

THE COLLABORATIVE ECONOMY: PROSPECTS AND
CHALLENGES FOR THE PACIFIC ALLIANCE

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Abstract: The development of ICTs and maturing Internet usage have allowed for the emergence of an alternative and disruptive economic system – the collaborative economy – that challenges the traditional ways in which goods and services are produced, consumed and sold across borders. The collaborative economy holds significant potential to create higher levels of economic activity by facilitating the exchange of goods and the emergence of new services through novel, capital-saving, means favoring smaller scale suppliers and consumers. It further offers entrepreneurs the opportunity to operate businesses through digital platforms on a larger scale as intermediaries of peer-to-peer interactions. The collaborative economy also raises various public policy challenges in balancing the protection of competition, workers and consumers in the new economy with the promotion of the benefits associated with the further development of digital ecosystems. Issues of consumer protection, data privacy, labor and social rights, and taxation lie at the forefront of policy concerns. This article situates the above trends in the context of ongoing regulatory cooperation efforts among the member states of the Pacific Alliance.

Key words: Collaborative economy, digital trade, services, regulation, taxation, labor rights, e-commerce, information and communication technologies, transaction costs, Pacific Alliance.

I. INTRODUCTORY REMARKS

The collaborative or *sharing* economy as it is also often called is evolving at great speed thanks to the Internet, technological innovation and the emergence of new business models, developments that have scaled and multiplied it exponentially to become a disruptive, Schumpeterian, economic force in its own right.² The collaborative economy allows for the generalization and mass use of intermediation platforms

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² Bulchand Gidumal, Jacques y Melián González, Santiago, *Una Guía para Entender la Economía Colaborativa* (Fundación Universitaria de las Palmas, 2016) [Jacques Bulchand Gidumal and Santiago Melián González, *A Guide to Understanding the Collaborative Economy* (Fundación Universitaria de las Palmas, 2016)].

that bring users/consumers and providers more closely together, thus reducing transaction costs.³ The collaborative economy operates in services fields as diverse as tourism, transport, finance, health and personal care, education and a host of business services.

The emergence of the collaborative economy poses a twofold governance challenge: how to deal with the tensions emerging from the need to protect consumers and workers and achieve other legitimate regulatory objectives whilst also providing a regulatory framework in which new business models can emerge and thrive? The demarcation lines between protectionist and legitimate policy objectives are often fuzzy and remain a sensitive issue. In the case of the collaborative economy, the interests of traditional economy operators, who tend to regard the new business models as a source of unfair predatory competition in services markets, can exacerbate such tensions.

This article explores a number of public policy challenges and opportunities flowing from the ongoing growth of the collaborative economy. It explores the concept of the collaborative economy and its relation to other notions, such as the sharing economy and collaborative consumption, identifying the key characteristics that underpin this recent phenomenon. The document maps the current state of affairs of the collaborative economy within the member states of the Pacific Alliance and draws out some basic public policy implications of this budding economic model calling for stepped-up efforts at regional cooperation.

II. WHAT IS THE COLLABORATIVE ECONOMY ABOUT?

A. CONCEPTUAL DISTINCTIONS

The notion of *sharing economy* has been used interchangeably with other concepts, such as *collaborative consumption* and *collaborative economy*. Several authors have attempted to demarcate the boundaries between one and the other by referring to differences in motivations, interests, the nature of the interaction between peers, the payment of a charge, and so on. Bulchand and Melián for instance refer to the

³ Sobrino Ruiz, Maria y Maudes Guitiérrez, Antonio, *La regulación debe justificarse por fallos del mercado como la información asimétrica o la existencia de externalidades*, en Instituto de Empresa de Madrid (para el Fondo Multilateral de Inversiones, BID) *Economía Colaborativa en América* (2016) 26 [Sobrino Ruiz, Maria y Maudes Guitiérrez, Antonio, *Regulation must be justified by market failures such as asymmetrical information or existing externalities* en Instituto de Empresa de Madrid (for Multilateral Fund for Investments, IDB) *The Collaborative Economy* (2016) 26].

collaborative economy as an overarching phenomenon that encompasses the entirety of digital platforms allowing connection between individuals that provide goods or services, and those that benefit from them.⁴ They also mention that the terms *collaborative consumption* and *sharing economy* are concepts that fit into this broader concept.

