

Citation: Garcia-Teruel, Rosa M. 2021. “An Introduction to the Collaborative Economy in Spain.” In *The Collaborative Economy in Action: European Perspectives*, edited by Andrzej Klimczuk, Vida Česnūitytė, and Gabriela Avram, 313–322. Limerick, Ireland: University of Limerick.

An Introduction to the Collaborative Economy in Spain

Rosa M. Garcia-Teruel

UNESCO Housing Chair, Universitat Rovira i Virgili

Tarragona, Spain

rosamaria.garcia@urv.cat

Abstract

A collaborative economy emerged after the 2007 global financial crisis and allowed a better allocation of resources that were traditionally underused. In Spain, however, the real impact of a collaborative economy has been discussed since some peer-to-peer platforms are considered to increase rental prices or to promote more precarious employment relationships. This debate led to enact of selected sectoral pieces of legislation, but there is still a lack of a unified concept and legislation on the collaborative economy. Despite these challenges, a collaborative economy has been useful to help people in the COVID-19 crisis, thanks to the creation of informal solidarity networks in neighbourhoods. Future research should discuss the new role of collaborative economy post-COVID-19 in a context of less tourism and social distancing.

Keywords: Collaborative Economy, Solidarity Networks, Crowdfunding, Tourist Dwellings, P2P

Introduction

Spain has a lack of conceptualisation and regulation of the sharing economy phenomenon, but some sectoral pieces of legislation and judgements are affecting major platforms. This is the case of the regional limitations to platforms of shared transport (e.g., Uber, Cabify), suspension on tourist dwellings' licences, the possibility to forbid tourist apartments in condominiums, and the judgements regarding the labour law relationship between platforms and the so-called “riders.” While this legal framework is somehow restricting platforms' activity in this country, citizens started to consider the collaborative economy to have important disadvantages for the housing and labour market (IPSOS 2019). However, the collaborative economy recently rose and had a significant role in the management of the COVID-19 crisis in a context of lack of social benefits: during the lockdown, several informal support networks were created to assist older adults and people who have underlying medical conditions (Nasarre-Aznar 2020).

Definition

The Spanish legal system does not have a concept for a “collaborative economy.” However, some governmental bodies proposed a definition. By way of example, the Comisión Nacional de Mercados y la Competencia (National Commission on Markets and Competition), a public entity subject to parliamentary control that promotes and defends proper functioning of the Spanish market, confirmed in 2016 that collaborative economy refers to the heterogeneous set of production and consumption models by which their agents share, in an innovative way, underused assets, goods, and services in exchange for consideration or not, using digital platforms and, in particular, the Internet (CNMC 2016: 12). This concept follows the one included in “A European agenda for the collaborative economy” by the EU Commission in 2016, but it also includes a for-profit collaborative economy, whose inclusion is still a discussion among scholars.

In a more general way, the Catalan Interdepartmental Commission of the Collaborative Economy published in 2017 the report “Propuesta para un buen encaje de la economía colaborativa y de plataformas en Catalunya,” in which it considers that, within the concept of the collaborative economy, one might include the new social and business models that, thanks to technological platforms, create a digital framework for citizens to share resources (goods, services, time, knowledge, skills) and, at the same time, generate a more efficient way to connect, create and share value (Generalitat de Catalunya 2017: 15).

Thus, one might include within this concept any type of action that enhance the exchange of goods and services which are underused or to better allocate them (such as in the food industry, Miralles et al. 2017), and also peer-to-peer (hereinafter, P2P) actions and methods to achieve it (Pedroche et al. 2016), such as platforms, distributed ledger technologies, cryptocurrencies (Cañigüeral 2017), and “tokenization” of assets (Garcia-Teruel 2020).

Key Questions

The key questions worth asking in Spain are the following:

- Is the collaborative economy, including platforms activity, positively or negatively contributing to the housing and labour market?
- Are limitations to platforms (e.g., bans to tourist dwellings’ licences) ballasting technological development?
- Is a legal framework for P2P networks (e.g., distributed ledger technologies) necessary? Are they really enhancing P2P contact or just replacing old intermediaries with new ones?
- Should the EU regulate this phenomenon to achieve a true harmonisation between the Member States?
- How should consumers be protected in the collaborative economy era?
- How are health crises and social distancing going to affect collaborative economy solutions, such as co-housing and co-working?

