

# **Scottish Expert Advisory Panel on the Collaborative Economy: Call for Evidence**

## **Analysis of Responses**

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## EXECUTIVE SUMMARY

The collaborative economy connects individuals or communities via online platforms enabling the sharing or provision of goods and services, assets and resources without the need for ownership. The effect of the collaborative economy on how goods and services are provided and purchased has been significant, and has accelerated in recent years. The Scottish Expert Advisory Panel on the Collaborative Economy was established to provide advice, expertise and experience for policy development on the collaborative economy and to make recommendations on how Scotland can position itself to take advantage of the opportunities of the collaborative economy and overcome any regulatory, economic and social challenges.

This report presents an overview of findings from an analysis of responses to the call for evidence issued by the Panel in April 2017. The call for evidence received a total of 52 written submissions. Of these, 41 were submitted by group respondents (79 per cent of all respondents) and 11 by individual members of the public. Group respondents included a mix of businesses, business representative bodies, public sector and other organisations.

The call for evidence included seven questions focused on: opportunities, challenges and barriers for the collaborative economy in Scotland; legislative protections for those participating in the collaborative economy; the balance between regulation and allowing competition and innovation; and the role of government in relation to the collaborative economy. A summary of the main points raised for each question across all the main themes being considered by the Panel are provided below.

### 1. Opportunities for the collaborative economy

Respondents raised a range of points in relation to opportunities for the collaborative economy:

- The **scale and speed of recent growth in the collaborative economy** in Scotland, and estimates of likely future growth.
- The role of the collaborative economy in **increasing choice and competition** across business sectors. This included reference to the collaborative economy enabling more providers to come to market, to diversification of service providers for example to include more individuals, and to a growing range of products and services being made available to consumers.
- The potential for collaborative providers to **drive innovation** across business sectors, and encourage existing providers to adjust.
- The collaborative economy **expanding the number and diversity of additional employment opportunities**, including for individuals who may appreciate the flexibility of opportunities as collaborative providers.

- The potential for the collaborative economy to **deliver social value and other benefits**. This included enabling better use of assets such as vehicles and accommodation, enabling individuals to generate additional income, and reducing the environmental impact of transport use. Respondents also referred to the potential for sharing of resources to improve sustainability, and collaborative platforms providing a means for rural communities to engage with a broader range of services.
- Potential for the collaborative economy, and particularly peer-to-peer sharing, to **enable consumers to access assets and services** that they may otherwise be unable to.

## 2. Challenges for the collaborative economy

A number of potential challenges were raised by respondents in relation to the collaborative economy. Key points included:

- Questions around **how regulation should apply to the collaborative economy**, and the extent to which existing regulations are fit for purpose. See **Balancing regulation with competition and innovation** below.
- Concerns regarding perceived **unfair competition** between the collaborative economy and traditional providers, and the extent to which providers are operating on what they deem to be a level playing field.
- Concerns around **workers' rights** in the collaborative economy, and a need for greater clarity on employment status and associated rights.
- A mix of views on the potential for **negative impacts** associated with the growth of collaborative platforms and peer-to-peer sharing, particularly in relation to growth in short-term rentals and peer-to-peer accommodation. However, some suggested that these concerns were based on misconceptions.

## 3. Protection of contributors

In relation to protection of contributors (consumers, providers and businesses), the key points raised by respondents were:

- Comments around **regulation of the collaborative economy**, and the extent to which this ensures sufficient protections for contributors. This included some suggestions that existing regulations are fit for purpose, and a perceived lack of enforcement for collaborative platforms.
- Concerns around a perceived **lack of protections for some providers of collaborative services**. This was related to concerns

regarding the employment status of providers, particularly for drivers of peer-to-peer transport services.

- Concerns around **a lack of agreed guidelines, codes of practice or other protections** across the collaborative economy. This was contrasted with the range of guidelines and schemes to ensure consumer protections for users of traditional providers.
- Specific **concerns around consumer protections in relation to peer-to-peer sharing**, related to concerns that new entrant providers using collaborative platforms may not be aware of the regulations with which they are expected to comply.

#### 4. Balancing regulation with competition and innovation

Key themes raised by respondents in relation to balancing regulation of the collaborative economy with enabling competition and innovation included:

- A common view that **existing regulations and legislation are adequate** for the collaborative economy – in contrast with concerns noted earlier around the extent to which regulations are fit for purpose. Some suggested a need for regulation to differentiate between the pure sharing and other elements of the collaborative economy.
- Concerns regarding the **extent to which regulations are being enforced** across the collaborative economy. This included reference to a need for better information on providers using collaborative platforms, to support enforcement. Respondents made a range of specific suggestions to support regulation of the collaborative economy.
- Suggestions that **discrepancies in regulation and taxation** between collaborative and traditional providers had enabled what was seen as unfair competition.
- Specific concerns around **regulation to better protect workers' rights** across the collaborative economy.
- Concerns regarding the **implementation of tax regulations** across the collaborative economy, and suggestions that growth in the collaborative economy could lead to a loss of tax revenue. This was linked to a perceived disparity in tax burden for collaborative platforms and traditional businesses, and concerns regarding the extent to which tax revenues are collected from which peer-to-peer providers in full.

#### 5. Barriers to growth of the collaborative economy

Respondents identified a number of potential barriers constraining growth of the collaborative economy:

- A **lack of awareness and understanding** of the collaborative economy was seen as limiting consumer engagement with the full range of collaborative providers, and with potential opportunities to provide goods and services. The specific need to raise awareness of pure sharing options was also highlighted.
- Concerns around **potential for negative perceptions to undermine consumer confidence** in the collaborative economy. Some suggested that consumer confidence could be influenced by misconceptions around potential negative impacts of the collaborative economy.
- The **need for care in enforcement of regulations** to ensure equality of protection and fair competition between collaborative and traditional providers, while avoiding negative impacts on the sustainability of collaborative services.
- **Limited access to finance** was cited by some as a barrier to growth. This included in relation to start-up funding to enable new providers to access the market, and the potential need for ongoing subsidy for models with a specific focus on delivering social value.
- **Concerns around workers' rights** and the lack of an employee voice were also highlighted as requiring action if the collaborative economy is to grow.

## 6. The role of government

A range of respondents referred to the role that government should play in relation to the collaborative economy. Specific points here included:

- A mix of views were evident in relation to the **preferred level of government intervention** in the collaborative economy. Some wished to see limited intervention to allow space for innovation and development of new business models. Others suggested that greater intervention is required to ensure fair competition, protection for consumers, and protection of taxation revenue.
- Several respondents suggested that **government has an opportunity** to learn from experience to date, and to provide a framework to create a robust and inclusive collaborative economy that can benefit all stakeholders.
- Respondent referred to a range of **specific issues and potential actions where they saw a role for government**. These were primarily focused around ensuring effective and proportionate regulation, ensuring collection of tax revenues, protecting consumers and workers, encouraging and supporting innovation, and enabling collaborative models that can deliver social value.

# 1 BACKGROUND

- 1.1 This report presents an overview of findings from an analysis of responses to the call for evidence issued by the Scottish Expert Advisory Panel on the Collaborative Economy in April 2017.

## The call for evidence

- 1.2 The Scottish Expert Advisory Panel on the Collaborative Economy was established to provide advice, expertise and experience for policy development on the collaborative economy, and 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.
- 1.3 The collaborative economy connects individuals or communities via online platforms enabling the sharing or provision of goods and services, assets and resources without the need for ownership. The effect of the collaborative economy on how goods and services are provided and purchased has been significant, and has accelerated in recent years; the European Commission estimates that revenues from the collaborative economy nearly doubled from 2014 to 2015 (reaching nearly €4bn in 2015), with the UK seeing the most rapid growth.<sup>1</sup> This growth has seen collaborative platforms extend across a diverse range of sectors, including a number of specific growth sectors which are a particular focus for the Panel; peer-to-peer accommodation, transport and logistics, and collaborative financing. Recent developments of collaborative platforms being used to provide social and public benefits by supporting delivery of public services is also a key focus for the Panel.
- 1.4 While the growth in the collaborative economy has provided new opportunities for citizens, entrepreneurs and businesses, several potentially significant economic, regulatory and social challenges have also emerged. These are reflected in the Panel's key considerations, which are how to:
- 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 market place;
  - prepare Scotland's current and future workforce for the digital workplace by ensuring they can access courses to gain or update skills; and
  - ensure that the wider economic, social and community impacts, including taxation, social inclusion and employment conditions are taken into account and embedded into the final recommendations.

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<sup>1</sup> *Assessing the size and presence of the collaborative economy in Europe* (2016), PwC UK

1.5 Responses to the call for evidence will contribute to the Panel’s exploration of these areas. The call included seven questions focused on: opportunities, challenges and barriers for the collaborative economy in Scotland; legislative protections for those participating in the collaborative economy; the balance between regulation and allowing competition and innovation; and the role of government in relation to the collaborative economy.

### Overview of written submissions

1.6 A total of 52 written submissions were received. Of these, 41 were submitted by group respondents (79 per cent of all respondents) and 11 by individuals. A profile of respondents by type is provided below.

**Table 1: Overview of respondents**

Respondent type	Number	Percentage
Businesses, including...	11	21%
<i>Accommodation</i>	2	4%
<i>Transport/logistics</i>	6	12%
<i>Collaborative finance</i>	2	4%
<i>Online marketplace</i>	1	2%
Business representative bodies, including...	11	21%
<i>Accommodation</i>	5	10%
<i>Business/employers</i>	3	6%
<i>Other</i>	3	6%
Public sector, including...	14	27%
<i>Local authorities</i>	7	13%
<i>Transport</i>	3	6%
<i>Other</i>	4	8%
Other group respondents, including...	5	10%
<i>Higher education</i>	2	4%
<i>Third sector</i>	2	4%
<i>Workers’ rights</i>	1	2%
<b>Group respondents (total)</b>	<b>41</b>	<b>79%</b>
<b>Individual</b>	<b>11</b>	<b>21%</b>
<b>Total</b>	<b>52</b>	<b>100%</b>

1.7 Respondents were grouped into five broad respondent types based on their role – four broad types for group respondents, and one for individuals. A full list of group respondents is provided in Annex 1, and the main points to note about the composition of the groups are:

- **Businesses:** 11 respondents across four broad business sectors – two accommodation businesses, six transport and logistics, two collaborative finance, and one online marketplace. This included a mix

of businesses operating within the collaborative economy, and 'traditional' operators.

- **Business representative bodies:** 11 respondents including representative bodies for a number of specific sectors – including five representing 'traditional' providers or accommodation, and three with a specific focus on the interests of businesses and employers.
- **Public sector organisations:** 14 respondents including seven local authorities, three public sector transport bodies, and four other national public sector organisations.
- **Other group respondents:** five respondents including two from the higher education sector, two from national third sector organisations, and one from a national organisation with a specific focus on workers' rights.
- **Individuals:** 11 responses from members of the public, including one from an MSP, and one from an individual working in the transport sector.

## Analysis approach

1.8 The Scottish Government required an analysis of the call for evidence responses and Craigforth were commissioned. We were passed full copies of all the responses and have undertaken the analysis work. The main role of the Scottish Government's Consumer, Competition and Regulatory Policy Unit has been to give feedback on the breakdown of the groups and on factual issues.

1.9 The remainder of this report presents an analysis of all submissions. This includes the balance of views on the closed Agree/Disagree questions by respondent group, and a summary of key issues raised by written responses. Our analysis has sought to identify motivations for Agree/Disagree responses, and to highlight where views are specific to one or more respondent types. The analysis has been based on eight broad themes which are a particular focus for the Panel's work. The remainder of this report considers these themes in turn:

- Peer-to-peer accommodation;
- Transportation and logistics;
- Collaborative financing;
- Balancing competition and regulation;
- Workers' rights;
- Implications for taxation;

- The changing role of consumers; and
- Creating social value and supporting public services.

1.10 It should be noted that the purpose of the report is to reflect the balance and range of views and opinions expressed by respondents to the call for evidence. It does not seek to assess the factual accuracy of any specific points being made, nor to provide any policy recommendations.

## 2 PEER-TO-PEER ACCOMMODATION

- 2.1 This section provides an overview of responses relating to the peer-to-peer accommodation sector. Peer-to-peer accommodation was specifically referenced by a range of respondent types, including seven accommodation-related business and business representative respondents.

### Opportunities for the collaborative economy

- 2.2 In addition to specific opportunities for the collaborative economy and peer-to-peer accommodation, it is notable that respondents also referred more broadly to benefits offered by the collaborative economy. Some respondents – and particularly traditional accommodation providers – cited these benefits or opportunities for the short-term accommodation sector as a whole, rather than specifically in relation to peer-to-peer accommodation. This is also reflected in responses noted later in this section proposing a consistent regulatory approach across the sector.
- 2.3 In terms of specific benefits and opportunities raised by respondents, the key points of note were:
- Several respondents cited evidence on **the significance of short-term rentals (including peer-to-peer accommodation) for Scottish tourism**. This included reference to the importance of tourism for the Scottish economy more widely. Respondents also noted the significance of peer-to-peer accommodation given its substantial share of the wider collaborative economy. Evidence cited by respondents related to the current scale of the short-term rental and peer-to-peer accommodation sectors (nationally and within specific Scottish cities), and to anticipated future growth in these sectors. These responses referred to a broad range of specific evidence including research reports such as the 2016 PwC report for the European Commission<sup>2</sup>, market research reports, reports commissioned by business representative bodies, InsideAirbnb (as a key source of data on peer-to-peer accommodation), and VisitScotland data.
  - A range of respondents including business representative bodies, public sector and individual respondents, highlighted the role of the collaborative economy in supporting an **increase in supply of accommodation**. This included suggestions that collaborative platforms have enabled the expansion of accommodation options in areas where provision has previously been limited, and/or where there is unmet demand due to existing provision being at capacity. The extent to which the collaborative economy has enabled these gaps or shortages to be filled was also cited as a positive factor in terms of increasing tourism activity. In this context, several respondents referred to the potential for additional competition and innovation provided by new collaborative platforms – although this included some

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<sup>2</sup> *Assessing the size and presence of the collaborative economy in Europe* (2016), PwC UK

traditional accommodation providers who also expressed reservations around whether this is fair competition.