Bulchand and Melián understand *collaborative consumption* as a process by which people share their belongings in order to avoid the unnecessary purchase (or production) of goods, which may only be used sparingly (if at all) subsequently. The ultimate purpose of collaborating is thus to avoid wasteful or unnecessary production or consumption.⁵ Codagnone and Martens refer to the concept of collaborative consumption, popularized by Botsman & Roger,⁶ as encompassing activities such as ‘bartering, lending, renting, gifting, and swapping’ in three broad categories: (i) ‘product-service systems,’ which allow for access to products or services without the need to own underlying assets; (ii) redistribution markets, such as the re-allocation of goods; (iii) collaborative lifestyles’ such as the exchange of intangible assets.

Bulchand and Melián describe the sharing economy as a concept that operates only for a limited number of cases where products or services are shared without expecting, in principle, something in return. This is the case, for instance, when people offer a place to stay in their home via couch surfing. Both authors question the use of this concept as an all-encompassing notion of the new economic reality, because in the most prominent examples there is a financial payment in exchange for the service rendered without having a ‘sharing’ dimension *stricto sensu*.⁷ In a similar vein, Eckhard and Bardhi question the use of the word ‘sharing’ when referring to this economic system and suggest the notion of ‘access economy’ instead.⁸ They argue that the concept of sharing conveys notions of familiarity and a sense of communal identity that is not in place in the access economy, where consumers are looking for utilitarian rather than social value.

⁴ Bulchand-Gidumal above n 2 [Kindle version].

⁵ Ibid.

⁶ Codagnone, Cristiano and Martens, Bertins, *Scoping the Sharing Economy: Origins, Definitions, Impact and Regulatory Issues* (European Commission, 2016) 6. Quoting Botsman, R., & Rogers, R., ‘Beyond zipcar: Collaborative consumption’ (2010) 88 (8) *Harvard Business Review* 30.

⁷ Bulchand-Gidumal above n 2 [Kindle version].

⁸ M Eckhard, Giana and Bardhi, Fleura, *Harvard Business Review* (online, 28 January 2015) < <https://hbr.org/2015/01/the-sharing-economy-isnt-about-sharing-at-all> >.

Consumers are, according to Eckhard and Bardhi, looking for access to someone else's asset in a convenient and cost-effective way with little to no interest in enhancing social relations.⁹

Other authors such as Peña Capobianco agree that the term 'sharing economy' is somehow misleading. He asserts that the concept of collaborative economy is broad enough to cover both activities with financial and non-financial interests underlying P2P interaction.¹⁰ He regards as distinctive the following characteristics of the collaborative economy: (i) the democratization of resources; (ii) the greater fluidity of exchange between providers and consumers; (iii) the use of technological applications to communicate; (iv) the use of underexploited goods; and (v) the development of a system based on trust.

In contrast, Hamari, Sjöklint, and Ukkonen suggest that the sharing economy is an umbrella concept encompassing several ICT developments that involve the shared consumption of goods and services through online platforms.¹¹ They define collaborative consumption (CC) as the 'the peer-to-peer-based activity of obtaining, giving or sharing the access to goods and services, coordinated through community-based online services'.¹²

For its part, the Oxford Dictionary refers to the sharing economy as 'an economic system in which assets or services are shared between private individuals, either for free or for a fee, typically by means of the Internet'.¹³

In what follows, this paper refers to the concept of *collaborative economy* as a more accurate and encompassing notion of the phenomena under discussion. This runs counter to the more widely spread concept of the *sharing economy*. The notion of collaborative economy is broad enough to comprise the distinctive features of this economic system, its manifold variations in operating models, and the differences

⁹ Ibid. The authors even suggest that developing a business model oriented toward building and fostering social relations among consumers may not be the right approach for access economy businesses to scale up.