Examples

Since the concepts of the collaborative economy provided above include both the exchange of goods, services, and assets for free or in exchange for a commission, the main collaborative economy local players are also the main platforms operating in Spain, for example, Airbnb, Glovo, and Uber. According to the report “Plataformas de Economía Colaborativa: Una Mirada Global” (2018), platforms for sharing transport and tourist housing are the ones that generate more income in Spain. The first ones include Uber, BlaBlaCar and Cabify, and the second ones Airbnb, Booking.com, HomeAway or even Intercambiocasas, a platform to exchange housing for tourist purposes.

On the other hand, there exist some limited local platforms that also enhance the share of underused resources in the following sectors. In accommodation and tourism, one might find Hundredrooms, a search engine based in Mallorca (Spain), to find accommodation. By its turn, Nolotiro is a platform to give underused goods for free, Lendi to share them with your neighbours and Getaround a car-sharing platform. In the educational sector, Floqq and Cursopedia are two platforms where teachers can share videos to provide knowledge on a certain subject and where students can access these videos. Students shall pay to see some of the videos. To avoid the waste of food, Yonodesperdicio allows users to share food for free, and Yoomers to share meals, but, in this case, users pay for them. Finally, for crowdfunding purposes, Goteo is one of the most used in this country to fund social projects. For real estate, Housers, Privalore and Civislend, but could be introducing new intermediaries rather than promoting a collaborative economy (Garcia-Teruel 2019).

Context

Overview

Spanish Parliament attempted to regulate the collaborative economy and the technological tools that allow P2P contact, such as blockchain and cryptocurrencies, for specific cases. Some examples of them are Proposal No. 161/003428 to introduce Blockchain to Spanish Public Administration and Proposal No. 161/003048, on the regulation, taxation, communication of use of cryptocurrencies and blockchain technologies. However, due to general elections and consequently changes in the Parliament, these initiatives expired. At a regional level, Catalonia published the Catalan Agreement GOV/44/2016, of 5th April, which promotes a code of good practices for the collaborative economy sector. Within this action, the Catalan region created an Interdepartmental Commission to study the collaborative economy and, by its turn, the Andalusian Government promoted the study “La Economía Colaborativa como nuevo sector de oportunidad y el emprendimiento en Andalucía” (“The collaborative economy as a new sector of opportunities and entrepreneurship in Andalusia”) 2017. In addition, and although a lack of general legislation on the collaborative economy (Muñoz 2016), some sectoral rules and judgements are affecting major players or those tools that allow P2P transactions.

Tax Law Issues

The taxation of platforms depends on the sector and activities that they provide. By way of example, the judgement of the Court of Appeal of Asturias 6 February 2015 (ROJ: SAP O 70/2015) established that, although Bitcoin exchanges by themselves

are not subjected to money laundering controls under Spanish Act 10/2010 (Official Gazette 103, 29.4.2010), any type of exchange of cryptocurrencies with banks are controlled by these institutions. Due to the lack of certainty about the taxation of cryptocurrencies, the department of taxation (Dirección General de Tributos) has solved several consultations on this topic. For example, Consultation No. V0999–18, of April 18th, 2018, explains the taxation of Bitcoin and other cryptocurrencies for the Income Tax and how to communicate to the Tax Agency the number of cryptocurrencies that a person has.

Labour Relationships

There is not such a piece of legislation on labour law issues affecting the collaborative economy. The collaborative economy usually relies on voluntary work and ad hoc support networks that do not involve a labour relationship. However, several judgements do deal with the labour relations of the so-called “riders.” For example, in the Judgement of the Barcelona Court of Appeal of June 11th, 2019, the Court decided that riders of the company Deliveroo are actual workers and not self-employed. This is due to the fact, among others, that a relationship of dependence between workers and the company exists: they are not paid directly by clients but by the company. In any case, this shall be analysed on a case-by-case basis. See also the ruling ECJ 22 May 2020, B v Yodel Delivery Network Ltd.

