



United States of America
Federal Trade Commission

**Sharing Some Thoughts on the “Sharing” Economy
Prepared Remarks of Commissioner Maureen K. Ohlhausen¹
“Sharing” Economy Workshop
June 9, 2015**

I am delighted to be here today to help open the FTC’s workshop on the sharing economy. I first want to thank all the participants for coming to Washington to share their views with us. I also want to thank the staff for the considerable effort it took to organize this workshop. As Marina noted, in one of my past lives, I was the head of the FTC’s Office of Policy Planning and so I know very well how much work it takes to put together a major workshop like this. Although they always make me say that my remarks are offered only on my own behalf and not on behalf of the entire Commission, I’m sure I can recklessly disregard that admonition when it comes to thanking the staff for all the hard work I know went into convening today’s program.

I’d like to start by taking a brief moment to put today’s workshop into a broader context. When people think about the FTC (to the extent they think about our little agency at all), they tend to focus on the things we do that end up in the newspapers. Our enforcement docket tends to draw the most attention from the press. It can make for exciting headlines when the Commission initiates antitrust litigation against some major company or we move aggressively against some fraudulent actor that ripped off consumers.

¹ The views expressed in these remarks are my own and do not necessarily reflect the views of the Federal Trade Commission or any other Commissioner.

There is nothing wrong with that press dynamic, but it may give outsiders a somewhat inaccurate understanding of our mission. Yes, we do vigorously enforce the laws that protect consumers and competition in appropriate circumstances. But the FTC is so much more than a law enforcement agency. We are also advocates for consumers in all sorts of ways that never see the inside of a courtroom. For example, we do competition advocacy and outreach to policy-makers across all levels of government, we undertake important research that others could not accomplish, and we educate consumers directly. Our actual mandate is to protect consumers and competition and there are many different ways to accomplish those goals. I view all of these activities as a critical part of our mission.

In the past, we've looked closely at nettlesome public policy issues in such diverse industries as real estate, contact lenses, and even wine wholesaling. While it is true that some of those efforts later led to some investigations and even a few enforcement actions, I want to assure you that we did not convene today's workshop as a prelude to some planned, big enforcement push in this space. Rather, I see this workshop as an important part of our broader responsibility to advocate for the interests of consumers using the full panoply of our tools and expertise. Particularly in an area like this, where many of the key issues are playing out at the state and local level, we need to tailor our approach to the facts on the ground. I am going to repeat myself here because I really cannot stress this enough: interest in new developments in the economy by the FTC does not automatically portend a flurry of future enforcement actions.

So for all of the various industry participants in the audience, I want you to understand that your relationship with the FTC need not be an adversarial one. In fact, you may find us to be a valuable ally in situations where your private interests and our broader, public mission intersect. For example, we regularly provide written guidance and commentary to state

legislators in appropriate circumstances. Upon request from a legislator, we can and frequently do provide neutral, unbiased analysis of the likely economic impact of pending legislation. Such analysis can carry a level of credibility that private, self-interested advocacy will never achieve.

That said, just as we strive to make sure we “get it right” in our enforcement docket, we apply the same rigorous analysis to the use of our other tools. We want to hear from all sides whenever we evaluate contentious issues and we want to understand the market dynamics, possible consumer protection issues, and economics whenever we consider weighing in on specific public policy questions. It is against this broader background that today’s workshop was convened.

Turning now to the topic that brought us all here this morning, I want to say just a few brief words about the sharing economy.

First, as a life-long advocate for the beneficial effects of competition, I see the rise of the sharing economy as yet another example of how free markets have the potential to introduce transformative change. When entrepreneurs are free to innovate and compete, sometimes they will succeed and sometimes they will fail. But over time, that repeated process of experimentation, adaptation, and revision creates meaningful improvements in all of our lives.

The sharing economy is causing new business models to be created and some of those models may ultimately upend existing businesses. While the particulars may differ, the core of what is happening here is a very old story – the economist Joseph Schumpeter was talking about the value of creative destruction way back in the early 1940s. Change has always been a part of free-market capitalism and it always will be.

Change is always hard – even the most beneficial changes can cause short-term dislocations and damage to those deeply invested in the older order. Yet the potential social value of disruptive innovation is no less true today than it was in Schumpeter’s time.

