priorities will be brought to bear in deciding whether to pursue a case against an individual. A number of different remedies are possible and there are several factors that would need to be weighed in determining how to apply the law in the case of an individual. He also highlighted that in PPMs there

is scope for abuse in rating and review systems, and that policy guidance has been issued and enforcement actions have been taken to address these concerns.

Mr. William MacLeod, Kelley Drye & Warren LLP and BIAC Consumer Policy Task Force Vice-chair, provided some broader historical and economic context and trends on the PPMs. Trust issues are important across the economy and consumers now have access to considerable information to make assessments. He observed that negative reviews get twice the audience of positive reviews, so maybe it's appropriate that consumers are cautious in giving negative reviews. He also recalled that although ratings and reviews have become a focus of attention, traditional mechanisms like 'word of mouth' remain an important information source.

The discussion highlighted that policy approaches need to accommodate different business models. Given the uptake of these platforms by professionals, one suggestion proposed that PPMs should just be called networked economies. Traders should not present themselves as consumers to avoid responsibilities, but the importance of this was debatable given the unlikelihood of lawsuits. It was pointed out that providers should have responsibilities whether peer or consumer, but that their status should not cost them their rights against a platform. Platforms were encouraged to show greater imagination in exercising their responsibilities.

Session III: Policy approaches to the role of peer platforms

The concluding session turned the attention to roles and responsibilities of platforms and was moderated by the **Ms. Satu Teopfer**, Competition and Consumer Authority, Finland. She noted that, although the OECD E-commerce Recommendation highlights that consumer protection should apply to platform activities, a number of issues are unclear, such as:

- What responsibility should a peer platform bear for consumer injury arising from transactions undertaken through the platform? How might such responsibility vary depending on the type of peer platform?
- To what extent should peer platforms be held accountable for the behaviour of peer providers on their platforms? Do they have a role in ensuring that the peer providers comply with acknowledged principles of consumer protection? How could such a responsibility be articulated, given the dynamism and variety of these marketplaces?

Mr. Stefan Krawczyk, eBay, provided a platform perspective. He highlighted that the large variety of models, including hybrid models like eBay, make it difficult to find a general rule that can work across PPMs. The size and scale of platforms like eBay -- with 170 million regular users, 1.1 billion visitors, and 800 000 listings -- makes it hard to control buyers and sellers. At the same time, platforms cannot look the other way when problems arise, or customers will leave for the competition. Unlike some other platforms, eBay has no role in inventory, payment, and only an indirect role in shipping. Sometimes eBay promotes products, however, in which case it takes greater responsibility. Further, it does provide consumers with certain tools to facilitate consumer understanding and trust, such as ratings, payment service recommendations, a buyer protection programme, and dispute settlement. But, he emphasised, this is as far as a third-party marketplace with no direct control over the seller can go.

Ms. Joanna Ghorayeb, Direction générale de la concurrence, de la consommation et de la répression des fraudes, France provided an overview of new legislation providing an initial framework for platform liability. An implementing decree was issued in 2017 that will come into force in 2018. Although it is possible to apply general rules to the new players, specific legislation has the benefit that it can cover new forms of behaviour. She pointed out that the contractual relationship has changed and responsibility needs to be properly allocated and trust protected. In particular, information provision is important. Under the decree, platforms have to identify the status of a seller (professional or peer) and for consumer to consumer (C2C) transactions, they have to disclose the rights of the consumer. The biggest platforms will have to assist in the preparation of a set of good practices, as well as some rules around reviews and ratings to instil greater consumer confidence.

Ms. Susan Grant, Consumer Federation of America, provided a civil society perspective. It is clear that platforms can be held liable for consumer injury where the consumer relied on the platform's claims. Platforms can also be held responsible for illegal activities on their sites, such as online gambling. The question of their legal liability is more difficult when it comes to the most common types of consumer complaints, such as the goods or services never being delivered or not conforming to what was promised. Most consumers do not know their rights, but they do insist on being treated fairly. Platforms should clearly explain the help and protection they offer, as well as limitations on those services, while avoiding dense legal tense. Platform based buyer guarantees are helpful in compensating consumers that suffer detriment in the event that a provider does not take responsibility. This makes good business sense, and consideration should be given as to whether it could be made mandatory.

