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## Chapter 1

# Summary and recommendations

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### 1.1 Introduction

The sharing economy is the result of new business models which have been facilitated by the rapid development of digital technology. Activities in the sharing economy can potentially promote efficient resource use through increased competition and innovation. Innovation can occur through the development of new technologies, new products and services, new business models and, in some cases, through entirely new sources of market supply. Sometimes, markets are completely revolutionised by innovations that render existing business models outdated. This is often referred to as disruptive innovation.

In recent years, this type of disruptive innovation has occurred, not least, through digital sharing platforms. In the passenger transport and accommodation markets, platforms such as Uber, Haxi and Airbnb have introduced entirely new business models under which markets are supplied with unutilised transport and housing capacity owned by private individuals, rather than by means of dedicated capital investments by professional market participants. This development has been facilitated by high internet adoption, advanced mobile telephone technology and user-friendly applications, and has considerable potential to alter future market-supply patterns. Sharing platforms of this type have brought considerable benefits and opportunities for both consumers and suppliers, but are also challenging traditional business activity in many markets.

The same IT technology that has facilitated change in the product and service markets also has potential to alter the functioning and organisation of labour markets. Technology-driven reduction of transaction and information-gathering costs may lead firms to make less use of permanently employed labour and instead to recruit labour in the various markets supplied by sharing economy companies. This may create new employment opportunities for persons with poor labour market affiliation, but may also present challenges in terms of underemployment, low wages and weaker rights for persons performing such work.

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### 1.2 Opportunities and challenges presented by the sharing economy

#### Various factors considered by the Committee

The Committee takes the view that the sharing economy offers positive opportunities for the Norwegian economy. Via their platforms, sharing economy companies can promote more efficient utilisation of existing resources and thereby release resources for other socially beneficial purposes. When greater use is made of objects and property, total production may be lower. This can potentially have positive environmental effects. Further, the sharing economy promotes efficient resource use through increased competition in markets and, potentially, lower prices, improved product and service choices, and innovation.

The sharing economy also presents a number of challenges. Digital solutions facilitate increased direct trading between private individuals on an unprecedented scale. Regulations in various areas do not reflect this development. The design of consumer protection rules, for example, reflects the traditional model under which professional businesses sell to consumers with little negotiating strength. Tax rules are generally based on the assumption that taxpayers engage in economic activity continuously and for a prolonged period of time, whereas in some sectors of the sharing economy market participants receive small incomes from different sources and enter into short-term engagements. This may necessitate amendment of the tax rules. Labour market regulations are generally designed for firms with employees, where the current business models of sharing economy companies assume that service providers who use their applications are independent contractors. As a result, in its current form the sharing economy facilitates growth in economic activity via non-traditional business models. Institutional labour market standards maintained by traditional businesses may therefore be altered if this aspect of the sharing economy grows in prominence.

When transactions between private individuals fall outside the existing regulatory framework, or when it is unclear how such sales should be dealt with under the applicable rules, difficult borderline cases may arise. The issue of competition with traditional market participants who have to comply with existing regulations in various areas thus becomes relevant. Accordingly, a key aspect of the Committee's work has been to assess the application of regulations, requirements and standards to private persons and businesses, respectively.

The interests that the Committee has been asked to assess may in some respects conflict with one another, and must therefore be balanced. This applies, among other things, to the objective of competition-neutral regulation and the objective of not imposing disproportionately heavy regulatory burdens on small market participants.

The provision of passenger transport and other sharing services via digital platforms is a relatively new phenomenon, and is not yet commonplace in Norway. Accordingly, the Committee considers it appropriate to examine how the sharing economy is developing before major measures are implemented to direct developments.

Technologies and business models are developing quickly, and more rapidly than changes can be responded to by policy and regulatory means. The Committee therefore considers that regulatory arrangements should be neutral with respect to technologies and company types.

Since the sharing economy is relatively new, considerable uncertainty attaches to the question of which regulatory provisions apply and how the rules should be interpreted. The Committee therefore sees a need to improve the information available on both rights and duties in the sharing economy. The report contains various proposals regarding guidance and information to be provided. In chapter 5, it is proposed that the competition authorities should publish guidance on the right of contractors under current competition rules to enter into collective agreements. In chapter 6, it is pointed out that guidance will strengthen knowledge of consumer rights in the sharing economy, and it is proposed that the consumer protection authorities should conduct a dialogue with sharing economy companies on industry standards and best practice in the area of consumer protection. It is so proposed that the consumer protection authorities, if such dialogue is unsuccessful, should publish their own guidance on the area. Chapter 8 points out that the Norwegian Tax Administration has published information on its website on how income from sharing services should be recorded in tax returns, and the Committee has urged the Norwegian Tax Administration to develop this guidance further in light of the experience gained thus far.

The Committee considers it appropriate for information from various public agencies to be included in a joint information portal containing information on tax rules, consumer protection rules and relevant sectoral regulations. The portal could be based on existing public websites. The portal should provide consumers, service providers and platforms with relevant information and guidance.

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#### Limitations on and guidelines for the Committee's work

Digital platforms can be used to enable or facilitate services between businesses to exploit unutilised capacity in respect of various input factors, primarily real capital. Such enabling and facilitation probably have the potential to generate substantial efficiency gains, since businesses may possess significant unutilised capital. However, this aspect of the sharing economy does not raise the same regulatory challenges as sharing activity between private individuals, where it may be unclear whether they are engaging in business activity and what relationship service providers have with the platform under employment law. Transactions between businesses do not raise consumer law issues, nor specific questions regarding the taxation of corporate income. In the Committee's view, challenges related to sharing between businesses primarily arise in the area of competition policy, and the current regulatory framework appears able to deal with these. The Committee has therefore chosen to concentrate on situations where private individuals rent objects or private homes from, or provide services to, one another. In addition, some sharing platforms – typically platforms for the provision of labour – enable or facilitate service provision from persons to businesses. This topic is discussed in the context of labour market regulation; see chapter 5.

Many sharing economy companies are active in multiple countries, and the largest operate globally. This has given rise to a need for inter-country coordination to prevent companies from exploiting regulatory differences in different countries, including in the area of taxation. A fragmented regulatory framework will also complicate the establishment and growth of the sharing economy. The Committee has noted ongoing regulatory developments in the EU, which will have an impact in Norway and whose outcomes should be awaited. This applies, for example, to potential legislation regulating the obligations of platforms more generally. Moreover, there is little freedom of action to amend regulations in areas in which Norway is already bound by fully harmonised EU/EEA rules, as in the case of many consumer protection rules.

A summary of the Committee's main findings, assessments and recommendations follows below.

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### 1.3 The sharing economy

The sharing economy has a number of defining characteristics. One such characteristic is that the sharing economy involves *services enabled or facilitated via digital platforms*. Emphasis is given to the fact that the platform facilitates the activity, rather than being the supplier of the actual service. The Committee has concentrated on commercial sharing initiatives rather than non-commercial schemes, since commercial sharing services raise more regulatory challenges than non-commercial ones. Another key characteristic is that *ownership is not transferred*. Traditional internet sales and, for example, media services delivered via electronic platforms are therefore excluded from

the definition. A third characteristic is that economic activity primarily occurs *between private individuals* – referred to as peer-to-peer sharing – or between businesses and private individuals, i.e. business-to-peer sharing. This distinction is made partly because new sharing initiatives are founded on the concept of selling unutilised household resources in a market and partly because this area presents the main regulatory challenges. Service providers and lessors will therefore either be private individuals or be defined as businesses (if the activity is sufficiently large in scale), whereas demand will primarily come from private individuals.

