



SOME LEGAL ISSUES ON CONSUMER RIGHTS PROTECTION IN THE ECONOMY SHARING INTERNATIONAL EXPERIENCE AND LESSONS FOR VIETNAM

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Abstract: *The sharing economy is considered an era-defining product of the digital economy, it inherits the values of the 4.0 technology revolution and the nature of a new business method. This business model has appeared in the world for quite a long time, but it has been mentioned a lot in Vietnam recently and the Vietnamese Government has developed a project to develop a sharing economic model. Typical sharing economy models such as GrabTaxi and Uber, Go Viet, Be, AirBnB, Triip.me, Travelmob, P2P Lending, Fintech... These models in Vietnam have brought many benefits to consumers. . However, it also poses many risks and challenges for consumers of products and services, and the issue of protecting consumer rights needs more attention. This article focuses on analyzing some legal issues on protecting consumer rights in the sharing economy of several countries around the world. From there, it suggests some solutions to improve Vietnamese policies and laws on consumer protection in the coming time.*

Keywords: *Sharing economy, 4.0 technology revolution, protecting consumers' interests*

INTRODUCTION

Vietnam shows to be a potential market to develop the sharing economy (KTCS). According to a survey by Nielsen Company, “out of every 4 Vietnamese respondents, 3 said they like the sharing economic model” (Phong & Tri, 2019). Currently, a number of sharing markets have appeared in Vietnam, often focusing on types of service sharing businesses such as: transportation (such as Grab, Go Viet, Dichung, Fastgo, Be...); Type of shared accommodation (such as Airbnb, Travelmob, Luxstay); Peer-to-peer lending (typically Fintech businesses)...

Particularly for the online ride-hailing and food delivery market in Vietnam, the revenue scale has increased more than five times from 200 million USD in 2015 to 1,100 million USD in 2019 and is forecast to reach 4 billion USD in 2025. Thus, it can be said that the subject of CSTC has a lot of development potential in Vietnam (Minh, 2021). However, with the rapid development of the sharing economy, the issue of consumer protection needs special attention, creating an appropriate legal corridor with timely updates to protect consumers. From a legislative perspective, the regulations on protecting consumers rights in Vietnam have not yet been able to regulate consumer relationships arising in the public economy environment to a certain extent, the regulations only focus on the level of protection. Consumer protection in simple direct purchases and sales of goods and services between buyers and sellers. For the CSTC environment, there are not simply direct buyers and sellers, but there is also an entity that can have a significant impact on the normal trading relationship: the CSTCS platform manager. This subject plays the role of connecting buyers and sellers on the cyber platform under the data message. The diversity and complexity of the relationships between the three entities “Buyer”, “Seller” and “Platform Manager” in the digital economy raises the issue of the responsibility of protecting consumers' rights as determined by the consumer. selling or managing a sharing platform and who is protecting the rights of buyers and users of goods and services in the digital economy platform and legal issues related to protecting the rights of consumers in the digital economy platform need to consider.



1. Concept of sharing economy

The term “sharing economy” was first proposed in 1978 by two American sociology professors Marcus Felson and Joe L. Spaeth. “The sharing economy refers to a business model in which the right to use goods is temporarily transferred between individuals or institutions and is accompanied by a certain salary” (Liu, 2020).

CS can be identified and understood by many different names, such as: Collaborative Economy, On-demand Economy, Platform Economy, Access Economy (Access Economy), economy based on mobile applications (App Economy). By 1995, “Theory of sharing economy” was introduced in the US and was known as peer-to-peer business. Peer to peer business is a model of direct connection between individuals. the search side and the supply side, not through a center or enterprise’ but it is not clear. This business model starts with an information website service for advertising rentals, job seekers, job searches, etc. and helps individuals find jobs and earn advertising money. This business model really developed strongly when the US economy fell into crisis in 2008 (Hoa, 2023).