Consumer Law

General consumer law provisions apply to B2C relationships (e.g., platform-consumer). Apart from that, Act 5/2015 regulated for the first time in Spain equity crowdfunding and crowdlending platforms, imposing some duties, such as a previous authorisation by the Comisión Nacional del Mercado de Valores (Spanish Securities and Exchange Commission, CNMV) and limits to retail investors (Simón-Moreno 2017). Note that C2C relationships, as they do not involve a consumer relationship in terms of Article 3 Directive 2011/83/EU, are not subjected to consumer’s provisions but to private law rules (e.g., in Spain, the Spanish Civil Code).

Transportation Law

Although they exist several platforms of the collaborative economy for car-sharing (such as Car2Go), this field of law is marked by the conflict between taxi drivers and the so-called “VTC” (vehículo de transporte con conductor), which refers to the platform economy (Valenzuela 2017). This field was affected by ECJ 20.12.2017 Asociación Profesional Élite Taxi v. Uber Systems Spain (C-424/15), in which the Court decided whether the activity of Uber was considered an Information Society Service or a Transport Activity, requiring an administrative authorisation. This conflict led to dozens of demonstrations, mainly by the taxi sector, and restrictions on the use of P2P transport platforms by some regions. An example of it, Balearic Islands published RDL 1/2019, of 22nd February (Official Gazette 109, 07.05.2019) and Catalonia the Decree 4/2019, of 29th January, which impose restrictions to VTC, in such a way that a minimum period of 15 minutes to contract the transportation services is required. Also, Spanish RDL 13/2018, of September 28th (Official Gazette 236, 29.09.2018), establishes that VTC may only provide their service for interurban routes, and RD 1076/2017 (Official Gazette 317, 30.12.2017) established the obligation to communicate every transport route that a VTC provides.

Regulation on Tourism

Regulation on tourist dwellings depends on each region, but only Andalusia regulated the rental of rooms for tourist purposes (Article 5 Decree 28/2016). Since the spread of P2P tourist accommodation platforms such as Airbnb in 2008, scholars and practitioners discussed their effects on rental prices in big cities such as Madrid and Barcelona. Rental prices in those cities increased more than 10 per cent during 2017–2018 (Fotocasa 2017). However, the relationship between an increase in rental prices and tourist platforms is not clear. While some scholars established a negative impact of tourist dwellings on the rental market (e.g., Artigot-Golbardes 2017), other reports (InAtlas Barcelona 2017, CNMV 2018) highlight those platforms such as Airbnb cause no impact on the housing market. In fact, an increase in rental prices in those cities could be a direct consequence of the legislation on urban residential leases in Spain, since Act 4/2013 reduced the minimum duration of rental contracts from five to three years, and in 2016–2017 all those contracts finished, and therefore property owners tried to increase rents (Garcia-Teruel 2017).

In any case, some cities and regions introduced a suspension on tourist dwellings' licences due to the potential negative effects of P2P tourist accommodation platforms to the increase in rental prices, to condominiums and neighbourhoods (Lambea Llop 2016), such as Barcelona in 2017 and Madrid in 2018 (this last one being suspended by the Madrid High Court of Justice in 2019). For example, Order HFP/544/2018 (Official Gazette 131, 30.05.2018) compels platforms to inform through the tax law model 179 about the identity of the tourists that rent a dwelling since 2018. Some regions even banned the rental of rooms for tourist purposes (e.g., Canarias), but Courts considered that this ban could not be applicable (Judgement of the Supreme Court 26/2019, of 15th January). Also, RDL 7/2019 establishes that the condominium board can ban tourist dwellings just with 3/5 of the shares of the condominium. In addition, in the Judgement of the Catalonia High Court of Justice No. 4/2019, of 24th January, the Court considers that even if the board of a condominium authorised a tourist dwelling, this authorisation would not be applicable to a new owner if the board has prohibited this activity and this prohibition was entered into the Land Registry.

Developments

Sharing economy is considered to produce 300,000M EUR in 2025 (Hernández 2019) and to represent around 1.4 per cent of Spanish gross domestic product (EY Foundation 2017). Airbnb alone had an economic impact just in the city of Barcelona in one year (from August 2012 to July 2013) of \$175M. Main platforms also create jobs for the population in a context of high unemployment rates (14 per cent in Spain 2020): for example, about 280,000 people work for collaborative economy platforms in Catalonia (Público 2018). However, these workplaces might be considered precarious, and the externalities of these platforms are not clear since, as pointed out above, there are different opinions regarding the increase in rental prices that accommodation platforms cause.