The Committee has applied the following definition:

“Sharing economy” means economic activity enabled or facilitated via digital platforms that coordinate the provision of a service or the exchange of services, skills, assets, property, resources or capital without transferring ownership and primarily between private individuals.

Digital platforms reduce transaction costs by making it easier for suppliers and customers to find one another. Such platforms also reduce costs that arise when suppliers and customers do not have the same information. When users can evaluate one another and this information is made known to other users, trust increases on both sides. This allows growth in both the number of transactions and trade that was previously unprofitable or too risky. Platforms typically also offer secure, automated payment solutions.

The primary concept of the sharing economy is to sell unutilised economic resources. The business concept of platforms is to facilitate such sales and charge a proportion of the transaction payment. Since the most significant items of household capital that can be shared are means of transport, housing capital and skills (human capital), the sharing economy is expected to become largest in these areas.

The emergence of the sharing economy is an element of broader change occasioned by rapid progress in the area of digitisation. Digital technology can be used for many different purposes, and is giving birth to numerous services that cannot be produced by other means. Digital services can be replicated at a low marginal cost, and the opportunity to expand into new markets and to new customer groups is therefore sizable.

At present, the sharing economy is not large in Norway, but appears to have significant growth potential. Thus far, the greatest growth in the Norwegian sharing economy has been observed in the accommodation market and in passenger automobile transport (taxi-like services), as well as car sharing/car rental services. Factors such as the regulatory environment, population preferences and attitudes, and technological progress will shape the future development of the sharing economy.

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## 1.4 Driving forces, competition and innovation

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The growth of the sharing economy can largely be attributed to falling transaction costs and reduced uncertainty. Competition with established market participants has increased, potentially leading to lower market prices. The sharing economy is also expanding the number of products and services on offer, giving consumers access to a greater and more differentiated range of choices.

The sharing economy can potentially provide consumers in a market with better price and quality information. Good information promotes competition, not least by making it easier for consumers to compare different offers. In addition, reliable price and quality information hedges against the possibility that suppliers may exploit an informational advantage over customers for their own benefit.

The sharing economy allows private individuals to profit from renting out resources they own or by delivering services. On the supply side, stronger competition facilitates greater production at a lower cost. Improved capacity utilisation generates resource savings for society which can then be invested elsewhere, and facilitates environmental gains.

The sharing economy represents disruptive innovation, perhaps primarily through the addition of new sources of market supply, but also through new and innovative business models and new products and services. The sharing economy also encourages innovation among established businesses by increasing market competition. To survive over time, established businesses will have to use new technology and develop new business models.

Some sharing markets are characterised by strong network effects, meaning that a sharing platform becomes more attractive to customers the more suppliers use the same platform. In some instances, this may give platforms a dominant market position. When this happens, there is a risk that a platform may exploit its market power to the disbenefit of customers and suppliers using the platform. The links in this context are not obvious, and the final effect on consumers and individual platforms depends on factors including the direction and strength of the network effects. Not all parts of the sharing economy will feature network effects with monopolistic tendencies. Accordingly, different platforms may exist side-by-side in the same market segment.

The Competition Act is designed to facilitate effective competition. The act contains a prohibition against co-operation that limits competition, a prohibition against the misuse of dominant position and rules on merger control. Broadly speaking, the Competition Act also applies to the sharing economy. However, the sharing economy may present new challenges to competition policy. Perhaps the foremost concerns relate to the business-to-business sector of the sharing economy. In the case of the sharing platforms and market participants on which the Committee has focused, questions may arise about opportunities for collaboration on prices offered via platforms.

Facilitating effective competition also entails facilitating good opportunities to establish new businesses. Adapted, technology-neutral, updated regulations are crucial in this regard.

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## 1.5 The labour market

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Numerous sharing economy services involve labour input from persons offering services via the particular platform. Other platforms are dedicated to enabling or facilitating work assignments, either odd jobs typically carried out by unskilled workers and persons running small businesses serving households or services that demand specialist skills, often serving businesses.

The performance of work by one private individual for another is nothing new, but the scale of such activity may increase if such services can be enabled or facilitated more efficiently than before. The development of specialised platforms for the supply of labour is facilitating increased outsourcing of tasks by traditional businesses, and to some extent the replacement of employees. If this way of organising economic activity becomes widespread, it may potentially alter the labour market and, ultimately, also other social conditions. Expansion of the sharing economy may weaken the role of firms as centres of production, and thus also their function as employers. Key issues in this context are workplace cooperation and participation, protection of health, the working environment and safety, wage negotiation and, to some extent, income responsibility. Income responsibility is expressed by the fact that it is the firm which in the short term bears the risk of a lack of work. Employment protection gives employees time to reorient and find new work in the event of downsizing, as well as protection against unfair dismissal. In part, these protections reflect the fact that an employer has a right of instruction and that employees therefore require protection. This need will not be the same if there is no right of instruction.

The Norwegian labour market is well organised, and characterised by low unemployment compared to most other European countries. Coordinated wage negotiations and tripartite cooperation are key principles. Productivity is high in an international context, despite somewhat lower productivity growth in recent years. The Norwegian labour market offers good training and development opportunities, and job satisfaction is generally high. The proportion of self-employed persons is stable and low compared to many other countries. Nine out of 10 working persons have permanent positions. There is broad agreement that the Norwegian labour market model has contributed to strong economic performance.

Most sharing economy companies define service providers using their platforms as independent contractors, rather than as employees. Employees and contractors have different rights as regards protection against work hazardous to health, employment protection, national insurance and pension rights, etc. Any increase in the proportion of independent contractors in the economy may necessitate a review of the rights of self-employed persons and freelancers, and an assessment of whether these should be amended. From a wider perspective, change in institutional framework conditions in the labour market may give rise to challenges that need to be addressed, including in relation to income and income distribution.

The labour market opportunities offered by the sharing economy must also be considered. People who cannot, or do not wish to, take ordinary employment can expand their job opportunities through the sharing economy. The work is flexible, and may thus be attractive to students and other persons with varying capacity to engage in income-generating work. Thus far, technological developments have been of most benefit to highly educated workers. The sharing economy, on the other hand, may also create employment opportunities for workers without advanced qualifications.

Platform markets for the provision of labour may connect contractors and clients more effectively, thus helping to improve labour utilisation. On the other hand, the tendency for assignments to accumulate with the most in-demand contractors, and problems with designing platform rating systems to provide correct information, undermine the effectiveness of digital labour markets. Increased use of digital platforms to provide labour may result in greater specialisation and work sharing, which in turn may improve productivity. The sharing economy also leads some persons to perform work other than their actual profession, i.e. allows more work to be performed by individual persons without special skills in the area in which the work is being performed. Some employees in the sharing economy may continue to take sporadic assignments without entering the ordinary labour market. Contractors and temporary employees participate less in corporate training programmes than permanent employees. In a labour market in which a higher proportion of working persons are independent contractors, training and skill-

building measures will increasingly have to be financed by the contractors themselves. Employee protections under the Working Environment Act, for example against working conditions which are hazardous to health, excessive working hours and unfair dismissal, do not apply to contractors in the digital economy. Such protections will therefore benefit fewer and fewer persons as the number of those working in the sharing economy increases. Thus far, the extent of such work activity in Norway has been limited, but the growth potential may be significant. The need to protect against, for example, working conditions hazardous to health stems from a skewed balance of power between employers and employees.

It is known from certain other countries that contractors have challenged sharing platforms legally and demanded employee status. Normal practice in many countries, including Norway, is for the courts to have the final say on this issue based on an overall assessment of a number of factors. In other words, whether or not someone is an employee is determined on a case-by-case basis. Key factors in the assessment are whether the person performing the work has a personal and ongoing duty to work and whether the person has a duty to submit to another person's management, instructions and control. The sharing economy may increase the number of disputes as to whether a service provider should be regarded as an employee or as an independent contractor. Thus far, no cases have reached the Norwegian courts that have examined the term "employee" in the context of the sharing economy.