- Some also referred to the **flexibility of supply** supported by collaborative platforms, and the extent to which accommodation capacity can be increased quickly during peak periods. This included suggestions that flexibility may also improve sustainability of accommodation supply, for example by enabling markets to be tested for an initial period where full-time visitor accommodation options may be limited. Respondents also referred to the extent to which data held by collaborative platforms can enable accommodation providers to offer more targeted options that may better fit with customer preferences.
- Linked to reference to growth in short-term rentals and peer-to-peer accommodation, respondents suggested that the collaborative economy had **helped to diversify the accommodation sector in Scotland**. These respondents referred to collaborative platforms providing access to a broader range of accommodation types and price points – and potentially attracting new visitor groups. This included reference to options such as Airbnb TRIPS (providing activity and accommodation packages), business-ready accommodation, the Friendly Buildings programme, glamping and camping options. In addition to a broader range of accommodation types, respondents also pointed to opportunities to diversify the range of accommodation providers. Some noted that increasing acceptance and awareness of the collaborative economy provides new (and cost efficient) opportunities to existing or new accommodation providers – including for example potential for social enterprises. Several business representative bodies (including traditional accommodation providers) also noted that the collaborative economy is being used as a new route to market for traditional operators.
- In addition to the above points, respondents noted the extent to which the collaborative economy and peer-to-peer rentals are delivering a **range of specific benefits**:
  - Enabling individuals and businesses to derive revenue from their assets – and making better use of what would otherwise be under-used assets.
  - Benefits to the local economy including generation of additional employment (cleaners, laundry, etc), with some respondents referring to contractors for whom collaborative platforms are a primary or sole income source. This included a suggestion that these contractors value the flexibility offered by the collaborative economy.
  - Spending by those using short-term rentals and peer-to-peer accommodation, with a suggestion that more than 50 per cent of guests' spending remains within the local area.

- Benefits to taxation revenue was mentioned by a business and a business representative body (both accommodation related). This included taxation directly from collaborative platforms and accommodation providers, and through generation of additional employment – although as is discussed below under ‘challenges for the collaborative economy’, other respondents expressed concerns around the extent to which collaborative providers are complying with tax regulations.

## Challenges for the collaborative economy

- 2.4 Several respondents perceived a **lack of regulation of accommodation providers using collaborative platforms**, and contrasted this with traditional providers’ compliance with a range of regulations and legislation (and the cost associated with compliance). These respondents felt that change is required to ensure an equal level of protection, and fair competition across accommodation sectors. This included reference to a need to develop regulation that is appropriate to the changing accommodation sector (discussed later in this section in relation to balancing regulation and competition). Respondents referred to specific aspects of regulation where they had concerns around the extent to which the quality of peer-to-peer provision can be ensured, including consumer safety (fire, gas and food), environmental regulations, licensing, and insurance.
- 2.5 Several respondents explicitly noted that **existing regulations apply equally to traditional accommodation providers and peer-to-peer accommodation** through collaborative platforms. These respondents, including several accommodation-related and other business representative bodies, made some reference to a need to simplify existing regulation, but suggested that a lack of proactive enforcement in relation to peer-to-peer accommodation providers is a more significant issue. This included reference to collaborative platforms failing to take responsibility for the accommodation offered, and a perceived unwillingness to share information on peer-to-peer accommodation providers that could be used by enforcement agencies. One respondent noted that local government must rely on third party websites for information on the peer-to-peer accommodation sector.
- 2.6 In addition to the above concerns around regulation and enforcement, a number of respondents referred to **potential negative impacts** of the growth in short-term rentals, and particularly the rapid growth in peer-to-peer accommodation. This included reference to specific research, briefing papers, and direct experience by respondents:
- Potential for growth of peer-to-peer accommodation to have a negative impact on local communities was mentioned by a range of respondents including business representative bodies, education respondents and individuals. This included reference to increasing pressure on housing markets due to the rate of growth in peer-to-peer accommodation, and associated rising house prices and rents limiting access to housing for local communities. It was also highlighted that there is a specific issue in rural areas where seasonal staff are experiencing difficulty accessing

accommodation. Other potential negative impacts mentioned by respondents included antisocial behaviour and noise nuisance associated with peer-to-peer accommodation<sup>3</sup>, concerns around the security of premises, a loss of the sense of community where a smaller proportion of properties are occupied by permanent residents (highlighted specifically in relation to central Edinburgh), a loss of amenity for permanent residents if local services focus on the needs of temporary visitors (again mentioned specifically in relation to Edinburgh), and a negative impact on the fabric of towns for example where the responsibility for maintenance falls on a reducing number of permanent residents.

- A public sector respondent also suggested that a negative impact on local communities could undermine the ability of these locations to attract tourists. This was with reference to examples where the high concentration of peer-to-peer accommodation provision may result in a loss of character.
- A representative body for traditional accommodation providers raised concerns that the growth in peer-to-peer accommodation, and the collaborative economy more widely, has not resulted in a commensurate increase in tax revenue. This included reference to collaborative platforms being domiciled outwith the UK such that little corporation tax is paid, platforms generating relatively limited direct employment, accommodation providers typically paying residential Council Tax rather than business rates<sup>4</sup>, and difficulties for tax authorities enforcing taxation legislation for peer-to-peer accommodation providers. This was contrasted with more traditional accommodation providers, with reference being made to a 'huge difference' in tax revenue for example through payment of business rates and VAT.
- Potential for collaborative economy accommodation providers to restrict development of small businesses. This included reference to some platforms down-grading accommodation providers who wish to retain control over aspects of the letting process – such as use of a channel-manager for the accommodation calendar, and using independent cleaners.

2.7 Several respondents referred to what were seen as **misconceptions around peer-to-peer accommodation**, and the accommodation sector as a whole. These respondents expressed concerns that strategy and regulation should be based on an accurate understanding of the role of the collaborative economy and its potential benefits. This included reference to misconceptions around growth in peer-to-peer accommodation having led to shortages in and/or increased the cost of residential housing, that peer-to-

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<sup>3</sup> Respondents did not provide evidence on the scale of any antisocial behaviour or noise nuisance, but reference was made to a briefing paper produced by Andy Wightman MSP (*Short Term Lets – Briefing Paper No. 1*, (2017) Ciaran McDonald & Andy Wightman MSP).

<sup>4</sup> It should be noted that some accommodation providers may not be required to pay business rates.

peer accommodation has a negative impact on hotel occupancy, concerns around the safety of peer-to-peer accommodation, and suggestions that peer-to-peer accommodation is associated with antisocial behaviour or loss of residential amenity. Specific reference was made to:

- Studies which have not found a link between growth in short-term rentals and increasing house prices and/or housing shortages, and suggestions that multi-home ownership and inadequate affordable housing development are key drivers of housing market imbalances.<sup>5</sup>
- Research in Edinburgh which suggests that antisocial behaviour and loss of residential amenity associated with short-term may have been overestimated, and that any issues arising have been dealt with effectively.<sup>6</sup>
- Research which suggests that there is little evidence of short-term rentals having a negative impact on the hotel sector. Respondents also suggested that the real issue here is a failure of the hotel sector to respond to changing customer behaviour, and pointed to hotel chains having diversified their accommodation offer in response to the growth in short-term rentals.<sup>7</sup>

## Protection of contributors

2.8 A number of comments referred to **concerns around regulation of peer-to-peer accommodation**, and several respondents perceived a lack of enforcement of existing regulations. These responses – all from organisations associated with traditional short-term accommodation - suggested that this resulted in a lack of protection for consumers. Several respondents suggested that authorities are not, or are not able to, adequately enforce existing regulations for peer-to-peer accommodation providers. This included reference to evidence which was seen as indicating inconsistency of enforcement activity between traditional providers and peer-to-peer accommodation providers. A traditional accommodation respondent also cited evidence that authorities are taking a reactive approach to peer-to-peer accommodation, rather than more proactive enforcement.

2.9 Concerns around regulation and enforcement included reference to **a lack of defined guidelines or codes of practice for peer-to-peer accommodation providers**. This was highlighted by some traditional accommodation providers, who noted that many traditional providers subscribe to voluntary guidance or codes, and that professional bodies exist to provide advice to

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<sup>5</sup> Respondents referred specifically to the European Holiday Home Association having drawn on multiple studies to make this argument. The only direct reference to an EHHA publication was to *Market Access Requirements for Accommodation Sector II*, (March 2017) European Holiday Home Association.

<sup>6</sup> Specific reference to research undertaken by Edinburgh City Council in 2012, and to statistics showing a decrease in the number of complaints against short-term let properties between 2014/15 and 2015/16.

<sup>7</sup> This included reference to specific hotel chains, and to *Impact of the short-term rental industry in Europe*, (September 2016) Niki Nutsch, nutschassociates.com.

these providers. It was suggested that there is a need for similar guidelines and sources of advice for peer-to-peer accommodation providers. This was cited as having potential to improve protections for contributors, and to help to address potential negative impacts on local communities associated with growth of peer-to-peer accommodation. This included a respondent who included a proposed code of practice for all short-term rental providers (including peer-to-peer accommodation) alongside their response to the call for evidence.

2.10 Some respondents also felt that insufficient requirements are placed on **collaborative platforms to ensure that consumers are protected**, and expressed concern that platforms do not perform any checks that accommodation meets safety regulations. This included a suggestion that collaborative platforms should ensure that accommodation providers are fully informed of the regulations with which they are required to comply.

2.11 Concerns around enforcement of regulations included reference to specific **areas where some respondents felt that protections are lacking**. This included some respondents who felt that consumers could be exposed to potentially significant risks. In this context, a business representative body associated with traditional accommodation providers suggested that consumer rights and protections should be identified as a specific theme for the Panel. Areas highlighted included:

- Ensuring properties meet health and safety requirements – particularly fire, gas safety, and food hygiene;
- Ensuring properties are appropriately insured – although an education respondent suggested that there is a need for new insurance models that are more appropriate for peer-to-peer accommodation;
- Ensuring that peer-to-peer accommodation providers and traditional businesses compete on a fair basis, in terms of enforcement of regulations;
- Ensuring that growth in peer-to-peer accommodation does not result in increasing house prices and rents, thus limiting local residents' access to housing; and
- Enabling consumers to identify whether the accommodation provider is an individual or a business – or in some cases to identify the responsible party for any complaints.

## Balancing regulation with competition and innovation

- 2.12 Some traditional accommodation providers suggested that existing **regulations should be adequate for peer-to-peer accommodation**, and felt that traditional short-term rentals are already subject to strong regulation. However, a local authority respondent noted that existing regulations and legislation are yet to be tested in relation to peer-to-peer accommodation, and an individual respondent suggested that change to legislation may be required to ensure regulations are effectively implemented.
- 2.13 Several respondents suggested that, while regulations are in place, **enforcement of regulations for peer-to-peer accommodation is insufficient**. These respondents suggested that a lack of enforcement means that consumers, local communities and traditional accommodation providers are not sufficiently protected. This included reference to concerns raised earlier in relation to protection of contributors, regarding potential risks associated with any non-compliance with fire or other safety regulations. In this context, some respondents suggested that the protection of consumers, workers and the wider public should be a key principle for the regulatory approach.
- 2.14 In addition to the above noted points regarding the overall regulatory approach, respondents also highlighted **specific issues for regulation of peer-to-peer accommodation** – and the short-term rentals sector more widely:
- Suggestions that tax revenues could reduce as economic activity increases across the collaborative economy. This included reference to peer-to-peer accommodation benefiting from a higher tax threshold than more traditional accommodation providers, the structure of collaborative platforms meaning that relatively little UK corporation tax is paid, VAT only being due on the service fee element rather than the full accommodation cost for peer-to-peer accommodation, and concerns around the extent to which peer-to-peer providers declare their letting income.
  - Concerns that discrimination is being permitted in relation to guests being accepted by peer-to-peer providers, in contrast with traditional providers. This included reference to commentary from a peer-to-peer accommodation provider suggesting that providers can pick and choose which guests to accept, and research evidence of discrimination in the peer-to-peer sector in the United States.
  - A lack of information to support enforcement of regulation – including for example the number of individuals or businesses involved in providing peer-to-peer accommodation, but also wider issues such as quantifying any impact on demand across other sectors.
  - Suggestions that consumers can be at a disadvantage where peer-to-peer accommodation providers are businesses rather than individuals – and that in these cases the exchange is not equal.

2.15 A number of respondents made **specific suggestions for regulations and/or changes to support enforcement action:**

- The creation of a register to support enforcement, where peer-to-peer accommodation providers are required to notify authorities of their properties and letting dates. This was related to a perceived need to ensure that peer-to-peer accommodation providers declare these properties as non-residential, and that the change of use from residential to letting is recorded to enable tracking of the volume and distribution of non-residential properties. It was noted that this approach has been implemented by a number of cities outwith the UK. Some suggested that this information could be linked to the forthcoming Scottish Private Residential Tenancy regime.
- A suggestion that Planning Use Class Orders should be used to allow for conversion of residential property to short-term rentals, potentially setting out potential short-let periods, and providing the basis for local authorities to monitor and regulate peer-to-peer accommodation providers.
- Ensuring that regulation and associated information is managed independently of the peer-to-peer accommodation sector, rather than relying on an industry voluntary code of practice.
- Some respondents felt that the regulatory approach in relation to peer-to-peer accommodation has been primarily reactive, and suggested a need for a more proactive approach. This included reference to the potential value of vetting of new businesses and business models as they continue to develop, for example in terms of improving trust and acceptance of the sector. A business representative made a specific suggestion for a flexible regulatory unit, with the detailed understanding of the peer-to-peer sector required to assist authorities.
- Suggestions that any regulatory changes should be developed in cooperation with businesses, to ensure that regulations are practicable.
- Recognising that many peer-to-peer accommodation providers are new entrants and as such are unlikely to be familiar with regulations.
- A suggestion that requirements should be placed on collaborative platforms to provide information to HMRC to ensure tax regulations are enforced for peer-to-peer accommodation providers.

## Barriers to growth of the collaborative economy

2.16 Respondents highlighted a number of potential barriers to growth of peer-to-peer accommodation and the wider accommodation sector:

- Some respondents referred to **negative perceptions of short-term rentals** as a whole, and peer-to-peer accommodation specifically, and a lack of understanding of the collaborative economy. This included in relation to awareness of the potential benefits of the collaborative economy, and how peer-to-peer accommodation fits with more traditional accommodation forms and the housing market.
- A **lack of awareness of peer-to-peer accommodation options** available across Scotland was also cited as a potential barrier. This included some suggestions that awareness is often limited to Airbnb, and as such may act as a barrier to growth of other providers. This was raised in relation to restricting demand, but also limiting innovation if there is a lack of awareness of potential new models.
- Reference to **different perceptions of the collaborative economy across accommodation sectors**. This included reference to some traditional accommodation providers using collaborative platforms as a new route to market, and who are supportive of the collaborative economy and peer-to-peer accommodation. This group was contrasted with potential opposition to the collaborative economy from other traditional accommodation providers, including hotel operators.
- **Perceived unfair competition** between peer-to-peer and more traditional accommodation, and a need to ensure protections for consumers and communities were also highlighted. These issues were not necessarily raised as barriers to growth of the collaborative economy - indeed as was highlighted in relation to protection of contributors and regulation, some felt that growth of the collaborative economy has been accelerated by an unfair advantage. However, these were raised as issues to be addressed before the collaborative economy grows further.
- A suggestion that some **care may be required in enforcement of regulations** to ensure that growth in peer-to-peer accommodation is sustainable, and a suggestion that straight enforcement of regulations could have a negative impact on growth and potentially deter new entrants to the sector.
- Potentially **limited access to finance** to support development of new opportunities in the sector.
- Suggestions that **accessibility of peer-to-peer accommodation** options may be a barrier to growth in rural areas, where geographic constraints and more limited access to digital connectivity could have a negative impact.

