

The “Sharing” Economy: Issues Facing Platforms, Participants, and Regulators

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Introduction: The Short-Term Rental Advocacy Center (STRAC)

The Short-Term Rental Advocacy Center (STRAC) is a broad-based coalition of property owners and managers, hosts, travelers and businesses that recognizes the value of short-term rentals to both travelers and the local communities they visit. Increasingly, travelers are looking for alternative accommodations, and short-term rentals provide flexible housing options that allow them to spend longer periods of time in communities, in unique accommodations while contributing to the local economy. As such, we believe municipalities should embrace this economic opportunity by working with industry stakeholders to establish a reasonable framework for regulating short-term rental activity so that all may benefit.

As noted by the commission in its announcement, despite the popularity of the term, transactions that occur within the “sharing economy, rarely involve sharing in the traditional sense of the word.” Instead, with respect to short-term rentals, online platforms act as advertisers, intermediaries or facilitators, by connecting travelers with property owners, managers or hosts. These platforms have created a decentralized peer-to-peer marketplace. In the case of short-term rentals, the result is the connecting of individuals with access to properties and accommodations, offering them to travelers who, for a variety of reasons, are seeking an alternative to traditional hotel and motel lodging.

Impact:

In the workshop announcement the commission asks, **“How have sharing economy platforms affected competition, innovation, consumer choice, and platform participants in the sectors in which they operate? How might they in the future?”**

We believe that short-term rental platforms have numerous wide-ranging and positive impacts on all of the above. First and foremost, we believe it is important to understand that short-term rentals as an accommodations option for travelers are not a new phenomenon. For centuries, travelers have sought out for their travel accommodations, everything from a spare room in an underutilized home, to an empty beach house or a cabin at the lake. In many areas of the country, the practice is a time-honored one. With that in mind it is important to acknowledge that short-term rental platforms did not create the market for peer-to-peer accommodations,

but have instead provided innovative solutions that empower both consumers and suppliers who choose to participate in the short-term rental marketplace.

Short-term rental platforms play an integral role in creating an efficient market for travelers, as well as property owners, managers and hosts. As the intermediary that connects the two parties, short-term rental platforms help to facilitate transactions and allow suppliers to meet the demand for short-term rentals by travelers. And because short-term rental sites attract a broad array of both suppliers and travelers, the constant presence of both allows for unique access to individual properties.

As short-term rental platforms have grown and developed over time, they have created a specialized market. This innovation has allowed individuals to compete for travel and tourism dollars, while providing a unique and tailor-made experience to travelers. Additionally, short-term rentals utilize what would in most cases be unused accommodations, in the form of empty rooms or homes. The availability of such accommodations along with growing demand for short-term rentals has fostered a competitive and consumer-centric market.

For short-term rentals, platform participants on both sides have enjoyed positive results through increased access to either consumers or inventory. The innovative approaches of short-term rental platform providers have allowed individuals listing short-term rentals to access consumers in unprecedented ways. Just a decade ago, travelers might not have considered short-term rentals as an option-not because they did not desire a short-term rental-type travel experience, but because their ability to locate and secure this type of accommodation was extremely limited and frequently cost-prohibitive.

Over time, short-term rental platforms have increasingly grown their base of listings, and naturally, competition among short-term rentals owners, managers and hosts has led to more competitive pricing and higher quality offerings for travelers. This, coupled with the ability of travelers to provide feedback and reviews about their accommodations and travel experience, has empowered new consumers by providing them access to information that allows them to make more informed decisions. And because short-term rental platforms do not own the real property being listed and rented, but are instead intermediaries connecting buyers and sellers in an increasingly competitive marketplace, it is in their best interest to ensure both the validity and accuracy of listings, as well as the corresponding reviews of travelers. Failing to do so puts the reputation of the platform at risk, which is the benchmark by which the majority of consumer will base a decision.

In 2014, a study published by leading global travel market research company, PhocusWright, entitled "Share This! Private Accommodation & the Rise of the New Gen Renter," noted that traveler use of private homes and accommodations had risen significantly, from 8% of travelers in 2010, to 14% of travelers in 2013. This is a trend we believe will remain steady in the future. Fortunately, because of competition and the low barrier to entry for this marketplace, consumers should

continue to reap the benefits of increased competition among short-term rental owners, managers and hosts, in turn gaining greater pricing power and finding unique and authentic accommodations that allow them to experience travel destinations on their own terms.

As further evidence for increased demand for short-term rental accommodations by travelers, several leading online travel sites are now offering short-term rentals as options for travelers shopping for lodging. The demand for short-term rentals by business travelers has increased as well. According to a Q2 SpendSmart report released by Certify, a leading online travel and expense management software company, short-term rental provider AirBnB saw growth of 143% in its business bookings between the first and second quarters of 2015.

The commission asks **“How can state and local regulators meet legitimate regulatory goals (such as protecting consumers, and promoting public health and safety) in connection with their oversight of sharing economy platforms and business models, without also restraining competition or hindering innovation?”**

In order for state and local regulators to “meet legitimate regulatory goals,” it is important to first define those goals with respect to sharing economy activity and public policy objectives. The commission specifically mentions the oversight of sharing economy platforms and business models for the purpose of protecting consumers and promoting public health and safety. In this regard, reputational checks and balances often have the ability to far outweigh the regulatory impact of state and local governments’ regulatory framework.

