

Legal Regulation of the Sharing Economy Model under the Background of Internet

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Abstract: In the face of the legal risks and challenges under the market innovation of the shared economic model, it is necessary to innovate the relevant systems and establish a system which is compatible with the shared economic model so as to promote the healthy development of the sharing economy. First of all, the legal status of participants in the shared economy model must be determined and the status of the legal subjects of the unused resource providers must be clarified. Secondly, it is important to make the corresponding legal regulation on the sharing economic model: adopt a responsive regulatory strategy, uphold the concept of democracy and efficiency, introduce gradual, experimental and flexible regulatory techniques and methods to seek a dynamic balance between innovation and regulation.

1. Introduction

The rise of today's shared economy is overwhelming. In the real world, enterprises in the shared economy have emerged in abundance and exist in large numbers in all fields of production and life. With the advent of technologies such as mobile internet, big data and mobile payment, people can rent cars, rent boats, rent clothes, rent personal time, skills, money or even Tangible assets such as machine tools and high-end precision instruments [1]. The shared economy stems from the discovery of the value of idle resources and the maximization of excess capacity.

For some overcapacity traditional industries, the shared economy will bring about profound changes [2]. Since the emergence of the shared economy has now exceeded 100 billion US dollars, the current global shared economy is showing a rapid development trend and a new way to stimulate economic growth, innovation and cooperation through the way of sharing innovation, which will help expand the new areas of shared economy. It can be seen that the shared economy is reshaping people's way of production and life, profoundly affecting and changing the world in the future. In many cities, the population density is extremely high, and the demand for resources is huge [3]. To meet the demand, many industries in our country overproduce, which results in overcapacity and a large amount of idle resources, causes a series of environmental problems and social issues for which the country put forward the strategy of industrial upgrading and reconstruction in recent years, and the rise of the shared economy is suitable for China's national conditions and needs [4]. On the other hand, with the successful convening of the 2nd Global Internet Conference in China, we can see that China has become a big Internet country in the international arena. It has provided China with a crucial and solid platform for developing a shared economy. In addition, the proposal of "Internet +" and "mass innovation and entrepreneurship" policies as well as various government initiatives to encourage small, micro-enterprises and makers to make a living are also important for the development of a shared economy push the role. Thus it is necessary and very significant for China to develop a shared economy. It is also inevitable that a shared economy will develop in China [5].

2. Legal Interpretation of Shared Economic Model

2.1 Concept of sharing economic model interpretation

The concept of shared economy was first proposed in 1978 by Felton, a professor of sociology at

Texas State University, and Spence, a sociology professor at the University of Illinois at Birmingham. In 2010, the shared economy model was also referred to as "cooperative spending" or "collaborative spending" in a book by British scholar Rachel Butman. In the book, she divides "cooperative consumption" into three modes: first, the product service based on sharing and renting actually transfers certain users' rights under the control of different owners with specific resources under the control of the same owner [6]. For example, car rental network, short-term rental network; Second, based on the sharing of assets and skills of the cooperative life style, time, knowledge and skills and other intangible assets to share. However, the utilization rate is not high as well as the low cost, less waste to share workplaces and machinery and equipment. In addition, this form also includes the use of spare time for one party to provide services and other forms; Third, based on second-hand transfer of products re-circulation. To sum up, in a nutshell, the shared economy mode relies on the third-party Internet information technology platform to make temporary use of the right to use idle resources (goods, services, funds, etc.) scattered among individuals and make the best use of it. The shared economic paradigm allows people to share resources without affecting their own lives. The logic is that "what we need is not the product itself, but the practical value and personal experience it brings to us." In a shared economy, everyone can become both a producer and a consumer, with the ability to generate revenue. The details of the legal interpretation of shared economic model are given in Figure 1.