- The lack of appropriate insurance options for peer-to-peer accommodation.

## The role of government

- 2.17 Several respondents, including a mix of traditional and peer-to-peer accommodation providers, indicated a **preference for limited intervention by the government**. This included reference to regulation outwith the UK having led to increased hotel rates with a potentially negative impact on the tourism sector. A peer-to-peer accommodation provider also suggested that transparent, open peer-review processes used by collaborative platforms are effective and can support sustainable growth. Respondents also referred to recent European Commission publications which sought the removal of barriers and unjustified obstacles to development of the collaborative economy, and suggestions that the government focuses on reducing unnecessary burdens for peer-to-peer accommodation.
- 2.18 **Other respondents saw a need for greater intervention** from the government – this included traditional accommodation providers and an individual respondent. This was suggested in the context of ensuring protections for consumers and others, ensuring fair competition between traditional and peer-to-peer accommodation sectors, that the reputation of Scotland’s tourism sector is maintained, and that taxation revenue is not undermined. This included respondents referring to examples of regulatory and legislative interventions across the United States and Europe which seek to manage the impact of growth in peer-to-peer accommodation.<sup>8</sup>
- 2.19 In terms of **specific government interventions**, respondents suggested the following:
- The government introduces the legislation required to ensure sustainable growth of peer-to-peer accommodation, and short-term rentals more widely. This included a suggestion for use of Planning Use Class Orders in the regulation of peer-to-peer accommodation.
  - A simplification and easing of regulation for the smallest peer-to-peer accommodation providers was suggested. This included proposals for criteria to identify the providers who would be subject to regulation, and to ensure the regulatory approach is proportionate to the size of the provider.

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<sup>8</sup> Specific examples mentioned by respondents were the European Commission’s 2016 communication “A European Agenda for the Collaborative Economy”; the “Unlocking the sharing economy” review by Debbie Wosskow to the UK Government in 2014; New York legislation in 2010 and 2016 limiting short-term lets (although one respondent questioned whether this legislation had achieved the desired outcomes); San Francisco legislation requiring providers of short-term lets to register with local authorities; legislation across a number of European cities (Amsterdam, Barcelona, Berlin, Brussels and Paris) limiting short-term lets and/or requiring accommodation providers to register with authorities; and an alliance of mayors from 22 cities currently considering approaches to regulation of the collaborative economy.

- The government ensures enforcement bodies have the powers to identify and regulate peer-to-peer accommodation providers, and that bodies exercise their enforcement powers.
- The government places a duty on collaborative platforms to undertake some level of due diligence in relation to peer-to-peer accommodation providers.
- The government places a duty on collaborative platforms to ensure peer-to-peer accommodation providers are informed of the regulations with which they are expected to comply.
- The government promotes standards and codes of practice across traditional and peer-to-peer accommodation sectors, and works with sectors to ensure a suitable regulatory approach.
- Recognising the need for more information on the developing peer-to-peer accommodation sector, including the establishment of a register or similar mechanism to monitor the size and growth of the sector.

### 3 TRANSPORTATION AND LOGISTICS

3.1 This section provides an overview of responses focused on the transportation and logistics sectors. Findings presented over the following pages are based on responses from six transportation/logistics business and business representative respondents (including traditional and new providers), and a number of other respondent types.

#### Opportunities for the collaborative economy

- 3.2 It is notable that the great majority of respondents focused on transportation, with few respondents making reference to logistics. This may reflect the profile of respondents; businesses and others associated with the transportation sector (traditional and new providers) accounted for a number of those providing comment.
- 3.3 A range of respondents made reference to **the impact of the transportation and logistics sectors of the collaborative economy** – in terms of the scale of the sectors, and the rate of growth over recent years. This included responses from businesses, business representatives, and public sector organisations. Some referred to the extent to which these models have become mainstream and are widely accepted by consumers, including the number of private hire drivers using a range of eHailing platforms, use of bike-sharing services, and the significance of peer-to-peer transport within the wider transportation sector. A business respondent also noted that the UK has been particularly receptive to vehicle sharing, and suggested that a survey undertaken by a bike sharing representative body has indicated widespread interest in car sharing for commuting.
- 3.4 Related to comments on the scale of the collaborative economy for transport and logistics, several respondents also noted the potential for the collaborative economy to significantly **change how transportation services are designed, provided and paid for**. This included reference to the extent to which new collaborative platforms have already diversified transport and logistics sectors.
- 3.5 Also related to the role of transport and logistics, a transportation/logistics business saw an **opportunity for Scotland to become a leader in the collaborative economy** by striking the right balance between innovation and regulation.
- 3.6 In terms of benefits and opportunities for transportation in the collaborative economy, respondents made the following **points in relation to the private hire sector**:
- Several business and other organisation respondents saw potential for the collaborative economy to extend employment opportunities for private hire drivers. This included reference to drivers having more routes to reach customers, and a suggestion that enabling drivers to work independently of booking offices can empower drivers.

- A small number of business respondents referred to the potential for reduced private hire costs to the general public as a result of increased competition within the sector - although this include specific reference to the need to ensure this competition is fair.
- A business respondent suggested that new collaborative platforms and technologies could improve the customer experience for those booking and paying for taxi and private hire services. This included broad references to the collaborative economy having changed how people choose to book and pay for services, and specific benefits such as apps enabling easier booking and paying for services. It was noted that the convenience of these new options could benefit both customers and drivers.

3.7 In terms of benefits and opportunities for transportation in the collaborative economy, respondents made the following **points in relation to vehicle sharing**:

- A substantial number of those making comment referred to potential benefits around supporting more sharing of resources, particularly in relation to car sharing and bike sharing. This was raised as an opportunity across respondent types. Vehicle sharing was seen as having the potential to improve sustainability of transport systems, and to reduce pressure within some systems. This included reference to the potential for reducing car use, to encourage a modal shift towards bike use, and potentially to support greater use of electric vehicles. A small number of public sector respondents also suggested that this could reduce the need to introduce demand-restraints such as workplace parking charges. Responses included reference to specific evidence on what was seen as the current under-use of cars, and the extent to which increasing average car occupancy (for example through car sharing) could help to reduce emissions and congestion. A number of public sector, business and individual respondents also referred specifically to the potential to improve efficiency of transport in rural areas where public transport may be under-used – for example the provision of community transport or lift-sharing through collaborative platforms.
- Respondents also highlighted the potential to reduce the environmental impact of transportation, and noted that reducing traffic congestion and emissions is a key strategic focus across Scotland. Environmental impact was mentioned with reference to the potential for car sharing and bike sharing to reduce car use, and to encourage more use of lower or zero emission vehicles. Respondents also noted wider benefits for local neighbourhoods and communities including for example reduced congestion, reduced on-street parking, and lower demand for car parks. The potential for car-sharing to expand social networks and potentially improve community cohesion was also noted by a business respondent.

- Car-sharing was also seen as having the potential to reduce the overall cost of car ownership for those participating, and potentially to make car use accessible to those who may otherwise be unable to sustain a car. This latter point included reference to potential for car sharing to help fund car ownership for drivers, and to providing passengers without a car with access to car use.
- A business respondent referred to the potential for car sharing to provide more flexible and convenient transport options than other modes.
- A small number of business and individual respondents referred to the potential for increased purchasing power for car-sharing groups.

3.8 In terms of **delivery and logistics**, the main opportunity highlighted by respondents was in relation to particular benefits to rural businesses. It was suggested that collaborative platforms may support goods provision and delivery that would not otherwise be feasible. This was noted specifically in relation to rural tourism and food/drink sectors.

3.9 **Other potential opportunities and benefits** mentioned by respondents were:

- Wider benefits to the local economy through creation of new (direct and indirect) employment opportunities.
- The potential role of collaborative transport approaches for public, third sector and social enterprises. In relation to public services, a public sector respondent suggested that there may be a role for collaborative approaches to increase use of transport assets across health and social care, non-emergency patient transport, community transport, demand-responsive transport services, and socially necessary public transport. In relation to third sector and social enterprises, it was suggested that collaborative arrangements can be important to the sustainability of these organisations. A public sector respondent noted that such arrangements may be in place at a micro level, and suggested that there is potential for new platforms to expand these arrangements.
- Respondents made reference to a number of specific projects in Scotland, other parts of the UK and further afield, focused on using the collaborative economy to deliver benefits for transport systems. These included TripshareSEStran (a regional car share portal); SHARE North (focusing on Shared Mobility and looking at the development, implementation and promotion of car clubs, bike sharing and car sharing); a Green Deal Initiative (to accelerate the growth of shared mobility in Flanders); Changing Habits for Urban Mobility Solutions (demonstrating the benefits of carpooling); the SocialCar project (a single information source for travellers, integrating public transport information with carpooling and crowd-sourced data); SPTJourneyShare; NextBike; a Mobility as a Service model in the West

Midlands area; and the potential for the Bramble smartcard to expand account-based ticketing across the collaborative economy.

### Challenges for the collaborative economy

3.10 Key points raised by respondents in relation to challenges for transportation and logistics within the collaborative economy were:

- Some respondents saw a **need for changing attitudes and behaviour** across the Scottish population, if collaborative economy based transport models are to become truly mainstream. This was highlighted specifically in relation to peer-to-peer car sharing models; some questioned how many car owners would be willing to participate in these models. Concerns were also raised that media attention and support has focused on commercially focused platforms (i.e. those involving trading or renting products/services). Some suggested that this could be at the expense of models focused more on achieving efficiencies – described by some respondents as the ‘pure sharing’ economy.
- A number of respondents raised concerns that **current regulation and enforcement is not appropriate for new business models**, and that clarity is needed on how collaborative economy businesses are classified (for example whether Uber should be classified as a technology company or transport provider). This was highlighted primarily by business and business representative respondents. Concerns included some reference to ensuring appropriate consumer protections, but were most commonly related to the employment status of drivers and others contributing to collaborative transport or logistics services. This included some who suggested that drivers do not have access to appropriate protections, and may earn below the national wage. Related to these concerns, some business representative and public sector respondents suggested that new business models would have a competitive advantage over traditional operators, if new models are subject to reduced regulatory and taxation burdens (such as the minimum wage, and employer costs).
- **Challenges for those wishing to introduce or join innovative business models** were also mentioned by a small number of businesses. This included reference to a lack of suitable insurance products, challenges around access to funding (and a potential need for ongoing subsidy for businesses which meet a social need), and a lack of support or promotion of peer-to-peer car sharing by local government (in contrast to corporate car sharing models).
- Several public sector respondents saw a need to balance the development of collaborative economy based transport models against **protection of public transport networks**. These respondents noted the potential for new business models to improve access to transport, for example in rural areas and/or for those with limited mobility. The

potential for vehicle sharing models to contribute to reducing car use and associated emissions was also noted. However, several public sector respondents noted a risk that these new models could be over-promoted at the expense of public and active travel options. These respondents noted the importance of retaining access to regulated transport, particularly for those who cannot afford or otherwise access collaborative options.

- A small number of respondents suggested that there is **a lack of data and research** to make informed judgements about new business models. This included specific reference to the need to assess the extent to which new models will increase or decrease the number of cars on the road.
- Another organisation raised specific concerns around the potential for **collaborative economy transport models to lead to the widespread use of automated/driverless vehicles**, and the potential impact on those working in the transport sector. This respondent noted the extent to which the growing shortage of qualified drivers, and potential for substantial savings against drivers' wages, could provide an incentive to automation.

### **Protection of contributors**

3.11 Points raised in relation to protection of contributors to transportation and logistics services in the collaborative economy focused primarily on providers and consumers. We consider each group in turn.

3.12 Several respondents expressed concerns around a **perceived lack of protections for drivers or providers** within collaborative economy based transport models (including several who referred specifically to Uber). This included a suggestion that the sector includes some of the 'youngest, poorest and most desperate' workers. These respondents felt that the absence of restrictions on numbers of drivers within the sector means that there are no protections to ensure sufficient work to sustain all contributors – and that this increases the likelihood that drivers will earn below the minimum wage. Reference was also made to the potential for ratings systems to negatively impact on providers' ability to earn. Respondents also referred to a lack of control for providers in relation to how much they will be paid for a trip, and when and by how much rates of commission will increase. Several respondents suggested that providers are effectively dependent contractors, bearing risks such as substantial costs associated with finance, insurance, licence costs, maintenance and fuel, while lacking the rights of an employee. Respondents referred to several specific cases as illustrating an absence of protections for providers (such as couriers facing substantial charges if they cannot secure sick cover, and contract terms described as 'unintelligible'), and to specific research reports.<sup>9</sup>

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<sup>9</sup> Sweated Labour: Uber and the 'gig economy' (2016), Frank Field and Andrew Forsey.

- 3.13 Also in relation to protections for providers, a business respondent raised concerns around a **lack of suitable insurance protection**, and suggested that this may act as a barrier to those who may wish to contribute to car sharing models. This respondent also noted uncertainties where the distinction between doing business and sharing is blurred. This included reference to the introduction of a new tax framework for the sharing economy in Belgium as having provided greater clarity.<sup>10</sup>
- 3.14 Respondents made a range of points in relation to improving protections for providers, with the key issues being:
- Several respondents saw a potential **need for stronger regulation and/or enforcement**. This included reference to the disparity in protections for providers considered to be self-employed, and those classed as a 'worker' or employee. A public sector respondent also raised concerns around resourcing of enforcement to deal with an expanding sector. Several respondents noted recent examples of collaborative economy businesses changing their terms to comply with the requirements for self-employed status.
  - **Specific regulatory changes** suggested by respondents included restricting numbers of licences issued to collaborative economy businesses, a 10 per cent upper limit on commission charged by platform operators, and a requirement for all drivers to use meters to ensure they are paid correctly for each trip.
- 3.15 Respondents raised a range of **concerns around a lack of consumer protections**. A public sector respondent suggested that current legislation should be sufficient to protect users of collaborative economy services. However, it was also suggested that the sharing economy does not currently provide a consumer standard (similar to the Kitemark model), nor an independent regulatory or resolution process. A business respondent referred to the Code of Conduct developed by Sharing Economy UK, but suggested that this is not a substitute for formal consumer protections.
- 3.16 Respondents also suggested that there is a lack of consumer protections around **pricing of collaborative economy transport services**. This included reference to providers not being required to use meters, such that the price paid for a journey can vary depending on the provider used and the time of the trip. Some also expressed concerns around the potential for collaborative economy providers to develop a monopoly through use of artificially low pricing supported by investors' funds, which could ultimately lead to substantial price increases for consumers.