Issues

Although the collaborative economy aims at achieving a better allocation of resources, conflicts arisen from platforms might be damaging the reputation of this concept. The

collaborative economy is thought to make employment relationships of certain sectors and the access to housing more precarious and unstable (Alonso-Almeida, Bremser 2017). Even the current Spanish President, Pedro Sánchez, declared in 2019 that under the concept of “collaborative economy,” arise several bad practices in terms of labour relationships.

Also, in 2017 the Centro de Estudios de Opinión de la Generalidad de Cataluña carried out a survey to 12,000 citizens, where they were asked about the advantages and disadvantages of the collaborative economy. 19.1 per cent of respondents said that the main disadvantage is the insecurity for consumers, followed by unfair competition (16.8 per cent) and precarious work relationships (12.9 per cent). For them, the most important advantage was that a collaborative economy enhances cheaper products and services (20.7 per cent). In addition, in a survey carried out by IPSOS in 2019, 80 per cent of respondents considered that tourist dwellings cause an increase in rents and also problems in condominiums (76 per cent).

Even the lawmaker considers that platforms are increasing housing prices: the explanatory memorandum of RDL 7/2019 establishes that P2P platforms for tourist accommodation have an impact on the housing market in a context where rental demand is increasing.

Other Major Players

University Research (Selection)

- UNESCO Housing Chair of Rovira i Virgili University:
 - Collaborative housing (Ministerio de Economía y Competitividad, DER2017-84726-C3-1-P). <http://housing.urv.cat/en/vivienda-colaborativa/>
 - Project on tokenization of property rights (Centre d'Estudis Jurídics i Formació Especialitzada). <http://housing.urv.cat/en/in-process/tokenitzacio-de-drets-reals/>
- Chair for Collaborative Economy and Digital Transformation. Universitat de València.
- University of San Pablo CEU Elche: “El ordenamiento tributario ante la economía colaborativa: de la clarificación a nuevas formas de cooperación público-privada” (“The tax legal order before the collaborative economy: from the clarification to new public-private forms of cooperation”) (Ministerio de Economía y Competitividad).
- Universitat Internacional de Catalunya, “Improvement of quality in collaborative consumption companies: model, scale and loyalty” (Ministerio de Economía y Competitividad).
- UOC, “Economía colaborativa y Espacios Turísticos: contribuciones, transformaciones y retos” (“Collaborative economy and tourist spaces: contributions, transformations and challenges”) (Ministerio de Economía y Competitividad).

Unions or Organizations

- Unauto VTC. Association of vehicles with driver. <https://unautovtc.es>
- Asoriders. www.asoriders.es
- Veïns i amfitrions de Catalunya. www.veinsiamfitrions.org

Commercial Lobbying Groups and Membership Organizations

- Adigital. Asociación Española de la Economía Digital. www.adigital.org
- FEVITUR. Federación española de asociaciones de Viviendas de Uso Turístico y apartamentos turísticos. www.fevitur.com

Future Direction of Research

The impact of new technologies to enhance the collaborative economy, such as tokenization of assets and the use of cryptocurrencies, is still under discussion (García-Teruel 2020). In addition, due to COVID-19 and the subsequent health and economic crisis, the role of the collaborative economy is now under question. Health authorities in Spain (and around Europe) recommend social distancing. This social distance might prevent people from sharing services and resources of the collaborative economy, such as co-working spaces, co-housing premises, and car-sharing. In addition, the debate about the increase in rental prices caused by accommodation platforms should be reactivated in the context of the potential reduction of tourism in Spain.

Moreover, a new role for the collaborative economy might emerge thanks to the informal creation of solidarity networks during the lockdown. These networks helped older people to subsist during this crisis, which showed their potential in future COVID-19 strains.

Concluding Remarks

The collaborative economy movement increased after the 2007 global financial crisis as a response to the needs of the most vulnerable people and to better allocate resources that were traditionally underused (such as cars). This role has also been highlighted during the COVID-19 crisis, as several informal solidarity networks were created in neighbourhoods and multi-unit buildings to help older people subsist during the lockdown.

