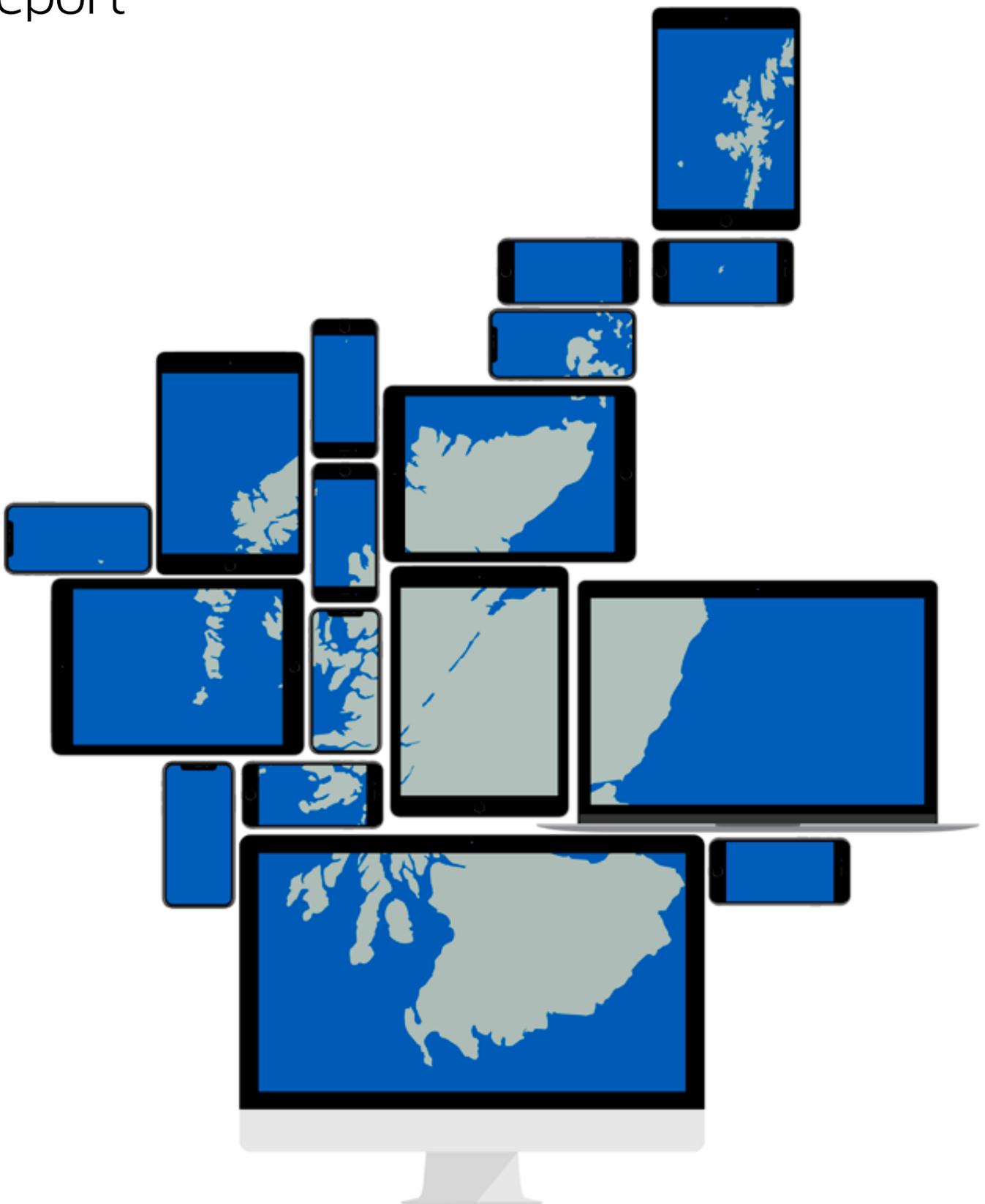
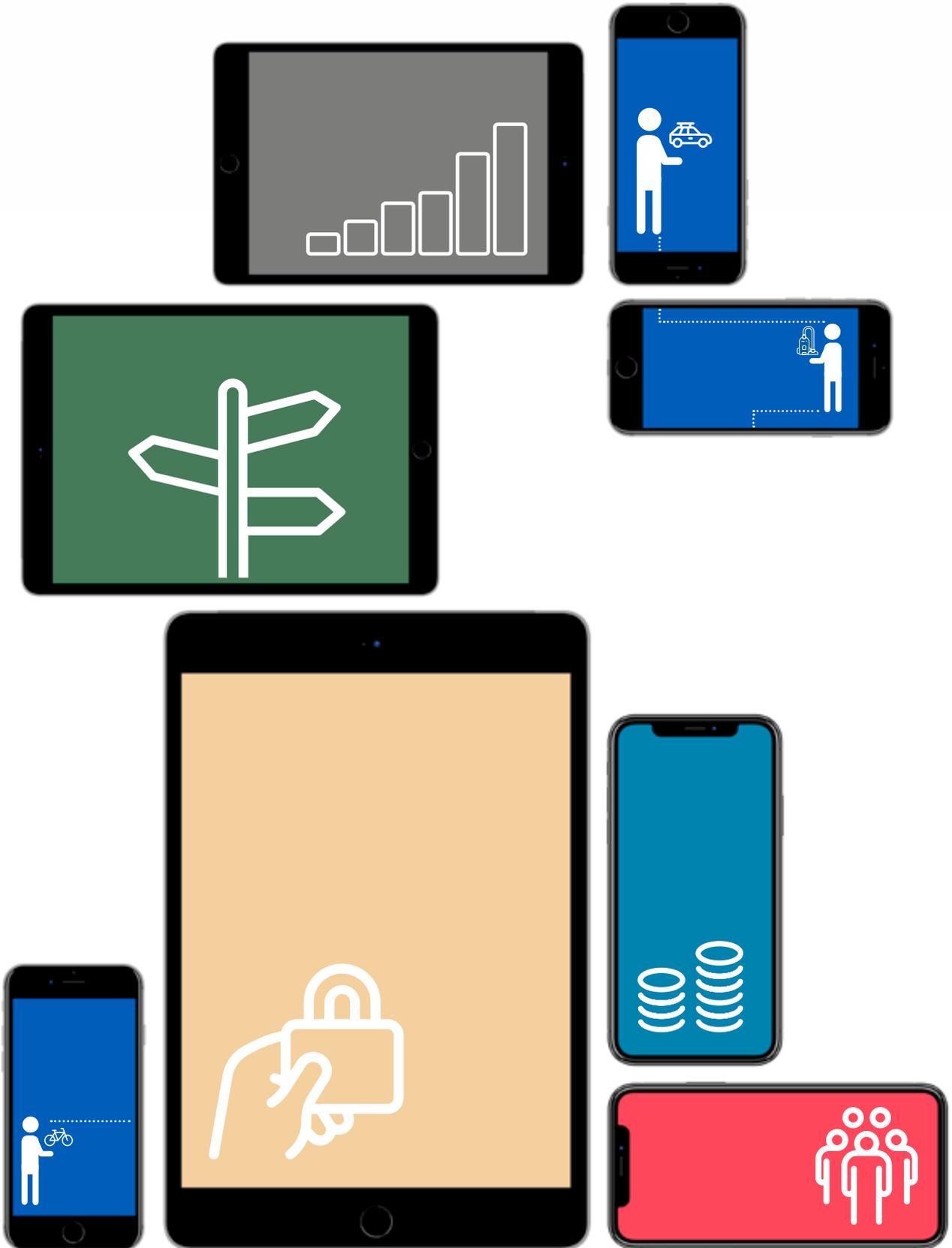


Scottish Expert
Advisory Panel
on the
**Collaborative
Economy**
Report





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Foreword



I'm pleased to submit this report from the collaborative economy advisory panel to Cabinet Secretary Keith Brown which recommends a number of specific and general actions for Scotland to take advantage of the growing use of digital, collaborative platforms and tackle some of the challenges they can pose in certain sectors.

This voluntary advisory panel was given an enormously wide ranging brief, and there are a number of key messages that are important to share.

Firstly, is to underscore the extreme complexity of this work. The variety of platforms available for anyone to use, the diversity of professional and non-professional actors on each of those platforms makes for a highly complex and fluid operating and regulatory environment. Even in the short lifetime of this panel's work, we have seen changes and developments that have changed and influenced our thinking. This means that there are recommendations within this report which will inevitably address some, but by no means all, of the concerns or opportunities that exist. This panel's work must form part of a process of open dialogue and investigation that must continue in some form, across a range of groups into 2018 and beyond.

