



**Asia-Pacific
Economic Cooperation**

Advancing Free Trade
for Asia-Pacific **Prosperity**

Workshop on Innovative Regulatory Policy Development: APEC Economies' Approaches on Sharing Economy

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Introduction

The sharing economy provides consumers with access to goods and services through peer-to-peer sharing, which is coordinated through community-based online services; and technology, a key driver for sharing economy companies, is enabling them to scale fast and be valued in the billions.

PwC, in its report on Sharing Economy (2015) estimated that the current market size for sharing economy companies is over USD 15 billion, and this is expected to rise to over USD 300 billion by 2025. One of the challenges ahead would be to figure out how to embrace this growing economy and its huge value-adding potential while regulating it to enable secure and fair competition.

The rapid development of technology, innovations and new business models of the sharing economy are said to bring benefit across the ecosystem of consumers, entrepreneurs, suppliers and producers. Sharing Economy is also said to promote efficient resource utilization, provides substantial investment potentials, creates more jobs and promotes digital inclusion. Sharing economy allows for better matching of demand and supply, improving productivity and minimizing inefficiencies.

While it is said to create benefits, sharing economy also presents risks such as safety, security, workers welfare, loss of tax revenues, community inconvenience, competitive disadvantage on incumbents, etc. Henceforth, the issue on regulation and legislation is attracting a lot of attention by both regulators and major players, such as *Airbnb*, *Grab*, *Zipcar*, and many others.

The common challenges faced by the economies are in achieving win-win situation between the need to regulate and encouraging the sharing economy to grow. A move towards smart regulations might be essential to ensure that regulation is achieving its purpose, that it is not imposing unnecessary distortions or burdens and, by addressing real problems, will deliver net benefits to the community.

Economies around the globe have their own approaches in addressing and embracing the rise in sharing economy activities. As for Malaysia, some form of regulations to address Sharing Economy, for e.g. E-hailing Regulation 2018 and a Draft Guideline on *Short Term Residential Accommodation (STRA)* 2020 have been developed.

In May 2019, based on realization that the APEC economies could learn from each other in facing the Sharing Economy, the Malaysia Productivity Corporation (MPC) submitted a concept note that was approved under the General Project Account in October 2019, which led to the two-day *Workshop on Innovative Regulatory Policy Development: APEC Economies' approaches on Sharing Economy* in Putrajaya, Malaysia on 13 and 14 February 2020.

The main objectives of the workshop are:

1. Exchange information and lessons learned to improve understanding of international practices on sharing economy regulatory policy; and
2. Share APEC economies' experience and policy approaches in addressing the impact of Sharing Economy.

The workshop is in line with the Renewed APEC Agenda for Structural Reform (RAASR) that is set to achieve more transparent and competitive markets; facilitate deeper participation from all segments of the society including micro, small and medium enterprises (MSMEs), women, youth, older workers and people with disability; and achieve sustainable social policies that promote the structural reform objectives, enhanced economic resiliency.

This workshop also supports two of the eleven key focus areas of APEC Internet and Digital Economy Roadmap (AIDER), which are Focus Area 4 (Development of holistic government policy frameworks for the Internet and Digital Economy) and Focus Area 5 (Promoting coherence and cooperation of regulatory approaches affecting the Internet and Digital Economy).

The two-day workshop has been designed with 7 sessions with varying dynamics such as expert presentations, panel discussions and networking with peers, speakers, industry players and other participants to maximize learning and retention. It seeks to bring together policy makers, regulators and businesses to share experiences and discuss on how economies can address challenges of the emergence of new digital economy platforms, particularly the so-called "sharing economy" to ensure economies regulatory framework are compatible to the unique aspects of this sharing economy.

In total, 21 presentations were delivered at the workshop, including 3 presentations from the breakout session. These presentations represented the perspectives and experiences of the world experts and industry players, and initiatives and approaches by the

Government and Private Sectors in addressing Sharing Economy. Although the workshop did not have a specific topic on gender inclusiveness in sharing economy, we believe that it was equally impactful to have equal gender representation in each session throughout the workshop. This can ensure that gender's equality, especially female's participation, is not limited to a specific topic or session.

The workshop was expected to be participated by approximately 130 local and international participants. However, the number of attendances was recorded at 121 participants, partly due to the certain economies' travel bans caused by the corona virus outbreak across the globe. 87 participants were from Malaysia and the remaining 34 were from Australia, Indonesia, Japan, Malaysia, Mexico, Peru, The Philippines, Singapore, Chinese Taipei, Thailand, The US and Viet Nam.