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<sup>10</sup> Belgian Government Approves Simple and Low Tax Rates for Sharing Economy. (June 2017).

3.17 In terms of **improving protections for consumers**, respondents made a range of specific suggestions:

- A potential role for a consumer promise or independent issue resolution process;
- Enhancing background checks for drivers/providers;
- Improving provision for consumers with mobility impairments;
- Recognising the important role that taxis play for those with visual impairment, and the extent to which visually impaired taxi users could require additional protections;
- Enhanced training for drivers, including disability awareness training - although it was noted that mandatory training could affect drivers' status as self-employed; and
- A public sector respondent highlighted proposals for a Consumer Scotland taskforce as a potential opportunity to consider setting performance outcomes for the sector to enhance consumer experience.

### **Balancing regulation with competition and innovation**

3.18 Comments made in relation to transportation and logistics indicate that a range of respondents see a **need for change to or extension of regulation**. Some suggested that collaborative economy business models can be accommodated within existing regulations, while others expressed concerns that regulation is not keeping up with the development and growth of collaborative platforms – and indeed that organisations may be exploiting this to grow their business. However, most of those addressing transportation and logistics indicated a need for some degree of regulatory change.

3.19 In terms of the specific regulatory issues raised by respondents, the key points were:

- A small number of respondents explicitly referred to the need for **protection of workers' rights** within the collaborative economy. This included concerns around the extent to which a small number of platforms and providers are able to control access to the sector, and the implications of this for workers' rights.
- Several business, business representative and individual respondents referred to **larger international platforms having access to investor funds**. These respondents suggested that traditional businesses and other local providers struggle to compete against the scale and resources of these platforms. Some also raised concerns that this differential in scale could also be reflected in the ability of larger collaborative platforms to influence policy direction, and ultimately regulation.

- A small number of business respondents raised concerns around **perceived inequality of regulatory and tax burden** between collaborative and traditional providers, and between different collaborative providers. These respondents referred to the well-developed regulatory framework for the taxi sector – including the extent to which regulations have been designed with a focus on consumer and driver protections. This was contrasted with what were seen as more limited regulations applying to private hire operators working within the collaborative economy. A transport provider also suggested that, within the collaborative economy, international platforms do not face the same tax burden as local providers.
- Several respondents suggested that the practices of some collaborative platforms raise the **risk of monopolies being created**. This included reference to under-pricing of services supported by investor funds, and was seen as an area potentially requiring further regulation. The trend towards automation and self-driving vehicles within the private hire sector was also referenced by some respondents, and was also seen as an area where additional regulation may be required.
- A business respondent drew a **distinction between e-hailing models and peer-to-peer sharing**. This respondent suggested that the former do not represent a fundamental change to current business models and can be accommodated within existing legislation, while the latter may require additional regulation.
- Several respondents referred to the importance of **data and research to improve understanding** of new collaborative economy models, and their impact on traditional providers. These respondents suggested a need for better understanding of these issues. A business respondent also noted the value of data on use of collaborative platforms for regulation and enforcement, and noted the extent to which this is controlled by a small number of larger platforms.

3.20 Several respondents made specific **suggestions for regulation and/or changes to support enforcement action:**

- In terms of specific areas where change to existing regulation may be required, respondents referred to consumer safety (including specifically for those with visual impairment), use of data, and Disclosure Scotland.
- A business respondent suggested that, in addition to ensuring the welfare and safety of participants, regulation should also seek to reduce the risk of monopolies and to encourage collaborative economy businesses into markets that benefit society. This included reference to the potential for car sharing models to deliver benefits on cost and environmental impact.

- The likelihood of increasing automation within the private hire sector was also highlighted as an area requiring the guidance of legislation and regulation. This included reference to potential loss of jobs and earning potential.
- An individual recommended the development of a national licensing regime across transport sectors to ensure consistency for all providers, and to support enforcement activity.
- A public sector respondent referred to examples of engagement between the collaborative economy transport sector and insurance providers. It was suggested that this engagement may be providing a level of regulation across the sector. Some elements of self-regulation were also highlighted, such as Sharing Economy UK's development of a Code of Conduct and a Kitemark equivalent.

### **Barriers to growth of the collaborative economy**

3.21 Respondents highlighted a broad range of potential barriers to growth of the transportation and logistics sectors, including reference to finance, regulation and the distinction between non-collaborative and pure sharing models:

- The most commonly noted **barriers related to finance**. This included several respondents (including businesses and public sector organisations) suggesting that a lack of subsidies or inward investment for transportation businesses is preventing growth and experimentation. This included reference to start-up funding being particularly difficult to access, and a suggestion that access to subsidy is a particular issue for models focused on social innovation.
- A small number of respondents referred to a **distinction between what were described as pure sharing models, and collaborative economy businesses** which were seen as replicating established commercial activity. This included a suggestion that there is a need for a greater focus on pure sharing activity.
- **Social and behavioural barriers to growth** were referenced by a small number of public sector respondents. This included a suggestion that there remains some resistance to use of peer-to-peer transport models for commuting or business use, and a suggestion that policy development has been somewhat slow to support new business models.
- **Limitations on access to high speed broadband and 3G/4G** was also highlighted as a barrier to growth. This was seen as a particular barrier to growth of the collaborative economy in rural and remote areas.

- A small number of respondents referred to the **role of regulation in managing development of new sectors**, and in ensuring growth is sustainable and delivers the desired outcomes. This included a suggestion that a lack of effective regulation may have enabled sectors to grow too quickly, potentially to the detriment of levels of pay and workers' rights.
- A public sector respondent suggested that some review websites are not doing enough to deal with **unfair or bogus reviews**, and noted the significant negative impact that these reviews can have on the reputation of legitimate traders.

## The role of government

3.22 Respondents highlighted a range of points on the role of government in relation to transportation and logistics sectors, including a number of suggestions for government intervention around regulation and the creation of appropriate structures to support growth. The main issues raised were:

- **Implementation of effective and appropriate regulation** was seen as an important role for government, and was referenced by several business, public sector and individual respondents. This included a perceived need for a clear strategic vision that places the collaborative economy within a wider public transport framework, and for steps to prevent the dominance of large multinational providers. A public sector respondent noted that regulation could be an international issue given the extent to which multinational platforms are domiciled overseas, and suggested that international links and agreements would be important. However, a business respondent cautioned that Scotland should not follow other parts of the UK, where the influence of large providers was seen as having led to deregulation.
- A business respondent also suggested that the **government could play a stronger strategic role**, for example in setting car occupancy targets and supporting workplaces through passenger allowances and parking space schemes. This respondent referred to events such as Liftshare Week as potentially useful promotional tools.
- Several respondents saw a **need to stimulate research and innovation** in these sectors. This included reference to the potential for additional funding and incentives, particularly for collaborative platforms and models with the potential to deliver social benefits. A public sector respondent saw this as a potentially significant step towards ensuring greater balance between commercial and pure sharing models, and reducing the risk of monopolies.

- **Taxation** was raised as a particular issue for transportation and logistics sectors. However, respondents made quite different suggestions here – one business respondent wished to see tax relief for individuals participating in the collaborative economy, while another business saw a need for taxation to be brought in line with traditional providers.
- A small number of public sector respondents suggested that government **should provide frameworks for collaboration and innovation** at a national and regional level.
- A business respondent suggested that the government should seek to achieve a **more equitable balance of risk between employers and workers**. This was linked to concerns that workers or providers currently bear a substantial share of the risk.

## 4 COLLABORATIVE FINANCING

4.1 This section provides an overview of responses in relation to the collaborative financing sector. These findings are based on responses from two businesses active in the sector, and a small number of other respondent types.

### Opportunities for the collaborative economy

4.2 Respondents referred to a range of potential opportunities and benefits in relation to collaborative financing:

- Several respondents – including collaborative finance businesses, business representatives and public sector respondents – referred to scope for collaborative finance to **expand the range of people engaged in the collaborative economy**. This included reference to enabling those in more rural and disconnected parts of Scotland to engage with a wider network of collaborators and customers, potential new funding opportunities for third sector and social enterprise development, and potential to enable individuals with minimal capital to develop new ideas. A business representative respondent also suggested that collaborative financing can help to address long-standing issues around the range of finance options available to smaller businesses.
- A collaborative finance business respondent suggested that Scotland has an **opportunity to create a robust and inclusive collaborative economy that can benefit all stakeholders** - enabling businesses and platforms to thrive, benefiting consumers, and addressing the needs and concerns of communities. This included a suggestion that growth of collaborative economies in other territories has been based on an adversarial approach between platforms and governments, and as a result has been less inclusive. This respondent saw an opportunity for the Scottish Government to establish the regulatory and economic frameworks to enable development of a more inclusive collaborative economy.
- A collaborative finance business respondent referred to the **strength of digital expertise and entrepreneurial networks** in Scotland as providing opportunities for development of new approaches and ideas.
- A public sector respondent referred to a local partnership which seeks to use collaborative finance to **provide funds to support community, business, sports and social enterprise**, and which was seen as having been effective in raising awareness and buy-in from consumers and businesses.<sup>11</sup>

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<sup>11</sup> [www.crowdfunder.co.uk/angus](http://www.crowdfunder.co.uk/angus)

- A public sector respondent **expected to see an increase in collaborative financing**, and suggested that this may be on a more commercial equity basis.
- A business representative respondent cited **examples of collaborative financing outwith the UK**, which could have a role for collaborative providers in Scotland. This included reference to collective insurance schemes such as bread funds.

## Challenges for the collaborative economy

4.3 Key challenges for collaborative financing raised by respondents were:

- A collaborative finance business provider suggested that **mistrust, misunderstanding and what was seen as an adversarial approach between stakeholders** is a key challenge for the collaborative economy. This included specific reference to concerns that excessive regulation will not respect the preferences of the public or smaller providers, aggressive market entry approaches that do not take account of local circumstances, and a need to ensure the public is properly informed. This respondent also raised concerns that the highest profile collaborative platforms will define the market in their own interests, without regard to the diversity of services being offered. This was related to a suggestion that ongoing engagement will be required to ensure regulatory and economic frameworks are based on a genuine understanding of the nature of the collaborative economy.
- **Connectivity** was raised as a challenge, and as potentially limiting opportunities for rural communities to participate in the collaborative economy. It was also suggested that digital skills can be a barrier to some demographic groups accessing the collaborative economy, including specific reference to deprived urban communities.
- A collaborative finance respondent raised concerns that **entrepreneurial support structures can be focused on specific demographics**, and that more diverse support is required.
- **Financial risks and failure to honour obligations** were mentioned as significant challenges by another organisation respondent. It was suggested that these concerns could act as a barrier to individuals or businesses engaging with the sector.

## Protection of contributors

4.4 A small number of respondents made reference to issues around protecting contributors to collaborative financing:

- A collaborative finance business respondent suggested that **existing legislation and regulation may not be fit for purpose** to ensure suitable protections for those contributing to the collaborative economy.

This respondent noted that regulations were produced prior to the development of many of the technologies on which the collaborative economy is based, and as such cannot adapt to the challenges and opportunities associated with the collaborative economy.

- A business representative respondent referred to **specific collaborative finance innovations** such as mutual sick pay funds and cash-pooling schemes. These were seen as having a potentially significant role for providers of collaborative economy services who wish to self-organise to mitigate the risks that they face.
- A public sector respondent noted that **existing legislative and regulatory protections may not fit well with aspects of the collaborative economy** based on trust and mutual benefit – such as collaborative finance. This respondent suggested there may be a need to review legislation to ensure adequate protections for consumers and providers.

## **Balancing regulation with competition and innovation**

4.5 Points raised by respondents in relation to balancing regulation and competition/innovation within collaborative financing included:

- A collaborative finance respondent **proposed a more collaborative approach to regulation**, described as shared regulation. This proposal was based on collaborative platforms being seen as one of a range of actors within the regulatory framework, alongside government. Other stakeholders would include consumers, workers and other providers, community organisers, legal and other professionals, investors and designers. The regulatory approach would be structured around a shared goal, with the full range of stakeholders having a role to play alongside government.
- Another collaborative finance business respondent again suggested that **existing legislation and regulation may not be fit for purpose** to ensure suitable protections for those contributing to the collaborative economy.
- A public sector respondent made reference to **potential issues for crowdfunding approaches** where consumers may not understand the implications when investing or contracting. This respondent suggested that there is a risk of large scale fraud or consumer protection offences, and that awareness raising is required to ensure that contributors understand the legal implications of their involvement.

## Barriers to growth of the collaborative economy

- 4.6 Respondents identified few specific barriers to growth in relation to collaborative financing. Indeed, one respondent suggested that the issues facing the collaborative finance sector were global or European-wide, rather than being specific to Scotland. Nevertheless, it was noted that Scotland has a unique opportunity to address these barriers through an appropriate regulatory approach.
- 4.7 In terms of specific barriers to growth of the collaborative finance sector, the only specific suggestion was **limited broadband and 3G/4G connectivity** across parts of Scotland.

## The role of government

- 4.8 Key points raised by respondents on the role of the government in relation to collaborative financing were:
- A collaborative finance respondent noted that **many of the barriers evident in Scotland reflect global issues**. This respondent called for a mainstreaming approach that put the collaborative economy at the heart of the Scottish economy.
  - Another collaborative finance business respondent felt that **broadband connectivity** was a structural issue and should be a priority for the government – particularly in rural areas. This respondent also wished to see Scottish Government guidance clarifying the law as it related to workers and businesses in the collaborative economy. This included a suggestion for a dedicated advice service for gig economy workers.
  - A public sector respondent suggested that **government guidance would be required** to steer any expansion of collaborative finance into the public sector.

## 5 BALANCING COMPETITION AND REGULATION

5.1 This section provides an overview of responses in relation to balancing regulation with enabling competition and innovation within the collaborative economy. These findings are based primarily on responses from a number of business, business representative and individual respondents. Other respondent types were less likely to refer specifically to balancing competition and regulation, although these respondents did make several points relating to regulation.

### Closed questions

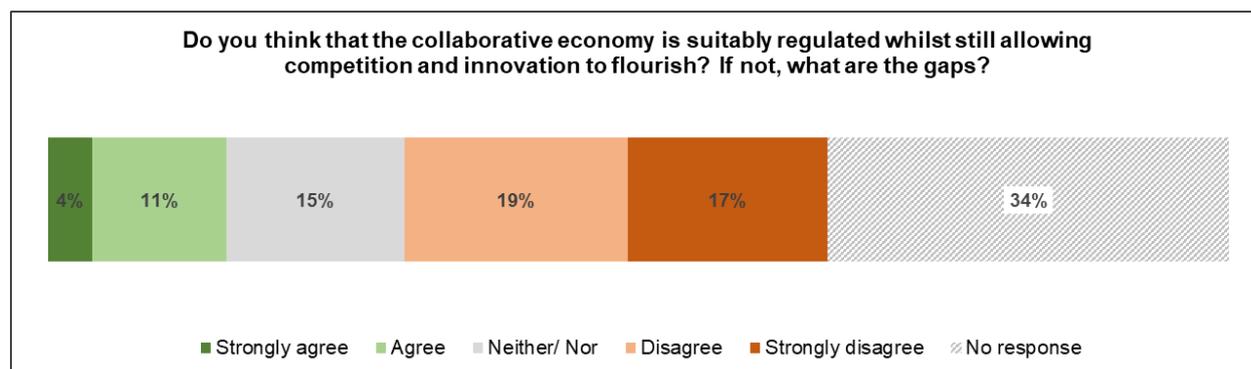
5.2 The call for evidence included two closed questions relating to regulation of the collaborative economy. This included a question seeking views specifically on the balance between regulation and competition/innovation (Figure 1 below), and another focused on protection of contributors (Figure 2 over the page).