The collaborative economy, thanks to new technologies that allow P2P contact (e.g., platforms, blockchain), is considered to offer cheaper resources, services, and products, in particular, those that were traditionally accessible only to the middle and upper classes. However, some platforms devoted to enhancing P2P transactions have been considered to damage somehow traditional sectors, starting an intense debate on the increase in rental prices caused by tourist accommodation platforms in key Spanish cities. Nevertheless, after the COVID-19 crisis, it is important to assess the new role of the collaborative economy: would it have the same impact on rental prices accommodation platforms, considering the potential reduction of tourism? Are co-working and co-housing spaces going to disappear or, at least, decrease, considering that health authorities ask for social distancing? Is the population ready to share products again without health protection measures?

References

- Alonso-Almeida, M.M., Bremser, K. (2017). *Sharing Economy and Tourism: Lights and Shadows*. MIC 2017 Managing Global Economy, Venice, Italia. 24–27 May 2017.
- Artigot-Golobardes, M. (2017). Retos de las viviendas turísticas en Barcelona: entre el mercado y la regulación (Challenges of tourist dwellings in Barcelona: between market and regulation). *Papeles de Economía Española*, 151.
- Cañigüeral, A. (2017). Hacia la ciudad colaborativa. *Revista de Estudios para el Desarrollo Social de la Comunicación*, (15), 176–193.
- Comisión Nacional de los Mercados y la Competencia (2016). *Resultados preliminares E/CNMC/004/15. Estudio sobre los nuevos modelos de prestación de servicios y la economía colaborativa (Study on new service delivery models and the collaborative economy)*. March 2016.
- Comisión Nacional de los Mercados y la Competencia (2018). *Estudio sobre la regulación de las Viviendas de Uso Turístico en España (Study on the regulation of tourist accommodation in Spain)*. E/CNMC/003/18. www.cnmc.es/sites/default/files/2133063_2.pdf
- Exceltur (2015). *Impacts of the exponential growth of tourist accommodation in rental houses in Spain, driven by P2P models and marketing platforms*. 25 June 2015. www.exceltur.org/wp-content/uploads/2015/09/Impact-of-holiday-rental-properties-comercialized-by-P2P-websites-on-Spanish-Tourism-Sector.-ENGLISH-PRESENTATION.-Exceltur.pdf
- EY Fundación (2017). *Estudio sobre la economía colaborativa en España (Study on the collaborative economy in Spain)*. Fundación EY, en consorcio con ADIGITAL, FEF, CREO y COTEC.
- Fotocasa (2018). *Índice inmobiliario Fotocasa*.
- Garcia-Teruel, R.M. (2017). Spanish law of residential leases: Historical developments and current regulation and trends. *RED: Revista Electrónica de Derecho*, 3.
- Garcia-Teruel, R.M. (2019). A legal approach to real estate crowdfunding platforms. *Computer Law and Security Review*, 35(3), 281–294. <https://doi.org/10.1016/j.clsr.2019.02.003>
- Garcia-Teruel, R.M. (2020). Legal challenges and opportunities of blockchain technology in the real estate sector. *Journal of Property, Planning and Environmental Law*. Special Issue: Blockchain and PropTech opportunities and challenges for land registration and land uses. <https://doi.org/10.1108/JPEL-07-2019-0039>
- Generalitat de Catalunya (2017). *Informe de la Comisión Interdepartamental de la Economía Colaborativa: propuestas para un buen encaje de la economía colaborativa y de plataformas en Catalunya (Report of the Interdepartmental Commission for the Collaborative Economy: proposals for a proper fit of the collaborative economy and platforms in Catalonia)*. 5th September 2017.
- InAtlas (2017). *El impacto del alquiler de Viviendas de Uso Turístico en el Mercado de alquiler residencial de Barcelona. Resumen ejecutivo (The impact of the rental of housing for tourist use in the residential rental market in Barcelona. Executive Summary)*.

https://apartur.com/media/files/Estudis/El_impacto_del_alquiler_de_viviendas_de_uso_RESUMEN.pdf