Out of 121 participants, 72 (60%) were female participants compared to 49 (40%) male participants. While out of 13 APEC economies participated in the workshop, 11 economies had greater number of female participants compared to male, and as for the 26 moderators and speakers (including the opening and closing remarks) who had spoken during the workshop, 10 of them were female. In conclusion, female participation was equally represented during the workshop.

The list of participants is attached hereto as **Appendix 1**.

Outcomes

The two-day workshop provided the participants with a broad view on practices, experiences on policy approaches by the economies around the world in Sharing Economy.

EC Representative from Malaysia, Ms. Nor Haida Shahimi, Principal Assistant Director, Regional and International Relation of the Ministry of International Trade and Industry welcomed delegates from APEC economies, all speakers and other participants. Ms. Haida highlighted that it is important to embrace and adapt new technology to remain relevant and competitive in the new economy. This is because sharing economy has proven how innovation transacts and how it can and will change traditional way of doing business especially in linking the ecosystem of consumers, entrepreneurs, producers and suppliers.

The policy makers and regulators must also be ready to adapt the new technology as the current regulations may not fit the new business model of sharing economy. The challenges of Sharing Economy that are faced by business and regulators are real.

Session 1: Overview Sharing Economy: International Regulatory Landscape & Policy Approaches

In the first session of the workshop, Ms. Juni Tingting Zhu from The World Bank, Washington DC shared an overview of the Sharing Economy and provided current scenario on new digital business models and regulatory responses. Ms. Juni explained that different platforms in different part of the world are facing with different challenges. As such, regulators have to analyse and identify the difficulties that these businesses are facing in order to promote growth within the sharing economy.

The World Bank suggested 4 key principles in regulating new digital business models: 1. Leveling the playing field for comparable digital services, 2. Foster responsible behaviour of online platforms, 3. Safeguarding fair and innovation-friendly business environment, and 4. Keeping open and non-discriminatory markets.

Session 2: Business Challenges in Sharing Economy Regulatory Framework

The second session brought in three (3) panel speakers from the Sharing Economy players, namely Airbnb (South East Asia), Dego Malaysia, and Grab (Regional based in Singapore). The speakers talked about their perspectives and experiences in facing the business challenges and in collaborating with Government to find the best ways to address regulatory challenges.

The businesses were also inspired to contribute towards job creation and economic dispersion. Their home sharing and transportation (e-hailing) platforms could easily reach out to the people on the ground (e.g. the small entrepreneur, home owners both in the city and rural areas, the disabled, the pensioners and the job seekers) to have the opportunity to generate income from sharing activities. The speakers indicated that businesses would like to comply, and the platforms are willing to work with relevant authorities in addressing the issues posed by sharing activities to the authorities and the public on the ground.

The business felt that over regulation would hinder growth of digital business and suggested streamlining objectives and efforts as one of the ways to create value-adding regulations.

Session 3: Government Roles in Sharing Economy

The workshop then presented three (3) speakers to share their governmental or association's functions and roles, in particular on their approaches in regulating Sharing Economy. The three speakers were from the Australian Productivity Commission (Australia), International Affairs and Secretariat of Sharing Economy Association, Japan (Japan), and Malaysia Digital Economy Corporation (Malaysia). The speakers talked about the importance of Sharing Economy in contributing towards the economy growth and that it should be reflected in the Gross Domestic Product (GDP).

Australia mentioned that there is no common approach in regulating the disruptive technology and regulators are to assess what to regulate and how to regulate it as it depends on the type of sharing and location or jurisdiction where it operates.

In Japan, the Sharing Economy Association represents its members in developing standards and defining the common terminologies and principles for the businesses to refer to. Standards can be used as one of the approaches or a tool to regulate Sharing Economy.

In Malaysia, a Strategic Roadmap on Digital Economy was established to promote growth (encourage tech innovation, industry development, economic opportunities and digital inclusion) while at the same time, protect the society. The Malaysia Digital Economy Corporation developed programs to support the digital economy in rural or under served areas through *e-Rezeki* and *Global Online Workforce*.

Session 4 & Session 6: Economies' Perspective

The participants of the two-day workshop also learned from 7 APEC members on the economies' perspectives in relation to regulatory practices and initiatives in Sharing Economy, under Session 4 and Session 6. The sharing by the respective economy was presented by Indonesia, Malaysia, Mexico, Peru, Thailand, The Philippines and Viet Nam.