¹⁰ See Peña Capobianco, Javier, *La Alianza del Pacífico en el Comercio Global de Tareas* (Banco Interamericano de Desarrollo) (inédito) 13 [Peña Capobianco, Javier, *The Pacific Alliance in the Global Trade of Tasks* (Inter-American Development Bank) (unpublished) 13].

¹¹ Hamari, Juho, Sjöklint, Mimmi, and Ukkonen, Antti, *The sharing economy: Why people participate in collaborative consumption* (2016) 67 (9) *Journal of the Association for Information Science and Technology* 2047, 2047.

¹² Yaraghi, Niam and Ravi, Shamika, *The current and future state of the sharing economy*, Brookings Report, (29 December 2016) 1. Authors quoting Hamari and Ukkonen.

¹³ See also Cambridge Dictionary definition for Sharing Economy: 'an economic system that is based on people sharing possessions and services, either for free or for payment, usually using the Internet to organize this'

in underlying motivations. Regardless of observed differences in operating models, they all seem to share a number of distinctive features detailed below.

B. CHARACTERIZING THE COLLABORATIVE ECONOMY

While several features characterize the collaborative economy's novel landscape, four salient aspects stand out.¹⁴ First, the collaborative economy relies on peer-to-peer (P2P) interaction. Second, it typically operates through 'crowd-based' networks, given that the supply of capital and labor comes from groups of individuals rather than from corporations or state-run entities within 'traditional' economic activities. Third, it involves the use of digital intermediation platforms to scale up the model in order to reach broader audiences. Fourth, business models operating under this system rely on building trust, often in the form of 360-degree peer reviews that provide information on the quality of the product or the service offered and the behavior of the consumer.

Some of the above features can be the source of significantly disruptive effects in areas such as labor market regulation and consumer protection, among others, particularly in countries where regulatory policies are poorly adapted to the speed of change arising from novel economic trends that blur long-established lines of demarcation between the personal and the professional or between full-time, formal, employment and casual labor.

According to Munger,¹⁵ one of the driving forces behind the emergence of the collaborative economy is the consumer's need to reduce transaction costs. Consumers have traditionally relied on the ownership of goods. However, the main disadvantage of ownership is that individuals often end up with things they seldom need or use even as they always need the space to store them.

Examples that readily come to mind are cars for urban dwellers, tools or housing. The collaborative economy allows individuals to make productive use of a spare bedroom by renting it out to someone who is willing to use it on a time bound basis.¹⁶ This is the likely rationale behind business models arising within the so-called "collaborative consumption" sphere, which affords individuals the possibility of maximizing

¹⁴ Sundararajan, Arun, *The Sharing Economy: The End of Employment and the Rise of Crowd-Based Capitalism* (The MIT Press, 2016) 26-27.

¹⁵ C Munger, Michael, *Tomorrow 3.0: The Sharing Economy* (2016) 20(3) *The Independent Review* 393.

¹⁶ *Ibid.*

the welfare of providers and users through the temporary provision (or rental) of goods and services that a person owns or can supply —and that someone else needs.