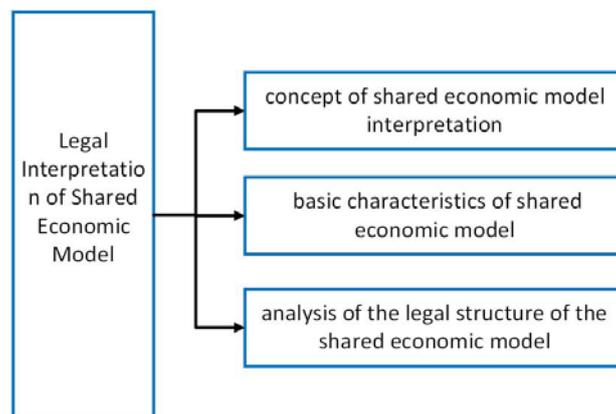


Figure 1: details of the legal interpretation of shared economic model

2.2 Basic characteristics of sharing economic model

The premise of sharing economic model is overcapacity, therefore there is excess idle resources can come up and share about the individual owned as a sunk cost of idle resources for social utilization. However, the shared economic model transfers usufruct instead of ownership, more commonly "renting" rather than "buying and selling." Demands for goods or services are different from general leases through the Internet information technology platform, which is to temporarily obtain the right to use from the provider in order to lower the cost relative to the purchase to complete the use target and then transfer it to the owner for meeting the relatively low price and quick demand characteristics of the shared economy [7]. In addition, the fair of goods, which is different from the one of lessening or relatively few transfers, should be repeated and easy to be exchanged for the idle resources of its owners so as to enhance the utilization efficiency of idle resources and enhance the welfare of individuals and the community as a whole sustainable development.

Resource sharing is based on trust, which is easy to achieve between acquaintances, but difficult for strangers. The reason why the online transaction system in the United States is mature has its own direct connection with personal credit cards. However, domestic consumers have generally low trust. Therefore, the trust between strangers in the shared economy mode is mainly changed to sharing the trust of the platform, that is, the trust of the brand and data sharing platform. In the shared economy model, an expert system of modern communication technology and professional teams is able to split the presence of transactions into off-line transactions of "O2O" and share the

economy as the business is mostly online participants in the model, who pay more attention to the quality of the sharing platform than to the individual quality of the participants. Therefore, the sharing platform needs to build a set of effective, fair and open and transparent mechanisms, including the credit system of payment, evaluation, customer service communication, elimination, insurance claims and so on, in order to protect the trust interests of the specific participants in the shared economic model [8].

2.3 Analysis of the legal structure of the sharing economic model

The legal structure of sharing economic model can be divided into internal legal structure and external legal structure. The internal structure of the relationship mainly consists of three main parties, namely: a shared platform, a group of idle resource providers, a group of idle resource demand side. Different combinations form a different legal relationship, which affects the setting of its rights and obligations [9]. The external structural relationship is mainly the legal relationship between the platform-like enterprises under the supervision of the government regulatory authorities, competitors of the same kind and competitors in traditional industries. Internal structure of the relationship will produce externalities, and internal relations of external structure will cost internalization, internal and external legal structures intertwined with each other to form a shared economic model more complex legal structure and legal consequences.

The shared economic model of the brokered transactions on the shared platform includes at least two types of contracts between the three parties [10]. Under the shared economic model, idle resource providers can attract a large number of demanders to select and complete transactions only through the complete infrastructure owned by the shared platform, and the shared platform undertakes the daily operations and management of the transaction. Therefore, from the point of view of user selection alone, the idle resource providers and sharing platforms are like two grasshoppers tethered to a rope; Second, the formation of the two types of contractual relations: one is the service contract between the offline idle providers and demanders; the other is the online shared platform intervention, and idle resource providers and demanders formed between The contractual relationship between the two parties seems intuitively to feel like an intermediary contractual relationship. However, in essence, the sharing platform serves as a desirable medium for idle and resource-seeking parties, and the service provided is no longer a simple traditional intermediary service [11].

3. Legal problems of sharing economy mode

The shared economic model has liberated a large amount of productive forces, a great excess of productive capacity has been released, and idle resources have been fully utilized, which can benefit both individuals and countries [4]. However, things have two sides, sharing economic model as a new thing, because its own development is not perfect, and due to its unique legal structure and operating mechanism, the existing legal system can not be fully applicable or can not be fully covered and there are many legal issues as shown in Figure 2.