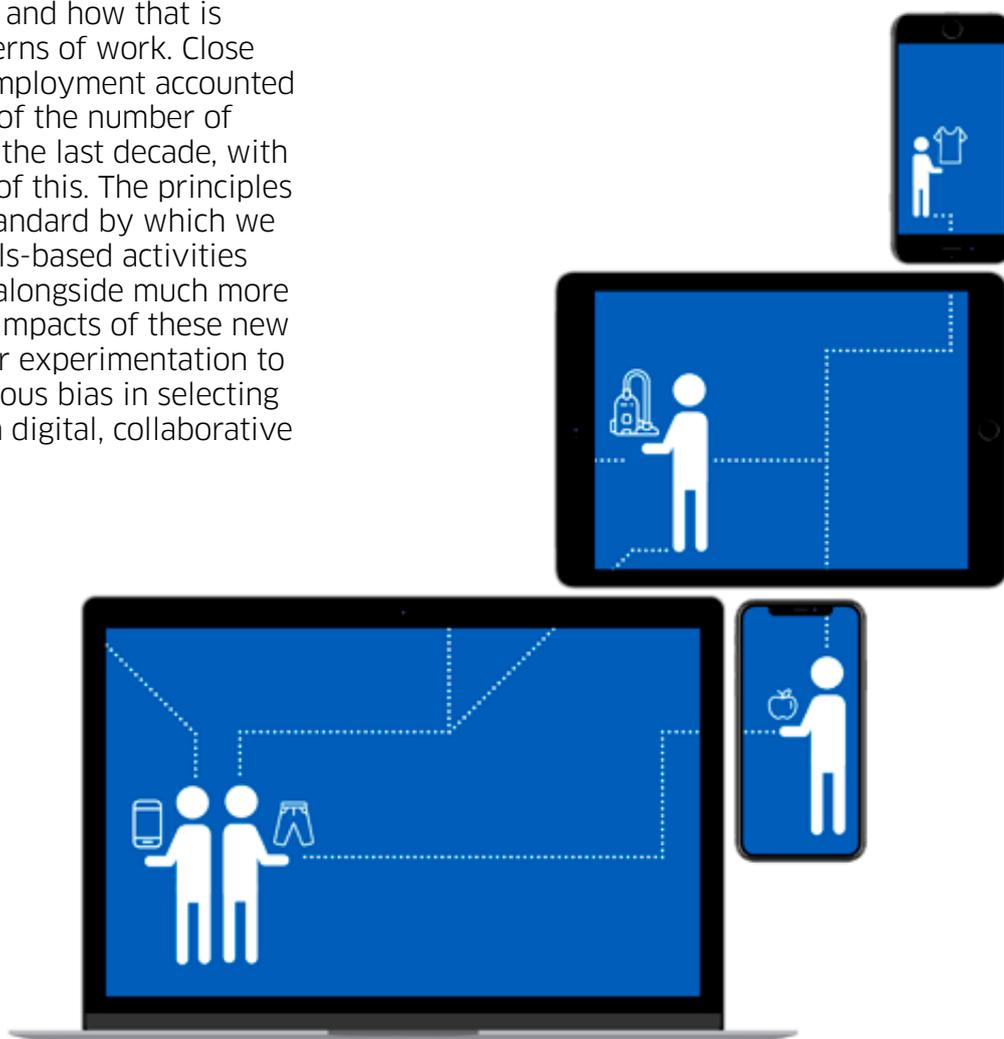
The second is to make clear the scale of the opportunity that is available to Scotland at this point: which is significant. The use of digital platforms and marketplaces that allow people to co-ordinate and share skills, labour, knowledge, assets and resources is not going to disappear, regardless of the challenges it poses in some areas. The YouGov survey, commissioned by the Scottish Government as part of this panel's work, found that 35% of Scottish adults have already participated in the collaborative economy. Across the UK, there are an estimated five million workers participating in the gig economy.

The 'collaborative economy' has become synonymous with a very small number of platforms, however this belies the very long tail of activity on less well-publicised platforms and the huge potential to *actively shape* the collaborative economy in new sectors and industries. The need for the Scottish Government to seize the opportunity to shape – or else be shaped by – digital, collaborative platforms is probably the biggest message coming out of our work. That means working with existing platforms, but perhaps more importantly, it means creating the right environment for innovation; to develop and support new platforms that meet currently unmet needs within Scotland, which can deliver *more than just economic value*.

The third point relates to the rise of self-employment, the rise of the number of people working in the gig economy and how that is fundamentally shifting patterns of work. Close The Gap, reports that self-employment accounted for over 80% of the growth of the number of businesses in Scotland over the last decade, with women accounting for 70% of this. The principles of Fair Work **must** be the standard by which we assess employment and skills-based activities on collaborative platforms, alongside much more research to understand the impacts of these new ways of working and greater experimentation to mitigate issues of (un)conscious bias in selecting or recruiting people through digital, collaborative platforms.

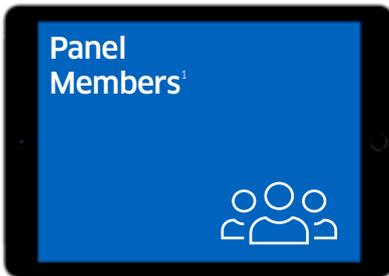
Finally, I want to extend my sincere thanks for the extensive commitment and contributions of the advisory panel. This cross-sector group represented a very wide and diverse range of views and perspectives and have, from the outset, engaged openly and constructively together in assessing this complex territory. I also extend huge appreciation and thanks to the many organisations who took the time to submit evidence to the panel, which can be found along with the evidence analysis, on the Scottish Government [website](#).

Helen Goulden,
Chair, Expert Advisory Panel
on the Collaborative Economy
CEO, Young Foundation



The Collaborative Economy

Expert Advisory Panel



Helen Goulden,
Chair of Expert Advisory
Panel & CEO, Young Foundation

Jonathan Coburn,
Social Value Lab

Claire Mack,
Scottish Renewables

Polly Purvis,
ScotlandIS

Patrick Robinson,
Airbnb

Malcolm Roughead,
VisitScotland

Terms of Reference

The Cabinet Secretary for the Economy, Jobs and Fair Work established the independent Scottish Expert Advisory Panel on the Collaborative Economy to make recommendations to Scottish Ministers on how Scotland can position itself to take advantage of the opportunities of the collaborative economy and overcome any regulatory, economic and social challenges.



The job of the advisory panel is to make recommendations that:

Show how Scotland can position itself to take advantage of the opportunities of the collaborative economy.



Ensure that regulation is fit for purpose and that an appropriate balance is struck to allow competition to flourish.



Protect and empower consumers and identify clear routes to redress.



Develop digital leadership skills to enable Scotland's business base to digitally transform and compete in the evolving marketplace.



Prepare Scotland's current and future workforce for the digital workplace by ensuring they can access courses to gain or update skills.



Ensure that the wider economic, social and community impacts, including taxation, social inclusion and employment conditions are taken into account.

¹ The individuals have participated in a personal capacity and any views expressed by them or in this report reflect the views of the panel as a group and do not necessarily represent the views of their organisation or any of their clients.

Ewan MacDonald-Russell,
Regulatory Review Group

John Schmidt,
Arnold & Porter Kaye Scholer
LLP

Douglas Shand,
PwC

Grahame Smith,
STUC

Andrew Byrne,
Uber (replaced by
Benjamin Bell, Uber)

Dr Jamie Coleman,
Codebase was on the panel
initially but stepped down
due to work commitments

The panel met for the first time at the beginning of May 2017 and then held five thematic evidence sessions from June to October. At its final meeting in November 2017 the panel considered its conclusions and recommendations.

Over the course of its work the panel was able to draw on a wide range of evidence, with a number of the respondents being invited, alongside other relevant stakeholders, to provide additional evidence during the panel's monthly meetings.

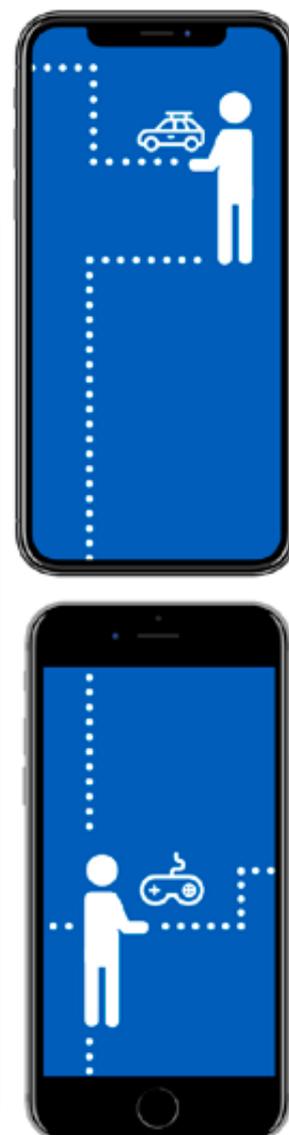
A Key Considerations background paper provided information on the prevailing global trends and potential lessons for the collaborative economy. Alongside this, YouGov undertook a survey exploring Scottish consumers' views of, and experiences with, the collaborative economy.

The panel's work was also informed by the findings from two public engagement workshops held by Involve on the collaborative economy, which took place in Glasgow and Edinburgh in October 2017, and the initial findings of a study on the Collaborative Economy and Scottish Tourism undertaken by Toposophy.

The Scottish Government provided the secretariat to the panel and has produced a document² which details the evidence and analysis that informed the work of the panel.