The collaborative economy is at its core a service economy, intermediating between the needs and supply capacities of users and providers. Several other reasons underpin the surge of collaborative consumption: disaffection with traditional consumption patterns and with certain types of market-based transactions, or the spectre of simple economic gains are important additional motivations behind the rise of the collaborative economy.¹⁷ This economic model's propensity to disrupt traditional market structures and erode long-held rents has spawned a lively debate between its supporters and opponents, leading in some instances to outright bans on some activities or to calls for much more stringent regulation of such new service providers so as to prevent them from gaining an unfair or undue advantage over their traditional competitors (for example in urban transport or the hotel sector). The latter issue has arguably proven most contentious within the taxi industry in several cities around the globe.¹⁸

Other motivations include the scope for gaining access (through crowd-funding) to sources of capital that are either unavailable or unduly costly when intermediated within traditional financial channels. The sharing and dissemination of knowledge and expertise in areas of social or economic interest lays behind the emergence of yet other collaborative economy platforms. Governments are also beginning to harness digital platforms to better engage communities, particularly those that are geographically remote, and to better manage the delivery of public services in a more decentralized and participative manner.¹⁹ All of the above examples dot the diverse landscape of the collaborative economy.

C. BENEFITS AND DOWNSIDES OF THE COLLABORATIVE ECONOMY

The collaborative economy produces undeniable benefits for both consumers and providers of goods and services thanks to the ubiquity of the Internet and other technologies that make collaborating and sharing possible at lower costs and higher scale.²⁰ It further allows underutilized resources to be monetized²¹ while

¹⁷ Codagnone, above n 6, 19, 20. Quoting Hamari.

¹⁸ Ibid 4.

¹⁹ Bulchand, above n 2 [Kindle version].

²⁰ Kathan, Wolfgang, Matzler, Kurt and Veider, Viktoria, *The sharing economy: Your business model's friend or foe?* (2016) 59 Business Horizons 664.

²¹ Dostmohammad, Salman and Long, Jude, *Regulating the Sharing Economy: Applying the Processes for Creative Destruction*, Dalhousie University (21 December 2015) 4.

holding the potential to create new markets or to revitalize ‘traditional’ ones through disruptive innovations.²²

Furthermore, the collaborative economy affords greater flexibility and autonomy to economic agents while also helping individuals or households find additional sources of income, given the possibility to use multiple platforms.²³ A further advantage of this new economic system lies in the use of digital platforms able to address the information asymmetries, common to experience good contexts, by documenting and offering continuous information on the quality of the good or service (to be) provided or consumed, prior to its acquisition or use. This increases trust levels between providers and users and ensures greater supplier accountability and reliability given real-time reputational risks.²⁴

Authors such as Peña have argued that the collaborative economy has empowered a new class of micro-entrepreneurs who are economically rewarded by sharing their abilities, resources, products and services.²⁵ For example, Airbnb started in 2007, when two roommates living in San Francisco who couldn’t afford to pay their rent decided to offer three air mattresses in their loft as accommodation along with the promise of a free breakfast to any potential guest.²⁶ Uber, for its part, took off in 2008 when its co-founders experienced trouble in hailing a cab in Paris and came up with a simple idea: tap a button, get a ride.²⁷

The collaborative economy can also exert positive effects on the supply of public goods, notably in terms of positive environmental spillovers through cleaner air or reduced resource use resulting from the lowered production of shared goods. One recent study suggested that every car-sharing vehicle removed between 9 and 13 other vehicles from the road, contributing to reduce urban pollution and congestion.²⁸ Likewise, in the case of hospitality services, the use of pre-existing housing reduces the need for more commercial hotels, which recent research has shown to be responsible for more than a fifth (21 per cent) of carbon emissions produced by the tourism industry.²⁹ The collaborative economy, –especially collaborative

²² Codagnone, above n 6, 18.

²³ Peña Capobianco, above n 10, 31.

²⁴ Kathan, above n 20.

²⁵ Peña Capobianco, above n 10, 31.

²⁶ Carson, Biz, *How 3 guys turned renting an air mattress in their apartment into a \$25 billion company*, Business Insider (23 February 2016).

²⁷ Uber, *Our Trip History* <https://www.uber.com/en-AU/our-story/>

²⁸ Dostmohammad, above n 21, 4-5 (footnotes omitted).