5.3 On balance, respondents felt that the collaborative economy is not suitably regulated; 36 per cent felt that existing regulation is not suitable, and 15 per cent that suitable regulation is in place. A further third of respondents did not provide an answer.

5.4 Responses suggest some difference in views across respondent types:

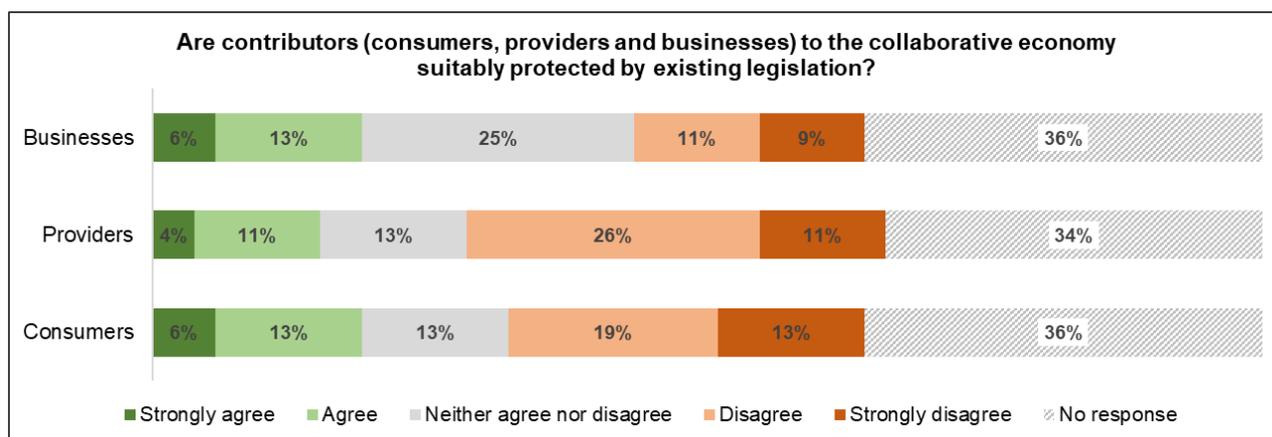
- The respondents showing the most positive balance of views in relation to existing regulation were public bodies, although there remains an even balance between positive and negative views across this group – and nearly a third of local authority respondents felt that suitable regulations are not in place.
- The respondents showing the most negative balance of views on existing regulations were businesses, business representative bodies, and individual respondents. The majority of individuals and nearly half of businesses felt that existing regulations are not suitable.

**Figure 1: Do you think that the collaborative economy is suitably regulated whilst still allowing competition and innovation to flourish?**



- 5.5 Views were somewhat mixed in relation to protection of contributors to the collaborative economy. On balance, respondents felt that consumers and providers are not suitably protected by existing legislation, although responses do not indicate a majority view; 32 per cent felt that consumers are not suitably protected (19 per cent suggested that consumers are suitably protected), and 38 per cent that providers are not suitably protected (15 per cent felt that suitable protections are in place). Views were more evenly balanced in relation to protection of businesses, with 21 per cent suggesting that there are not suitable protections in place, and 19 per cent that there are suitable protections. The lack of a clear majority view on this topic is also reflected in more than a third of respondents not answering this question.
- 5.6 Views were broadly consistent across respondent types. The overall balance of views was similar for group and individual respondents, and across the main types of group respondent. For example, the overall balance of views was similar for businesses/ business representatives, public sector and other group respondents. However, as the summary of written responses over the following pages indicates, there is some difference of opinion between collaborative economy providers and more traditional businesses.

**Figure 2: Are contributors (consumers, providers and businesses) to the collaborative economy suitably protected by existing legislation?**



	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No response	Total
Consumers	3	7	7	10	7	19	53
	6%	13%	13%	19%	13%	36%	100%
Providers	2	6	7	14	6	18	53
	4%	11%	13%	26%	11%	34%	100%
Businesses	3	7	13	6	5	19	53
	6%	13%	25%	11%	9%	36%	100%

5.7 Several respondents also made specific **points relating to consumer protections, that did not fall under the themes considered over the following pages**. The key points raised were:

- Reference was made to existing consumer protection law as providing a basis for protection of consumers of collaborative economy services. It was also noted that the European Commission has produced guidance on the application of EU consumer protection law to collaborative business models.
- Several respondents referred to a lack of clarity for consumers around the status and liabilities of collaborative providers and platforms, and the potential for this to lead to a lack of understanding of the protections that apply. This included reference to a recent European Commission study which identified the extent to which consumers of collaborative services are unaware of rights and processes if something goes wrong.<sup>12</sup> The potential for a lack of clarity or understanding to undermine consumer confidence in collaborative platforms was also highlighted.
- A public sector respondent highlighted the importance of trust for the collaborative economy. It was noted that many providers using collaborative platforms cannot rely on traditional sources of trust such as recognised branding or face to face contact. In this context, rating and review mechanisms are widely used across the collaborative economy, and have the potential to provide an incentive for businesses to perform well and encourage investment. However, this respondent also referred to concerns around the potential for consumers to be misled by reviews, and noted the importance of guidance for businesses to ensure open and honest use of online reviews and endorsements.

### **Opportunities for the collaborative economy**

5.8 The **importance of ensuring fair competition** was highlighted by some respondents. This included specific reference to the potential for competition to deliver better quality and convenience of services, to provide greater choice, and to lower prices. Several respondents highlighted the potential for collaborative platforms to provide more accessible routes to market for new and smaller businesses, including for providers who may otherwise have been unable to sustain the cost and risk associated with starting a business. A public sector respondent noted that this could include providers using new and innovative approaches, with the potential to stimulate further innovation within the collaborative economy, and existing providers to adjust.

5.9 However, several business representative respondents expressed **concerns around a perceived lack of regulation and enforcement of collaborative businesses**, with some of the view that this had resulted in unfair competition

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<sup>12</sup> *Exploratory study of consumer issues in online peer-to-peer platform markets (2017)*, European Commission.

with existing businesses. Some suggested that collaborative platforms had taken advantage of this to grow at the expense of existing businesses. A business representative also suggested that enforcement of existing regulations for the collaborative economy was being restricted by a lack of information on operators. This included specific concerns that collaborative platforms are not currently providing sufficient information to enable regulation of service providers using these platforms.

- 5.10 In terms of the regulatory approach, a small number of business representative respondents noted the **importance of regulation being proportionate**. This included suggestions that care is required to ensure regulation of the collaborative economy does not lead to unintended negative consequences for collaborative providers operating fairly, for other business sectors, or for the wider public (for example by limiting choice). This included specific reference to the potential for regulation of peer-to-peer accommodation to have a negative impact on short-term rentals more widely, described as ‘an important part of Scotland’s vital tourist industry’.

### Challenges for the collaborative economy

- 5.11 Respondents identified several potential challenges for the collaborative economy in relation to balancing regulation and competition:
- Several respondents expressed a view that **new providers using the collaborative economy are not subject to the same enforcement of regulation** as is the case for traditional businesses. These respondents felt that this had led to what they deem unfair competition, for example where new market entrants are not subject to the same regulatory and taxation costs. This included reference to businesses and platforms operating within the collaborative economy, and to individuals using collaborative platforms to provide goods and services.
  - A business respondent **questioned claims that the collaborative economy has led to unfair competition** with existing businesses. This was with specific reference to competition between peer-to-peer accommodation (and the short-term rentals sector more widely) and hotels. This respondent noted examples of hotels successfully diversifying their accommodation offer, and cited evidence suggesting that short-term rentals have not had a significant impact on the hotel sector.<sup>13</sup>
  - A small number of public sector respondents with a specific focus on the transport sector noted the **potential for peer-to-peer and other innovative transport services to compete with public transport**. These respondents saw a need for regulation to enable new business models to be developed through the collaborative economy, while protecting essential public transport services.

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<sup>13</sup> This included reference to specific hotel chains, and to Impact of the short-term rental industry in Europe, (September 2016) Niki Nutsch, nutschassociates.com.

- An individual respondent suggested that **competition from individuals providing services through collaborative platforms could stifle innovation amongst small businesses** who do not have access to the resources required to achieve scale quickly.
- Several respondents suggested that **regulatory change is required to ensure equality of protection and fair competition** for all businesses. This view was primarily expressed by respondents who see new collaborative providers as having an unfair advantage, although a business representative respondent also noted that new business models may also be disadvantaged by regulations designed for traditional providers.
- A small number of business respondents noted the **importance of regulation respecting the needs of all stakeholders**, and for example balancing the preferences of what were described as ‘powerful incumbents’ with smaller providers seeking access to markets. It was also suggested that care will be required to ensure that regulation of financially motivated collaborative businesses will not negatively impact on pure sharing elements of the collaborative economy. These concerns were reflected in a suggestion that development of regulation must be based on an accurate understanding of the collaborative economy, and should draw on the views and experiences of all stakeholders.

### Protection of contributors

- 5.12 A small number of respondents **perceived a lack of enforcement of existing legislative protections**, and suggested that this had led to unfair competition, for example where new market entrants are not subject to the same regulatory and taxation costs. A business respondent referred to competition within collaborative platforms as having the **potential to undermine protections for providers of services**. This was raised with specific reference to the Uber platform; the respondent suggested that increasing competition between the growing numbers of providers using the platform had increased the risk that providers earn below the minimum wage.

### Balancing regulation with competition and innovation

- 5.13 Key points raised in relation to balancing competition and regulation included:
- A number of respondents referred to questions around the **extent to which regulation should apply across the collaborative economy**. This included a suggestion from a public sector respondent that regulation may vary dependent on the nature of collaborative transactions, for example across consumer-to-consumer, consumer-to-business, or business-to-business transactions. It was noted that decisions will be required on how regulations should apply to these transactions, and that these decisions must take account of a range of factors. This included specific reference to the potential risk of

distorting competition, the degree of risk related to different types of service providers and products, and potential benefits of avoiding burdensome regulation for small or micro businesses. This respondent also noted the risk that over-regulation can limit choice and competition, if for example it rules-out lower quality but cheaper options. The important role of competition law was highlighted here; it was noted that competition law operating after the fact minimises risks of inadvertently stifling innovation and competition.

- Several respondents suggested that there has been **disproportionate enforcement of regulations between collaborative economy businesses and traditional businesses**, and that this has distorted competition. Concerns were also raised around what was seen as collaborative platforms using investor funds to enable under-pricing to undermine competition, and the extent to which more effective regulation is required to address this. A business respondent and an individual also suggested that the global scale of some collaborative platforms does not allow local providers to compete effectively, and wished to see additional regulation. However, a business representative also suggested that competition will suffer if regulation is designed with the aim of protecting incumbent businesses and models.
- A small number of respondents saw potential benefits in **a lighter regulatory approach**. This included a suggestion from a public sector respondent that the success of new technologies and business models could indicate scope for reducing existing regulatory burdens, if a reduction can improve competition while ensuring sufficient consumer protections. However, this respondent also noted that public authorities have been unsure in how to strike this balance in relation to the collaborative economy. Other respondents referred to challenges in meeting international competition, and the extent to which Scotland is perceived as a relatively high cost option in some sectors.
- A public sector respondent highlighted the value of **identifying and evidencing the harm to consumers that regulation is intended to tackle**, to inform decisions on whether potential harm can be handled through other means. This included reference to Competition Impact Assessment Guidelines produced by the Competition & Markets Authority as providing a framework for these decisions.
- A business respondent recommended the **development of a national licensing regime** for transport services, to ensure equality of access to new technologies across the sector – including for collaborative economy and traditional providers.
- A business representative respondent referred to the potential impact on competition associated with the **tax disparity between property-based businesses and online-only businesses**. This included reference to the forthcoming findings of the Barclay review<sup>14</sup> as

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<sup>14</sup> <https://beta.gov.scot/publications/barclay-review-business-rates-scotland-call-submissions/pages/1/>

potentially relevant to the Panel. A public sector respondent also referred to the potential relevance of the Taylor review in relation to collaborative economy businesses and employment rights.

### **Barriers to growth of the collaborative economy**

- 5.14 Relatively few respondents referred to barriers to growth in the context of balancing competition and regulation. Several respondents saw **regulation as a potential barrier to growth** – indeed some appeared to see ‘barrier’ and ‘regulation’ as synonymous to some extent. This included a small number of respondents highlighting the need for careful enforcement of regulations to avoid undermining growth. However, **some respondents felt that the current regulatory framework is insufficient**, or is no longer suited to new business models developed through the collaborative economy.
- 5.15 Several respondents referred to the **domination of large multinational platforms as a barrier to growth and competition**. A public sector respondent also noted that new routes to market offered by collaborative platforms were now being used by traditional operators, and suggested that this could blur boundaries for regulators.

### **The role of government**

- 5.16 Several respondents saw a **role for government in clarifying regulations, and ensuring compliance while allowing competition**. Most of these respondents appeared to favour a relatively light regulatory approach, although some saw existing regulation as largely fit for purpose. A business representative respondent also saw a role for regulation in ensuring a genuinely collaborative economy, and suggested that regulation should differentiate in favour of genuinely collaborative and sharing activity.
- 5.17 Respondents made **specific suggestions for the regulatory approach**:
- Regulation and competition were seen as closely linked, and requiring careful balance. A business respondent proposed a ‘regulatory sandbox’ as a framework for innovation and development, and a drive by government to improve the quality of, and access to, information on the collaborative economy. This included a focus on ensuring transparency in how collaborative platforms and providers operate.
  - Several respondents highlighted the need for a balanced approach to regulation – including a suggestion for this approach to be tailored at a local level. Local authorities were seen as having a significant role in implementation and enforcement of regulations.
  - Several respondents suggested that regulation should be expanded beyond government and the public sector, to involve the private sector in the development and implementation of regulation.

## 6 WORKERS' RIGHTS

6.1 This section provides an overview of responses on workers' rights in relation to the collaborative economy. Findings presented over the following pages are based on responses from three business representative respondents with a specific focus on business and employment, and a broad range of other organisations and individual respondents.