The Committee has considered whether there are aspects of the sharing economy that indicate a need to amend the term "employee" in the Working Environment Act, either because it entails a gap in protection that the Working Environment Act does not address, or because the sharing economy creates more instances where parties disagree on status. A Committee majority – members *Gabrielsen, Andreassen, Flesland, Korme, Moen, Schjerva* and *Teigum* – has been unable to identify obvious aspects of the sharing economy that result in service providers with a real need for protection not being defined as employees. This majority also considers that the possibility of an increased number of cases in which the status of a service provider is disputed does not in itself mean that the act is insufficient in terms of determining the status of a service provider for employment law purposes. The majority considers the current Working Environment Act sufficiently flexible to deal with possible conflicts that may arise in the sharing economy in relation to this question, and has therefore concluded that there is no need to propose changes to the definition of employee in the Working Environment Act. Further, the majority considers that there are no grounds for proposing a new category of employees with limited protection. The same majority also sees no need to appoint a law committee to examine the terms used in the Working Environment Act. Nonetheless, the majority recommends close monitoring of developments. Although the majority sees no need for changes based on today's sharing platforms, that possibility cannot be excluded that other business models and sharing platforms may emerge in future that challenge the regulatory framework for this area. Further, the same majority sees no need to propose new regulation of HSE matters or the working hours of contractors in the sharing economy, since the primary rationale for these regulations is the need to protect employees.

A minority – member *Tinnlund* – considers that the sharing economy has the potential to grow rapidly and to encompass many more employees than at present. It is therefore important to stay ahead of developments by clarifying framework conditions for market participants. Protective rules under employment law must apply if an agreement anticipates or imposes a duty to work. The definition of the term "employee" must promote legal clarity and clearer delineation, be technology-neutral and cover all forms of agreement under which a need for protection arises. The minority therefore proposes the appointment of a law committee to assess the terms used in the Working Environment Act.

The minority has pointed out that little factual knowledge is available on HSE challenges in the sharing economy. Since many aspects of the sharing economy are new, it is particularly important to monitor developments. The minority proposes a study into the HSE consequences of the sharing economy to evaluate whether there is a need for amendment or clarification of the regulatory framework, for example whether HSE must also be safeguarded in the case of contractors engaged digitally.

A further minority – member *Mjåset* – proposes assessment of a new category of employee, and an evaluation of the terms used in the Working Environment Act.

Employees and self-employed persons have fairly similar entitlements to public services and benefits. Entitlement to a retirement pension from the national insurance scheme and public health services is universal and independent of employment status. However, self-employed persons do not have full national insurance rights, including in relation to sick pay and occupational injury insurance, and generally do not receive unemployment benefit when they have no work assignments. In addition, self-employed persons must make their own financial provision for living costs during holidays and any pension over and above the national insurance retirement pension. Reduced sick pay rights and the lack of entitlement to occupational injury insurance are linked with lower total contributions to the national insurance scheme by self-employed persons. Accordingly, full entitlement under the schemes requires the taking out of additional insurance. The lack of entitlement to unemployment benefit is linked to the fact that self-employed persons have greater influence over both their working hours and income than employees, the fact that they do not necessarily lose all income when out-of-work, and the fact that it can be difficult to determine

when such persons are genuinely unoccupied and looking for other work. The lack of entitlement to holiday pay and a company retirement pension is linked to the fact that these benefits are employee benefits paid for by employers. A majority of the Committee – members *Gabrielsen, Andreassen, Flesland, Korme, Moen, Schjerva* and *Teigum* – considers that self-employed persons do not have weaker rights under the national insurance scheme than is justified by the contributions this group makes in the form of social security contributions and paid taxes. The majority therefore considers that any changes to such rights should be accompanied by amended obligations to make payments into the national insurance scheme. However, the consideration of safeguarding the ability to exert full control over a large proportion of one's income is an argument against such a restructuring, and the majority therefore recommends no change to the national insurance rights of self-employed persons.

A minority – members *Mjåset* and *Tinnlund* – sees a risk that many persons who work as self-employed persons or freelancers in the sharing economy in future may have relatively low incomes. The minority is of the opinion that it should be investigated whether there is need to amend, among other things, the pension and national insurance schemes to take account of this group of contractors. The objective should be to even out and simplify the current schemes.

In the sharing economy, services are structured such that the financial risk associated with any decline in orders is borne by the person carrying out the work. Some platforms control or influence the price service providers may charge for an assignment. As long as service providers are not regarded as employees, they are not covered by negotiated wage rates. Accordingly, there is a risk that some of those performing assignments via platforms will receive low incomes. However, experiences in other countries indicate that the earnings of service providers who deliver geographically attached services such as driver services or odd jobs in private homes are no worse when an assignment is enabled or facilitated by a platform than when such services are delivered in the ordinary labour market. Nevertheless, persons who lack special skills and do relatively poorly in the ordinary labour market may have lower earnings in the sharing economy. There are layers of the digital economy that are very poorly paid, particularly in markets exposed to competition from low-cost countries. The International Labour Organization (ILO) has pointed out that self-employed persons are emerging as a new impoverished group. Highly skilled individuals, on the other hand, have the opportunity to earn well. Income differences may thus increase. In some countries, independent contractors have begun to organise themselves and demand negotiations on the conditions they are offered on digital platforms. As far as the Committee is aware, no such initiatives have been launched in Norway. If this does happen, the position of such negotiations relative to the Competition Act is unclear. The Committee recommends that the competition authorities develop and publish guidance on this issue.

A majority of the Committee – members *Gabrielsen, Andreassen, Flesland, Moen, Schjerva* and *Tinnlund* – considers that contractors who have to comply with customer prices set by enabling or facilitating platforms should be entitled to negotiate terms collectively with sharing economy platforms, even if they cannot be defined as employees.

A minority – members *Korme, Mjåset* and *Teigum* – proposes a broader review of the best solutions to the challenges faced by this group while still safeguarding the objective of competition.

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## 1.6 Consumer considerations

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The sharing economy can provide services that are cheaper than traditional services, give consumers more options and be associated with better quality and experiences. Opportunities to rent expensive capital goods rather than purchasing them gives consumers greater flexibility. Many consumers also emphasise the environmental aspect of sharing, and the popularity of such services has increased rapidly.

The new services may present consumers with a number of new challenges. Sharing services offered by individual persons are not regulated to the same extent as services provided by professional suppliers. Consumer protection against injury, for example through fire or inadequate hygiene, or against financial loss, is not as strong as in traditional markets where consumers deal with commercial parties. Sharing platforms also gather large amounts of personal data about consumers, potentially creating data protection challenges.

In the context of online shopping, consumer interests are protected, among other things, through the Consumer Purchases Cancellation Act and the Marketing Control Act. These acts only apply if a provider is a commercial party. While a sharing platform is a commercial party, when the platform only enables or facilitates a transaction, responsibility under the acts is generally restricted to the actual service of enabling or facilitating the transaction. In other words, responsibility will often not extend to the underlying service, i.e. the rental agreement, odd job or transport service which is enabled or facilitated. When a consumer enters into an agreement with a service provider via a platform, the question of whether the service provider is a professional will be decisive with regard to the consumers' protection. Among other things, the Manual Services Act applies to manual services provided by professionals, but not to such services provided by non-professionals. Many services delivered in the sharing economy

are exempt from consumers' right of cancellation. This applies, among other things, to the purchase of transport services, food preparation on order, accommodation services, contracts for the transport of goods and car rental.