Consumers are increasingly demanding individualized and authentic experiences when it comes to travel, and this, coupled with the ability to access unique and personalized accommodations through trusted intermediaries, have led growth in both travelers and suppliers in the short-term rental market. Travelers who may have otherwise faced challenges such as affordability, access, or specialized needs can now utilize properties that were previously unavailable because they were nearly impossible to locate. At the same time, the development of an efficient platform on which to list properties and engage travelers was also unavailable, and as such, suppliers often had a hard time finding renters. Short-term rental platforms have solved the problem for both sides.

Public policy aimed at short-term rental activity must recognize the technical and operational differences among short-term rental platforms, as well as other online communications and social media channels that may also offer short-term rental accommodations. Additionally, these policy initiatives must also recognize the local zoning and public safety laws that are already in place. For these reasons, standard or model regulation is difficult to achieve.

The commission asks, **“What consumer protection issues—including privacy and data security, online reviews and disclosures, and claims about earnings and costs—do these platforms raise, and who is responsible for addressing these issues?”**

Consumer protection issues surrounding privacy and data security, any sensitive and personal data collected by short-term rental platforms is, and should remain, secured by the platforms. Both suppliers and consumers have a right to privacy when it comes to short-term rental platforms and the data they provide.

Online reviews and disclosures act as a natural checks and balances mechanism in the short-term rental marketplace. As stated previously, short-term rental platforms are heavily invested in their marketplace reputation and as such, are incentivized to ensure both disclosures and any claims are accurate.

Furthermore, on matters of privacy and security, as well as claims about earnings or costs, it is important to recognize that the parameters currently governing other businesses are just as applicable to short-term rental platforms, as they are other sectors of the economy. As such, the commission as well as state and local regulators, already possess the requisite ability to address anything that would fall under unfair or deceptive businesses practices. No separate regulatory framework is necessary to specifically address businesses that the FTC defines as part of the “sharing economy,” such as short-term rental platforms.

The commission asks, **“What particular concerns or issues do sharing economy transactions raise regarding the protection of platform participants? What responsibility does a sharing economy platform bear for consumer injury arising from transactions undertaken through the platform?”**

With respect to short-term rentals, the platforms have, as a means of both protecting themselves and travelers, taken on differing degrees of liability on behalf of platform participants. Not all short-term rental platforms operate under the same business model, and therefore there are differing degrees to which they choose to address liability issues.

That said, the market has been quick to create solutions to liability concerns such as third party insurance products uniquely geared toward protecting travelers, owners, hosts and operators. Such policies are being increasingly integrated into homeowners’ policies or issued as separately policies designed specifically for those engaging in short-term rental activity. It is also in the best interest of short-term rental platforms to ensure the reliability of listings, owners, hosts, and managers, when it comes to properties listed on their sites. To that end, it is also in the best interest of the owner/host or manager to afford proper assurances to travelers.

We do not believe that preemptive measures relating to platform liability and consumer risk are necessary. In fact, such actions are most likely to stymie

innovation among marketplace participants and decrease competition by increasing the barriers to entry in the marketplace. Placing new and unnecessary regulatory constraints or burdens on short-term rental providers will inevitably have an adverse impact on their ability to continue to deliver innovative solutions to consumers seeking short term rentals and lead to fewer choices at a higher cost.

The commission asks, **“How effective are reputation systems and other trust mechanisms, such as the vetting of sellers, insurance coverage, or complaint procedures, in encouraging consumers and suppliers to do business on sharing economy platforms?”**

Feedback and reviews of travel experiences are a major component to a traveler’s decision making. Because online reputational feedback and reviews can occur unfiltered and almost instantaneously, travelers looking to assess short-term rental accommodations can do so more accurately and effectively than was ever possible before. Sharing economy feedback on short-term rentals is often unedited, providing unique insights for travelers and allowing them to make even more informed decisions than would be possible with other accommodations options. Positive reviews inspire travelers and ensure owner access to future guests. These reviews are integral to the marketplace, and protect consumers because they incentivize owners to provide a positive experience.

As demand has increased for short-term rentals, the volume of travelers and suppliers utilizing short-term rental platforms has grown exponentially. Often, short-term rental inventory can favor travelers looking for options, and as such the market will naturally weed out bad actors. Short-term rental platforms have taken measures over time to integrate comprehensive and important reputational feedback mechanisms into their platforms. Doing so has brought a level of trust to the transaction and in turn, comfort to travelers-often at a level that far exceeds that achieved by government regulation. In fact, in a 2015 consumer research study on the sharing economy by PricewaterhouseCoopers LLP, 64% of consumers said that in the sharing economy, peer regulation is more important than government regulation. With this in mind, we believe it is important for the commission to recognize the peer-to-peer regulation already occurring between short-term rental travelers and suppliers.

Recommendations:

We believe that the most important role the commission can play moving forward is to continue to act in an advocacy advisory capacity. Previous comments pertaining to other sharing economy industries and the commission’s counsel to state and local regulators that they need to design regulatory framework that can be responsive to new methods of competition in the marketplace, holds just as true for short-term rental platforms and the short-term rental industry as a whole. The commission should continue to provide guidance to state and local policymakers, particularly in those areas where we have witnessed the growth and expansion of regulatory

policies that curb competition or unfairly and unnecessarily limit short-term rental activity. While state and local officials may not consult with the commission, we encourage the commission be proactive in its recognition and advocacy of short-term rentals as a proven segment of the sharing economy that promotes competition and increased consumer welfare.

We thank the commission for holding the “Sharing Economy” workshop, as well as for its time and consideration of our comments on this matter.