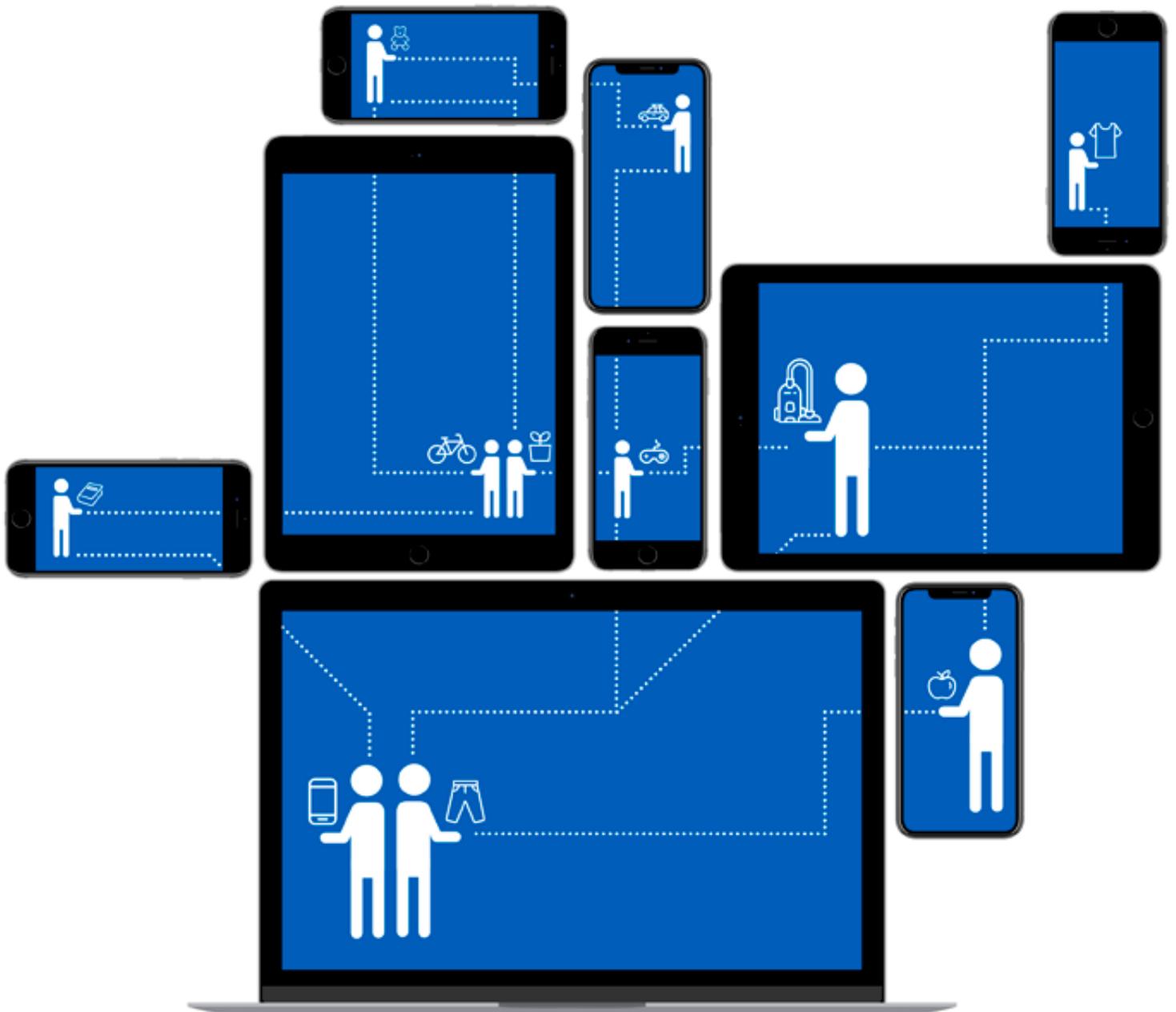
How do we define the collaborative economy?

In its work the panel has defined the collaborative economy as 'connecting individuals or communities via online platforms to enable the sharing or provision of goods and services, assets and resources without the need for ownership'.



1.0

Key Recommendations **Collaborative Economy**





1.1. Shaping the collaborative economy that Scotland wants

In the vast majority of cases, Scotland is responding to new collaborative platforms that 'land' in this country. There is no denying the evidence that some of these platforms have had economic benefits for people in Scotland. They have also brought challenges. But it forces us into being continually reactive, responding to the business models and terms set by others; however good or bad we perceive them to be. This robs us of our imagination and limits our potential to take action.

We need to be more proactive in shaping the collaborative economy that we want, working with new market entrants but also actively creating new businesses and platforms that create fair work and great opportunities for people in Scotland to ensure that, in the way it operates, the collaborative economy contributes to improving inclusive growth. This is particularly important when considering how collaborative platforms are likely to spread into new markets e.g. health and social care sectors. We cannot be negotiating with Silicon Valley about the terms for delivering care in Scotland; and if we don't want to find ourselves in that position, we need to act. We must not just be consumers of the collaborative economy but

must set our ambitions on being designers and architects of the collaborative economy, through effective education and skills services, as well as government support for social innovation and serious digital entrepreneurs.

When it comes to the gig economy and models for how we share assets, there is a very real danger that we conflate what currently exists, with what is actually possible or desirable. What exists in the commercial collaborative economy today is not the totality of what is possible. There are clear and large scale opportunities for new platforms. While Uber and others dominate the headlines, there are other, smaller ventures and emerging gig economy platforms that present a better deal for everyone. For example, platforms that deliver better pay for care workers than they currently receive at the same time as lowering the cost of care for those who need it. There are different ownership models to be explored, and different ways in which public sector assets can be made more effective. There are opportunities to use collaborative platforms that work to create multiple forms of value: economic, social and environmental.

But those opportunities will not just happen on their own. They need government support and incentivisation.

Recommendations



- Signal Scotland's position as a pioneer of more inclusive, digital economic growth by promoting, supporting and directing finance toward collaborative platforms that deliver fair work, social value and inclusive economic growth.
- Ensure that government and public sector have clear incentives for procuring from these inclusive forms of the collaborative economy.
- Bring together and incentivise other investors from the philanthropic and social finance sectors to innovate and scale new socially responsible, collaborative platforms in Scotland that meet well evidenced needs; particularly, but not limited to, the provision of care, housing, rural transport and sharing community assets.

1.2. Recognising good practice

Collaborative economy platforms – even those operating in the same sector – are not all operating in the same way or on the same terms. There are those that demonstrate better practice than others; who have taken action on some of the common issues that are raised. There are others who will not engage with these challenges and clearly fall well short of responsible business practice.

[TrustSeal](#) was developed in the UK and is an industry-led set of good practice principles to set out *minimum* standards for collaborative economy businesses to ensure that they act with integrity and maintain professional standards. Its current focus is on consumer protection. However, it would demonstrate further commitment to good practice if it were expanded to focus on regulatory recognition; specifically, a commitment to making clear local laws and regulations for providers operating within different jurisdictions. Thus, enabling people participating in the collaborative economy to have a clear sense of rules and regulations at the point of engagement.

1.3. Mapping the collaborative economy in Scotland

The collaborative economy is data-rich, and many advances have been made in the use of data to guide public and policy choices and improve user experiences (for example live transport data sets). As a result, the review included extensive data collection. Nonetheless, we do not have accurate and up-to-date data sets that show the impact of the collaborative economy in Scotland. Without this input, the Scottish Government cannot effectively understand the ongoing trends that are shaping its economy and communities. It is crucial that third party analysts focus on collaborating with platforms to access data at source, rather than relying on data-scraped information.

Recommendation



- The Scottish Government should take an active role in encouraging TrustSeal – or any equivalent – in its evolution toward a focus on regulatory recognition; particularly with a view to making clear the local rules and regulations for different providers, operating in different geographies.

Recommendation



- Set up an observatory into the collaborative economy, working with organisations such as the Open Data Institute and Datalab. This would collect, aggregate, analyse and publish a variety of datasets that show the ongoing impact of collaborative economy platforms in Scotland. This would be a new way for platforms (local authorities and conceivably workers) to agree to share certain data and would address the clear data and evidence gaps that exist in order to track activity and impacts.

1.4. Easy access to simple, easy to understand information about rights and responsibilities when participating in the collaborative economy

Consumer and provider understanding

Whether the panel has been exploring evidence and consumer perceptions relating to transport, workers' rights, finance or short-term accommodation rentals; it has identified areas where a lack of information is creating uncertainty and ambiguity of responsibilities for participants and platforms in the collaborative economy.

More than in any part of the economy, this is an area where there is much more of a burden on the consumer and there is a clear need for people to have easy access to information that is clearly visible at the 'point of sale' or 'point of contract' and easy to understand. This is an area where there are shared responsibilities.

There is a need for consumers and providers to be actively aware of their rights and responsibilities. A responsibility of platforms to ensure that information is readily accessible, and a responsibility of government to ensure that regulatory rules and laws are accurate, appropriate and up to date.

This is complicated by there being many different motivations for people to engage in collaborative platforms and therefore different levels of risk. In speaking with external contributors of evidence to the panel, it is clear that many consumers and providers are 'bounced around' when trying to access information as to their statutory rights and responsibilities – demonstrating a lack of clarity and lack of ownership of the responsibility for this provision of information.

There is also a need to include information on the gig economy when delivering career management skills to young people. Here again, we see different motivations for young people engaging and different expectations about its efficacy and desirability in progressing a career. A person's early experience of work can shape their future expectations of what constitutes fair work and good employment practice. Someone who is working in the collaborative economy for a bit of pocket money should still know their employment rights, expect to have them respected and to work for an employer committed to fair work.

Deeper understanding about the patterns and future of growth of self-employment in Scotland (and what it means for individual pension provision) needs to be understood at a macro-economic and individual level.

