

Citizens Advice evidence to the Scottish Expert Advisory Panel on the Collaborative Economy



Introduction

1. Citizens Advice are pleased to give evidence on the opportunities and challenges posed by the collaborative economy. Citizens Advice is the statutory consumer advocate, with a particular focus in representing consumers in essential, regulated markets and ensuring the needs of vulnerable consumers are met. Jointly with Citizens Advice Scotland, we run the national consumer helpline to help solve consumer problems. Since 2012, this consumer service has handled more than 2 million client contacts. We also support clients with a range of consumer issues through face-to-face advice in local Citizens Advice offices.

2. The collaborative economy offers consumers significant opportunity to get better deals and for the economy as a whole to more efficiently allocate resources based on consumer need, by enabling more consumer-to-consumer trade, facilitating new businesses and employment opportunities and generating income from under-used assets.

3. Alongside these opportunities for consumer market growth lie challenges. Consumer problems cost UK consumers £23bn a year¹ and it is likely that many risks of detriment, such as access to redress and service/good quality can be accentuated in the collaborative economy. Our evidence suggests that 10.7 million people in the UK have experienced problems with an online marketplace transaction². This detriment is not evenly distributed: we find people in NRS social grades C2, D & E are somewhat more likely to experience problems in online marketplaces.

4. In certain ways, as we detail below, the regulatory framework for consumer protection was not designed with a digital, collaborative economy in mind. It is likely that this framework will need updating, without creating burdens that could inhibit the collaborative economy's development. Our research has found that consumers are not, for example, typically aware that their statutory rights depend upon the type of transaction they are entering into. As the role of the collaborative economy increases, the role of consumer education will prove vital.

5. We have focussed our evidence on the three questions we have specific evidence on from our research and experience as an expert provider of consumer advice. We are happy to offer views on other aspects as and when relevant.

¹ *Consumer detriment: counting the cost of consumer problems*

<https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/consumer-policy-research/consumer-policy-research/consumer-detriment-counting-the-cost-of-consumer-problems/>

² *Peer problems: an assessment of the consumer experience of online marketplaces*

<https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/consumer-policy-research/consumer-policy-research/peer-problems/>

What are the best mechanisms for building trust and protecting consumers within the collaborative economy?

6. We've found past evidence of detriment as part of the collaborative economy. Of the cases our consumer helpline saw relating to Gumtree and eBay, for example, between 10-17% related to scams or unknowingly being sold counterfeit goods³. We found that over 1.4m people had been unable to resolve their most recent problem in an online transaction. Platforms taking responsibility to ensure that these issues are minimised will be a critical part of the collaborative economy's success.

7. There are different sets of protection that cover business-to-consumer and consumer-to-consumer transactions that most consumers typically are not aware of. When buying from a business, a consumer is principally protected by the Consumer Rights Act 2015, which determines (among other matters) that any goods sold must be fit for purpose, as described, of satisfactory quality and clear rules set out when consumers are entitled to repair, replacement or refund. In contrast, when buying from a private individual, the item must only be as described and the owner has the right to sell it.

8. The logic behind this distinction is rooted in the assumption that there is less reason to think there is asymmetry in power between buyers and sellers when neither are professional businesses. But as these transactions become more widespread, and both parties are transacting on highly sophisticated platforms, this regulatory inconsistency may be less justified. This is particularly pertinent when less than 40% of consumers know they have fewer rights when buying from private individuals and 64% of consumers believe that private individuals have to tell them about faults before sales. Ensuring that consumers are equivalently protected regardless of the nature of the seller could be one way of building trust in collaborative markets.

9. There are fair arguments that can be leveled against this and regulatory action should not be seen as a replacement for platforms' responsibilities (often platforms' own protection schemes exceed the responsibilities placed on private sellers in any case). It could be argued, for example, that transferring the full protections afforded by the Consumer Rights Act 2015 could place undue burdens on the occasional or hobbyist seller and that - because of the increased reputational incentives that collaborative platforms enable - the need for regulatory intervention is less⁴.

10. Alternatively, the case could be put that all sellers should be placed on a level playing field from a regulatory perspective. We have recommended that the Law Commission

³ Scammers exploiting Gumtree and eBay shoppers

<https://www.citizensadvice.org.uk/about-us/how-citizens-advice-works/media/press-releases/scammers-exploiting-gumtree-and-ebay-shoppers/>

⁴ E.g. The Sharing Economy and Consumer Protection Regulation: The Case for Policy Change, Koopman et al. <http://heinonline.org/HOL/Page?handle=hein.journals/jbelw8&id=&page=&collection=journals&id=529>

review the law covering consumer-to-consumer transaction with these issues in mind. For high-value purchases and for the *de minimis* protections afforded by the Consumer Rights Act regarding fitness for purpose and satisfactory quality in particular, it seems likely that the benefit of increased consumer trust could justify some regulatory harmonisation in this area. In the meantime, alongside their own protection policies, collaborative platforms should provide information on consumers' statutory rights.

How can we best ensure that redress is available if something goes wrong and consumers are clear how to access it?

11. Our research has found that the dispute resolution services - where available - provided by collaborative platforms are popular with consumers when things go wrong. 53% of consumers contacted the seller directly through the website; 25% used the platform's dispute resolution scheme and 17% contacted the platform directly. We found that many of these consumers were able to resolve their problem - but one in seven did not find a satisfactory solution.

12. We find that platforms could take greater steps to implement monitoring and verification processes for sellers and that current practice is patchy: verification can vary from providing an email address, to verifying bank accounts to taking deposits. Other platforms limit their oversight to a seller's advert rather than the behaviour of the seller. We do not propose a one-size-fits-all approach to monitoring and verification: rather, platforms should act in a way that is proportionate to the value of the products being sold.

13. We also encourage platforms to provide some form of alternative dispute resolution (ADR) and many platforms do this already. In general, we recommend that ADR is made available across all consumer sectors, including collaborative platforms (though there are particular intricacies that will need navigating in terms of consumer-to-consumer transactions).

14. A general problem with ADRs is the sheer multiplicity of schemes available, which have proliferated in particular since the UK Government's implementation of the Directive on Consumer ADR 2013/11/EU in 2015. Our research identified 147 schemes across the UK in total⁵. We would recommend that collaborative platforms use greater consistency in branding and scheme structure, to ensure that consumers have as simple an experience as possible across different services. We also recommend that consumers have free access to ADR schemes, to increase confidence of redress being achievable should things go wrong.

⁵ Confusion, gaps and overlaps
<https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Confusiongapsandoverlaps-Original1.docx.pdf>

What role does self-regulation via ratings systems or accreditation systems play within the collaborative economy? What evidence is there to show its efficacy?

15. The availability and popularity of feedback mechanisms should be one of the major ways in which collaborative platforms improve consumer outcomes, by providing effective, easy to understand reputational and honesty signals for sellers. Our evidence suggests that feedback systems are valued: 59% of buyers on collaborative platforms will review the seller's ratings or reviews on the website.

16. Not all online platforms use feedback mechanisms, particularly those who are more likely to simply reproduce private adverts. Too often, also, feedback systems are too time-limited. Our consumer helpline evidence suggests that many faults often develop months after a purchase; this is why some statutory rights can often remain enforceable for years. We recommend that online collaborative platforms offer more extended feedback windows, allowing feedback later if a fault develops. Platforms that don't currently offer feedback mechanisms should also consider light touch ways of doing so.