In Viet Nam, the Government began to regulate Sharing Economy by drafting the Decision 999/QD-TTg. The most popular sharing activities in Viet Nam are transportation, accommodation, and P2P Lending. The Decision 999 was developed to support and adapt the evolution of Sharing Economy to ensure level playing field for both new and traditional businesses.

While in The Philippines, a nationwide regulation on ride-sharing services for car-hailing app was implemented in 2015 and in October 2019, the Department of Tourism started to look into regulating the home-sharing activity. The Philippines Competition Commission

also shared a transport-sharing case of “Grab vs. Uber” which had resulted in service quality, price-related and non-exclusivity commitments.

In Thailand, the Government is supportive of the Sharing Economy in the financial sector, i.e. in micro financing or P2P activities, which is overseen by the Fiscal Policy Office (FPO) under the Ministry of Finance. The Government is clear in building internet structure to support e-payment initiative as per the economy’s “*National e-Payment Master Plan*” that was established to benefit 67 million people in Thailand. The strategies and initiatives to further support these activities include addressing the people’s digital and financial literacy, strengthening regulations (Data Protection Act, Cyber Security Act, and Digital Asset Business Operation Emergency Decree (2018)) and introducing regulatory sandboxes.

In the case of Peru, e-commerce is supported through the World Trade Organization (WTO) and Free Trade Agreement (FTA) since Peru currently does not have any legislation yet to address Sharing Economy. Peru made some proposals to regulate taxi apps and delivery apps but the proposals have yet to be approved and implemented. Among the contentious that slowed down the legislation approval were the issue of pension, health insurance, provisions to prevent arbitrary dismissal to regulate business and employees, pricing and payments over different currencies, impacts on labour market, consumer service, and digital risk. Peru suggested for a common regulatory framework for sharing economy to be developed for APEC economies.

In Malaysia, the Government established a Working Group on Home Sharing Economy (WGHSE) that consists of members from relevant ministries and agencies, including local government. The main objective of the working group was to draft a *Short Term Residential Accommodation (STRA) Guideline* to address the issues of home-sharing activities. The hotel industry raised concerns that the Short Term Residential Accommodation (STRA) has unfavourable impacts on the industry and created unfair playing field. In 2018, through a comprehensive study and various engagements with stakeholders, the working group also identified other issues of STRA, which include land zoning, public nuisance, safety, security, tax collection and traditional services. The Draft Guideline for STRA was then developed by applying this three-step approach: 1. Understand the issues of home sharing, 2. Analyse existing regulations, and 3. Seek feedback from all relevant stakeholders through Public Consultation.

While in Mexico, ride sharing and home sharing are the two main activities of Sharing Economy. Mexico ranked 2nd after China in using Mobile Apps for mobility services and recorded a quarter million of Airbnb listings during 2019. The Government taxes the

activities due to uncertain effects of sharing economy, possible loss in Government revenue and fair contribution to the Government for the use of public properties (e.g.; roads, public health system, etc).

Mexico implement imposition of taxes on Sharing Economy through the Revenue Act that was reformed in 2019 and the Miscellaneous Tax Result for 2020. The tax imposition will be effective starting 1st June 2020 through Income Tax and Value Added Tax (VAT). The challenges faced in taxing the sharing economy include the need for *physical presence* to carry a business, the use of *online data or transactions* and *uncertainties of characterization of payment* made in the new business models.

The final speaker from Indonesia shared the economy's experience in developing regulatory framework to facilitate the emerging activities in e-hailing and P2P lending. Ride-hailing or e-hailing started in Indonesia with Uber in 2014 and Gojek in 2015. The Government put a temporary ban on the activities in 2015 while it develops a regulatory framework to address the protests by traditional players. Indonesia established the 1st online transportation regulation in 2016 and since then, the regulation underwent reviews to protect riders, drivers and the platforms. In 2019, the regulator further reviewed the regulation to include specific rules, which also include pricing method based on demographic zoning to protect the income of the riders.

In the P2P lending, the activity began in Indonesia in 2014 and it grew exponentially in 2016, which has moved the Government to introduce regulation and policies to provide visibility on accessibility of the financial products. The Government supported the P2P lending activities through start-up development initiatives, pre-incubations, and development of digital start-ups and digital technical skills modules.