In many instances, consumer safety is ensured by sector-specific regulations. In the accommodation services segment, for example, special rules apply with respect to fire safety. Moreover, there are rules on matters such as the preparation, storage and service of food to the public. In most areas, there will be borderline cases where it is unclear whether a service provider is a non-professional or a professional subject to the rules. Such questions are likely to arise in the sharing economy.

Sharing platforms have themselves implemented a range of trust-building mechanisms to increase consumer confidence. Guarantees and insurance schemes can give consumers better protection against losses, damage or deficient services. Consumer rating systems may improve the information available on offered services. Background checks and approval of providers via platforms are intended to ensure a certain level of quality. Secure payment solutions protect consumers against losses through fraud, etc. Customer service functions that can assist in the event of disagreements between customers and providers also offer some support for consumers who experience problems with a service. Thus far, experience of such schemes and how well they protect consumer interests is limited. Generally speaking, trust-building mechanisms are positive and help increase consumer safety. On the other hand, there have also been instances where trust-building mechanisms such as consumer feedback have provided misleading or incomplete information to consumers.

Regulatory distinction in the rules applicable to professionals and non-professionals is nothing new. However, since sharing platforms facilitate trade in services between private individuals on a far greater scale than previously, and in a manner that appears to be uniform and professional, it is possible that consumers may more often be unsure whether they are protected and what regulations they are protected by.

The Committee is of the opinion that, overall, the consumer protection rules provide a robust basis for the protection of consumer interests. However, the Committee considers that consumers may require clearer information on what rights they have and do not have in the sharing economy. Such information can be provided by intensifying the dialogue between the authorities and sharing platforms on the development of industry standards and best practice to safeguard consumers in the sharing economy. Further, the consumer authorities should issue guidelines if industry standards cannot be agreed. The Committee is also of the opinion that consideration should be given to expanding the Norwegian Consumer Council's mediation service to cover service purchases between private individuals.

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## 1.7 Markets in which the sharing economy is particularly prominent

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Part of the Committee's mandate is to take a closer look at regulatory provisions in markets in which the sharing economy is particularly prominent. In Norway, the sharing economy has thus far gained the strongest foothold in the markets for accommodation, passenger transport services and car sharing/car rental.

New *transport services* have emerged parallel to the ordinary taxi market in several Norwegian towns and cities. These services enable or facilitate transport assignments via digital platforms. Some of the services are taxi-like, where customers select both the starting point and destination and where the operator receives payment for the service that goes beyond cost-sharing. Other services resemble ride-sharing, where the driver and the passenger have a mutual transport need. The Committee has concentrated on taxi-like services.

The new taxi-like services are application-based, and use the GPS function of smartphones to connect passengers with drivers. Several services offer passengers the option of checking which drivers are available nearby in real-time. The application provides a cost estimate for the trip in advance, and both customer and driver can give feedback on perceived quality through the application's rating system. Such feedback is normally also visible to other service users. Prices are often based on supply and demand, and thus highly dynamic, and payment is made through the application.

The taxi industry has modernised considerably within the framework of current legislation, and has countered competition from new services by developing more digital services for customers. In many cases, taxis can be ordered online and through mobile applications. Some taxi dispatch centres offer fixed prices when orders are made via their application, and some have begun accepting payment through the mobile payment application Vipps.

Over the past 10 years, the cost of taxi services has increased by approximately two-and-a-half times as much as general inflation, and by almost 20% more than wage growth. Prices have increased most in areas exempted from maximum price regulation. There are various indications that price competition between different market participants is not functioning satisfactorily, and that capacity utilisation in the industry is poor. Weak competition is probably linked to the fact that customers find it difficult to access information on variables such as price and quality, and that searching out the cheapest offer in the market costs both time and resources (search costs). Taxi dispatch centres can exploit customers' information problems in their pricing.

The provision of taxi services is regulated. A taxi licence is required to provide automobile passenger transport services for reward. The licence requirement applies to both (i) persons who *operate* such transport services, and (ii) persons who provide transport on a basis similar to taxis when the offer *is made to the general public at a public location*. Taxi licences are subject to a needs assessment (quantitative regulation). Each county authority is required to assess how many taxi licences are needed to meet the public's need for taxi services in the district. When taxi licences are subject to a needs assessment, licence holders receive some protection against competition in the market. On the other hand, licence holders have a duty to operate. The purpose of the duty to operate is to ensure an adequate taxi service across the country. Licence holders are also subject to requirements relating to matters such as good repute, satisfactory financial standing and professional competence, and shall generally not have any other primary occupation than that of providing taxi services. Licence holders must be members of an approved taxi dispatch centre where the licensing authorities have approved such centres. In addition to the licence-holder requirements, further requirements apply to taxi drivers (who may be employed by licence holders), and the vehicles. The latter category includes the requirement for a taximeter. Taxi prices are generally subject to maximum price regulation, although areas where several taxi dispatch centres are competing (usually cities) are exempt from such price caps. Vehicles which are to be used as taxis for a minimum of three years benefit from reduced motor vehicle registration tax, and taxis also pay less annual motor vehicle tax than private vehicles.

Based on a needs assessment of the number of taxi licences, it is in practice difficult for persons aspiring to drive for transport network companies to obtain a taxi licence and operate ordinary taxi transport. Services offered via transport network companies will be in breach of the rules on professional transport if they fall within the term "operate" in the Professional Transport Act or if transport is provided from a "public place". Applicability of the term "operate" is determined on a case-by-case basis, taking into account factors such as frequency and whether a vehicle is being systematically used for commercial purposes. Accordingly, customers cannot know whether or not a transport network service is lawful unless they conduct a discretionary assessment based on information that is accessible only with difficulty. The Committee considers this legal position untenable.

The majority of the Committee – members *Gabrielsen, Andreassen, Flesland, Korme, Mjåset, Moen, Schjerva* and *Teigum* – considers that the new application-based services are innovative and can improve the information accessible to customers, and thereby strengthen competition in the market. These members would welcome moves by the taxi industry to address market competition through increased use of applications for the ordering of taxi services. Customers enjoy far better access to information on prices and availability when ordering via an application than when ordering via telephone or hailing a taxi on the street or at a taxi rank. The majority notes that some taxi dispatch centres have begun using applications that offer fixed prices, which is a positive development.

The majority is of the opinion that needs assessment of taxi licences incurs various economic costs. Lack of competition in the taxi market raises prices, reduces the quality of provided services and inflicts an efficiency loss on society. Needs assessment also constitutes a high barrier to entry for new market participants. Adjustment of supply by administrative means does not ensure necessary market flexibility. The majority considers that current taxi industry regulation is not functioning satisfactorily, and proposes regulatory changes to improve the conditions for increased competition. The majority is of the view that the barriers to entry in the taxi market should be reduced so that new market participants can enter the market and competition conditions for new and traditional operators are equalised. The majority therefore recommends repeal of the taxi licence requirement. This also entails repeal of the needs assessment mechanism and the associated duty to operate. Further, the majority considers it important that taxi regulations impose fundamental passenger safety requirements. The majority of the Committee considers that this objective can be achieved by, for example, retaining the requirement for all drivers to hold a valid driver authorisation certificate. However, in the view of the majority the power to require completion of a route memory test for the issue of a driver authorisation certificate should be repealed, since it appears unnecessary given modern GPS technology. The majority proposes that the duty to be a member of a taxi dispatch centre be repealed, but that rules be introduced that require persons who provide taxi transport to register trips and prices, to store such information, and to give the tax authorities access to relevant data. The majority emphasises that imposed requirements should be technology-neutral.