From an economic perspective, public accounting is considered an economic activity where anonymous individuals can exploit and use idle assets and services owned by other individuals through platforms. data connection platform through the Internet. It is considered a connection model so that users can take full advantage of the excess resources of other entities. The CS model is understood as a term known as a form of business based on exploiting available resources of the end user while combining with technological elements to form a model. business form. Thus, the model is very suitable for start-up businesses to implement, because these businesses do not need to own any manufacturing factory or warehouse but have a warehouse of goods. available worldwide and continuously updated to be ready to join the system (Central Institute for Economic Management Research, 2018). “It may be useful to think of the KTCS as a special case of a two-sided or platform market. It is special because it often uses technology to bring together large numbers of buyers and sellers” (Botsman, 2013). .

According to research by The Boston Consulting Group: “The scale of the KTCS industry is estimated to be worth 14 billion USD in 2014 and will increase to 335 billion USD by 2025 for just two of our services. Uber and Airbnb companies. This is a fairly fast growth rate of up to 34 - 35%/year and researchers at PwC (Pricewaterhouse Coopers, the world's leading auditing company) estimate that in the next ten years, under the impact of the industrial revolution, The fourth industry, five main economic areas, including peer to peer lending, online labor and employment, tourism and hospitality, transportation services and music and video streaming will create more than 50% of the total global revenue of companies providing KTCS application platforms” (Ministry of Planning and Investment, 2018).

In Vietnam, in recent times, the term “sharing economy” has been mentioned and discussed in many economic and legal forums. Along with a number of new rapidly growing business models such as Grab, Be, Go Viet ride-hailing models, travel and hotel services, room sharing services such as Airbnb,... most of the fields This model is based on the application of digital technology, promoting the advantages brought by the 4.0 technology revolution. In the current context of Vietnam, it can be understood that “sharing economy” is a new way of doing business in the peer-to-peer business model, an economic system in which assets and services are shared among many people. users in the market through the use of digital platforms (Thien, 2019).

The nature of the relationship in the KTCS model is a peer-to-peer relationship between the consumer of goods and services and the supplier of goods and services, through the supplier or digital platform manager to help the parties participate. entry or market access, often for a fee (Figure 1). This gives rise to new relationships, transaction forms and many economic activities that the State has not yet regulated

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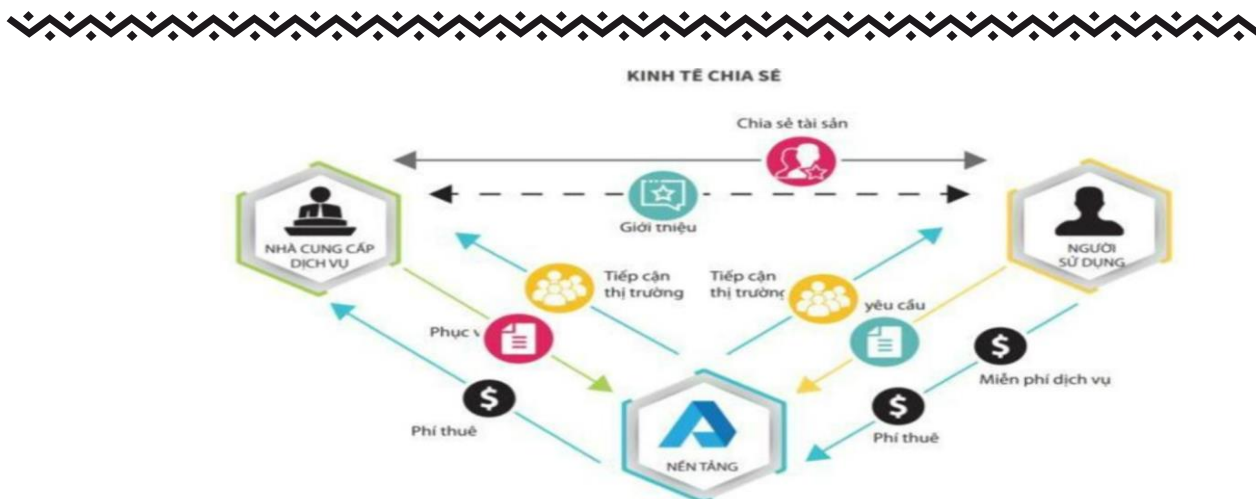


Figure 1. Sharing economy business model (Donata S , Vaida P, & Dainius Z , 2019, p.373-381)

In essence, CSCS is about creating a market, supplied from assets that have not been fully utilized and others in need will find these assets through searching on digital platforms. Thus, CS is a market model combining ownership and sharing, which refers to peer-to-peer roles based on sharing the right to use goods and services to increase benefits for participating parties. family.