Recommendations



- Government should provide the resources to develop a secure, trusted place for people to access accurate information regarding their rights and responsibilities in the collaborative economy. This might be best delivered in partnership with an intermediary such as Citizens Advice Scotland, union or union-based organisations, and importantly, must be accessible from all collaborative economy platforms operating in Scotland.
- The Scottish Government to identify dispute resolution available to consumers in the collaborative economy, identifying any gaps and how these can be addressed.
 - Platforms should be required to make a greater commitment to providing upfront information. Examples include but are no means limited to:
 - Upfront statement of an individual's employment status when selling their time through a digital platform (regardless of whether this is high or low skilled work, and regardless of sector).
 - If selling their time, visibility on likely hourly rates prior to commencing work.
 - As a consumer or a worker, be shown clear routes to redress if things go wrong. There should also be clear, communicated routes to escalating complaints.
 - Anyone renting out their property via a digital platform should be shown – and indicate their acceptance of – specific local rules and regulations regarding any thresholds of usage stipulated by the local government/authority prior to being accepted onto the platform.
 - Platforms serve up – or link to³ – clear guidance to providers as to their income, business and council tax liabilities that result from providing goods and services through collaborative platforms.
 - Minimum health and safety thresholds already exist at a Scotland level. Regulations should reflect the development of the collaborative economy by specifically referring to peer to peer accommodation, to give greater clarity to providers and users.⁴

Further recommendations regarding peer to peer accommodation and the gig economy are detailed later in this report.

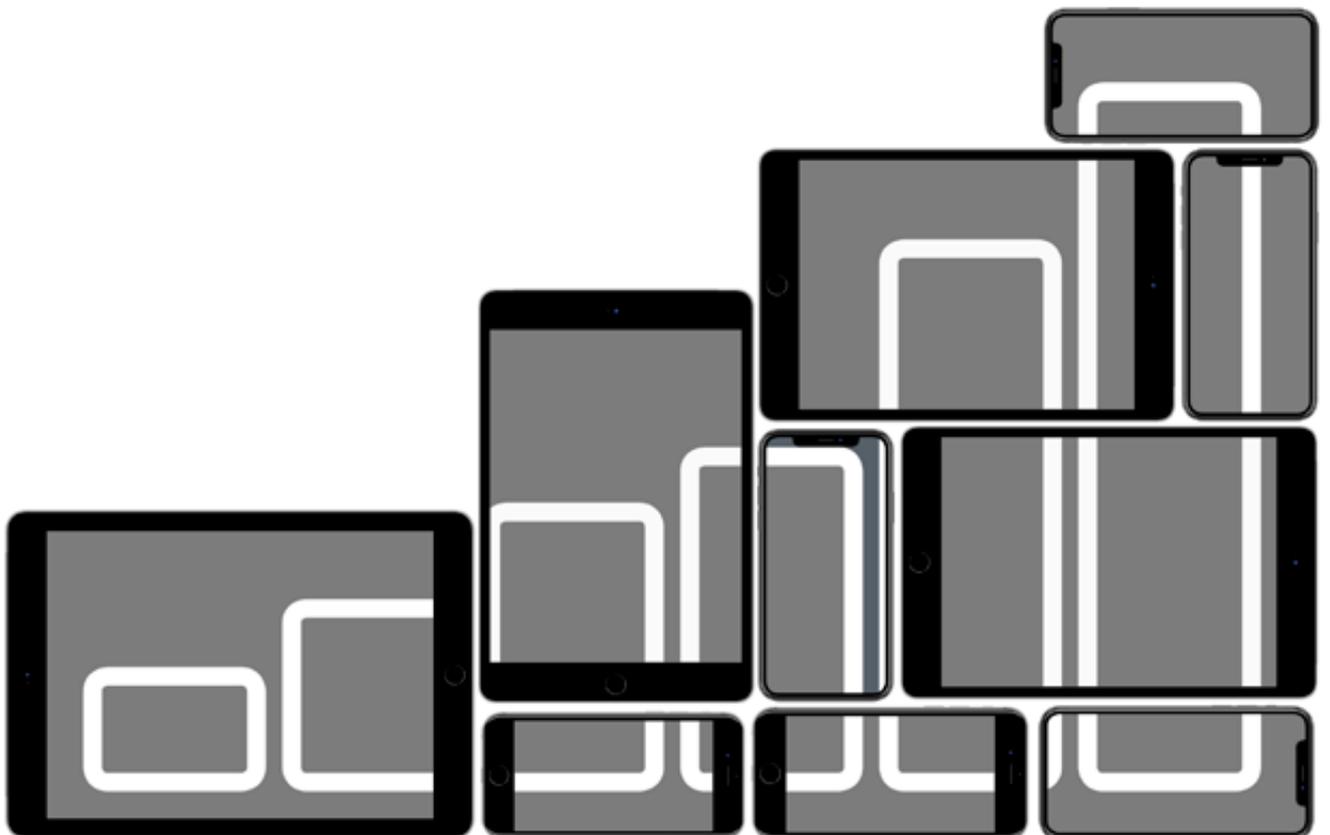
³ [1] The need to keep this information up to date is paramount; and might be best provided by the local or municipal government.

For example, see here for the kind of clear tax info provided by the Australian Govt <https://www.ato.gov.au/General/The-sharing-economy-and-tax/>

⁴ For example the Scottish Government Consultation on Practical Fire Safety Guidance for Existing Premises with Sleeping Accommodation <http://www.gov.scot/Publications/2017/11/6705>

2.0

Supporting a Responsive
and Agile Regulatory
Environment for the
**Collaborative
Economy**



2.1. Regulation failing to keep up with innovation

Historically, regulation works well for stable industries, but in more fluid industries, particularly where digital businesses are becoming very significant players, there is a very real dilemma about when regulators get involved and understanding how to act. Intervene too heavily, too soon, and it can be damaging to growth of new, potentially highly impactful businesses. Intervene too late and risk not adequately protecting consumers, providers and users. This, alongside the twin challenges of the sheer variety of types of participants that exist on many platforms and the challenges of just how to *enforce* regulation if and when it is necessary, is at the heart of every government looking at how to respond to the growth of the collaborative economy.

The situation in Scotland is complex because a considerable portion of the regulations which apply in Scotland originate from the European Union and the UK Government. However, the Scottish Government has taken steps in recent years to create a regulatory environment which focuses on supporting sustainable economic growth. That has been done by championing the five principles of better regulation proportionate, consistent, accountable, transparent and targeted. Any measures which are taken forward should be in-line with these principles.

There is also a specific need to ensure that regulators are appropriately skilled to understand the technologies which they are seeking to regulate. This may in future require quite technologically forensic activities. Uber's use of 'greyballing' is a stark reminder that technological capabilities in the market are very powerful and it is currently beyond the skills and capacity of most regulators (outside perhaps the financial services industry) to effectively monitor its use.

The use of algorithms to make decisions and advancement in machine learning will require an entirely new regulatory and auditing skill set.

When examining issues as they arise, it may be in the interest of the Scottish economy for voluntary measures to be proposed first rather than initially reaching for legislation or regulation. In those cases, any voluntary regulation should follow the government sponsored voluntary regulation guidelines; which require an evidence based problem or objective, a clear outcome, a practical, proportionate and targeted proposal, a Business and Regulatory Impact Assessment, and application of the better regulation principles.

Recommendations

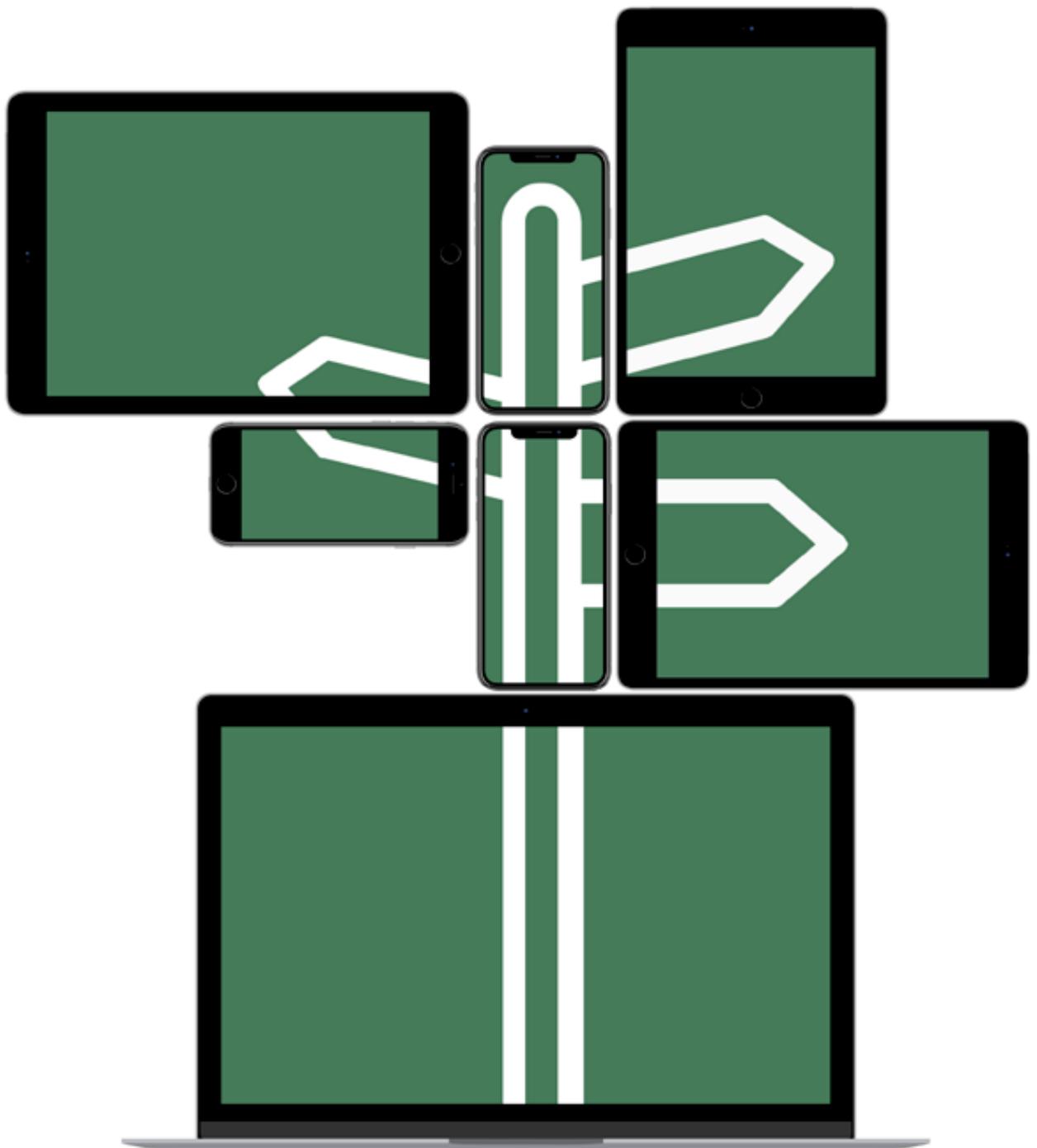


Support the development of a more agile regulatory environment specifically through:

- Undertaking an assessment of the medium and long-term skills requirements of the regulatory sector to effectively regulate and audit a more algorithmically based economy.
- Experimentation and Iteration - Setting up of an experimental space in partnership with regulators; with a focus on one or two specific regions in Scotland testing the impact and practicalities of specific regulations, particularly within tourism and transport, with a view to evolving or expanding as necessary. This 'regulatory sand box' approach could also be constructed to enable long-term policy making, regulation and innovation in the market to be more intimately connected.
- Open Dialogue - The collaborative economy and its impacts are continually evolving. Continue the work of this panel to bring together industry (both innovators and incumbents), policy makers and stakeholders in an open dialogue with regulators; and making the most of new tools for public engagement at scale as an input to deliberating decisions on regulation.
- Prompt open innovation in regulation; for example through incentivising innovators and/or the market to develop novel and effective ways of achieving the intended outcomes of regulation or creating better services for consumers and participants in the collaborative economy.
- Looking more consciously to other countries to maximise the value from digital, collaborative platforms such as Estonia, through membership of global bodies such as the Sharing Cities Alliance.

3.0

Tourism, Accommodation
and the
**Collaborative
Economy**



Tourism is of growing economic value to Scotland and has moved up the media, political and popular agendas significantly over the last year. This is chiefly as a result of an upswing in tourist arrivals, which are set to increase dramatically over the next 10-15 years by current predictions.

Peer to peer platforms are offering an expanded pool of providers of short-term accommodation and the building of hotels is set to increase in 2018 in [Scotland](#) and more broadly [across the UK](#). Consumer demands are changing too, with more people looking for interesting experiences while they are visiting.

Data from VisitScotland⁵ shows that 23% of all tourist visitors to Scotland stay in self-catering accommodation accounting for 3.4 million nights per year, with an estimated direct gross value added contribution of £206 million.⁶ These figures are exclusive of accommodation booked through platforms like Airbnb. VisitScotland indicate Airbnb accounted for 5% of all tourist accommodation in 2016. Self-catering accommodation is therefore an important component of the supply of tourist accommodation in Scotland and plays a key role in achieving the objectives of Tourism Scotland 2020.

Scotland needs to ensure that it maintains its reputation as a high quality destination, providing quality accommodation and tourist experiences, while balancing that strategy with a respect for local communities.

The remainder of this section primarily explores the key issues surrounding the rise of peer to peer, short-term accommodation provision in Scotland. To set some context for this, Airbnb provided the following data.⁷ Airbnb is one of the main platform providers of accommodation in Scotland and this data gives some insight into the scale and type of short-term accommodation provision that is booked through collaborative platforms.

- As of 1 July 2017 there were 21,900 Airbnb hosts in Scotland. 9,000 (41%) of those were located in Edinburgh.
- On average, Scottish hosts earn £3,600 a year via the platform
- 76% of hosts rent primary or secondary home
- In top 5 destinations (Edinburgh City, Highlands, Glasgow City, Argyll & Bute, Fife), 78% of hosts have one listing, 14% two listings
- Average length of stay: 3 nights per guest
- Average travel party size: 2.5 people
- Total economic activity generated by hosts and guests: £499 million a year
- 802,000 total guests in Scotland⁸ – 411,000 (51%) in Edinburgh, over 70,000 during Festival

In November 2017, Airbnb also submitted to the panel a position paper,⁹ “The Collaborative Economy and Tourism in Scotland”, which included a range of statistics covering the year between 1 July 2016 and 1 July 2017:

- 54% of hosts rent their property for under 30 nights a year
- In Edinburgh, 53% for under 30 nights, 21% over 90 nights, 9% over 180 nights
- Across Scotland, 2% of hosts have five or more listings
- 55% rent entire home, 43% a room

5 Visit Scotland Scotland Visitor Survey 2015 and 2016 <http://www.visitscotland.org/pdf/LongVersionScotlandVisitorSurvey2015-16-250417.pdf>

6 Frontline Consultants, Economic impact assessment of short-term lettings on the Scottish economy, June 2017

7 https://www.airbnb.com/citizen/wp-content/uploads/sites/48/2017/03/ScotlandOverview_v4.pdf

8 In the year to 1 March 2017. Now up to over one million per year.

9 <https://stage.beta.gov.scot/groups/scottish-expert-advisory-panel-collaborative-economy/>

3.1. Bringing the benefits to more existing Scottish businesses outside urban areas

It is clear that the provision of peer to peer short-term accommodation booked through digital platforms has increased over the past four years. This is in part due to new providers but also *existing* providers recognising the necessity and marketing value of posting their accommodation availability on platforms that have a global reach.

Some existing short-term accommodation providers are missing out on this opportunity, particularly those in highly rural areas and those who may not have high levels of digital literacy. An increase in digital literacy can only help spread the benefit of digitally driven tourism enabled by cheaper flights, which have been the biggest driver of increased tourism to Scotland.

There is a clear need to spread ‘the tourism load’ across Scotland. Encouraging the ‘spread’ of tourist footfall into other areas of Scotland would support more local economies, and will only be possible through increased digital literacy and engagement by the wider Scottish tourist industry. Limited broadband connectivity is also a key issue. Therefore, this panel underscores the clear need for high speed connectivity across Scotland.

It is critical to the growth of Scotland’s tourism industry for businesses to take full advantage of the internet and digital technologies. Current efforts, through Digital Tourism Scotland, are focused on getting started (VisitScotland via its Quality Assurance Scheme), moving to competent level (Business Gateway via Digital Boost) and advanced (Enterprise Companies/Edinburgh Tourism Action Group). These initiatives run in parallel to the roll out of high speed broadband across the country and increased mobile coverage.

3.2. Create and promote more diverse tourist experiences across Scotland

In addition to increases in peer to peer accommodation, there has been a rise in new kinds of peer to peer tourist experiences. This is particularly prevalent in the rise of unique dining experiences, which has been highlighted as a mega trend for global tourism, and different kinds of tour guides such as Get Your Guide, Tours By Locals, City Unscripted etc. Any review of the tourism industry strategy Beyond 2020 should consider the opportunity which exists within the collaborative economy, assess the attractiveness to consumers and potential future demand of different kinds of tourist ‘experiences’.

Recommendation



- The Scottish tourism industry must tackle head on some of the poor digital literacy and exploitation of digital marketing channels within the sector through accessing increased resources to continue current initiatives.

Recommendation



- More understanding, attention and support should be given to collaborative or peer to peer tourist activities that also attract tourists to less congested areas of Scotland.

3.3. Health and safety in peer to peer accommodation provision

The health and safety of guests in peer to peer accommodation rentals was of paramount importance to this panel. There are many different kinds of accommodation that should be - and are - dealt with differently. While the risk to anything going wrong in some instances can be low, there is no doubt that the impact can be fatal when something does go wrong. It is worth stating the obvious that it is in the interests of all tourists, and the responsibility of hosts, platforms and regulators for short-term accommodation rental to be safe and secure.

Recommendations



- **Health and safety regulation parity** across the rental of all short-term let accommodation that is not the owner's primary residence, regardless of whether the accommodation is let occasionally or regularly and regardless of whether the accommodation is booked over the internet.
- **One code of conduct** on which different industry associations can agree for all providers of short-term accommodation in Scotland where the owner is also a resident (though not necessarily present when the property is let). There are clear areas where the efforts of organisations such as the Association of Scotland's Self-Caterers (ASSC) and the UK Short Term Accommodation Association (STAA) can be brought together to achieve this.
- On **all** collaborative accommodation booking platforms, hosts should have to declare that they are compliant with the health and safety guidelines appropriate to their type of accommodation (in their locality/geography) prior to their property being listed. They should be presented with these guidelines at time of registering, rather than having to seek them out and should signify their adherence to those regulations. Platforms should experiment with ways in which guests can provide evidence of adherence.
- When guests book a property in a specific location the platform should highlight the key elements of local legislation to create greater awareness of rules and regulations.