The discussion highlighted that, at a minimum, platforms should clearly disclose their own role in assisting with dispute resolution. It is desirable to avoid having to assign legal liability for mistakes by the provider. Platforms can control who has access to their platforms making them powerful actors, but this is a "nuclear" option for many providers who rely on a platform for their livelihood. There are easier cases of fraudulent sellers, or dangerous or unsafe products, for which this might be appropriate. It was recalled that in the EU, the E-commerce Directive provides some immunities; it only places responsibility on an intermediary where it acquires knowledge of certain problems. But how that might apply to basic problems of unhappy consumers is less clear. Possible approaches include imposing responsibility on platforms for enabling the sellers to comply with legislation. Other possibilities raised include insisting on some verification of trader status, reasonable checking regarding disclosures, and swift action after notice of illegality. It was also pointed out that for competition to be effective, reputation portability of peer consumers and providers between platforms may be important.

Summary of Workshop on Protecting Consumers in Peer Platform Markets

Committee on Consumer Policy

Agenda

8 November 2017, 14:00 - 18:00
OECD Conference Centre

Introduction

Peer-to-peer transactions have long played a role in commerce, but today's online platforms enable them on a much greater scale. Early examples include platforms for the (re)sale of goods (e.g. online auction and classified listings sites). Newer models include the short-term rental of accommodation and transport or mobility services. Using real-time geo-locational data accessed through mobile apps, mobility services enable the rental of private cars, rides and parking spaces. Other areas undergoing transformation involve small jobs, meal services and financial services.

Sometimes described as the "sharing" economy or "collaborative consumption" the business models at issue in this workshop -- "peer platform markets" (or PPMs) -- involve commercial exchange. These business models open up economic opportunities for the individuals supplying the goods or services ("peer providers") and for the platforms making the connections ("peer platforms"). For consumers of these services ("peer consumers"), there are advantages in terms of price, selection, convenience and social experience. Some may also be attracted to the prospect of more sustainable models of consumption.

In addition to these benefits, peer platform markets raise new policy and regulatory challenges, including consumer protection issues. It can be difficult to apply existing consumer protection frameworks to business models that blur the boundaries between consumers and businesses. Some peer providers may generate sufficient commercial activity to suggest that they should bear consumer protection responsibilities, while at the same time appearing to be in a consumer relationship with the platform. Many peer platforms employ trust-building mechanisms for the users of their services (e.g. secure payment mechanisms, reputation or rating systems, pre-screening and verification, insurance, and complaints handling and dispute resolution). These mechanisms may help meet consumer protection objectives.

A 2016 report by the OECD's Committee on Consumer Policy (CCP), [Protecting Consumers in Peer Platform Markets](#), describes PPMs and outlines a set of issues for further research and consideration. To facilitate that consideration, the CCP commissioned an online survey to better understand the drivers of consumer trust in PPMs. The study that was carried out in early 2017 across ten OECD countries, Australia, Canada, Chile, Germany, Italy, Japan, Mexico, Norway, Turkey, and the United States.

This workshop will continue the policy discussion. Following a brief welcome, the workshop will begin with a session focused on the evidence that is now emerging about consumer experiences in these markets. The session on the evidence base will begin with a presentation of the main findings from the OECD survey of consumer attitudes, the full results of which will be released at the workshop. Two other sessions will explore policy issues and will be oriented around the other two main actors. The focus of the second session will be the peer providers that supply the goods or services in these markets. A concluding session will consider the role of the platforms in addressing the consumer protection issues that may arise in these markets.

The workshop will provide an opportunity for policy makers from OECD and non-member governments to engage with representatives of the peer platforms as well as researchers and civil society. The event is by invitation and advance registration is required (contact: denise.wilson@oecd.org).

Welcome (14:00 – 14:10)

- **Mr. Andrew Wyckoff**, Director for Science, Technology and Innovation, OECD
- **Ms. Nathalie Homobono**, Chair of the Committee on Consumer Policy

I. Drivers of consumer trust in PPMs -- Assessing the evidence (14:10 - 15:40)

The challenge of building trust in "traditional" business-to-consumer e-commerce would seem to be particularly imposing in PPMs, where the supplier of goods or services (peer provider) is a non-professional without an established brand or other indicia of reliability. These factors may be compounded where there is uncertainty about the extent to which regulations established to protect consumers apply to the transaction. Although much of the overall media attention that PPMs attract is positive, when negative incidents do occur they often attract significant publicity.

In spite of these obstacles, PPMs have grown and expanded at an astonishing rate. The OECD's recent study of 10 000 consumers across ten OECD countries reveals that consumers generally have a relatively high degree of trust in PPMs, even when compared to conventional businesses in similar markets. This session will explore the available evidence about consumer experiences in PPMs with a view to better understanding the key factors influencing consumer behaviour and the role of trust building mechanisms that have been put in place.