### Opportunities for the collaborative economy

6.2 Opportunities highlighted in relation to workers' rights focused primarily around the potential for collaborative platforms to create new employment opportunities and routes to market for workers. These points were raised by a range of respondent types including business and business representatives, public sector and other organisation respondents – the latter including a trade union respondent.

- A range of respondents (primarily business and business representatives, but also including public sector and other organisations) referred to the **potential for collaborative platforms to provide additional employment opportunities**. This included the potential for a greater diversity of more flexible opportunities that may suit those with parenting or caring responsibilities, or those in rural areas with more limited access to employment opportunities. Another organisation respondent also suggested that the collaborative economy could offer additional opportunities for supported employment for disabled or disadvantaged individuals. A business representative respondent noted that the collaborative economy could help to develop a more flexible labour market as a key competitive advantage for Scotland.
- A small number of respondents suggested that development of new collaborative platforms have particularly **benefited the self-employed and small businesses** by providing access to new markets. This included specific reference to the potential to improve what were described as below average business start-up rates in Scotland. A business representative respondent suggested that more start-ups and higher levels of self-employment can be associated with the wellbeing of individuals, and benefits for local economies. This included reference to a mapping exercise showing correlation between high levels of self-employment and wider prosperity, and government research showing that the majority of the self-employed are content.<sup>15</sup>

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<sup>15</sup> <http://www.fsb.org.uk/standing-up-for-you/national-offices/scotland/entrepreneurial-towns/highest-and-lowest-self-employed-towns-in-scotland> and [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/500305/understanding-self-employment.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/500305/understanding-self-employment.pdf)

- As is discussed under later sections, several respondents raised **concerns around collaborative platforms imposing self-employed status on providers** where this may not accurately reflect their relationship. Reference was made here to a 2015 Citizens Advice Survey.<sup>16</sup> A business representative respondent suggested that efforts to tackle inappropriate use of self-employed status should be proportionate, and take care not to negatively impact on the majority of the self-employed community.
- A small number of respondents referred to **opportunities arising through the collaborative economy for self-organisation**, including cooperatives and bargaining for workers. This included a suggestion that the Scottish Government has a role in strengthening the institutional framework and the creation of new mechanisms to support worker participation, and specific proposals to support self-organisation.

## Challenges for the collaborative economy

6.3 Respondents raised a number of **concerns around protection of providers of collaborative economy services**, and this was seen as a significant challenge for the collaborative economy. This includes points raised by three business representative respondents with a specific focus on business and employment, and comments from a broad range of other organisation and individual respondents.

- The most common concerns were around the **extent to which the classification of providers as self-employed accurately reflects their status**. This was identified by a number of respondents as a significant issue for the collaborative economy, with concerns raised around the extent to which providers are subject to substantial control from collaborative platforms, while lacking the benefits associated with employment. A small number of respondents also referred to potential risks for individuals' health and wellbeing, for example as a result of a blurring of the distinction between work and leisure time. A business representative respondent referred to having received a substantial number of calls from existing businesses with concerns around business and employment practices within the collaborative economy. However, others suggested that there have been long-standing uncertainties around the employment status of the self-employed, including reference to the lack of a statutory definition of self-

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<sup>16</sup> <https://www.citizensadvice.org.uk/about-us/how-citizens-advice-works/media/press-releases/bogus-self-employment-costing-millions-to-workers-and-government/>

employment. These respondents also referred to a series of reports and inquiries around self-employment.<sup>17</sup>

- Several respondents suggested that there is a **need for greater clarity around employment status** (and associated rights and taxation) for those working in the collaborative economy – to ensure equality of opportunity across the economy, to prevent providers from being exploited, and to provide certainty to collaborative economy businesses. Another organisation respondent noted that this would be a particular benefit for younger people, who account for a substantial proportion of providers within parts of the collaborative economy. A business respondent also referred to an employment tribunal in 2016 finding that providers contracted by Uber are workers, rather than self-employed.<sup>18</sup>
- The issue of **self-employment status was raised as a particular concern in relation to the potential for the collaborative economy to support delivery of public services**. In particular, a business representative respondent questioned whether the flexibility and autonomy of self-employment was appropriate for the delivery of essential services.
- Respondents raised a range of **other concerns relating to working arrangements in the collaborative economy**. This included reference to providers earning below the minimum wage after deduction of costs, a lack of control over charges levied by collaborative platforms, drivers being required to accept jobs based on partial information, and providers facing substantial charges if they are unable to secure sick cover.
- Several respondents noted the **diversity of business models across the collaborative economy**, such that individuals may engage with the collaborative economy under a range of working arrangements and potentially using a different employment status. The increasing number of individuals with multiple jobs was also mentioned as raising potential workers' rights issues. This included a suggestion that the focus should be on ensuring good working conditions for all providers, irrespective of their employment status. A business representative respondent also made specific reference to the potential role of 'worker' status, where working arrangements fall between self-employment and employee status. It was noted that this status confers some of the protections afforded to employees, while acknowledging the flexibility of many working arrangements in the collaborative

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<sup>17</sup> *Mapping self-employed across Scotland* (2017), FSB Scotland; Taylor Review of Employment Practices in the Modern Economy (2017); Scottish Affairs Committee's Inquiry into sustainable employment (2016); Scottish Government consultation on social security (2016); *Home Truths: The true value of home-based businesses* (2015), FSB Scotland; *Micros Untapped: Realising the employment potential of micro-businesses* (2012), FSB Scotland.

<sup>18</sup> *Reasons for the reserved judgement on preliminary hearing sent to the parties on 28 October 2016*, Employment Tribunals cases 2202550/2015 & others.

economy – although the respondent noted that there may be a need to consider the tax treatment of ‘workers’ if the status is to be widely used.

- A small number of respondents raised specific **concerns around job displacement and workers’ rights associated with increasing automation**. This was raised in relation to the collaborative economy and across the wider labour market, and included citation of a recent Institute for Public Policy Research Scotland report which identified a substantial proportion of jobs as being at high risk of automation.<sup>19</sup> Another organisation respondent expressed concerns that increasing automation could further exacerbate what was seen as a race to the bottom in terms of wages, terms and conditions.

#### 6.4 Respondents referred to a range of **potential approaches to addressing these issues**:

- A business representative respondent proposed a detailed matrix as a means of providing clarity around what constitutes self-employment. The matrix is presented as a tool for individuals and businesses across all sectors (including the collaborative economy), and is based on a range of factors relating to autonomy, control of working process and environment, business risk, and level of integration in the business. These factors are used as indicators of whether a provider is genuinely self-employed, and to identify changes required for working arrangements to achieve self-employed status.
- It was suggested that negotiation of proper self-employed contracts with providers would resolve concerns around their classification, and ensure a fairer sharing of profits across the sector.
- Reviewing business regulation and policy to reflect the diversity of modern business models.
- Consider piloting initiatives to help self-employed people to work collectively to mitigate the risks they face.
- Re-evaluating the Scottish Government’s labour market strategy to take account of the increasing significance of self-employment.
- Assessing the support available for the self-employed to develop their skills.

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<sup>19</sup> *Scotland's Skills 2030* (2017), Institute for Public Policy Research Scotland.

## Protection of contributors

6.5 Respondents raised a broad range of issues relating to protection of providers of collaborative economy services. These reflected some of the challenges noted earlier, and are also consistent with findings discussed later in relation to regulation and the role of government.

6.6 In terms of the **protection of providers of services**, respondents made the following points.

- A range of business, business representative and public sector respondents made reference to what were **seen as insufficient protections for providers**. These comments included reference to a research report focused specifically on workers' rights in the transport sector of the collaborative economy<sup>20</sup>, and included reference to
  - the absence of limits on numbers of contractors (and the implications for providers' ability to secure sufficient work);
  - a lack of control over how much providers will be paid for a job/task leading to individuals earning below the minimum wage;
  - providers bearing sometimes substantial costs associated with the provision of services;
  - a lack of control over charges levied by collaborative platforms;
  - the potential for ratings systems to have an unfair influence on providers' ability to earn;
  - providers facing substantial charges if they are unable to secure sick cover;
  - extensive use of zero hours contracts;
  - use of agency workers as a matter of the permanent culture in some workplaces; and
  - a suggestion that overly complex contracts can be a barrier to ensuring providers have access to sufficient protections.
- A substantial number of those providing comment on workers' rights raised **concerns around the employment status of providers across the collaborative economy**, and a need for greater clarity on the appropriate status of providers – and on their rights.<sup>21</sup> Some suggested that existing employment statuses (employee, worker, self-employed) should be sufficient to capture the range of working arrangements, but questioned whether these categories are used

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<sup>20</sup> *Sweated Labour: Uber and the 'gig economy'* (2016), Frank Field and Andrew Forsey.

<sup>21</sup> <https://www.citizensadvice.org.uk/about-us/how-citizens-advice-works/media/press-releases/bogus-self-employment-costing-millions-to-workers-and-government/>

appropriately. It was also suggested that the lack of clarity around employment status is enabling some businesses to exploit providers by using a self-employment status that does not accurately reflect working arrangements, and which denies providers the rights associated with other types of employment. Specific reference was made here to a recent report by the House of Commons' Work and Pensions Committee.<sup>22</sup> A public sector respondent also noted examples of collaborative economy businesses changing terms and conditions to ensure compliance with self-employed status.

- Another organisation respondents referred to **increasing numbers of individuals in insecure work**. This included evidence from the TUC that a growing proportion of those in insecure work are doing so on an involuntary basis, and Chartered Institute of Personnel and Development research suggesting that most collaborative economy providers want employment rights.<sup>23</sup>
- A small number of business respondents raised concerns around the **potential for platforms to develop monopolies**, and for this power differential to harm workers' rights.
- A small number of respondents raised specific concerns that **resourcing of enforcement is insufficient to protect workers' rights**.
- Another organisation respondent noted that the issues highlighted in relation to **growing numbers of people in insecure work, and inappropriate use of self-employment, also apply outwith the collaborative economy**. Indeed, it was suggested that traditional sectors such as retail, hospitality and care provision may account for the majority of individuals affected by these issues.

#### 6.7 Reflecting these concerns, respondents made a range of **suggestions for approaches to improve protections**:

- Ensuring appropriate employment status of all providers across the collaborative economy was suggested by a range of respondents. A small number suggested that effective enforcement of existing legislation should be sufficient to address concerns. However, others suggested a need for a statutory definition of self-employment. This included a detailed proposal from a business representative body, based around:
  - control over day to day tasks;
  - providers not being obliged to undertake work beyond that specified by their contract;

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<sup>22</sup> *Report on self-employment and the gig economy* (2017), House of Commons' Work and Pensions Committee.

<sup>23</sup> *Most gig economy workers 'want employment rights* (2017), People Management

- a right to use a substitute to do their work;
- payment linked to completion of a job rather than time worked; and
- multiple clients in a 12-month period.
- Respondents suggested a range of specific changes to address inappropriate use of employment statuses. These included:
  - strengthening of penalties for companies using contract clauses to prohibit litigation over employment status;
  - suspension of tribunal fees for workers challenging their employment status;
  - introduction of a summary process for workers wishing to challenge their employment status at tribunal; and
  - placing the burden of proof on employers to show that providers of services are not 'workers' or employees.
- A business representative respondent also noted that approaches to deal with inappropriate use of self-employed status should not disadvantage the majority of self-employed individuals for whom this status is an accurate reflection of their working arrangements.
- Other changes proposed by respondents to improve workers' rights in the collaborative economy included:
  - Restricting numbers of licences issued to collaborative economy businesses;
  - A ban on use of zero hours contracts;
  - Ensuring all workers have a right to a written statement of pay and conditions, including expected hours or work;
  - Providing low-paid workers with access to Statutory Sick Pay equal to that of other employees;
  - Extension of pensions auto-enrolment to include the self-employed (via tax returns);
  - Legislation to ensure all providers receive a minimum level of pay;
  - A 10 per cent upper limit on commission charged by platform operators;
  - A requirement for all collaborative economy drivers to use meters to ensure they are paid correctly for each trip;

- Consideration of conferring additional rights on providers classified as ‘workers’ – including specific reference to the right to challenge unfair dismissal; and
- Consideration of models for self-organising that may help the self-employed to collectively work to address the risks they face.
- In relation to achieving change, another organisation respondent noted that areas of employment legislation are reserved to the UK Government, but suggested that there remains scope for the Scottish Government to drive change. This included reference to the creation of new social security benefits, and potential for the Scottish Government to use its leverage through procurement and assistance grants to improve workers’ rights in the collaborative economy.

### **Balancing regulation with competition and innovation**

6.8 Several respondents suggested that existing regulations are broadly fit for purpose to achieve the required balance between protecting contributors and allowing competition and innovation. However, most of those providing comment on workers’ rights highlighted concerns or potential areas for change.

- **A need for regulations to better protect workers’ rights.** This included reference to clarifying the legal status of providers, and tackling the bogus use of self-employment by some collaborative economy businesses.
- A small number of business representatives saw a **need to ensure that regulation reflects the diverse range of business models and working arrangements** that characterise the collaborative economy – and which is a key attraction for some providers. This included a suggestion that there is a need for regulation to adapt in response to new business models.
- A business representative respondent drew a **distinction between non-collaborative and genuinely collaborative and sharing platforms** – the latter enabling providers to manage their interactions and protect their interests, and where the imbalance of power between platform and provider is minimised. It was suggested that existing regulation should apply to platforms that replicate established consumer and employment arrangements, but that new, lighter touch regulation would be more appropriate for genuinely collaborative platforms.
- A small number of business and other respondents referred to the **risk of monopolies developing across the collaborative economy.** These concerns were reflected in suggestions that regulation should extend beyond protection of contributors, to encourage businesses away from monopoly and dominance of a sector. The potential for

development of peer-to-peer transport services to ultimately result in automation, and associated loss of job opportunities for providers, was also referenced by these respondents. Again, this was reflected in suggestions that regulation needs to be prepared for the implications of increasing automation.

- Another organisation respondent recommended **regulation to support collective bargaining for providers** of collaborative economy services, including a specific suggestion for trade union members at board level. This included proposals for the development of new sectoral bodies bringing together unions and employers to negotiate pay and conditions.
- The **use of public procurement to support regulation** was also proposed by another organisation respondent. This included the introduction of fair wages resolutions to public procurement, and a ban on umbrella companies and bogus self-employment being awarded public contracts.
- Another organisation respondent proposed the **creation of a broad based 'Future of Automation' Commission in Scotland**, to include representation from employers, trade unions, research councils and academics.