3.4. Enforcement of health and safety regulations

The importance of providing safe accommodation to guests is not in question. However, enforcement of health and safety, and other regulations within the collaborative economy present some unique challenges. Industry led responses to tackling health and safety in the short-term and self-catering accommodation industries in Scotland have been proactive and are to be encouraged. However, each sector (tourist, transport etc.) has multiple platforms operating within it. So any form of self-regulation by the industry requires the compliance of all platform providers to be meaningful.

Secondly, consultation with local authorities show that enforcement of health and safety standards in peer to peer accommodation by government officials is not practical; there are neither the funds, nor public sector resources available for this enforcement work.

It should be noted that there is a much broader issue across the private rental sector with regard to health and safety that extends far beyond the collaborative economy, which is particularly prevalent in lower income households. The 2016 Scottish House Condition Survey¹⁰ results show that 12% of all dwellings failed the healthy, safe and secure criteria in the Scottish Housing Quality Standard and, while there has been sustained improvement in the quality of private rented housing over the past decade, for the private rented sector the failure rate was 18%.

Recommendations



- **All** platforms operating in Scotland should ask participating guests if they have any concerns or questions about health and safety in homes or properties in which they stayed. Platforms should experiment with different messaging and times at which they solicit guests' responses to health and safety questions and should demonstrate to regulators that they have a process for following up any concerns identified in a timely manner.
- Local government and regulators should experiment with predictive analytics in high density usage areas like central Edinburgh, to target their very limited regulatory enforcement resources towards those properties most likely to be at risk. The use of predictive analytics has been highly effective in New York¹¹ to target (among other things) rogue landlords and properties at risk of fire, for example.

10 <http://www.gov.scot/Publications/2017/12/5401/0>

11 <http://www1.nyc.gov/site/analytics/index.page>

3.5. Separating peer to peer rental from running a business

As highlighted previously, there are many different types of participants in the collaborative economy, and many different platforms. Because of this, there is a challenge in separating out occasional providers of accommodation through digital platforms and those who are generating significant income, often renting out multiple properties.

There are two issues here. Firstly, the need to appropriately classify what counts as peer to peer rental (as distinct from running a business¹²) in order to collect the appropriate taxes and classify properties appropriately in terms of any 'change of use'. Secondly, is the need to address issues that arise in specific areas where high density tourist footfall and the concomitant existence of short-term accommodation is affecting local communities.

Local taxes to fund local authority expenditure are devolved under the Scotland Act 1998. Dwellings are subject to council tax, and non-domestic properties are subject to non-domestic rates (sometimes referred to as business rates). Self-catering holiday accommodation is liable for non-domestic rates if, broadly, it is not someone's sole or main residence and it is made available for let¹³ for at least 140 days per year (on a commercial, 'for-profit' basis); otherwise it is liable for council tax.

The thresholds for what constitutes being liable for business rates as opposed to council tax exists already in instances where a property is being rented where the owner is not also resident.

However, the cities of Edinburgh and Glasgow, which experience high volumes of tourists seeking peer to peer accommodation relative to other areas in Scotland, do not have legal thresholds for what constitutes 'change of use' for properties in instances where the owner is also present, or where the property is someone's home and is being rented out occasionally as an entire house or apartment.

Recommendations



- Resource the collection of an evidence base in considering restrictions on short-term rentals – taking into account the number of dedicated lets in any given area, the impact on rent/housing costs and the cost/benefit of loss of economic benefit to renters and the local areas.
- If the evidence base demonstrates a need, the City of Edinburgh Council specifically – and other large Scottish cities generally – should experiment with the implementation of a 90 day restriction on any person wanting to rent their home/property over the course of a 12 month period and refining accordingly. Exceeding the specified limit would require a change of use.
- Platforms should notify hosts at the point at which the 90 day limit has been reached.
- Explore the viability of a seasonal system in central Edinburgh, where the rules are more permissive during periods of large tourist demand (e.g. Festival and New Year) where existing capacity cannot meet demand – but more restrictive in other parts of the year, where demand is lower and needs to be managed more carefully.

12 <https://www.gov.uk/hmrc-internal-manuals/vat-business-non-business/vbnb21000>

13 It does not require that the property is let, merely available to let. This means a property need not actually be let out to be liable for non-domestic rates

3.6. Impact on local communities

Peer to peer accommodation can be helpful to respond flexibly to increased tourist demand at peak times, without requiring significant investment in new hotels/tourist infrastructure. There are also some industry reports which show peer to peer accommodation extending tourism into new parts of cities and regions.

However, there were strong responses from our call for evidence which showed that certain cities, specifically Edinburgh, were suffering from increasingly heavy footfall of tourists that some local groups feel have a negative impact on the community. The rise of peer to peer accommodation at peak times was seen to be adding to this negative impact.

There is clearly a delicate balance to strike in preserving the fabric of communities and accommodating tourists who are attracted to major city centres in Scotland. We do not wish to see the hollowing out of communities in cities, or a growing rise in aggression towards tourists – as has been seen in some other popular European cities like Barcelona.

It is necessary to separate out the concerns arising from increased tourism at peak times within city centres and specific complaints in relation to peer to peer accommodation. Edinburgh hosted a total of 14.36 million nights in 2015.¹⁴ There were 12 recorded short-term let premises with anti-social behaviour investigations in 2016 and 20 in the year to November 2017. While these numbers seem small relative to the tourist footfall, information provided from the City of Edinburgh Council indicates that this issue is significantly under-reported.

Recommendations



Greater experimentation in tackling some of these issues is needed. The recommendations below require resourcing. It is recommended that support from the Scottish Government in resourcing experiments, would reap longer term rewards and the intelligence on how to act in similar cities/circumstances.

- A specific experiment in one Scottish city that seeks to understand the impact, consequences and opportunities that arise when a provider is required to notify the council that they are renting out their property.
- Communities and residents need to be aware that they are able to make complaints and how to do so. Edinburgh specifically could consider a community conduct code and the residents could be asked to report situations outside of the code. This will build far more targeted and specific responses to issues arising in specific communities.
- Undertake structured community engagement to increase community participation in decision making, recognising that communities are made up of both those who share their homes and those who don't.

¹⁴ http://www.edinburgh.gov.uk/downloads/file/9904/edinburgh_by_numbers_2017

Cities which have decided to grapple with the challenge of managing the supply of peer to peer accommodation have responded in different ways (where they have responded at all).

- Some cities have responded by requiring a provider to register with a local authority before renting their accommodation; a licensing system effectively – as a way of controlling supply of peer to peer accommodation. *This requires the city to have a clear sense of what mix of accommodation is optimal to meet its tourist needs; and it is for the city to decide this.*
- Some cities have opted for a requirement to notify the local authority, rather than specifically be issued with consent to act.
- Some cities have prohibited the listing of more than one property per individual. Airbnb lists the cities stipulating this rule [here](#). It does not take account of the possibility of a provider utilising different platforms for advertising different properties.

3.7. Income tax

According to the European Commission, an estimated 85% of gross revenue from collaborative economy platforms (of which peer to peer accommodation is the largest sector) goes to providers/hosts. Individuals use multiple platforms to promote and book their accommodation and may earn income from multiple online and offline sources. As with any other income generating activity, on or offline, short-term accommodation rental providers must be responsible for declaring their earnings to HMRC.

People who make money from short-term accommodation rental platforms are able to earn up to £7,500 tax-free by renting out a spare room in their house, under the “rent a room” allowance, which was raised last year from £4,250.¹⁵ The UK Government has announced its intention to consult on this. In March 2016, George Osborne also launched two new annual tax allowances for individuals of £1,000 each, one for trading and one for property income. These new allowances take effect from tax year 2017 to 2018.

4.0

Working in the
**Collaborative
Economy**



The issue of how the collaborative economy is changing the world of work has been the topic of much research, debate and exploration over the last year; not least with the publishing of the Taylor Review.¹⁶

A subset of the collaborative economy, the gig economy chiefly describes the use of digital platforms for people to access casual or freelance work. It is dominated by platforms offering lower-skilled labour such as cleaning and driving.

It would have been easy for this panel to become preoccupied with gig economy activity in the ride-sharing, taxi and private hire sector¹⁷ only. And this panel were pleased to see a specific consultation raised with regard to the use of technology within the taxi and private hire sector.¹⁸

This panel has heard the concerns of the taxi and private hire sector, and consciously taken a wider perspective, and looked at rights and responsibilities within the gig economy more broadly.

However, with specific reference to private hire taxi license, adherence to local regulations set by individual licensing authorities should be enforced rigorously, regardless of whether the company issued with a licence is an online platform or a bricks and mortar company.

The extent of this panel's ability to make specific recommendations with regard to employment law is limited in that this is a reserved matter and we have noted the significant work of the Taylor Review and the recommendations made within it. We await the UK Government's response with regard to implementing these recommendations and have focused our efforts on where Scotland can act, and add to, that work.

4.1. Fair work

The principles of fair work should be used as a fundamental underpinning of our approach to the gig economy. The principles that are detailed in the Scottish Government's Fair Work Framework¹⁹ are summarised as:

- **Effective Voice:** The ability to speak, individually or collectively, for example, through a recognised trade union, and to be listened to, is closely linked to the development of respectful and reciprocal workplace relationships.
- **Opportunity:** Fair opportunity allows people to access and progress in work and employment and is a crucial dimension of fair work.
- **Security:** Security of employment, work and income are important foundations of a successful life. This can be achieved through building stability into contractual arrangements, adopting at least the Living Wage, giving opportunities for hours of work that can align with family life and caring commitments.
- **Respect:** Fair work is work in which people are respected and treated respectfully, whatever their role and status.