The session will begin with presentation of the results of the study commissioned by the OECD with a view to addressing two main issues:

- What are the key drivers of trust for peer consumers when transacting in a peer platform market?
- To what extent do the kinds of trust enhancing mechanisms and initiatives put in place by peer platforms respond to the key drivers articulated by peer consumers?

Panellists will then be invited to discuss the findings of the OECD study and introduce evidence from other studies, highlighting areas where progress has been made in understanding trust and areas where further evidence would be beneficial.

Moderator

- **Mr. Dirk Pilat**, Deputy Director, Science, Technology and Innovation, OECD

Presentation of the findings from the OECD Study

- **Mr. Alan Terry**, Vanilla Research

Panellists

- **Ms. Antonia Fokkema**, DG Justice and Consumers, European Commission
- **Ms. Lisbet Berg**, Consumption Research Norway Oslo
- **Ms. Stacy Feuer**, Federal Trade Commission, United States

Coffee Break (15:40 - 16:00)

II. Policy approaches to the role of peer providers (16:00 - 16:50)

The status of the provider - whether they are a peer provider or a business – may be an important determinant of the rights afforded to the peer consumer in any given transaction. In some jurisdictions, consumer laws will not be considered to apply to the relationship between peers, because the activities of peer providers would not be considered that of traders or professionals. But that status might not be readily apparent to the consumer in some instances. Other approaches adopt a more functional approach to consumer protection, which focuses on the actual activity, rather than the link to any professional practice, trade or profession. Either way, many of the requirements imposed by consumer laws will not be well adapted to the capabilities of peer providers.

One way to side-step questions about the legal responsibility of peer providers is to focus on the trust mechanisms provided by platforms that may address some consumer protection concerns. The results of the OECD study raise the question of whether reputation systems and other trust mechanisms reduce the need for regulation or require new or additional types of regulatory oversight. It is challenging to determine the right blend of well-tailored regulation, self-regulation, and platform-specific mechanisms to protect consumers, promote public safety, and meet other legitimate public policy goals.

- What are the criteria for determining when commercial peer activity falls under the ambit of consumer laws? How can consumers know when they are dealing with amateur providers versus professional providers, and does it matter?
- When peer providers are considered as needing to comply with consumer protection laws, should the rules and standards apply in the same way as would be the case for a more traditional business?
- How do these types of trust-building mechanisms interface with existing consumer laws and other types of consumer protection and public safety regulations? How do they compare to other, more formal types of self-regulation, which often involves codes of conduct, accountability measures and enforcement mechanisms?

Moderator

- **Mr. Alex Schofield**, Competition and Markets Authority, United Kingdom

Panellists

- **Ms. Amaya Apesteguía**, Organisation of Consumers and Users, Spain
- **Mr. Bryan Cowell**, Competition Bureau, Canada
- **Mr. William MacLeod**, Kelley Drye & Warren LLP, BIAC Consumer Policy Task Force Vice Chairman

III. Policy approaches to the role of peer platforms (16:50 - 17:55)

Regarding the applicability of consumer law to the peer platforms – who are clearly businesses – consumer law is considered to apply to the basic offer of services to peers (matching, screening, search functions, pricing, etc.). These would include, for example, rules about unfair commercial practices and prohibitions on deception. The revised [OECD E-commerce Recommendation](#) indicates as much, expressly including certain business practices that facilitate consumer to consumer transactions.

But determining how the full range of consumer protection provisions apply is not obvious. Allocating responsibility among various peer platform marketplace participants may vary depending on factors such as consumer expectations, the degree of sophistication of the peer providers, and the level of involvement by the platform.

- What responsibility should a peer platform bear for consumer injury arising from transactions undertaken through the platform? How might such responsibility vary depending on the type of peer platform?
- To what extent peer should platforms be held accountable for the behaviour of peers on their platforms? Do they have a role in ensuring that the peer providers on their platforms comply with acknowledged principles of consumer protection? How could such a responsibility be articulated, given the dynamism and variety of these marketplaces?

Moderator

- **Ms. Satu Teopfer**, Competition and Consumer Authority, Finland

Panellists

- **Ms. Ana Perdigao**, Homeaway
- **Mr. Stefan Krawczyk**, eBay
- **Ms. Joanna Ghorayeb**, Direction générale de la concurrence, de la consommation et de la répression des fraudes, France
- **Ms. Susan Grant**, Consumer Federation of America

Closing Remarks (17:55 - 18:00)

- **Ms. Nathalie Homobono**, Chair of the Committee on Consumer Policy

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