2. Research methods

Qualitative research method was used by the authors for this study. Qualitative research is used to conduct preliminary research on the concept of the sharing economy, the relationships of the entities in the sharing economy, the providers of goods and services, and the platform managers; sharing economy platform and consumers. Qualitative methods are implemented through the application of methods such as: Analyzing the legal provisions of Vietnam and other countries in the world to gain an overview of the provisions of protection law; consumer rights in the sharing economy. At the same time, the research also uses statistical methods and comparisons between Vietnamese law and the laws of some developed countries to provide solutions and directions for improving the law to protect the rights of consumers. used in the sharing economy in the near future.

3. Regulations of some countries on protecting consumer rights in the sharing economy

3.1. European Union

The European Economic and Social Committee (EESC) has noted that consumer, cooperative or participatory activities cover most aspects of everyday life such as: “In mobility : car sharing, rental and shared use of vehicles: taxis, bicycles and shared parking and rides; Efficient use of energy: common use of household appliances; Accommodation and cultivation areas: room rental, shared housing and land allocation in urban and rural areas; In business: sharing work and office space; Communications: mobile platforms where people can buy and sell goods and services to people living in a community; Finance: loans between individuals, direct loans from individuals to small and medium enterprises, crowdfunding or collective finance, crowdfunding for interest groups; Tourism: dining experience at restaurants and peer-to-peer food exchange and many other fields applying the KTCS model” (Thuy & Quan, 2020, p.23-31).

Thus, EESC has proposed many activities in many areas of social life related to the CSTC model, thereby guiding countries in orientation and management, and at the same time providing guidance to countries. We see these as activities that bring high value and benefits to society once the models are properly implemented in their roles and functions, especially in compliance with relevant legal regulations.

Consumer protection concerns can generally be divided into two categories: service quality concerns; liability and claim damages in the event of an accident. The first type can be addressed through reputation ratings on websites. The latter cannot be addressed through self-regulation and requires a third-party insurance policy (Cristiano C & Bertin M , 2016).

Reported incidents against Uber drivers or Airbnb hosts have raised concerns about the fact that vendors on these platforms do not need any certification (Rauch & Schleicher, 2015). On the other



hand, it has been reported that Uber and Lyft control the demand channels for their drivers and can easily disconnect them (Cohen & Sundararajan, 2015, p.116-133). Many platforms require users to display a clear profile photo along with their account and want people to sign up with their Facebook account because it is linked to their real identity (Thierer et al, 2015).

Airbnb uses technology to digitally verify the IDs of suppliers (Cohen & Sundararajan, 2015). BlaBlaCar also verifies the driver's phone number, email and Facebook account along with photo and real name (Thierer et al, 2015). The question is whether the platform providers and managers are responsible for damages and insurance claims. For example, in cases where a rented car is involved in an accident or the homeowner's apartment is damaged or whether they are responsible for the security of the service provided to the user. Platform providers try to avoid liability and argue that they are merely intermediaries providing "proper services" and not direct service providers. On the other hand, it should be noted that Airbnb has a team that constantly reviews suspicious activity and looks for new ways to combat fraud and abuse (Thierer et al, 2015). Sharing platforms raise concerns about adequacy of coverage (Ranchordas, 2015, p.413-475) . For example, in the UK, people's existing insurance policies often do not cover them when they engage in "sharing" activities (Woskko, 2014). Furthermore, shared activities are not really suitable for personal or commercial types of insurance. However, Airbnb, RelayRides, and Uber offer several types of warranties and insurance that are specific to their business models (Cohen & Sundararajan, 2015; Thierer et al, 2015). Uber's insurance applies when there are passengers in the car, and the driver's own insurance applies when his app is off. When the app is on but there are no passengers in the car, the driver's own insurance applies and Uber supplements this with incidental liability insurance for damages not covered by personal insurance pay (Koopman et al, 2015).