The majority sees reason to conclude that the proposed changes to taxi regulations will improve competition in the taxi market by reducing barriers to entry. However, there is a possibility that reducing barriers to entry will be insufficient to ensure effective price competition. Nevertheless, the majority considers that the maximum pricing system has certain disadvantages and should therefore not be retained. To promote strong competition, a duty should instead be introduced to quote advance prices to consumers in the booking segment. The majority acknowledges a potential need to assess further measures if market competition proves to be inadequate. Such measures may include reintroducing maximum price regulation, introducing a new pricing system that sets the ratio between various price elements, and establishing a portal to provide consumers with advance price information from different companies.

Repeal of the duty to operate may potentially weaken supply of taxi services in sparsely populated areas. However, the majority considers that removing barriers to entry such as the duty to operate and the requirement for taxi service provision to be a licence holder's primary occupation will make it easier to provide taxi-like transport services, often in combination with other business. Providing taxi-like transport services part-time may be particularly suitable in sparsely populated areas. Accordingly, the effects on service provision in rural areas are not entirely clear. The majority considers that targeted measures can be considered if services in rural areas are weakened.

A minority of the Committee – member *Tinnlund* – considers that the challenges in the passenger transport market are more numerous and wide-ranging than a lack of information and competition. The taxi industry is and should be part of the public transport sector in Norway; an investment in infrastructure that should not be dismissed as an activity loss for society. The minority has therefore presented its own assessment and proposals in section 7.1.11.9

The enabling or facilitation of *accommodation services* in private homes was one of the earliest sharing economy markets to develop. Sharing platforms such as Airbnb, HomeAway, FlipKey, Roomorama, 9Flats, etc. concentrate on commercial rentals. Airbnb charges a service fee of around 13% of the rental price. Airbnb has developed a dynamic pricing algorithm that adjusts prices according to demand and gives hosts feedback on the likelihood of securing a rental agreement at a given price on a given date. Airbnb does not steer prices except through the information included in the pricing algorithm. Like several other sharing economy platforms, accommodation platforms also use mechanisms to build customer trust and exclude unreliable participants. These include guidelines, insurance schemes and dispute resolution schemes, as well as rating systems.

In volume terms (i.e. the total number of overnight stays), Airbnb had a market share of just under 1.9% in Norway in 2015, and around 1.3% measured in terms of hotel turnover. However, new participants in the accommodation market have grown significantly in recent years, and are expected to continue growing. Figures from Airbnb show that most of its Norwegian hosts rent out their private homes. Internationally, there are examples of Airbnb also being home to more professional activity.

Internationally, there are indications that accommodation sharing platforms are to some extent competing with and taking market share from hotels. At the same time, the new services are diversifying and expanding the accommodation market by providing new options. There is also room for further growth. Figures presented by Airbnb indicate that the platform has helped to attract tourists to Norway that would not otherwise have come. The platform also provides geographically differentiated services. Airbnb's services function as a buffer during peak seasons, and may thus have a price-reducing effect in the accommodation market. This in turn has consequences for hotel profitability and investment decisions, i.e. an effect on capacity expansion. From an economic perspective, increased peak-season supply is positive, since it ensures more effective real capital utilisation.

Several derivative services have followed in Airbnb's wake, such as services focused on facilitation of rentals through the provision of, for example, cleaning services. Such services can make larger-scale rental activity more attractive.

Rental activity via Airbnb and similar platforms that reaches a certain volume can become so extensive that it becomes a commercial operation. If such market participants do not register as commercial undertakings, they will be competing with other participants on unequal terms. Different types of activity are subject to different regulatory regimes.

Different regulations on fire safety and electrical systems apply to private homes and accommodation businesses, respectively. The safety requirements applicable to ordinary private homes are lower since residents are expected to take greater care of their own safety than hotel guests. The Committee has concluded that municipalities, as the local building authorities, will have to evaluate the application of the regulatory framework in the light of developments in the accommodation market. Responsibility for following applicable requirements lies with each individual homeowner. Nonetheless, given the expected growth in the private short-term rental market, it is important that the building authorities ensure compliance with requirements through both the provision of general information and targeted inspections.

Where room rental is combined with the serving of food, provisions on food safety become relevant. Small-scale food service is subject to the same regulations as other commercial activities, since the regulatory framework is flexible and based on the management of risk in each individual undertaking. The Norwegian Food Safety Authority is responsible for guidance in this area.

Extensive short-term rental of private flats can raise legal issues relating to matters such as neighbour relations. Permanent residents may prefer stable neighbour relations to a steady stream of different guests. The use of private homes for short-term rentals can also cause problems under the Planning and Building Act. If a private home/flat is used or arranged for activities resembling a hotel or commercial operation, and this results in increased traffic, noise or other inconvenience, consideration must be given to whether a change of use requiring application has occurred. Under current legal provisions, the boundaries of commercial activity must be determined specifically in

each individual case. Given the great variation that exists in individual cases, the Committee considers this a suitable regulatory approach. Moreover, the Committee would point out that joint housing ownerships and housing cooperatives can use house rules to clarify restrictions on the permitted scale of short-term rental activity and regulate in detail rental activities that may inconvenience neighbours. The Committee therefore sees no need to amend the current regulatory framework.

The Committee has noted fairly significant uncertainty about what rules someone who rents out a private home via platforms such as Airbnb must follow, particularly when such rental activity reaches a certain scale. A further lack of clarity arises in the area of taxation (section 1.8). Information and guidance should also be a priority in this context; see the proposal regarding an information portal in section 1.2.

Local authorities in several cities in the USA and Europe have introduced restrictions on private short-term rentals, not least to secure supply in the ordinary rental market. The Norwegian housing market is characterised by large numbers of homeowners who have traditionally been subject to little housing policy regulation. Whether the authorities should regulate the balance between the short-term and long-term rental markets is an issue that will most likely be relevant primarily in cities with high year-round tourist numbers. The Committee cannot see that mass tourism is a problem in Norway at present. On this basis, the Committee sees no reason, at this stage, to restrict the rental of private homes to tourists.

The Committee considers that platforms should supply data for statistics purposes, and that consideration should be given to whether the legal authority of Statistics Norway to gather such data should be extended. The Committee would point out that general simplification of the regulatory framework will reduce the differences between the regulatory burdens borne by different market participants. However, any simplifications must be balanced with the objectives behind the regulations.

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## 1.8 Taxation

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The primary purpose of taxes is to secure public revenues to finance common goods, welfare schemes and other social functions. Public revenues are dependent on a broad tax base and compliance with applicable rules. The following considerations are particularly important in any assessment of the tax rules: equal treatment and incentives for taxpayers, public revenues, and administrative costs for both taxpayers and the authorities. In principle, the Committee is of the view that equivalent activities and incomes should be taxed equally, and that it would be unfortunate if special rules were adopted specifically for the sharing economy. However, there is reason to examine whether the tax system is effectively catching income generated in the sharing economy. Third-party reporting and standardised rules may reduce administrative costs for small providers of services and rental accommodation. However, such simplifications may conflict with the objective of equal treatment.