Session 5: Understanding Risks, Opportunities and Threats in Regulating Sharing Economy

On the next session, the speakers presented on the issues related to the development of comprehensive and practical regulations of the Sharing Economy, including enforcement approaches. Mr. Omar Masry from the Office of Short-Term Rentals (OSTR), San Francisco shared the short-term rental programme that helped to regulate, monitor and control the activity in the city. The legislation allows permanent residents to rent homes for less than 30 days, subject to certain rules that are meant to protect the long-term housing and quality of life. The OSTR administers the short term rental program and oversee registration of hosts or operators and enforcement of the Platform Accountability Law (Amendment) to regulate the home-sharing activities.

The legislation in San Francisco focuses on both the property and the online platform, where hosting platforms are to ensure that all hosts are registered and passed through the platform's application system, remove non-registered hosts listings and cancellation of all bookings within six days, and be liable if they continue to allow bookings of unregistered hosts.

Mr. Mahadhir Aziz of Malaysia then shared a strategic collaboration between the Government, academia, industries and entrepreneurs on the economy's initiative called the "*National Regulatory Sandbox*" (NSR). The main objective of NSR is to expedite progressive and anticipatory regulatory intervention to enable commercialization of innovation and technology solutions. The NRS allows the Government to create policies and test them out through the sandbox and it becomes a medium for analyzing the operations of sharing economy. The sandbox also provides data on what to regulate and what law is affected by the new business models. The Government needs to protect and find ways to regulate fairly to allow the business to prosper, and NSR can be used a platform to test regulation before its implementation.

Mr. Harikumar from Baker McKenzie Wong & Liew, Singapore viewed that the benefits derived from sharing economy may be hindered from poorly made regulations and that existing regulations may be ill-suited for the new economy. Some regulatory responses in addressing concerns include developing new regulations and amendments that can help treat the issues derived from existing regulations and the use of sandboxes as a regulating tool. In doing so, regulators across ministries should follow some best practices by working together to address the disruptions and engage with all stakeholders to ensure that regulatory mechanisms remain relevant, while reviews and updates are necessary.

The final speaker, Ms. Nozomi Nakai of Japan Tourism Agency, Ministry of Land, Infrastructure, Transport and Tourism (MLIT) shared the economy's experience in the implementation of the "Minpaku Law " to regulate the short-term rental activity in Japan. In essence, the law requires private lodging operators to submit a notification to the prefectural governor before starting short term rental. Japan views the Minpaku Law as giving positive impact to the economy when the number of notified residential accommodations and guests increased drastically from June 2018 to November 2019.

During special events, private accommodations are allowed to be open for short term rental even without a license, provided that certain requirements are met, based on Hotel Business Act. Ms. Nozomi shared the efforts toward the development of Minpaku Law was made by optimizing the notification procedures through simplification and online

process. The speaker concluded by sharing the success of the Law that has contributed toward the Regional Development of Japan, for example, in the utilization and revitalization of unused resources and the Government assets like historic castles, closed old schools and abandoned cultivated land.

Session 7: Synergies between AIDER and EC works to improve regulatory policy in Sharing Economy (Breakout Session)

The last session of the two-day workshop was specially dedicated for the APEC economies to discuss and brainstorm on synergies between Digital Economy Steering Group (DESG) and EC works to improve regulatory policy in Sharing Economy, in particular on two of AIDER key focus areas, which are Focus Area 4 and Focus Area 5. The participants came up with 15 proposals that cover the discussion on: guiding principles, regulatory considerations and Government roles. These proposals are summarized as follows:

No	Topic	Proposals
1.	Guiding principles for regulating the activities of sharing economy	1) Good regulatory practice to ensure consistency, transparency, competition and net social benefit. 2) Cooperation and coordination among level of government 3) Clarity: Be clear on who, what and why to regulate (fit for purpose) 4) Flexible regulations (risk and outcome based) 5) Levelplaying field; technology neutral (<i>incumbents, start-ups, disruptors</i>)
2.	Regulatory considerations to enable sharing economy to grow;	1) Sharing economy needs to be defined by APEC. Too many definitions, vague and generic 2) One size does not fit all (different sector different principle). 3) Platform accountability. 4) Cross-border issues (jurisdiction, international law). 5) Data protection. To agree on who owns data. 6) Regulatory sandbox: APEC could help with

No	Topic	Proposals
		guidelines for sandboxing – for example, the sandbox text period.
3.	Government roles in tackling current issues in sharing economy.	<ol style="list-style-type: none"> 1) Government to set up a platform to assist start-ups comply with regulations. 2) Conduct Public Consultation in order to determine appropriate policies. 3) Collaboration between government and industry players. <ol style="list-style-type: none"> <i>i. Data sharing. Sharing data with government for analysis and to generate policies;</i> <i>ii. Awareness of law. Notices and blast out e-mails to ensure everyone knows the compliance requirement;</i> <i>iii. Controlling behaviour.</i> 4) A new department dedicated to oversee Sharing Economy.