## Barriers to growth of the collaborative economy

6.9 A relatively small number of respondents made specific reference to workers' rights in the context of barriers to growth of the collaborative economy. Comments from these respondents reflected some of the workers' rights issues highlighted earlier:

- Several respondents referred to **poor job security and workers' rights as a particular issue for the collaborative economy**. This included reference to a perceived lack of legal protection for providers of services, and concern that any further removal of barriers to the collaborative economy should not be at the expense of workers' rights.
- A small number of respondents pointed to a **lack of employee voice and representation** as an issue within the collaborative economy. This included a representative of traditional service providers warning against workers' rights being presented as a barrier to growth, or as an element that should be removed to support growth.
- A small number of respondents perceived a **lack of investment in skills and training**, and a shortage of skilled workers across parts of the collaborative economy.
- Another organisation respondent referred to **low wages** as a problem within the collaborative economy, including the risk of workers having to accept low wages due to job insecurity.

## The role of government

6.10 A range of respondents referred to workers' rights, and clearly saw the protection of rights as a significant element of the government's role. This included business, public sector and other organisation respondents. Specific points raised by respondents were:

- Several respondents referred to the **role of the government in ensuring stronger protections for workers** in the collaborative economy. This included specific suggestions for modernising the Competition Act to include workers' interests, and to making it easier for workers to hold their employers accountable.
- Several respondents considered how **government could help to frame and shape the collaborative economy in Scotland**. This included suggestions for government guidance or charters on workers' rights, and encouraging collaborative models that integrated workers' rights from the outset. Reference was also made to the potential role of government in preventing monopolies as also offering better guarantees to workers.
- A small number of respondents referred to a **need for stronger support networks for workers** - such as an advice service for providers of collaborative economy services.
- A small number of respondents referred specifically to the issue of **low wages across the collaborative economy**, and the potential application of the Scottish Living wage to the collaborative economy.
- Another organisation respondent wished to see **government action on zero hours employment and bogus self-employment** within the collaborative economy. This respondent also suggested that regulation of the collaborative economy should take account of other initiatives such as a Universal Basic Income. It was also suggested that government should create structures to help workers hold companies to account.

## 7 IMPLICATIONS FOR TAXATION

- 7.1 This section provides an overview of responses around tax implications of the collaborative economy. A range of respondents raised issues in relation to tax implications, including businesses, business representatives, public sector, other organisation and individual responses.

### Opportunities for the collaborative economy

- 7.2 Relatively few respondents referred to taxation in relation to opportunities for the collaborative economy. The points noted below are based on a small number of business, business representative and individual responses.
- 7.3 A business respondent and an individual referred to the potential for the collaborative economy to **deliver benefits for taxation revenue by supporting additional economic activity**. An individual respondent also referred to potential benefits associated with the collaborative economy, and cautioned that the approach to taxation should not seek to 'tax away' collaborative business models.
- 7.4 In terms of **potential regulatory changes** to address these concerns, a business representative respondent wished to ensure that these changes would not reduce the current preferential treatment of the genuinely self-employed. An individual respondent also saw an opportunity for tax incentives to be introduced for co-operatives, within the collaborative economy and more widely.

### Challenges for the collaborative economy

- 7.5 Comments on taxation and challenges for the collaborative economy focused primarily on **the extent to which providers using collaborative platforms are subject to the same level of taxation as other businesses**. Several respondents raised concerns regarding the structure of collaborative platforms, including suggestions that in some cases this appears designed to minimise overheads and taxation. This included concerns that collaborative businesses are using bogus self-employment to avoid tax, and reference to platforms being domiciled overseas such that corporation tax is not paid within the UK. A business representative respondent also suggested that government considers the taxation of individuals with 'worker' status, seen as potentially applying to some collaborative economy service providers. Some respondents suggested that any differential in taxation of collaborative and traditional providers could lead to unfair competition.
- 7.6 A small number of respondents focused specifically on **peer-to-peer sharing, and suggested that this could undermine tax revenues**. This included reference to a range of specific issues such as providers of peer-to-peer accommodation paying Council Tax rather than business rates<sup>24</sup>, providers not being subject to VAT, and the current £7,500 per annum rent a room tax-

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<sup>24</sup> It should be noted that some accommodation providers may not be required to pay business rates.

free allowance. This included some who also felt that peer-to-peer sharing could lead to greater automation of services, which could further reduce tax revenues through job displacement.

- 7.7 Finally in relation to taxation, a business representative respondent referred to the **need for better information on providers using collaborative platforms**, to support enforcement of tax legislation.

### Protection of contributors

- 7.8 Several respondents raised concerns regarding the **potential for collaborative platforms and providers using these platforms to pay lower levels of tax than other businesses**. This included specific concerns around use of self-employment status, and the extent to which this is an accurate representation of providers' status.
- 7.9 In this context, some respondents wished to see a **change in tax legislation and enforcement** – although a business representative respondent noted that any action in relation to taxation of the collaborative economy should not disadvantage genuinely self-employed people in the tax system. A business representative respondent suggested that government considers the taxation of individuals with 'worker' status, seen as potentially applying to some collaborative economy service providers. It was also suggested that HMRC should be provided with sufficient resources to enforce compliance with the tax system across the collaborative economy.
- 7.10 A business representative respondent also suggested that the **tax system could be used to improve protections for providers** of services across the collaborative economy. This included a specific proposal that the principle of auto-enrolment for pensions should be extended to self-employed workers, and that the tax return could be used to achieve this.

### Balancing regulation with competition and innovation

- 7.11 Several respondents raised concerns regarding a **perceived disparity in tax burden for collaborative platforms and traditional businesses**. This was highlighted as distorting competition between collaborative and other service providers, and as potentially leading to a significant loss of tax revenue as the collaborative economy continues to grow.
- 7.12 In terms of **specific areas of concern**, respondents referred to peer-to-peer accommodation providers' tax liability being reduced by the rent a room scheme, collaborative platforms being structured to minimise their tax liability, VAT being levied only on the service fee element of peer-to-peer accommodation costs, a lack of data from collaborative platforms on service providers, and concerns that some providers may be failing to fully declare their income via the collaborative economy. A business representative respondent also referred to challenges for regulatory and tax systems in dealing with an increasing share of business activity being conducted from domestic premises.

7.13 In relation to approaches to tackle these issues, a business representative respondent highlighted potential for information collected through the tax system to support enforcement of regulations.

### **Barriers to growth of the collaborative economy**

7.14 Only one respondent (a business representative body) directly addressed taxation in relation to potential barriers to growth of the collaborative economy. This response referred to potential for **changes in the tax system to help resolve barriers to growth**. This included reference to simplification of tax declarations as a potential benefit to self-employed workers within the collaborative economy. This respondent also highlighted a need to improve understanding of tax exemptions for individuals in the peer-to-peer accommodation sector.

### **The role of government**

7.15 The **need to ensure fair and appropriate taxation** was highlighted by a number of respondents as a key role for the government. The following specific points were made by respondents in relation to the government's approach to taxation and the collaborative economy:

- Several respondents felt that **ensuring collaborative economy businesses contributed to tax revenues fairly** should be central to the government's role. This reflected specific concerns around the extent to which some collaborative providers do not pay tax in the UK.
- **Advice and clarification of tax regulations** was also seen as a significant role for government – through for example, publishing guides for workers and employers.
- An individual respondent highlighted the importance of **access to and sharing of data** in terms of ensuring fair taxation across sectors.
- A business respondent suggested that the government should **consult widely on any proposed changes to taxation**.
- A transport representative respondent suggested that any long-term **plans to replace drivers with autonomous vehicles would be a significant threat to tax revenues**.

## 8 CHANGING ROLE OF CONSUMERS

8.1 This section provides an overview of responses in relation to the changing role of consumers within the collaborative economy, and the extent to which the distinction between consumers and providers is being blurred. These findings are based on a range of responses including those from businesses, business representatives, public sector respondents, other organisations and individual respondents.

### Opportunities for the collaborative economy

8.2 The changing role of consumers was highlighted in relation to opportunities for the collaborative economy by a range of respondents. Key points raised by these respondents included:

- Several respondents, across most respondent types, noted the extent to which the collaborative economy **offers individuals the opportunity to become service providers** – indeed this was referred to by one respondent as ‘at the heart of the sharing economy’. This included specific reference to enabling individuals to generate income from under-used assets such as homes and cars. A small number of respondents also referred to the collaborative economy as providing a platform for individuals to become more active participants in the provision of public services, and in democratic processes or social movements. For example, a public sector respondent noted potential opportunities for use of the collaborative economy in relation to public assets – in terms of individuals supporting maintenance or running of public assets, and/or public sector services making use of under-used assets.
- The **diversity and flexibility of opportunities** was highlighted as a significant factor in growing numbers of individuals using collaborative platforms to provide goods or services. This included reference to the extent to which individuals can balance these opportunities with other work or caring commitments, and that collaborative platforms enable individuals to become providers with minimal capital outlay. A small number of respondents also noted that improvements in digital connectivity had been particularly significant for individuals in rural areas, in terms of providing access to platforms to sell goods or services.
- Concerns noted earlier in relation to **regulation of the collaborative economy** were highlighted by some respondents, specifically in relation to the blurring of the line between consumers and providers. A small number of business representative respondents highlighted that individuals providing goods or services via collaborative platforms should be subject to the regulations which apply to existing businesses. In this context, it was noted that individuals entering the collaborative economy may not have prior experience as providers of services; some saw this as increasing the risk of non-compliance with existing

regulations. Reference was also made to a lack of information on the number and profile of individuals providing goods and services via collaborative platforms.

- A business representative respondent suggested that the increasing numbers of individuals becoming collaborative economy providers on a hobby basis, **could lead to growth in entrepreneurial activity and business start-up**. This included reference to evidence on the proportion of individuals who start businesses while still in regular employment, and a suggestion that this casual use of collaborative platforms could also be translated into full-time business activity.

### Challenges for the collaborative economy

- 8.3 Few respondents made specific reference to the changing role of consumers as a challenge for the collaborative economy. The issues raised by these respondents focused around the issue of **regulation of individuals entering the collaborative economy as providers**. In this context, several respondents referred to challenges around the blurred distinction between consumers and providers. It was suggested that clarity is required in relation to how regulation can be used to ensure equality of opportunity.
- 8.4 A small number of respondents also noted that **individuals providing goods or services via collaborative platforms should be subject to the regulations which apply to existing businesses**. Respondents also noted that new entrants (individuals and small businesses) using the collaborative economy may be unaware of the legal and regulatory frameworks in which they operate. It was suggested that additional support or guidance may be required to ensure that these providers understand their obligations, and appreciate the costs associated with compliance.

### Protection of contributors

- 8.5 Relatively few respondents made specific reference to protection of contributors in the context of the changing role of consumers within the collaborative economy. Several of these respondents referred to the prevalence of individuals entering the collaborative economy as providers, and the **extent to which these individuals may balance this with other employment or commitments**. Some referred to the potential for these individuals to be unaware of the regulations with which they are expected to comply. This was seen as having the potential to undermine protections for consumers.
- 8.6 A public sector respondent suggested that **consumers may have fewer rights when transacting directly with other consumers**, rather than with a business or platform.

- 8.7 Respondents also noted that these **individuals may gain an unfair advantage over established businesses** if they are not complying with the full range of regulations. Reference was made to a lack of information on the number of individuals using collaborative platforms who may not be in compliance with regulations.
- 8.8 Several respondents also saw a **need for clarity on the regulatory framework** and the definitions that support enforcement of regulations. This included a suggestion that the blurring of the distinction between consumer and provider means that it can be difficult to authorities to assess which is the more vulnerable party requiring protection.

### **Balancing regulation with competition and innovation**

- 8.9 A small number of respondents made specific reference to balancing regulation and innovation in the context of the changing role of consumers.
- 8.10 Several respondents referred to **potential risks of individual service providers being unaware of or failing to comply with regulations**. However, others wished to see a regulatory approach that distinguishes between individual and business collaborative economy providers. A business representative respondent suggested that consumers can feel that there is an equal exchange where the service provider is also an individual. This equality was highlighted specifically for genuinely collaborative transactions such as sharing resources, although respondents also appeared to draw a broader distinction between individuals providing services on an occasional basis, and businesses acting in a professional capacity. In this context, a small number of respondents suggested that genuinely collaborative exchanges should not be subject to the level of regulation applied to other parts of the collaborative economy.

### **Barriers to growth of the collaborative economy**

- 8.11 A small number of business representative, public sector and other organisation respondents referred to the changing role of consumers and barriers to growth of the collaborative economy. The key points raised by these respondents were:
- A small number of respondents referred to a **lack of knowledge of opportunities for individuals** to engage with the collaborative economy, including as providers. It was suggested that raising awareness of new business models and opportunities could support further growth for the collaborative economy.
  - A business representative respondent referred to **existing tax exemptions, such as the rent a room scheme, as encouraging individuals to engage in occasional peer-to-peer sharing** of assets to supplement their income. It was suggested that similar schemes could encourage growth of peer-to-peer sharing across other sectors, such as transport.

- A public sector respondent suggested that **full enforcement of existing regulation may discourage individuals from entering the collaborative economy as providers**. This respondent saw a potential need for clearer guidance for prospective service providers, and suggested that a gradual adaptation of existing legislation to suit these new business models may be more effective.

### **The role of government**

8.12 A small number of respondents referred to the changing role of consumers and the role of government. These responses focused on the **potential role of government in improving awareness of opportunities** for consumers to become providers, and in removing barriers to the public sector engaging with providers:

- Respondents referred to a potential role for government in raising public awareness of opportunities for individuals to engage with the collaborative economy as providers of services.
- A public sector respondent referred to a potential role for government in encouraging and enabling public sector bodies to support greater community input to use of and management of public assets.

## 9 CREATING SOCIAL VALUE AND SUPPORTING PUBLIC SERVICES

9.1 This section provides an overview of responses in relation to the collaborative economy as a means to create social value and support public services. Relatively few respondents referred specifically to the creation of social value or supporting public services; findings presented over the following pages are based primarily on responses from a small number of business, business representative and public sector organisations.

### Opportunities for the collaborative economy

9.2 Several respondents referred to **potential for the collaborative economy to support broad societal benefits**. This included a number of areas referenced under other themes such as reducing waste by exploiting under-used resources, reducing the environmental impact of transport, diversifying employment opportunities, and helping to connect remote rural communities with population hubs. However, respondents also referred to a range of specific opportunities where they saw the collaborative economy as having a role in providing social value:

- **Providing transport for health and social care, non-emergency patient transport and community transport.** Several respondents noted that various networks and projects are already in place to support asset sharing in relation to transport, and suggested that the collaborative economy provides an opportunity to build on this work. Respondents also referred to potential to improve access to employment and services in rural areas where public transport is limited.
- **Enabling individuals and communities to play a stronger role in the design and development of public services**, and in the provision of public services and management of assets. Respondents also referred to opportunities for the collaborative economy to support more cross-sector working in the provision of services. This included specific reference to provision of social care services, and to enable sharing of assets by third and social enterprise organisations.
- **Enabling those on lower and middle incomes to use assets** that they may not be in a position to purchase outright.
- Potential for greater **collaborative working to build social capital across Scotland's communities**. This was linked to suggestions that the collaborative economy could enable communities to play a stronger role in shaping public service provision and economic strategy.