The sharing economy is subject to existing taxes. Nonetheless, there are aspects of the sharing economy that may weaken tax revenues if new business models and activities grow in scope in the years ahead. Several of the relevant issues relate to taxation more generally, including the taxation of multinational companies. The Committee has identified four principal taxation challenges of particular relevance to the sharing economy:

- Service providers in the sharing economy are to a large extent private individuals who may have little knowledge of the tax rules and limited experience of involvement in commercial activity.
- Activity in the sharing economy generates small incomes from numerous private individuals, who may be active in several markets simultaneously and who may take up and drop activities relatively frequently.
- The new production opportunities provided by the sharing economy may in some cases result in undesirable distortion of resources as a result of existing exemptions, delimitations or rate structures. Whether such distortion will be beneficial or disadvantageous to the sharing economy is unclear and must be assessed by reference to the rules and the specific market situation in each individual instance.
- The sharing economy has the potential to expand the tax base by including more resources in the economy. On the other hand, if activities are simply shifted from the ordinary economy into the sharing economy, the tax base may be weakened where the tax system does not cover the sharing economy. Three revenue sources – income tax, employer's social security contributions and value added tax – are of particular importance.

The Norwegian Tax Administration has published *information* on its website on the treatment of rental activities and various other sharing economy services, and on how these are to be recorded in tax returns. The Committee considers that this information has been useful, and would encourage the Norwegian Tax Administration to develop its published guidance further as it gains experience of taxation in the sharing economy. In this regard, the Norwegian Tax Administration should discuss actively with market participants how digital technology can be used in reporting, verification and guidance. In the Committee's view, digital solutions must be open to all relevant users.

Sharing economy companies largely operate in markets where traditional businesses are subject to a *third-party disclosure duty*. Employers are required to report pay, and taxi dispatch centres must provide information on their associated licence holders. When a digital platform enables or facilitates assignments between suppliers and customers, and does not itself own, rent or operate physical production factors, contractors are personally responsible for complying with their obligations under tax and national insurance legislation. Not all providers of services and rental accommodation will be aware of when they become liable to pay tax. In the sharing economy, the same capital good is often used privately and for economic activity. Accordingly, participants in the sharing economy may have more fluid or unclear borders between personal consumption and commercial activity than other self-employed persons, thus complicating their tax returns. Further, persons who are engaged in commercial activity and make sales of more than NOK 50,000 per year have a duty to keep accounts, submit an income statement with their tax return and register in the Value Added Tax Register.

The sharing economy is often driven by private individuals with little experience of keeping accounts and documentation and reporting their income. This may present a considerable challenge, and is in the Committee's opinion an argument for establishing third-party reporting by sharing economy companies. At present, no clear legal authority exists for imposing an ongoing duty on companies that enable or facilitate sharing activity to disclose information on suppliers and their revenues. However, given that orders and payments between contractors, customers and enabling or facilitating companies are digitised, it is technically possible to arrange for simple reporting from platforms to the tax authorities.

The Committee considers that the third-party disclosure duty should apply to enablers and facilitators of rental and paid services via digital platforms. The limits of such a disclosure duty must be further evaluated, and the content of the duty must be adapted to each individual industry or service. The Committee assumes that the first step will be to assess a disclosure duty for digital enabling and facilitation of assignments in industries in which the sharing economy has reached a certain size and traditional operators already have a corresponding disclosure duty. If special approval is required to enable or facilitate a certain type of assignment, reporting requirements can be incorporated into the permit regime under sectoral legislation, in addition to the disclosure duty under the Taxes Management Act.

In practice, taxation of *sharing economy companies* involves taxing income from platform services such as the enablement or facilitation of services or payments. Platforms resident in Norway are taxed in the ordinary manner, like any other company in Norway. If a platform is run from abroad, limited tax liability may also arise in Norway if the activity in Norway is sufficiently extensive. Foreign providers of platform services may, however, employ various methods to generate or shift profits to low-tax countries. The problems inherent in the taxation of foreign companies are not particular to the sharing economy, but apply to all types of companies that operate internationally. Regulatory development in this area should occur through international cooperation, and in fact much relevant international work is being done. The assessment of value creation in business models used by sharing companies is a big and complicated task, and a study in this regard falls outside the Committee's mandate. The Committee has therefore not given further consideration to questions related to the taxation of foreign platform companies.

According to data provided by sharing economy companies, taxi-like services and short-term rental of private homes commonly generate an annual turnover of around NOK 20,000. Growth in the sharing economy may result in a large number of taxpayers with *small incomes* in addition to a primary occupation, or who engage in several income-generating activities simultaneously or for short periods. The current tax system is little suited to deal with this trend. Small jobs for different clients may qualify for an income tax exemption under the current rules, and affected individuals will have no duty to submit a tax withholding card to the client or to list such income in tax returns. The general rule is that income of up to NOK 1,000 per year per client is exempt from taxation. In the case of work performed in a client's own home or holiday home, the tax exempt amount totals NOK 6,000 per client per year. However, the sum total of many small incomes may constitute commercial activity, and thus still be taxable. Whether an activity is commercial must be assessed by reference to various factors on a case-by-case basis, including whether the activity is likely to generate a profit, whether the taxpayer has borne the costs and risk associated with the activity and whether the activity is of a certain scope and duration. No specific quantitative threshold has been set to define commercial activity. In the interests of effective resource utilisation and equal treatment, it is important that the tax system catches such small incomes. To protect the tax base and ensure equal treatment, the Committee proposes that consideration be given to simplifying the tax treatment of small incomes from services, including service provision that would not otherwise be taxable. Possible options include clarification of the commercial activity threshold by the Norwegian Tax Administration, calculation of tax based on sales (gross tax) and the granting of a standardised allowance in respect of costs.

Income from *non-commercial rental* is taxed as capital income (24% in 2017), although a range of exemptions apply. For the rental of objects, such as private cars, it is established tax practice that rentals generating a gross income of less than NOK 10,000 per taxpayer per year are deemed not to generate a profit, and are thus not taxed. In the case of holiday-home rental, a tax-free limit of NOK 10,000 applies provided that the taxpayer also uses the

holiday home personally. Tax is calculated on 85% of gross rental income exceeding the threshold. Income from the rental of a private home is tax-exempt in full if the income amounts to less than half of the rental value of the property. Rental income from a larger part of a private home is taxed if the income exceeds NOK 20,000. Rental income from second homes is taxed in full. All of these types of rental activity may exceed the threshold for classification as commercial activity if such rental activity is of a certain duration and scope, is likely to produce a profit, etc.; see the criteria listed above. If rental activity is combined with significant private work input, this indicates that the activity is commercial. In such cases, tax is charged at a higher rate, and additional reporting duties apply. The Committee has noted that it may be unclear to some taxpayers which tax rules apply to short-term rental of private homes, and what the threshold for commercial activity is. In addition, it is possible that deficient reporting and limited control opportunities may present a risk of evasion.

In unclear cases, the definition of commercial activity is decided by the Norwegian Tax Administration, which defines criteria for different areas through case law. In the case of short-term rental of private homes, however, little case law is thus far available on such thresholds. To date, a binding advance statement has been issued that indicates that extensive, planned short-term rental of two private flats is deemed to be a commercial activity. The Committee considers that short-term rentals are an area in which clarification and guidance are needed from the Norwegian Tax Administration.

The tax exemption for rental of part of a private home may mean that different competition conditions apply to private short-term rentals and other accommodation services. Profits on ordinary accommodation services are taxed in full. In addition to deficient reporting and control opportunities, it is particularly the scale of tax-free short-term rental of private home, i.e. primary residences, which has the potential to skew competition. Most private home rentals enabled or facilitated via Airbnb in Norway are small-scale short-term rentals of private homes, and are therefore in most cases tax-free. The favourable tax rules may contribute to growth in short-term private home rentals over time.