Note:

- The copies of the speakers' presentations can be downloaded through: <http://mddb.apec.org/Pages/search.aspx?setting=ListMeeting&DateRange=2020/02/01%2C2020/02/end&Name=Workshop%20on%20Innovative%20Regulatory%20Policy%20Development%3A%20APEC%20Economies%u2019%20Approaches%20on%20Sharing%20Economy%202020>

Conclusion

In short, the outcomes of the workshop, as follow:

- Digital economy proves to be the future economy. It is proven that the activities of Sharing Economy promote wealth creation and inclusiveness through participation of small and micro entrepreneurs, disabled people, women entrepreneurs (including single mothers and elderly), youth, pensioners and any target group across demographic zones of an economy. The economies should also start looking at how benefits derived from digital economy can be reflected in an economy's Gross Domestic Product (GDP).
- No common approach to regulating the Sharing Economy. There is no common approach in regulating disruptive technology across the globe. It is the role of government to look at how and what to regulate.
- Government plays a big role in shaping the future of Sharing Economy. There is a wide area for Government to play its role in Sharing Economy. The main role is to place regulations that promote growth while protecting the society; ensuring that regulations are easily accessible, a straightforward process and flexible content, and readiness of technology infrastructure that support the digital economy growth. In addition to reviews of laws and regulations, the Government should also consider safety net and consumer protection, job creation, fair working condition, social benefits to the society, anti-competition and level playing field. In ensuring compliance and growth, the Government may also consider providing incentives to technology platforms for their innovation.
- Working together and inculcate internal cooperation across various Government departments or agencies. The ministries, agencies and regulating bodies are to cooperate among themselves and work together in developing the best approach in reviewing existing regulation or designing innovative regulatory policy development to address business issues in Sharing Economy.
- Sufficient consultation and good regulatory practices (GRP) in formulating a regulatory framework. Applying GRP in the development of a regulatory framework for Sharing Economy may avoid government's flip-flop during post-implementation of a legislation.
- Collaboration with private sectors. In the era of digitalization, the private sector is faster than the public sector in adopting technology because they could quickly

capitalize it for new business opportunities. The businesses also know their own needs and possess the speed in making decision due to minimal layers of their structure. The government should consider collaborating and leveraging on the public-private partnership to add speed in addressing the issues on the ground, for example, working with the industry in registering the sharing economy's activities and collecting relevant data and information for statistical and future trend analysis.

- Coordination between agencies and industry players. A good regulatory framework can be built and strengthened through a streamlined approach where the government agencies and businesses understand the same objectives and collective efforts are made to create a value-adding regulation.
- Data ownership and trust. One of the challenges faced by the Sharing Economy is on enhancing public trust over the use of their data and information. The existence of a regulation, policy or an agreement made known to the public may build the trust.
- Inclusiveness of the government policy. In introducing new policies, the Government must consider all levels of society, their economic status and their demographic location, so that their needs are not being overlooked. In essence, the regulation should promote creation of growth in rural areas without neglecting the under privileged, micro, small and medium entrepreneurs, women, youth, the disabled, pensioners and the elderly in the society.
- Upgrading skills and knowledge in the new economy. The micro, small and medium entrepreneurs, the newbies and the new generation should better equip themselves with current knowledge and skills, in particular in the areas of disruptive technology, financial, business and legal or regulatory compliance. The education ministry, private institutions or professional trainers should consider this in their academic modules and skills training programmes.

Recommendations

Moving forward, the workshop agreed to forward the proposals made by the APEC economies (from the last breakout session on Day 2) to EC for further deliberation in future meetings or workshops.

In preparing for the workshop, a specific topic on gender inclusiveness in sharing economy could not be covered at length due to the limitation of time in attaining a subject matter expert because of uncertainties in the movement of people during the novel corona virus or the Covid-19 outbreak. Although we said that it would be equally impactful to have equal gender representation in all sessions, we would still recommend for APEC Economic Committee to consider this topic as one of the topics for discussion in future APEC economies workshops.