



THE SHARING ECONOMY AND EU ANTIDISCRIMINATION LAW

Human control over reproducing inequalities

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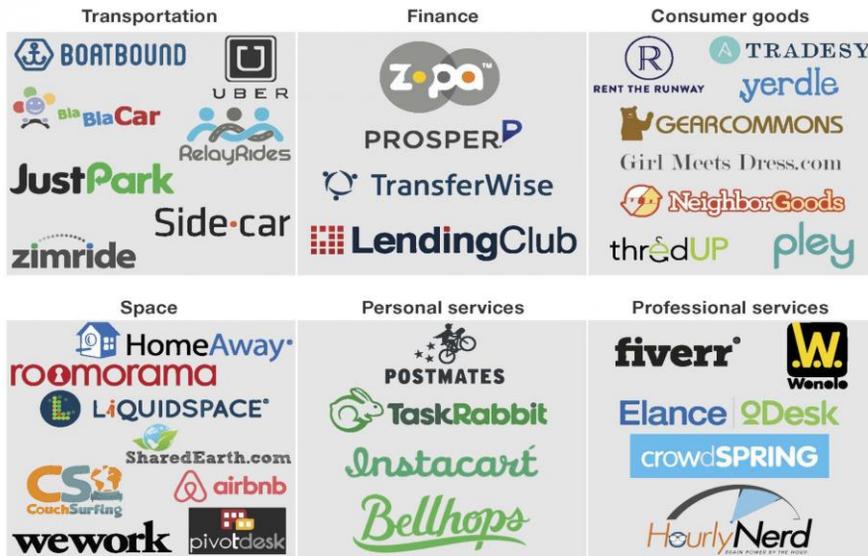
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The sharing economy: what's in a name?

- A. Sundararajan [2016]: *The Sharing Economy: The End of Employment and the Rise of Crowd-Based Capitalism*: “A shift in the role of the individual and of ownership”
- A. Acquier [2018]: *Platform Capitalism and the Re-birth of the Putting-out System*: “Instead of building a competitive advantage from complex and unique assets, platforms massively outsource them and compete with ordinary resources”

- **But how does all this work?**

Sharing economy's algorithms and consumers



Sharing economy's algorithms and workers



Work, working, hiring

- “It’s an intuition, gut feel, chemistry...”
- “It’s like meeting your wife for the first time...”
- “We come from the same region, we attended the same school...”

- What are we talking about?

Sharing economy’s algorithms and platform models

1. Work on demand via app

1. Crowdfwork via platform

1. Work intermediation

→ Robo-recruiting and the problem of “hiring” through platform intermediaries

Labour law implications/responses

- Are gig-workers to be considered as employees?
- Are they quasi-subordinate workers?
- Who is their employer?
- Are they genuine self-employed persons?

Is the sharing economy preventing discrimination?

- The apparent neutrality of algorithms
 - Ratings' anonymity
 - Algorithmic management
- Multiplying biases (choices and ratings)
- Conscious and unconscious discriminatory practices
- Algorithmic discrimination
 - Training data (previously biased): “garbage in, garbage out”
 - Proxy discrimination (membership in a protected class)

EU equal treatment and anti-discrimination law: market regulation or fundamental rights?

- Anti-discrimination and free movement principles
- Equal pay
- Equal treatment and the employment relationship
- The personal scope of EU anti-discrimination law: are self-employed included?
- Is EU law helping preventing algorithmic discrimination?
 - Reproducing discrimination → Treating people differently may be justified by certain reasons, that may be encoded in the algorithm
 - Opacity → Lack of access and accessible data (e.g., personalised prices or offers)

Open questions

- The “comparator” problem (CJEU C-313/02, *Whippel*)
 - The “single source” doctrine (CJEU C-256/01, *Allonby*)
 - The information gap (CJEU C-415/10, *Meister*)
- Enforcement deficiencies: who is liable?
- Equality law beyond labour law