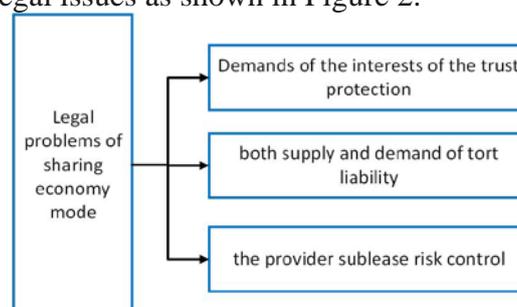


Figure 2: The details of the legal problems of sharing economy model

3.1 Demands of the interests of the trust protection

One of the basic features of the shared economy model is the temporary transfer of the right to

use idle resources. It focuses on the one-off experience of services, as opposed to the actual possession of online shopping items. Therefore, once the product quality flaws or delays in delivery defaults and other issues, consumers of online shopping items can be refunded through the way to protect their own interests. However, in the shared economy model, idle resource demanders through online search from the shared platform to idle resource providers registered and provided information to consume their own manpower, material and financial resources. "Do everything possible to find idle resource providers through practical actions to meet the demand, if the resources provided by idle resource providers exist serious flaw, and sharing information on the platform is extremely inconsistent, then the interests of those who need protection?" Faced with the above situation, the demander has only two options: First, the choice of difficult to accept the reality, at the same time taking pictures as a license to the shared platform for feedback, seeking relief, as involving fraud consumers, the sharing platform is often to blacklist resource providers. If idle resource providers deny or can not provide resources after the demanders actually arrive, they should trust the benefits and losses of manpower, material resources and financial resources for the demanders on the road and can only make other choices Pay? Further speaking, the most practical problem is encountered such a situation, and the demand for the sharing platform can be held accountable and claim rights? Because it is the most straightforward way for the demanders to seek relief. However, no relevant provisions have been clarified under the current legal system. However, combining the basic characteristics of the shared economic model and the legal structure of the relationship analysis, although the actual transaction object is idle resource supply and demand sides, and the surface should be idle resource providers to breach of contract for their own breach of contract liability and contracting responsibility [4]. However, in the shared economy mode, because the sharing platform is the matching party of the transaction, no sharing platform relies on its own powerful technology to collect the provided user information and there is no next transaction. Therefore, according to the principle of rights appearance, reliance on benefits and losses for idle resources providers to assume security obligations, and this guarantee obligations can be passed through the insurance mechanism.

3.2 Both supply and demand of tort liability

The shared economic model will contribute individual idle resources, so that everyone may become a "company", but this innovation has to some extent led to a crisis of confidence. There have been many strange idle resources both supply and demand in the person and property mutual infringement events such as the one. Although the sharing platform helps to connect the supply and demand sides, once it has problems, it can hardly take the responsibility in time, and most of the time, it can only be solved by both parties. Although individuals have unlimited liability but their limited liability capacity, they can not help but make people put a question mark on whether shared economy is trustworthy. The traditional industries also have such security issues. The crux of the problem lies in how to solve the distribution of responsibilities after such incidents occur, that is, the key point is that the sharing platform should not be responsible for this? And what kind of responsibility should be borne?

This is a new problem that arises under the shared economic model and is also a vacancy in the existing legal system in our country. Because China's legal provisions do not clearly share the platform-specific legal status, it lacks corresponding basis for investigation of liability, but based on who benefits from who shares the risk principle and the above-mentioned rights to the appearance of the principle of equity considerations. And the sharing platform has reason to assume obligations on both idle and supply-demand parties to share the risk of infringement, in addition to pre-qualification, and it can also guarantee the risk by purchasing personal and property insurance for both parties in advance. If the shared platform fails to fulfill the obligation of safety and security, it should bear the corresponding additional responsibility. In addition, in order to promote the good development of the shared economy, the government and even the state should also stand at the height of social resources allocation and design corresponding relief measures and safeguards from the system in order to better balance the interests of all parties and supervise them.

3.3 The provider sublease risk control

The essence of the shared economic model is to realize the temporary transfer of the right to use idle resources. Its ultimate goal is to maximize the use of all idle resources. In practice, the default form of transaction is often idle resources and providers should satisfy the relationship between ownership, that under normal circumstances only the owner has the right to share their platform idle resources to short-term rental [2]. According to the relevant provisions of China's "Contract Law" 1, the behavior of sublet housing attitude as long as the consent of the owner can, but the lessee to assume some liability for damages. For example, if I rent an apartment, will I be able to benefit from the short term rent by renting one or more bedrooms, or kitchen or living room, to the shared platform with the consent of the owner? If there is no problem with the ultimate goal of maximizing the use of idle resources in the shared economy, it can not be considered in terms of the protection of consumer rights of idle resource consumers and the stability of transactions and transaction security. There is a certain risk of transaction not acknowledging this reshuffling through the shared platform, and the risks in different industries are also different, and the risk of the combination of different transaction forms is also inconsistent.

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