²⁹ Ibid.

consumption models– are widely seen as contributing to a reduction in energy levels used in manufacturing and in the amount of waste produced from packaging and discarding broken or unused products.³⁰

The collaborative economy further holds significant scope for containing price inflation and thus facilitating macroeconomic policy, promoting environmental sustainability, enhancing convenience and encouraging socially attractive consumption experiences (by promoting greater social interaction between users and suppliers). Many stakeholders see the collaborative economy's growth as essentially unstoppable.³¹ Recent projections by PriceWaterhouseCooper (PwC) of the expected growth of key segments of the collaborative economy in areas such as travel, car sharing, finance, staffing, music and video streaming see it rising from an estimated \$15 billion today to \$335 billion by 2025.³² Such projections, however, remain highly contingent on the ability of governments to enact policies and regulations that allow sufficient scope for innovative collaborative activities to flourish whilst also addressing the likely distributional downsides, market disruptions and possible anti-competitive risks arising from the sharing economy's continued rise.

The scale of growth for market leaders (first movers) in the collaborative economy is unprecedented. Less than a decade old, Uber supplies urban transport solutions in more than 250 cities worldwide and its market capitalization dwarfs that of transport behemoths Delta Air Lines, American Airlines and United Continental.³³

A further defining characteristic of collaborative economy business models lies in the ability it affords for firms to set-up and expand with very low sunk costs. This is possible because such firms can operate without the need for big investments in physical assets and infrastructure. Uber does not own cars to run its core business, Airbnb, the largest player in shared accommodation, owns no properties and the highest-valued retail company in the world, Alibaba, holds no inventory of physical goods.³⁴

³⁰ Munger, above n 15.

³¹ Kathan, above n 20.

³² *The Sharing Economy*, PwC <<https://www.pwc.com/us/en/technology/publications/assets/pwc-consumer-intelligence-series-the-sharing-economy.pdf>> 14.

³³ Ibid.

³⁴ Arroyo, Juan Carlos, *La Economía Colaborativa en FinTech, una oportunidad de reinversión...* en Instituto de Empresa de Madrid (para el Fondo Multilateral de Inversiones, BID) *Economía Colaborativa en América*, (2016) 34 [Juan Carlos Arroyo, 'The Collaborative Economy in FinTech, an opportunity for reinvention...' Instituto de Empresa de Madrid (eds) (for Multilateral Fund for Investments, IDB) *The Collaborative Economy* (2016) 34].

Beyond the undeniable advantages noted above, the collaborative economy is not without its risks and potential downsides. For one, since many collaborative economy business models involve the optimized use of pre-existing, under-exploited, goods and assets and given that the logic behind this economic concept is to possess less – manufacturers (and manufacturing employment) could be adversely impacted, because there will be less demand to buy goods. A derivative effect of the lessened demand for goods could indeed be lesser production and possibly lesser cross-border trade, which could ultimately be reflected in higher prices for scarcer goods because of reduced scale effects. For example, instead of 100 million power drills stored in closets and garages, people will need only, say, 10 million because they will be able to rent rather than own them.³⁵ The loss of jobs in manufacturing may well lead to a commensurate rise of the so-called *gig* economy characterized by *owner-operator* service sector jobs with lesser job security and social protection and a greater propensity towards informal sector work and tax avoidance.³⁶

The “winner take most” properties of the digital economy have tended to be especially kind to first movers with adequate scale and a capacity to absorb novel (and potentially) rival innovators. This entails the non-trivial risk of excessive market concentration to which competition policy and enforcement practices will need to adapt and respond.³⁷ Similarly, the growth of the sharing economy requires that particular vigilance be placed in adapting consumer protection, taxation, cyber-security, privacy and data protection as well as labor laws to the downside risks noted above.

III. PACIFIC ALLIANCE (PA) PERSPECTIVES ON THE COLLABORATIVE ECONOMY

A recent report commissioned by the Inter-American Development Bank provides a snapshot of the state of advancement of the collaborative economy in PA member countries.³⁸ The report allows for cross-country comparisons and provides useful empirical insights on the geographic distribution of collaborative economy activities per country, the areas in which it operates, and the reasons why they have or have not achieved the desired level of success, among others.