The Committee has evaluated whether small-scale<sup>1</sup> short-term rental should be taxed as capital income, i.e. whether the current tax exemption for the rental of private homes should be narrowed to apply only to long-term rentals. Short-term rental of private homes may require considerable work input by providers. If real work income in the short-term rental market is largely exempt from taxation because rental occurs in providers' own homes, the taxation of labour will be skewed in favour of such tax-free work income rather than income in the ordinary labour market. Tax on small-scale short-term rental of private homes will also help to equalise competition conditions for different participants in the accommodation market. A majority of the Committee – members *Gabrielsen, Andreassen, Moen, Schjerva* and *Tinnlund* – propose that short-term non-commercial rentals should be taxed as capital income. These members have not considered specifically how such tax liability should be delimited, but one possibility is to define rental arrangements shorter than 30 days as short-term rentals. For administrative reasons, consideration can be given to a lower income threshold, for example that tax liability applies to incomes above NOK 10,000, as with the rental of holiday homes which are used personally.

A minority – members *Flesland, Korme, Mjåset* and *Teigum* – do not support the proposal to tax short-term rental of private homes. The minority considers that changes in the taxation of private homes should be considered as a whole. Moreover, a special rule would create new borderline cases and increase administrative costs for both taxpayers and the Norwegian Tax Administration.

Long-term rental of part of a private home appears to play a lesser role in the sharing economy. Broader revision of private-home taxation would have effects beyond what can be justified by reference to the sharing economy. The Committee has therefore not examined the tax exemption in respect of long-term rental.

*Value added tax* is a general tax on domestic consumption of goods and services. Value added tax must be calculated on sales when a good or service is subject to the Value Added Tax Act and the seller is registered in the Value Added Tax Register. Commercial parties with sales of more than NOK 50,000 during a 12-month period are generally required to collect value added tax. Tax liability also entails a right to deduct input value added tax, since the tax is only to be paid by the final consumer. Services in the sharing economy, including transport services and enabling or facilitating transport, are subject to the Value Added Tax Act. The rental of real property, however, is exempt from the Value Added Tax Act. This raises delimitation problems, since value added tax is not charged on the rental of real property, but is basically payable on the rental of rooms in hotels and holiday flats.

Small market participants may find that value added tax imposes a relatively heavy administrative burden. Consideration could therefore be given to raising the threshold for having to register in the Value Added Tax Register from the current level of NOK 50,000. A higher registration threshold would benefit businesses with a high degree of internal work input. Even though an increase in the threshold could be beneficial to some participants in the sharing economy, the majority of the Committee – members *Gabrielsen, Andreassen, Flesland, Korme, Mjåset, Moen, Teigum* and *Tinnlund* – do not see a need to increase the threshold based solely on developments in

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<sup>1</sup> Larger-scale short-term rental is considered to be a commercial activity, and is therefore taxed in full.

the sharing economy. It is also sensible that the threshold corresponds to the thresholds for the duty to keep accounts and the duty to submit an income statement.

A minority – member *Schjerva* – proposes an increase in the registration threshold. This would reduce administrative costs for small businesses, including in the sharing economy, without significantly altering the State's value added tax revenues. Consideration could also be given to a corresponding increase in the threshold for submitting an income statement and the duty to keep accounts.

For several *excise duties*, exemptions or reduced rates are granted to certain industries or sectors. Such exceptions have little impact on competition between the sharing economy and traditional businesses. In the case of passenger transport by car, however, it is significant that taxis are subject to a lower motor vehicle registration tax and annual motor vehicle tax than cars sold in the private market. The motor vehicle registration tax is set for each car model based on various components. Taxis are granted a 60% reduction on the weight component and a lower CO<sub>2</sub> component for cars with the highest emissions. Electric cars are entirely exempt from the motor vehicle registration tax, and are therefore unaffected by the preferential treatment of taxis in this regard. The differential tax treatment of taxis and other personal vehicles is a competitive disadvantage to persons who wish to use a private car with a petrol or diesel engine for taxi-like services. If the requirement to have a licence in order to provide passenger transport services by motor vehicle is repealed, as proposed by a Committee majority, it will be necessary to revise the tax treatment of automobiles that are used in an occupational context. It may be necessary to limit any tax benefits according to objective criteria that take into account how much a car is used for occupational passenger transport.

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## 1.9 International regulatory developments

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The European Union's work on sharing economy issues is characterised by a desire to facilitate the sharing economy and lay a foundation for the development of platforms based in Europe. It is therefore crucial that national legislation is harmonised so that the different platforms encounter equal operating and competition conditions in the EU member states. It is a stated aim that sharing activities should not be prohibited but be given regulatory certainty that encourages further sharing and the emergence of new platforms. The EU has emphasised that the sharing economy promotes economic efficiency.

In the spring of 2016, the European Committee issued a communication on the sharing economy<sup>2</sup> containing assessments and recommendations relating to data protection, tax, working conditions and consumer rights, as well as the relationship between national and regional regulation of the sharing economy. According to the Commission, regulatory uncertainty has a major impact on the scale of services offered via sharing platforms. The Commission pointed out that the regulatory framework in areas such as transport and rentals was developed long before the sharing economy, and that it is unclear how the rules should be adapted when such services are provided via new platforms. The Commission announced that it will monitor the changing regulatory environment as well as economic and business developments closely. As regards market *access restrictions*, the Commission concluded that service providers should only be obliged to obtain a commercial authorisation or licence when strictly necessary to meet relevant social policy objectives. According to the Commission, prohibiting an activity should be a final resort. Further, the member states should themselves distinguish between individual citizens who provide services on an occasional basis and providers who act professionally, for example by establishing thresholds based on activity levels. As regards *consumer rights*, the Commission stated that the member states should ensure that consumers also enjoy a high degree of protection against unreasonable contractual terms and commercial practices when they use services enabled or facilitated via sharing platforms. At the same time, the member states should avoid imposing disproportionate obligations on private individuals who only offer services on an occasional basis. Although *employment law* is primarily a national concern, the member states were encouraged to evaluate their national employment law frameworks in light of the differing needs of employees and self-employed persons in today's digitised world.

Tax policy is primarily a national concern. In its work on the sharing economy, however, the Commission has made some general recommendations on the tax treatment of sharing platforms and participants in the sharing economy, directed at both the tax authorities and sharing economy companies. Data from sharing platforms can be used to simplify and improve tax assessment. Tax rules should be reviewed with the aim of creating equal competition conditions for different providers offering the same services. The member states have been urged to maintain their simplification efforts, improve transparency and provide online guidance on application of tax rules to the sharing economy.

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<sup>2</sup> A *European agenda for the collaborative economy*. Communication from the Commission, COM(2016) 356.

The development of the *digital single market* is one of the European Committee's foremost priorities. As part of these efforts, the EU has initiated an extensive assessment of the role of *online platforms*,<sup>3</sup> which over a short space of time have emerged as challengers to traditional business models in a range of industries. The EU's hearing on such platforms revealed broad agreement that online platforms are increasingly important for Europe's social and economic development. Most respondents also agreed that such platforms offer significant advantages: they drive innovation, facilitate social interaction, and are powerful drivers of economic growth. There was also broad agreement that the major platforms present a number of challenges, including imbalances of power between the major platforms and the service providers, data protection issues, etc. Subsequent to the hearing, the European Commission has presented a communication on online platforms. The Commission has concluded that equal rules should apply to comparable digital services. Further, the authorities should ensure that online platforms act responsibly, facilitate confidence and transparency, ensure equal treatment, and keep markets open and non-discriminatory in order to facilitate the digital economy.

The Commission is working on several specific initiatives as part of its follow-up of the communication. Follow-up measures of particular relevance to the sharing economy include ongoing collection of data on potentially undesirable business-to-business commercial practices in order to clarify whether EU intervention (regulatory or non-regulatory) is necessary to safeguard innovation. Further, the consumer rights regulatory framework is being reviewed. This will include an assessment of the extent to which existing regulations need to be updated in light of problems associated with online platforms. The Committee recommends that Norway adapt to EU developments.