16 <https://www.gov.uk/government/publications/good-work-the-taylor-review-of-modern-working-practices>

17 The Scottish Government published its responses on its consultation on the 'impact of modern technology' analysis is due but no date given <https://consult.scotland.gov.uk/licensing-unit/taxi-private-hire-modern-technology/>

18 <http://www.gov.scot/Publications/2016/03/9280>

19 <http://www.fairworkconvention.scot/>

This is a useful lens through which to view the gig economy, determining recommendations that genuinely tackle the challenges it poses today and understanding the extent to which we can shape its growth in Scotland tomorrow.

PwC statistics cite growth of the gig economy as being worth £2 billion by 2020. The Taylor Review estimates 1.3 million gig economy workers in the UK.²⁰ It is often assumed that the gig economy is about low skilled workers accessing work through platforms; the reality is more diverse with many higher skilled workers increasingly using platforms in this way. However, the Chief Economist to the Bank of England has claimed that the emergence of the gig economy is in part responsible for wage growth sitting at only 2%.²¹

At the heart of our exploration of the gig economy is a very big question. What is the **kind and quality of work we want** in Scotland and does the gig economy support or undermine that vision? We need to ensure that those who actively and positively choose to work in the gig economy are protected and can build a flexible career around this type of lifestyle choice. Those who are “forced” into this lifestyle through need or necessity must be protected.

And fundamentally, if a business model by necessity must not offer basic rights in order to be commercially viable, then this does not constitute access to good or fair work.

Recommendations



- Collaborative economy platforms should be assessed as to how they offer fair work, and be required to report publicly on their efforts to do so on an annual basis.
- The Scottish Government needs to give a tangible signal to collaborative platforms that are embodying best practice when it comes to offering fair work, or creating a different power relationship between workers and platforms – such as recognising trade unions, increased worker engagement and particularly co-operative models of ownership.
- Facilitated dialogue between the Scottish Government, the Fair Work Convention, trade unions and platforms should be encouraged as a continuation of the work of this panel. Existing, commercial providers who are willing to engage in this way should be welcomed and encouraged to do so.
- Platforms should be encouraged to step in to address gaps, working with the Association of Independent Professionals and Self-Employed, where those offering services are genuinely self-employed, to offer illness and injury cover, and actively experiment with ways to give their platform workers an effective voice in decisions, including through trade unions.

20 Taylor review cited The Chartered Institute of Personnel and Development (CIPD) report <https://www.cipd.co.uk/knowledge/work/trends/gig-economy-report>

21 <http://www.bankofengland.co.uk/publications/Documents/speeches/2017/speech984.pdf>

4.2. Employment status

The status of employment within the collaborative economy has been the subject of much debate, controversy and court action. The Taylor Review states that the ambiguity between employee, worker and self-employment needs to be resolved. It does this by recommending the classification of a 'dependent contractor' as one that is not self-employed but neither is it accurate to classify them as an employee.

The Taylor Review ranges across the detail of the status of employment, which incorporates issues that are specific to the gig economy. However, in summary, in their words "if it looks and feels like employment, then it is employment and should be categorised as such".

Employment Law is a reserved matter. The Workers (Rights and Definitions) Bill has been introduced in Westminster which, if enacted, will ensure that anyone doing paid work is treated as an employee/worker with full rights to holiday pay and other benefits. The starting position would be that everyone who provides labour is either a worker or employee and the onus would be on the alleged employer to evidence that the person is, instead, genuinely self-employed. Platform hosts will only be able to opt-out of offering employment rights and protections where they meet certain criteria which has been agreed with recognised trade unions. This will help identify cases of bogus self-employment. The principle behind the Workers Bill, whether enacted or not, should be the starting point for assessing any platforms operating in Scotland in terms of fair work.

4.3. Voice and collective bargaining

There are a number of ways in which workers in the collaborative economy might seek to have a voice and to influence their working conditions and pay.

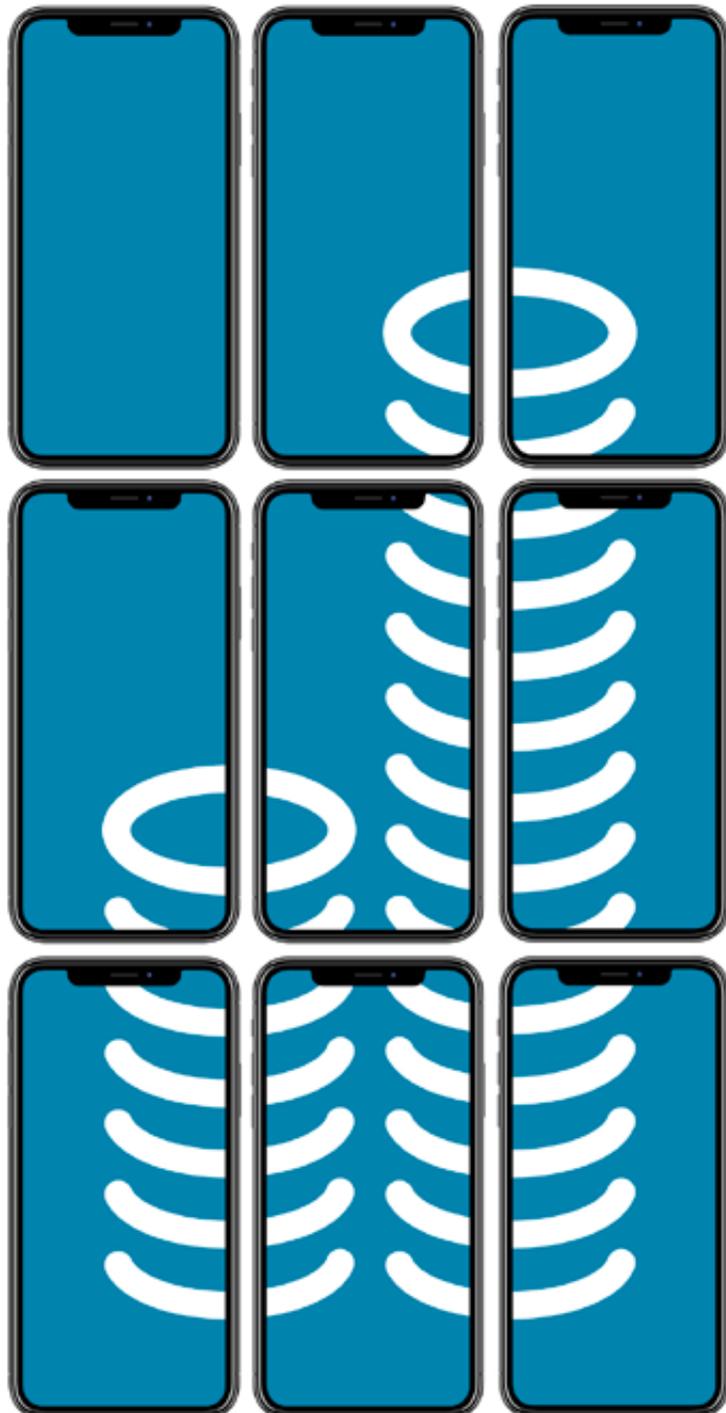
Recommendations



- Collective bargaining and action is a key part of mobilising change and improvements within the gig economy. Trade unions need to increase their expertise and awareness of the impacts (both positive and negative) of collaborative economy platforms.
- Support experimentation between unions and emerging digital platforms (like co-worker.org or Turkopticon) who are supporting collective bargaining power for gig economy workers and are more attractive to younger, more tech-savvy workers.
- Support innovation and scaling of platform co-operatives or new models which offer a better deal for workers.
- No provider of services through a collaborative economy platform should be adversely rated or otherwise negatively affected through choosing not to accept work through the platform at any given time.
- Any provider of services, who is not classified as being employed by a platform should be free and unfettered to work across any number of different collaborative economy platforms.
- Providers should have the legal right to request and have easy access to data relating to their work that is held by the platform provider.
- The Scottish Government should provide support, through Scottish Union Learning, to ensure that workers are given the knowledge and capability to understand the platforms they work under, to analyse any data relating to their work that is held by the platform provider, and to increase their awareness of platforms supporting union organisations and collective bargaining.

5.0

Finance in the Collaborative Economy



With traditional financial institutions becoming more risk averse, new ways to access capital have been emerging. Collaborative finance is a development of financial transactions between individuals and businesses. The sector is growing and has yet to reach its potential. Collaborative finance plays an important role in helping individuals and businesses access capital contributing to inclusive growth.

PwC²² describe collaborative finance as **individuals and businesses who invest, lend and borrow directly between each other, such as crowdfunding and peer to peer lending.** In 2015 they estimated that it generated €250 million in revenue and was valued at €5,200 million. Collaborative finance is also known as crowdfunding, two descriptions are detailed below.

- Crowdfunding is a way of financing projects, businesses and loans through small contributions from a large number of sources, rather than large amounts from a few. Contributions are made directly or through a light-touch platform rather than through banks, charities or stock exchanges. Nesta
- Crowdfunding is a way in which people and businesses (including start-ups) can try to raise money from the public to support a business, project, campaign or individual. Financial Conduct Authority (FCA)

Crowdfunding usually takes place on a digital platform that allows businesses or individuals to raise money, and investors to provide that money. The business or individual seeking finance often explains their project in a pitch to attract loans or investment from as many people as possible. The FCA does not regulate all models of crowdfunding.²³ The models that are regulated are:

- **Loan-based:** also known as 'peer to peer lending', this is where consumers lend money in return for interest payments and a repayment of capital over time.
- **Investment-based:** consumers invest directly or indirectly in new or established businesses by buying investments such as shares or debentures.