## Challenges for the collaborative economy

9.3 Several potential challenges were highlighted by respondents in relation to using the collaborative economy to create social value and/or support public services were:

- A business respondent referred to **potential challenges for businesses which meet a social need**, such as vehicle sharing schemes. It was noted that, where businesses are effectively filling gaps in public service provision, financial subsidy may be required to ensure that schemes are financially sustainable.
- A business respondent noted the challenge of **ensuring that regulation of profit-making elements of the collaborative economy should not disadvantage the pure sharing economy** which may be providing social value.
- A small number of public sector respondents referred to **potential for collaborative platforms to support public services** – such as enhancing or extending public transport provision, and improving connectivity of rural or disadvantaged communities. However, these respondents also noted the potential for these collaborative services to compete directly with public transport, and suggested a need for regulation to ensure that this does not undermine or reduce investment in essential public services.
- Another organisation respondent noted a **potential role for public procurement in encouraging collaborative economy models**, and saw a challenge in adapting public procurement processes to support new business models.
- A business respondent highlighted **potential issues for the collaborative economy's use of self-employment**, and scope for collaborative businesses to deliver public services. This respondent suggested that the flexibility and autonomy of self-employment may not be appropriate for the delivery of essential services.

## Protection of contributors

9.4 Only one respondent made specific reference to protection of contributors and creation of social value and supporting public services. This was a public sector respondent highlighting a **need for new procurement models** to enable public sector organisations to procure services from the collaborative economy.

## Balancing regulation with competition and innovation

9.5 A small number of respondents made specific reference to balancing regulation and the creation of social value and supporting public services. The key points raised by these respondents included:

- A business respondent referred to the **potential for the collaborative economy to generate broad benefits for communities**, such as reducing the environmental impact of transport, and providing a more effective alternative to public transport.
- A business respondent saw an **opportunity to engage more citizens**, as a means of dispersing power but also to help develop fairer practices across the collaborative economy.
- A small number of respondents highlighted potential **barriers to use of the collaborative economy to support public services**. These included a potential to adapt public procurement processes to enable use of collaborative learning and training, and to recognise the potential value of spreading public spending across a larger number of small providers. Another organisation respondent also suggested a need to introduce a fair wages resolution to public procurement, particularly in relation to the potential for procurement through the collaborative economy.

## Barriers to growth of the collaborative economy

9.6 A small number of respondents directly addressed issues around social value in relation to barriers to growth – including business, public sector and individual respondents. Some of these respondents **questioned whether the collaborative economy had achieved the desired balance** between genuine collaboration which has potential to deliver social value, and effectively replicating traditional commercial transactions. An individual respondent also saw potential for the collaborative economy to do more to address the urban-rural divide in connectivity and access to opportunities.

## The role of government

9.7 Several respondents commented on the role of government in relation to social value and public services. The key points raised by these respondents were:

- **Information sharing was highlighted as a vital element for innovation** and the creation of greater social value through the collaborative economy. It was suggested that government should ensure that data sharing takes place to support research and innovation.

- Several respondents referred to the **need for change to enable public sector services to engage with and use the collaborative economy**, and saw a role for government in encouraging and supporting this. This included reference to the potential role of public procurement in supporting new business models, and a need to update procurement guidance to enable this. Respondents also referred to existing barriers to public bodies engaging with collaborative finance, or enabling greater community input to use of and management of public assets.
- A public sector respondent made a specific suggestion that **longer term budget settlements for the public sector** (for example of three years or more) could enable public services to make greater use of collaborative approaches in purchasing and asset management.
- A business respondent recommended that the **government should help to nurture collaborative platforms** with a specific commitment to social value, for example through the creation of a fund to provide long-term investment.

## 10 OTHER COMMENTS

10.1 In addition to the main consultation questions around which the call for evidence was structured, a total of 41 (of 52) respondents provided additional written comments within their response. A large majority of these respondents took this opportunity to re-iterate points discussed earlier in this report in relation to one or more of the specific consultation questions. However, some referred to issues or views that had not been raised earlier. The key points of note were:

- A range of respondents referred to **terminology and definitions around the collaborative economy**, and suggested that clarity is required in relation to the providers and services that are included within this term. This included some respondents who noted that the framing of the call for evidence indicated that the Panel is primarily concerned with online platforms, rather than the collaborative economy which can be defined more widely. In relation to the collaborative economy as a whole, several respondents making a distinction between genuinely collaborative or pure sharing models, and providers that were seen as using new technologies to replicate existing service models and business/employment structures.
- A small number of respondents referred to the **composition of the Panel**. This included concerns regarding the inclusion of specific collaborative platforms as members, and a lack of representation for workers.
- Respondents made a range of **comments relating to the call for evidence exercise**. Several respondents specifically welcomed the opportunity to inform policy development, and suggested that this engagement should continue throughout the policy and regulatory development process. This included a business representative body who felt that the timescales for written submissions had been relatively short, and as a result had limited scope for respondents to address the full range of issues being considered by the panel. A small number of respondents also commented on the scope of the panel and the framing of the call for evidence questions – this included commentary noted above in relation to how the collaborative economy is defined.
- Respondents raised the following **issues in relation to peer-to-peer accommodation**, and the short-term rentals sector more widely:
  - A need to recognise the significance of the tourism sector for the wider Scottish economy, and the importance of the short-term rentals sector for Scottish tourism. This included concerns that the approach to regulation of peer-to-peer accommodation, and the short-term rentals sector more widely, is based on an accurate understanding of the sectors and does not lead to unintended consequences.

- Comments questioning the definition of the collaborative economy, and in particular the size and highly commercial nature of some collaborative platforms.
- Recognising that there is a mix of (positive and negative) views on the collaborative economy across accommodation sectors.
- Respondents raised the following **issues in relation to transportation and logistics**:
  - Reference to the collaborative economy resulting in the creation of powerful global market players, and a suggestion that there is now a need to re-thing the relationship between consumers and public and private providers.
- Respondents raised the following **issues in relation to creating social value and supporting public services**:
  - As is noted above, a number of respondents distinguished between collaborative providers with a primary focus on profitability, and genuinely collaborative models which have potential to deliver social value. It was suggested that the collaborative economy has become dominated by commercial interests, and concern expressed around the need to support providers to ensure that opportunities to deliver social value are not lost.
- Several business and other respondents also highlighted a range of **potential barriers to growth**:
  - A shortage of digital skills was seen as a significant barrier for collaborative businesses, although another organisation respondent suggested that this had been exacerbated by a lack of investment from employers.
  - Several respondents referred to limited broadband and digital infrastructure as a significant barrier, including suggestions that Scotland trailed the rest of the UK in this regard. This was seen as a particular problem for individuals and small businesses in rural settings, including reference to some businesses relocating due to the slow pace of change.
  - Reference was made to the significant cost of software and equipment required to enable visually impaired people to engage with the collaborative economy – as consumers or providers. This was seen as a potentially significant barrier to access for this population. The importance of enabling visually impaired people to access these opportunities was also highlighted in the context of addressing the disability employment gap.

## **ANNEX 1 – CONSULTATION RESPONDENTS**

The following organisations and individuals responded to the consultation, and were willing for their response to be made public.

### **Business**

Greatbase Apartments Ltd, also a member of the Edinburgh Old Town Association  
Carplus Bikeplus  
Edinburgh Taxi Association  
HiyaCar  
Liftshare.com Ltd  
United Private Hire Drivers  
RSA and MANGOPAY  
Gumtree

### **Business representative body**

Association of Scotland's Self-Caterers  
British Hospitality Association  
Edinburgh Old Town Association  
Scottish Bed & Breakfast Association (and UK B&B Association)  
Association of independent professionals and self-employed  
Federation of Small Businesses  
The Forum of Private business  
Co-operatives UK

### **Public sector**

Aberdeenshire Council, Economic Development  
Angus Council  
Perth & Kinross Council  
South Lanarkshire Council  
SEStran (South East Scotland Transport Partnership)  
Scottish Fire and Rescue Service  
Society of Chief Officers of Trading Standards in Scotland (SCOTSS)  
Tourism Sector Team, Scottish Enterprise

### **Other group respondents**

University of Edinburgh  
University of Edinburgh & P2P Foundation  
Royal National Institute of Blind People  
Scottish Council for Voluntary Organisations  
Unite the Union

### **Individuals**

There were also responses from 11 individuals.

## ANNEX 2 – TABULAR RESULTS

**Question 3: Are contributors (consumers, providers and businesses) to the collaborative economy suitably protected by existing legislation?**

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No response	Total
Consumers	3	7	7	10	7	19	53
	6%	13%	13%	19%	13%	36%	100%
Providers	2	6	7	14	6	18	53
	4%	11%	13%	26%	11%	34%	100%
Businesses	3	7	13	6	5	19	53
	6%	13%	25%	11%	9%	36%	100%

CONSUMERS	Agree	Neither/Nor	Disagree	No response	Total
Businesses	3	0	5	3	11
<i>Accommodation</i>	1	0	1	0	2
<i>Transport/logistics</i>	1	0	3	2	6
<i>Collaborative finance</i>	0	0	1	1	2
<i>Online marketplace</i>	1	0	0	0	1
Business representative bodies	2	1	2	6	11
<i>Accommodation</i>	0	1	2	2	5
<i>Business/employers</i>	0	0	0	3	3
<i>Other</i>	2	0	0	1	3
Public sector	2	3	4	5	14
<i>Local authorities</i>	1	1	2	3	7
<i>Transport</i>	0	0	2	1	3
<i>Other</i>	1	2	0	1	4
Other organisation respondents	0	1	1	4	6
<i>Higher education</i>	0	1	1	0	2
<i>Third sector</i>	0	0	0	2	2
<i>Workers' rights</i>	0	0	0	2	2
<b>Group respondents (total)</b>	7	5	12	18	42
<b>Individual</b>	3	2	5	1	11
<b>Overall Total</b>	<b>10</b>	<b>7</b>	<b>17</b>	<b>19</b>	<b>53</b>
<b>Overall Percentage</b>	<b>19%</b>	<b>13%</b>	<b>32%</b>	<b>36%</b>	<b>100%</b>

PROVIDERS	Agree	Neither/Nor	Disagree	No response	Total
Businesses	3	0	5	3	11
<i>Accommodation</i>	1	0	1	0	2
<i>Transport/logistics</i>	1	0	3	2	6
<i>Collaborative finance</i>	0	0	1	1	2
<i>Online marketplace</i>	1	0	0	0	1
Business representative bodies	1	1	4	5	11
<i>Accommodation</i>	0	1	2	2	5
<i>Business/employers</i>	0	0	1	2	3
<i>Other</i>	1	0	1	1	3
Public sector	1	4	4	5	14
<i>Local authorities</i>	1	1	2	3	7
<i>Transport</i>	0	0	2	1	3
<i>Other</i>	0	3	0	1	4
Other organisation respondents	0	1	1	4	6
<i>Higher education</i>	0	1	1	0	2
<i>Third sector</i>	0	0	0	2	2
<i>Workers' rights</i>	0	0	0	2	2
<b>Group respondents (total)</b>	<b>5</b>	<b>6</b>	<b>14</b>	<b>17</b>	<b>42</b>
<b>Individual</b>	<b>3</b>	<b>1</b>	<b>6</b>	<b>1</b>	<b>11</b>
<b>Overall Total</b>	<b>8</b>	<b>7</b>	<b>20</b>	<b>18</b>	<b>53</b>
<b>Overall Percentage</b>	<b>15%</b>	<b>13%</b>	<b>38%</b>	<b>34%</b>	<b>100%</b>

BUSINESSES	Agree	Neither/Nor	Disagree	No response	Total
Businesses	3	2	3	3	11
<i>Accommodation</i>	1	0	1	0	2
<i>Transport/logistics</i>	1	2	1	2	6
<i>Collaborative finance</i>	0	0	1	1	2
<i>Online marketplace</i>	1	0	0	0	1
Business representative bodies	2	2	1	6	11
<i>Accommodation</i>	0	2	1	2	5
<i>Business/employers</i>	0	0	0	3	3
<i>Other</i>	2	0	0	1	3
Public sector	1	7	1	5	14
<i>Local authorities</i>	1	2	1	3	7
<i>Transport</i>	0	2	0	1	3
<i>Other</i>	0	3	0	1	4
Other organisation respondents	0	1	1	4	6
<i>Higher education</i>	0	1	1	0	2
<i>Third sector</i>	0	0	0	2	2
<i>Workers' rights</i>	0	0	0	2	2
<b>Group respondents (total)</b>	<b>6</b>	<b>12</b>	<b>6</b>	<b>18</b>	<b>42</b>
<b>Individual</b>	<b>4</b>	<b>1</b>	<b>5</b>	<b>1</b>	<b>11</b>
<b>Overall Total</b>	<b>10</b>	<b>13</b>	<b>11</b>	<b>19</b>	<b>53</b>
<b>Overall Percentage</b>	<b>19%</b>	<b>25%</b>	<b>21%</b>	<b>36%</b>	<b>100%</b>

**Question 4: Do you think that the collaborative economy is suitably regulated whilst still allowing competition and innovation to flourish? If not, what are the gaps?**

Respondent type	Strongly agree	Agree	Neither/ Nor	Disagree	Strongly disagree	No response	Total
Businesses	1	2	1	2	3	2	11
<i>Accommodation</i>	1	0	0	0	1	0	2
<i>Transport/logistics</i>	0	1	1	0	2	2	6
<i>Collaborative finance</i>	0	0	0	2	0	0	2
<i>Online marketplace</i>	0	1	0	0	0	0	1
Business representative bodies	0	1	2	1	2	5	11
<i>Accommodation</i>	0	0	1	0	2	2	5
<i>Business/employers</i>	0	0	0	1	0	2	3
<i>Other</i>	0	1	1	0	0	1	3
Public sector	0	2	4	2	0	6	14
<i>Local authorities</i>	0	1	1	2	0	3	7
<i>Transport</i>	0	0	1	0	0	2	3
<i>Other</i>	0	1	2	0	0	1	4
Other organisation respondents	0	1	0	1	0	4	6
<i>Higher education</i>	0	1	0	1	0	0	2
<i>Third sector</i>	0	0	0	0	0	2	2
<i>Workers' rights</i>	0	0	0	0	0	2	2
<b>Group respondents (total)</b>	1	6	7	6	5	17	42
<b>Individual</b>	1	0	1	4	4	1	11
<b>Overall Total</b>	<b>2</b>	<b>6</b>	<b>8</b>	<b>10</b>	<b>9</b>	<b>18</b>	<b>53</b>
<b>Overall Percentage</b>	<b>4%</b>	<b>11%</b>	<b>15%</b>	<b>19%</b>	<b>17%</b>	<b>34%</b>	<b>100%</b>



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