Most European countries have initiated studies and political assessments of the sharing economy. In some countries – but not very many – statutory changes have already been made, or policies have been adopted specifically for the sharing economy. Alongside the political processes, the legal systems of various countries are engaged to a greater or lesser extent in the development of framework conditions for participants in the sharing economy. Denmark, the Netherlands and the United Kingdom are working on sharing economy policy at the strategic level. In the Netherlands, an extensive municipal project has also been launched in Amsterdam with the aim of stimulating sharing activity, including through memorandums of intent in which public and private market participants agree on frameworks for the use of sharing economy services, including for the payment of tax. In Estonia, a bill has been published on the adaptation of transport legislation to the sharing economy, and Uber and the tax authorities have initiated cooperation aimed at direct reporting of information from the platform. Sweden has initiated a broad study to review and clarify relevant legislation. The Swedish Tax Agency and SKAT, Denmark's tax agency, have been asked to report on the effects of the sharing economy, its impact on the tax system and opportunities for implementing tax controls.

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## 1.10 Summary of the Committee's proposals

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### General measures

The Committee proposes the following general measure:

- That an information portal be established to provide consumers, platforms and service providers with information on rights and obligations in the sharing economy.

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### Labour market

As regards the labour market, a majority – members *Gabrielsen, Andreassen, Flesland, Korme, Moen, Schjerva* and *Teigum* – has concluded that the sharing economy does not challenge the term “employee” in a manner that cannot be dealt with by the current Working Environment Act. The majority also considers that current national insurance and pension schemes for self-employed persons are well-founded, and that self-employed persons do not have poorer rights than justified by the national insurance contributions and taxes paid by this group. The majority therefore proposes no changes to the Working Environment Act or the national insurance and pension rights of self-employed persons.

A minority – member *Tinnlund* – proposes:

- The appointment of a law committee to evaluate the terms used in the Working Environment Act.
- A study into the HSE consequences of the sharing economy, to assess whether there is a need to amend or clarify the regulatory framework.

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<sup>3</sup> There is no established definition of “online platforms”. In practice, the term is broader than “sharing economy”, and includes *inter alia* information platforms (such as Google), social platforms (such as Facebook) and media platforms (such as Netflix).

A minority – members *Mjåset* and *Tinnlund* – proposes:

- An investigation into whether there is a need for amendment of, among other things, pension and national insurance schemes for self-employed persons or freelancers in the sharing economy.

A minority – member *Mjåset* – wishes:

- To evaluate a new category of employee, as well as an assessment of the terms used in the Working Environment Act.

A majority – members *Gabrielsen*, *Andreassen*, *Flesland*, *Moen*, *Schjerva* and *Tinnlund* – proposes:

- That service providers in the sharing economy who do not set selling prices directly, and have to comply with prices set by the platform that is used, should have the opportunity to negotiate collective agreements with platform operators, even if they cannot be deemed to be employees.

A minority – members *Korme*, *Mjåset* and *Teigum* – desires a broader review of which solutions can best resolve the challenges faced by this group, while still safeguarding the objective of competition.

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### Consumer considerations

In the area of consumer protection, the Committee proposes:

- That authorities and sharing platforms engage in dialogue on the development of industry standards and best practice in the consumer protection field.
- If dialogue with sharing economy companies on industry standards is unsuccessful, the Committee recommends that the consumer authorities should issue guidelines.
- The mediation service of the Norwegian Consumer Council should be expanded to include service purchases between private individuals.

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### Markets in which the sharing economy is particularly prominent

In the area of transportation, a majority – members *Gabrielsen*, *Andreassen*, *Flesland*, *Korme*, *Mjåset*, *Moen*, *Schjerva* and *Teigum* – proposes the following changes:

- That the current duty to hold a licence be repealed for persons who wish to operate or provide taxi services for reward using an automobile. This will also entail repeal of the system of needs assessment of the number of taxi licences and the duty to operate.
- Repeal of the duty for licence holders to have taxi transportation as their primary occupation.
- Repeal of the duty to be a member of a taxi dispatch centre.
- Repeal of maximum price regulation.
- That the requirement to hold a driver authorisation certificate should be retained
- That rules should be introduced to ensure that information on trips and prices is registered and stored, but the requirements must be formulated to be technology-neutral so that, for example, GPS-based measurement and registration are accepted on an equal basis with taximeters.
- That a duty be introduced to quote prices in advance in the booking segment.

A minority – member *Tinnlund* – does not support the proposals in the transportation area. This member considers that the taxi industry should be staffed by persons who have passenger transport as their primary occupation, and that the market does not automatically provide the right number of taxis in each area.

In the accommodation sector, the Committee found no grounds to propose changes to the housing standards applicable to private rentals. To ensure that sharing economy companies contribute to, among other things, travel industry statistics, the Committee proposes:

- That consideration be given to whether Statistics Norway should be given stronger legal authority to gather data from sharing economy platforms.

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### Taxation

To ensure that participants in the sharing economy pay taxes on an equal footing with others, the Committee proposes the following measures:

- The Norwegian Tax Administration should maintain and develop guidance that clarifies the rules on taxes relevant to participants in the sharing economy. Such guidance should be made available on the website of the Norwegian Tax Administration, and key information should also be included in a general portal containing information on the sharing economy.

- Digital technology should be used for reporting, control and guidance functions. The Norwegian Tax Administration should conduct an active dialogue with participants in the sharing economy on the exploitation of opportunities. Digital solutions should in any event be open to all relevant users.
- A disclosure duty should be introduced for data-holders who enable or facilitate rentals or paid services via digital platforms. Initially, consideration should be given to introducing a disclosure duty in respect of enablement or facilitation of digital assignments in sectors in which the sharing economy has reached a certain size and in which traditional operators are subject to a corresponding disclosure duty.
- Consideration should be given to simplified tax treatment of small incomes from services, including service provision that would not otherwise be taxed. Options to be evaluated include clarification by the Norwegian Tax Administration of the threshold for commercial activity, the calculation of tax on sales (gross tax) and the granting of a standardised allowance in respect of costs.
- Differential treatment in the tax context of persons performing the same service is undesirable. Taxis are currently subject to lower motor vehicle registration tax and annual motor vehicle tax than private cars used for taxi-like services. If a licence is no longer to be required for the provision of passenger transport services by motor vehicle, as proposed by a Committee majority, it will be necessary to revise the tax treatment of automobiles used for occupational purposes. It may be necessary to delineate any tax benefits according to objective criteria that take into account how much a car is used for occupational passenger transport.

A Committee majority – members *Gabrielsen, Andreassen, Moen, Schjerva* and *Tinnlund* – also propose the following:

- That the tax exemption in respect of rental of part of a private home be restricted to long-term rental. This means that non-commercial short-term rental of private homes will be taxed as capital income. For administrative reasons, consideration may be given to a lower income threshold, for example that tax liability applies to gross income exceeding NOK 10,000, as in the case of rental of holiday homes which are also used personally.

A minority – members *Flesland, Korme, Mjåset* and *Teigum* – do not support the proposal to introduce tax liability in respect of non-commercial short-term rental of private homes. The minority considers that changes in the taxation of private homes should be considered as a whole.

As regards the threshold for having to register an activity in the Value Added Tax Register, a majority – members *Gabrielsen, Andreassen, Flesland, Korme, Mjåset, Moen, Teigum* and *Tinnlund* – see no need to raise the threshold based solely on developments in the sharing economy.

A minority – member *Schjerva* – proposes an increase in the registration threshold. Consideration may also be given to a corresponding increase in the thresholds for the submission of an income statement and the duty to keep accounts.