³⁵ Munger, above n 15.

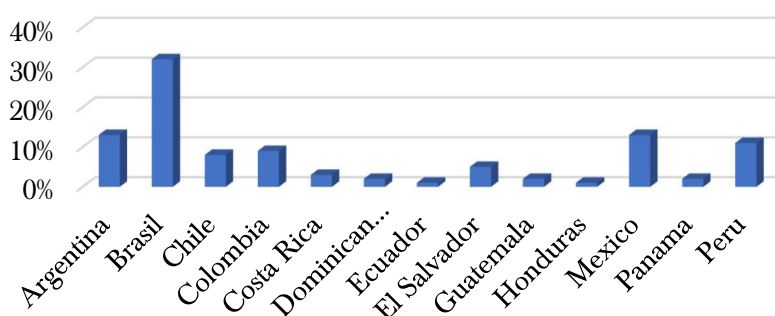
³⁶ Ibid.

³⁷ Codagnone, above n 6, 19.

³⁸ Instituto de Empresa de Madrid (eds) para el Fondo Multilateral de Inversiones, *Economía Colaborativa en América Latina* (Banco Interamericano de Desarrollo, 2016) [Instituto de Empresa de Madrid (eds) (for Multilateral Fund for Investments, IDB) *The Collaborative Economy* (2016)].

Pérez Garrido's work shows that the collaborative economy has experienced sustained growth in PA countries.³⁹ As Figure 1 below shows, the four PA countries account for 41 per cent of total collaborative economy entities in Latin America. Of the total, and among the PA, Mexico has contributed the most, hosting 13 per cent of sharing economy entities, followed by Peru, Colombia and Chile with 11, 9 and 8 per cent of entities respectively. Within Latin America, Brazil leads the way with 32 per cent of identified initiatives originating there. Mexico stands second thanks to the size of its internal market and its higher level of technological maturity.⁴⁰ From the total pool of businesses identified as operating under the collaborative economy model in Latin America, 26 per cent are found in various business services while 24 per cent operate in transport services.⁴¹ A growing number of collaborative economy entities operate in education, training and cultural services (17 per cent). The observed trend is somewhat different within the PA. For instance, in Mexico around 45 per cent of collaborative economy initiatives operate in the transport sector while 18 per cent are nested in the financial sector.⁴²

Figure 1. Latin America: Share of collaborative economy initiatives by country



Source: Instituto de Empresa de Madrid, (2016)

Mapping exercises of the collaborative economy are taking place in Latin America and Spain through initiatives such as 'Connecting the Dots' which is charting collaborative economy initiatives in 30 different

³⁹ Pérez Garrido, Ricardo, *Caracterizando la Economía Colaborativa: la visión de los fundadores* in Instituto de Empresa de Madrid (eds) para el Fondo Multilateral de Inversiones, *Economía Colaborativa en América Latina* (Banco Interamericano de Desarrollo, 2016) 5-6 [Pérez Garrido, Ricardo, *Characterizing the Collaborative Economy: the view of the founders*, Instituto de Empresa de Madrid (eds) (for Multilateral Fund for Investments, IDB) *The Collaborative Economy* (2016) 5-6].

⁴⁰ Instituto de Empresa de Madrid, above n 38, 19.

⁴¹ Pérez-Garrido, above n 39, 7.

⁴² Ibid, 19.

fields: (1) car-pooling; (2) ride-sharing; (3) bike-sharing; (4) P2P car-sharing; (5) co-working; (6) maker-spaces; (7) urban agriculture; (8) food hubs; (9) digital manufacturing (10) decentralized energy; (11) user coops; (12) recycling; (13) repair cafes; (14) tool-libraries; (15) second hand; (16) digital bartering; (17) short rentals; (18) social eating; (19) home swapping; (20) P2P local guides; (21) housing coops; (22) co-living; (23) time banks; (24) MOOCS online free courses by academic institutions; (25) P2P learning; (26) open data; (27) citizen engagement; (28) P2P lending; (29) crowd-funding; (30) local currencies.