However, some problems have emerged due to some insurance companies canceling drivers' personal insurance policies because they are Uber partners. Thus, although there are ratings, it is difficult to evaluate the previous quality and users can only fully evaluate when they actually experience the service, which is not completely satisfactory because the possibility of redress is very limited. For example, eBay has a money-back guarantee, refunding buyers if they do not receive the item or the item does not match the listing description (Thierer et al, 2015). To ensure quality, Uber and Lyft allow consumers to view the GPS tracks of their trips so they can verify that the driver took the shortest route (Koopman et al, 2015, p.15). Airbnb guests can leave the rental on the first day if they don't like it and are only charged one day's fee. However, there is no mechanism to address the additional costs they may incur when finding alternative accommodation or changing travel plans. Policymakers and managers face the challenging task of addressing radically new activities without stifling potentially beneficial innovation. At the same time, they must ensure consumer protection, protect labor rights and avoid tax base erosion (Johal, S & Zon, N, 2015). In June 2015, high-level workshops on this topic were organized by the Organization for Economic Co-operation and Development (OECD), the EU Economic and Social Committee and the European Parliament called on the European Commission to take action. active in this matter. The European Commission's Digital Single Market (DSM) Strategy document addressed this challenge and committed to undertaking an assessment of online platforms in general and KTCS platforms in particular. As a first step, the Commission undertook a public consultation on online platforms and KTCS at the end of 2015. The key policy question is whether regulatory intervention is needed at EU level or elsewhere. No decision has yet been made on whether this type of initiative is necessary. It is necessary to consider the welfare impact of sharing platforms on consumers and producers of these services, including the question of whether current regulations are still appropriate or should be adjusted according to legal issues. arise in the economy or not.

3.2. *America*

The Federal Trade Commission (FTC) asks: "How can state and local regulators meet legitimate regulatory objectives (such as protecting consumers and promoting health and public safety) involves overseeing KTCS platforms and business models without restricting competition or stifling innovation? Do KTCS transactions raise specific concerns or issues related to the protection of platform



participants? What responsibility does the KTCS platform bear for consumers' injuries arising from transactions conducted through this platform?" (Koopman et al, 2015, p.15).

Preemptive, preventative regulation is not the only way to address accidents or bad corporate behavior. Alternative remedies are available, and these alternatives have the added benefit of not discouraging innovation or competition like traditional regulations. By attempting to prevent all hypothetical worst-case scenarios, preventive regulations actually prevent many best-case scenarios from occurring (Thierer, 2014).

For that reason, remedial measures are often preferred over pre-treatment measures. Private insurance, contracts, product liability laws, antitrust enforcement, and other legal remedies can come into play here when something goes wrong. New legal standards and liability rules tend to develop gradually through a series of common law cases. Looking at ride-sharing insurance, the advent of ride-sharing services has posed a challenge to the current insurance model. At \$8,000 to \$10,000 a year, commercial-grade auto insurance is much more expensive than personal insurance, and many part-time ride-share drivers wouldn't do it if they had to pay the premiums themselves (Lehman, 2018). To meet this demand, Uber has proposed a \$1 million commercial-grade insurance policy for all Uber trips. But to ensure that drivers do not sign up for Uber as a way to get insurance free insurance, the company has stipulated that this \$1 million insurance coverage only applies when there are passengers in the vehicle. The driver's own insurance will apply when the Uber app is turned off, Uber will supplement the insurance with incidental liability insurance for damages not covered by personal insurance. From a regulatory perspective, San Francisco requires short-term rental website platforms to provide liability insurance for rentals (Miller, 2016). California enacts law establishing minimum insurance requirements for ride-sharing companies (Cannon & Chung, 2015, p. 23-97)

Besides, the issue of privacy and information security of consumers is of great concern in the US. Privacy and security best practices will need to evolve gradually in response to new market realities, and they will need to be applied in a more organic and flexible way, often outside the mainstream. public books (Thierer, 2014). Rigid top-down regulation as an approach to address these concerns will impose significant costs on consumers and the economy. If data cannot be collected and used to support transactions or target new and better services, consumers will suffer (Wolf, 2014).