Those they don't regulate are:

- **Donation-based:** people give money to enterprises or organisations they want to support.
- **Pre-payment or rewards-based:** people give money in return for a reward, service or product (such as concert tickets, an innovative product, or a computer game).

Crowdfunding raised just over £27 million in Scotland between October 2014 and September 2015. Crowdlending (peer to peer) to businesses was the largest sector valued at £20,529,000 with reward campaigns raising £2,586,594 and equity campaigns raising £3,948,777. The proportion of the value of UK crowdfunding raised in Scotland has risen from below 1% in 2013 to 4%.²⁴

22 PwC, "Assessing the size and presence of the collaborative economy in Europe", April 2016

23 <https://www.fca.org.uk/consumers/crowdfunding>
 24 The Scottish Crowdfunding report 2016 <http://www.glasgowchamberofcommerce.com/media/1764/the-scottish-crowdfunding-report-2016.pdf>

The growth and development of the collaborative/alternative finance market has been accompanied by a progressive and sensible route to engaging with regulation and regulators, with the FCA working with industry platforms and the UK Crowdfunding Association. In terms of recommendations to the regulatory environment, this panel do not have anything to add to the work undertaken by the FCA.

With regard to crowdfunding into other areas; such as community or arts projects, there are some clear benefits to supporting activities in this area while recognising that the ongoing sustainability of projects will be an important consideration. This panel has seen examples of crowdfunding for community projects that would otherwise not have been funded and, in particular, examples of institutional and public funding being matched to the crowd's contributions which show the multiple benefits of raising small amounts of money from larger numbers of people.

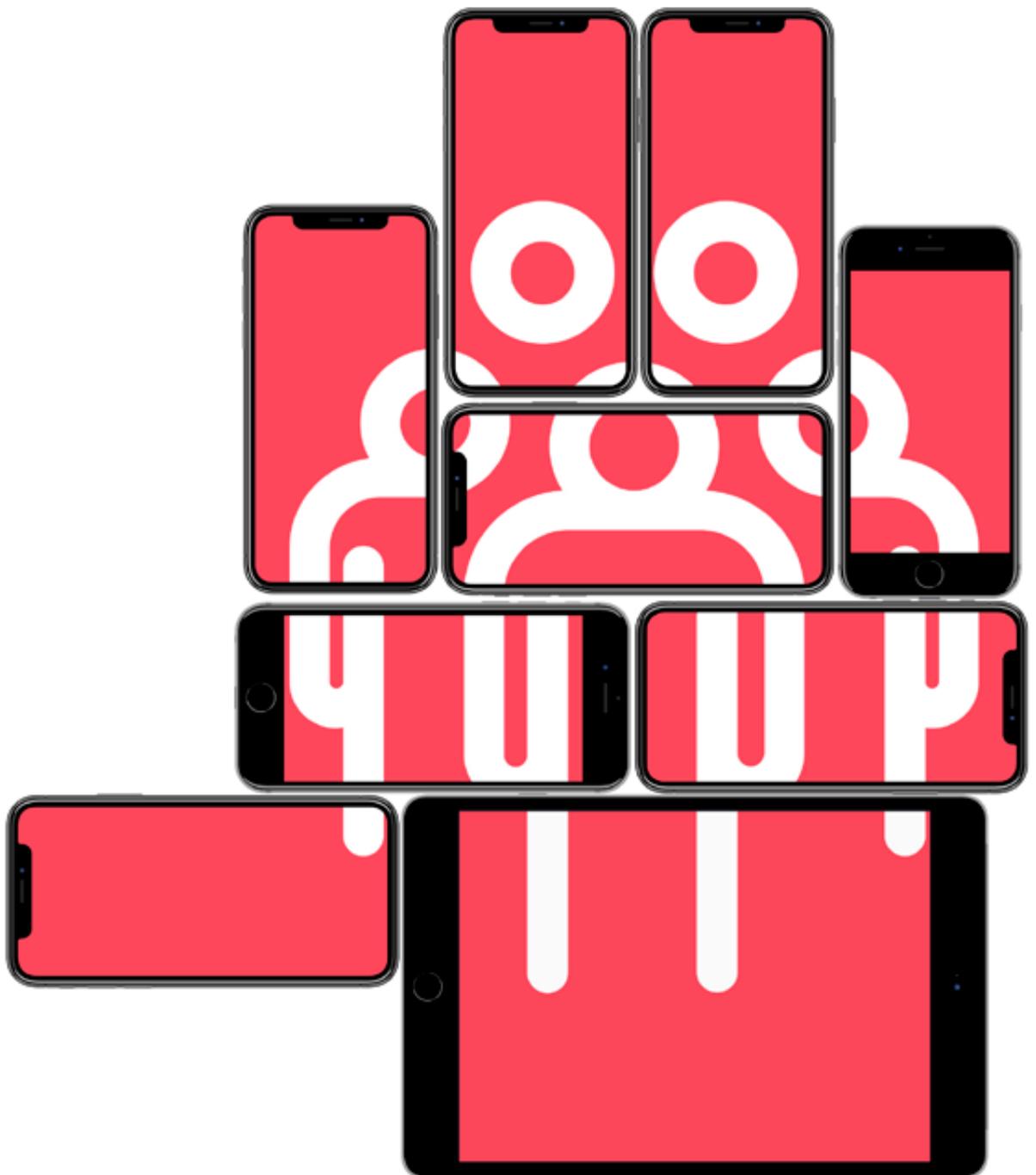
Recommendation



- Experimentation to test how 'matched' crowdfunding can be used as a successful mechanism to support citizen-led innovation and community projects.

6.0

Social Value in the
**Collaborative
Economy**



The work of the expert panel focused, rightly, on some of the key challenges, issues and opportunities posed by new market entrants into the commercial sector; chiefly in the field of accommodation and transport. However, there was also a strong focus on the relevance of the collaborative economy in supporting a more inclusive and socially responsible economy; and the relevance of collaborative platforms to communities and the third sector.

Last November, a survey of UK adults found that while just 9% of Brits used a 'sharing economy' platform for 'a good cause' in the last year, nearly a quarter (22%) would be interested in using one in the future.²⁵ This shows that there is an appetite for digital, collaborative platforms that do more than just get you a cab ride or a bed for the night.

We also see a rise in the number of collaborative platforms focusing on the provision of care. This is a crucial issue in a time of an ageing population when families often live far away from ageing relatives and there has been a reduction in state provision of care – alongside a scarcity of quality in-home care workers. One pioneer in this space is TrustonTap – a platform that bypasses the traditional care agency model and connects self-employed care workers with people in need of care in Oxfordshire. Another example is ShareSomewhere, which applies the 'Airbnb' model to sharing underused community spaces. This initiative is hosted by Youth United, a network of the UK's largest and most established voluntary and volunteering youth organisations.

Commercial ride-sharing platforms that dominate the media tend to crowd out the very real opportunities for scaling community transport through more socially-oriented business models. LiftShare, for example, looks at access to transport from a very different angle and is now testing how a variety of community transport services in the Norwich area can collaborate; working together to fill empty car seats, serve more routes and, in doing so, help make more journeys available; reducing social isolation felt by vulnerable people.

These are just a few of the examples. There is no shortage of creative thinking around alternative ways to approach social challenges - and many more opportunities for innovation.

There is also no shortage of an ecosystem to support the development of an inclusive collaborative economy. Scotland has a rich and proud tradition of collaboration at community level although has not yet fully realised the potential of new technologies in support of this. The principles and potential of co-operation at the community level runs deep, and has been accelerated by provisions made in the Community Empowerment (Scotland) Act 2015 and activity funded through the Scottish Government under its responsibilities and programmes for Community Empowerment, Regeneration, the Third Sector and Equalities. There are firmly rooted community sector networks; a publicly funded network of support for the voluntary sector and a well-developed eco-system of support for social enterprise and support available for employee ownership, collaborative business models and a growing number of community co-operatives. All of this is fueled by responsive forms of finance.

25 <http://www.nesta.org.uk/news/younger-generation-adopting-sharing-economy-platforms-social-benefit-not-just-profit>

More recently, there has been an emerging interest in how best to support socially responsible and mission-led commercial business activity, although any movement is still nascent and needs further encouragement.

However, despite strong roots, inspiration from proven online models and the availability of investment and support, there has been relatively limited experimentation in the collaborative economy to create social value.

There does not yet appear to be an appetite for putting the idle capacity of vehicles, land, equipment, buildings etc. into collective use (where these are used infrequently, the costs of purchase or maintenance are high, and outright ownership isn't essential); or pooling or exchanging resources such as staff skills, time, money, and services (where these are relatively easy to share or distribute).

Scotland's Social Enterprise Strategy 2016-26 includes a specific action to bring forward new approaches to support peer to peer connections between social enterprises using collaborative technologies. This panel underscores the need for that action.

Recommendations



In consideration of the above, the recommendations are as follows:

- Incentivise providers of social investment to provide finance to mission-led businesses and social enterprises exploiting digital, collaborative platforms to deliver positive social impact.
- Set up an incubator and accelerator specifically for increasing the supply of investable, mission-led businesses into the collaborative economy.
- Take a thematic approach to this work, such as the provision of care, private sector accommodation letting agencies, temporary work agencies, etc.) with an explicit focus on supporting scale of successful ventures to reach more people.



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