Table 1 shows an indicative list of collaborative economy initiatives currently developing in every PA member:

Table 1. PA: Collaborative Economy Initiatives⁴³

| | Mexico | Chile | Colombia | Peru |
|--|---|---|---|---|
| Transport (ride-sharing, car-pooling, bike-sharing, P2P car-sharing) | CarrotMX, CityDrive EcoBici, <u>BKT Bici</u> <u>Publica</u> , DameUnAventon, EConduce, iVoy, Rutanet, PackandPack, Parkeo <u>VanBam</u> | ,AllRide (previously A dedo) NosFuimos CanUBring, | <u>BIciCo</u> EnCicla, <u>Muvo</u> Miaguila TodosEn4, | <u>Comparticar</u> <u>B-green</u> <u>Carcool</u> Pusakuy, San Borja en Bici |
| Crowdfunding; P2P lending | KuboFinanciero, Crowdfunder.mx, | Cumplo, <u>Facturedo</u> BeCual, Broota, TuVakita; | La Chèvre LittleBigMoney | <u>afluente</u> Kapital Zocial Yupiloo |

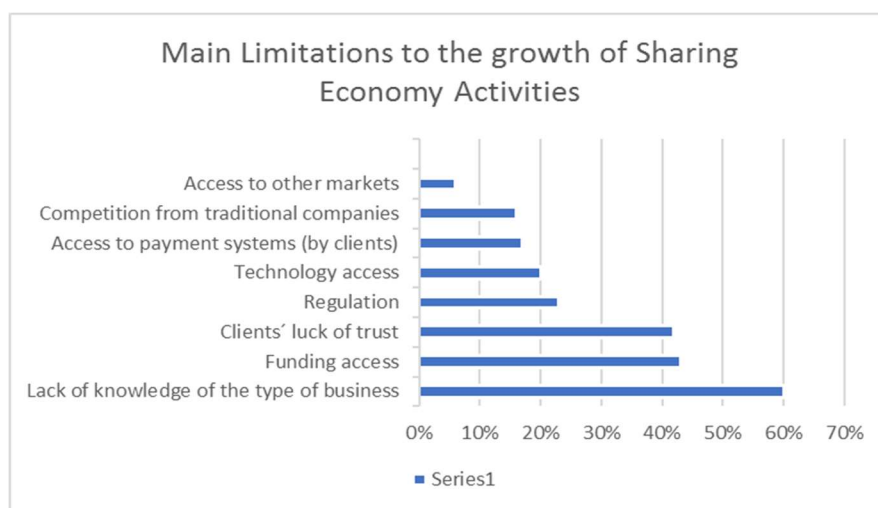
⁴³ *Collaborative Consumption Projects in Latin America*, Collaborative Consumption (January 2017) <<http://www.consumocolaborativo.com/directorio-de-proyectos/directorio-de-proyectos-america-laComparticartina/>>.

| | | | | |
|---|--|---|---|--|
| | Prestadero, Doopla, PlayBusiness Konsigue | | Vaca bacana | |
| Hospitality, Tourism and Co-working | HackerGarage, MandarinaHub, ImpactHubMonterrey Centraal | Sinbad, <u>Gulliver</u> | 5Bogota, HubBog, NodoCoworking, <u>ImperioCoworking</u> EpicentroCoworking | Travel Massive Perú Comunal StarsCamp Residencia, LimaCoworking |
| Others (tasks, user coops; second hand products; P2P learning,) | <u>Aliada</u> Vivanuncios, DadaRoom, TradeSchool, Mutuuo, Prentige, Zolvers, Loggap Trendier TuOla | Trovalli JuntosCompremos <u>TeDoy</u> Tu Closet Mi Closet, <u>Junke</u> , Poliglota Rentaki | Alamaula, Nerdbooks <u>Renueva tu closet</u> Ropateka, ServiRadar <u>ShareCollab</u> TareaPlus, | LasTraperas GrafiferiaPeru MalkiBook |