There are two main ways to hold companies accountable when they fail to deliver on the promises they make to consumers about security and privacy measures: First, companies can be held accountable. responsible before the court. Google global privacy counsel Peter Fleischer noted: "The US has a vibrant privacy litigation industry, led by privacy class actions," which is evidence that "The way federal courts determine the damages people suffer from data breaches is expanding dramatically, leaving people unprepared and companies at risk of having to pay out larger sums in lawsuits. class action lawsuit" (Gonsalves, 2012). Such court action would crack down on companies that violate privacy and data security standards. Also a message to other online operators about their user data privacy policies (Davis, 2012).

Second, the FTC's important role in forcing companies to deliver on the privacy and security-related promises they make to the public. The Commission has broad consumer protection powers under section 5 of the Federal Trade Commission Act (Federal trade commission, 2022). Section 5 prohibits "unfair or deceptive practices or practices in or affecting commerce". The FTC specified its process for resolving unfairness claims in its 1984 Unfairness Policy Statement and noted: "To justify a finding of unfairness, harm must satisfy three factors. It must be significant; it must not be outweighed by any countervailing interest to the consumer or the competition that the conduct creates; and that must be harm that the consumer cannot reasonably avoid." Importantly, however, the Policy Statement stipulates that "the damage must be substantial." The Commission is not concerned with ordinary or speculative...emotional harm. Impact and other types of subjective harm often create an unfair practice. In recent years, the FTC has litigated and resolved many cases involving its section 5 authority to address identity theft and data security issues, and in general, has been able to determine clearly identify the harmful effects in each case.

4. Lessons learned for Vietnam in protecting consumer rights in the sharing economy



In Vietnam, the protection of consumer rights is regulated in many legal documents such as: Civil Code 2015, Commercial Law 2005, Law on Standards and Technical Regulations 2006 (amended and supplemented in 2018), Law on Product and Goods Quality 2007, Law on Food Safety 2010 (amended and supplemented in 2018), Law on Electronic Transactions 2005, 2023, Law on protecting consumer rights 2010, 2023... Above all, the legal rights and interests of consumers are recognized through a document with the highest legal value in Vietnam, the 2013 Constitution. Specifically, Chapter 2 stipulates the rights Human rights and basic obligations of citizens have also been stated and affirmed the common responsibility of the State and society in protecting human rights and civil rights, in which consumers are also a protected subject. guard.

As for the regulations for the KTCS model, it is quite new compared to Vietnam. This model is recorded in Decision No. 999/QĐ-TTg dated August 12, 2019 of the Prime Minister approving the “Project to promote sharing economic model” is the most important document on public economy. In this document, it is stated that the Vietnamese Government supports and adapts to the new development trend of the digital economy model in the context of rapid development of digital technology in the world. And this is also the basis and legal framework for KTCS to develop. With the rapid development of the public economy, consumers are vulnerable subjects in the public economy environment. For example, some issues may arise that have not been regulated by Vietnamese law or are not specific or typical. such as: Consumer information security issues when they interact on the KTCS platform. Responsibility for protecting user information is determined by the platform manager or the provider of goods and services; The issue of responsibility for the quality and price of goods and services when provided on the sharing platform: quality is not as committed, price censorship is not appropriate, which entity or agency will the consumer send the request to... ; When consumers suffer damage when using goods or services, the responsibility mentioned is the person directly producing or providing the goods or services or the KTCS platform manager; Considering that the manager of the interaction platform between people who have goods and services and consumers is a commercial intermediary activity, there needs to be specific regulations on e-commerce intermediary activities through the use of data. Cyber fraud avoids risks for consumers when participating in transactions...