- ISPOS (2019). *Barómetro Social. Opinión sobre las Viviendas de Uso Turístico (VUT)*. Junta de Andalucía. Consejería de Economía y Conocimiento (2017). *La Economía Colaborativa como nuevo sector de oportunidad y el emprendimiento en Andalucía*.
- Lambea Llop, N. (2016) A policy approach to the impact of tourist dwellings in condominiums and neighbourhoods in Barcelona. *Urban Research and Practice*, 10(1), 120–129. <https://doi.org/10.1080/17535069.2017.1250522>
- Miralles, I., Dentoni, D., and Pascucci, S. (2017). Understanding the organization of sharing economy in agri-food systems: evidence from alternative food networks in Valencia. *Agriculture and Human Values*, 34(4), 833–854.
- Muñoz, P. J. (2016). El consumo colaborativo en España: experiencias relevantes y retos de futuro (Collaborative consumption in Spain: relevant experiences and future challenges). *Revista CESCO de Derecho de Consumo*, 17, 62–75.
- Nasarre-Aznar, S. (2018, 2), Ownership at the stake (once again): housing, digital contents, animals and robots. *Property, Planning and Environmental Law (JPPEL)*, 10(1), 69–86. <https://doi.org/10.1108/JPPEL-12-2017-0040>
- Nasarre-Aznar, S. (2020). La vivienda y las ciudades después del confinamiento (Housing and cities after the lockdown). *Diari de Tarragona*, 22 April 2020.
- Nasarre-Aznar, Sergio, (2018), Collaborative housing and blockchain. *Administration*, 66(2), 57–80. <https://doi.org/10.2478/admin-2018-0018>
- Pedroche, M. S. (2016). La economía colaborativa. Una aproximación al turismo colaborativo en España (The collaborative economy: An approach to collaborative tourism in Spain). *CIRIEC-España, revista de economía pública, social y cooperativa*, 88.
- Simón, H., Lambea, N. and Garcia-Teruel, R.M., (2017) Shared ownership and temporal ownership in Catalan law. *International Journal of Law in the Built Environment*, 9(1). <https://doi.org/10.1108/IJLBE-09-2016-0015>
- Simón-Moreno H. (2017) Alternative finance in Spain. In: Moulin J.M. (ed.). *Droit de la Finance Alternative*. Brussels: Bruylant.
- The Ostelea School of Tourism and Hospitality, EAE Business School, Universitat de Lleida and Universidad Rey Juan Carlos (2018). *Plataformas de Economía Colaborativa: Una Mirada Global (Collaborative Economy Platforms: A Global Look)*. www.aept.org/archivos/documentos/ostelea_informe_economia_colaborativa.pdf
- Valenzuela, L. A. (2017). Nuevos modelos de economía compartida: Uber economy como plataforma virtual de prestación de servicios y su impacto en las relaciones laborales (New models of collaborative economy: Uber's economy as a virtual platform of services and its impact on labour relationships). *Relaciones Laborales y Derecho del Empleo*, 5(1).

Relevant Websites

- Hernández, M. (2019). La economía colaborativa generará 300,000 millones de euros en 2025. *La Vanguardia*.
www.lavanguardia.com/economia/20190531/462501774729/economia-colaborativa-generara-300000-millones-euros-2025-brl.html Accessed: 25 June 2019.
- La Vanguardia (2019). *Los trabajadores de Glovo llaman a la protesta tras el atropello mortal a un repartidor*. 26.05.2019.
www.lavanguardia.com/local/barcelona/20190526/462475177861/trabajadores-glovo-protesta-muerte-repartidor-barcelona.html Accessed: 25 June 2019.
- La Vanguardia (2019). *Sánchez quiere regular y dar más cobertura al empleo en plataformas*. 05.03.2019.
www.lavanguardia.com/economia/20190305/46850312179/reforma-laboral-temporalidad-economia-colaborativa-precariedad.html Accessed: 25 June 2019.
- Publico (2018). *Cerca de 280,000 personas obtienen ingresos a través de plataformas de economía colaborativa en Catalunya*.
www.publico.es/sociedad/cerca-280000-personas-obtienen-ingresos-traves-plataformas-economia-colaborativa-catalunya.html Accessed: 25 June 2019.