For example, there are already some suggestions that the rise of the sharing economy may have disproportionately positive effects on less affluent consumers over the long term. The ability to effectively rent rather than buy expensive goods, or to partially defray the cost of ownership through facilitated sharing may be most valued by consumers that cannot afford to buy those same items outright.² While it is still early days at this point, these potential effects illustrate how disruptive innovation can often bring meaningful change to people’s lives.

To be clear, I am neither an advocate nor a detractor of any particular business model. Whether these new businesses will soon spur a major re-ordering of certain segments of the economy or they fall short of those lofty goals should not be our principal concern here. At the end of the day, it is not for us in government to pick the winners and losers in the marketplace.

I would also note 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 the firms they compete with. In all too many situations, we at the FTC encounter these “Brother May I?” scenarios. This situation occurs when a new competitor effectively has to request permission from the incumbent firms to enter the market. Whether through effective control of state regulatory boards or by obtaining protectionist legislation, incumbent firms can place themselves in a position to determine who they must compete with.³

² See Samuel P. Fraiberger and Arun Sundararajan, *Peer-to-Peer Rental Markets in the Sharing Economy*, NYU Stern School of Business Research Paper (Mar. 6, 2015), available at <http://ssrn.com/abstract=2574337>.

³ This scenario can also occur when a private firm with market power can effectively wield its own power to prevent new entry without any state intervention. Firms lacking such power themselves seek to invoke the power of the state to do what their market position would otherwise render impossible. See Maureen K. Ohlhausen, *Brother, May I?: The Challenge of Competitor Control over Market Entry*, Remarks before the Global Antitrust Economics

Whether the state picks winners and losers itself or effectively delegates that role to self-interested actors makes little difference. Either way, consumers pay the price for actions that favor narrow special interests over the broader public good. The sharing economy, pitting a number of long-established business models against aggressive new entrants, appears a particularly fertile ground for such mischief.

Let me be clear where I stand: the evolution of markets should be driven by consumer demand, rather than artificial, regulatory preferences for one business model over another. Misguided government regulation can be the barrier to innovation that never falls, so regulators should tread carefully, particularly when considering hypothetical rather than demonstrated consumer harm.

While these abstract goals may be easy to articulate, they immediately raise a number of complex and challenging public policy questions. For example:

- (1) Assuming these new business models may benefit consumers, how can regulators provide a regulatory framework with enough flexibility to allow them to realize their full potential? Do existing regulatory rubrics need to be reworked or even abandoned due to these developments?
- (2) How do we also ensure that these same new businesses models don't inadvertently erode beneficial, existing consumer protections in such diverse areas as privacy, data security, health, and safety?
- (3) Can the trust mechanisms built into some of these new business models replace regulation? If so, where?

- (4) How do we best avoid creating two distinct regulatory tracks – with one set of rules for the older, incumbent businesses and a different set of rules for the new entrants they now increasingly compete against? I’d suggest that picking winners by creating a regulatory differential in favor of new entrants should be just as undesirable as retaining regulations that deter meaningful new entry.
- (5) How should regulators appropriately respond to a highly dynamic market where the business models of today may be completely transformed tomorrow?

These are all hard questions that defy simple answers. I do not imagine we will resolve any of these high-level issues or the myriad subsidiary concerns they implicate today. However, today’s panels bring together a diverse group of stakeholders and academics to jointly discuss these challenging topics. That interchange and cross-fertilization can only help to bring us all a bit closer to the nuanced understanding we will all need in the future.

Fortunately, the FTC is uniquely situated to help facilitate interchange and dialog on this important topic. As I have said in the past, there are useful synergies created by putting both competition expertise and consumer protection expertise under one roof.⁴ Today’s topic is a perfect example of the ways in which our two core competencies intersect. The rise of the sharing economy implicates both our consumer protection and competition expertise. So there is really no better place to have a detailed discussion of these issues.

Thank you all again for coming and I’m sure this is going to be a very interesting day.

⁴ Maureen K. Ohlhausen, *One Agency, Two Missions, Many Benefits: The Case for Housing Competition and Consumer Protection in a Single Agency* (Oct. 30, 2014), available at https://www.ftc.gov/system/files/documents/public_statements/596131/141029-1agency2missions.pdf.