From the experiences in the above countries, it can be seen that countries have recognized the strong development of the socialist economy and its significant impact on the socio-economics of each country. In addition, countries need to have policies to adjust the legal provisions on the operation of the public accounting model, the responsibilities of the parties and, more specifically, the issue of protecting consumers when using goods and services in business. KTCS geometry subject. From the problems in some countries in protecting consumer rights in the communist economy, lawmakers need to study the following trends:

Firstly, define more clearly the responsibilities of the parties in the KTCS. Due to the appearance of a third party, a digital platform, technology, and at the same time, the contractual relationship in KTCS will no longer be a normal two-party relationship, but will have a third party as the manager who owns the platform. share. Noting a new point in Vietnam's 2023 Law on Protecting Consumer Rights, there is a recent regulation on the responsibilities of the party establishing and operating an intermediary digital platform (Vietnam National Assembly, 2023), but in terms of regulations It is still not specific or lacks references such as: liability for compensation or joint responsibility when consumers are affected ... So in the future, researchers will consider including guidelines that need to be more clearly defined for consumers. with the responsibility of the management party operating the sharing platform.

Second, regulations on product or service quality management to protect consumers, especially clearly defining the obligation to protect consumers' rights in e-commerce activities related to public inspection. In the digital economy, there are potential risks that managers need to pay attention to to ensure the benefits of both buyers (consumers) and sellers (service providers) (Hoa, 2019, p.25). Although the parties have more complete information about each other, the verification of information and direct contact with each other is less, so there is also greater potential risk if not



overcome by specific regulations. and efficiency. Insurance and safety issues for all parties, including service providers and service users or customers, are also more acute.

Third, considering the KTCS model as a business activity in the form of commercial brokerage activities, it is necessary to build a system of regulations governing e-commerce brokerage activities. Thus, if there are separate regulations on this type of business, the responsibilities of the parties will be more specifically defined, true to the nature of the KTCS model.

Fourth, the State needs to issue regulations on strict management of domain names; Addresses of businesses applying digital platforms to business activities; Specify and strictly regulate conditions for businesses providing services and doing business on digital platforms. Typically: “In the field of real estate business (real estate), state management agencies need to review, amend and supplement the system of regulations related to tourism real estate business such as apartment rental. Condotel households, homestays... through digital platforms or online sales software systems, etc.” (Tuyen, 2020) At the same time, supplementing regulations with strict handling mechanisms for quality violations , inaccurate information, types...., There is content that is not consistent with the advertisement, causing damage to consumers.

Fifth, the issue of using, exploiting and securing user information needs to be improved, even though Vietnam has issued the Law on Cyber Security and officially took effect in early 2019. However, the issue of enforcement is Vietnamese law needs to aim at thoroughly implementing the regulation “Vietnamese user information may only exist within the territory of Vietnam” to effectively protect consumer information. Coordinate with other countries in exchanging and sharing information related to data of businesses conducting business activities according to the KTCS model, to implement better management, especially cross-border businesses. nation. At the same time, violations of user information confidentiality will be promptly detected. (Thuy & Quan, 2020, p.23-31) Improve management, strengthen inspection, supervision and inspection in protecting consumer rights, promptly detect and handle violations. violating the law against organizations and individuals doing business in the communist economy; especially the acts of committing to keep consumer information confidential and providing information to third parties without the consent of the consumer. The study proposes an early warning mechanism for service providers and a consumer protection mechanism.

CONCLUSION

The KTCS model is a new business model not only for Vietnam but also for other countries around the world. Today, the world economy is always changing and volatile, KTCS is an ideal model for business startups or strategic entrepreneurs to choose. This leads to a variety of types of KTCS and is constantly changing to adapt to market fluctuations. With the rapid development of such types of public economy, it poses a problem that requires an urgent solution: the State needs to build and perfect economic management institutions with many diverse business models, including It is impossible not to mention the issue of legal mechanisms protecting consumers' rights. Consulting experiences from countries around the world is necessary, it will help Vietnam gain more experience to improve legal regulations protecting consumers in particular and regulate arising relationships. in the CSTCS model in the near future./.

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