Source: Consumo Colaborativo and others

Despite the advances noted above, several factors continue to weigh on the collaborative economy's growth in Latin America. Figure 2 below identifies some of the main limitations that Latin American entrepreneurs operating collaborative economy business models highlighted.

Figure 2. Main Limitations of collaborative economy growth in Latin America⁴⁴



Source: Instituto de Empresa de Madrid, (2016)

Lack of knowledge and trust, especially among potential users, in *newly* proposed business models, together with inadequate seed finance and deficient regulatory frameworks are considered as the main limitations to the growth of collaborative economy activities.⁴⁵ Of particular concern to operators are recurring conflicts between regulatory authorities over jurisdictional competence, regulatory overlaps across different levels of government, and lack of clarity on how to regulate, tax and protect consumers in such new activities. All appear ripe for deepened cooperation among relevant PA regulatory entities and key collaborative economy stakeholders.⁴⁶

In responding to the above hurdles and putting in place a PA-wide regulatory framework that balances potentially competing public policy objectives greater collaborative initiatives and policy coordination

⁴⁴ Pérez-Garrido, above n 39, 11.

⁴⁵ Ibid 6.

⁴⁶ See ¿Por qué peligra la Plataforma Uber? *Semana* (online), 3 April 2017, <<http://www.semana.com/nacion/articulo/demanda-del-ministerio-de-transporte-a-uber/520506>> [Why does the Uber Platform is in Danger? *Semana Magazine* (online) 3 April 2017 <<http://www.semana.com/nacion/articulo/demanda-del-ministerio-de-transporte-a-uber/520506>>].

among PA members will be required. Such coordination will need to entail innovative approaches to tackle the freedom to trade and the protection of consumers, ensure fairness in taxation and regulatory burdens, avoid the emergence of anti-competitive conduct, protect the privacy of data, etc. Several of these are already in place through various PA-wide regulatory dialogues.

Greater cooperation and coordination should be aimed at promoting the emergence of collaborative economy activities and the economic and social benefits they portend whilst also addressing inevitable distributional downsides.

IV. POLICY CHALLENGES AND RESPONSES

A. CONSUMER PROTECTION

The collaborative economy raises multiple consumer protection concerns to which public policy needs to respond with a view to raising trust. Liability claims in cases of accidents and the provision of goods or services that do not match online depictions are two of the most common problems. Additional concerns relate to the fact that suppliers operating on collaborative economy platforms do not require adequate *ex ante* forms of certification.⁴⁷

Leading collaborative economy operators are keenly aware of such problems, all the more so as their materialization can entail damaging reputational risks. Most leading firms have thus adopted measures – most in the way of self-regulation – aimed at mitigating negative perceptions and genuine risks as seen by both the general public and regulatory authorities. Examples include the implementation of a US \$1 million host guarantee, which covers a host's property in the rare event of damages (Airbnb),⁴⁸ and the possibility to get a refund if buyers receive an item different from the one placed on a selling list (eBay).

Interestingly, these are not the only examples of self-regulation. Companies such as Uber and Lyft allow consumers to see the GPS path of their rides, thus permitting users to find out whether the driver has followed the shortest route. Airbnb guests can leave their rented accommodation on the first day if they are dissatisfied and need only pay for the first night's stay.⁴⁹ Moreover, a growing number of collaborative

⁴⁷ Codagnone, above n 6, 22-23.

⁴⁸ *AirBnB hosts return to find home trashed after "drug-induced orgy"*, The Guardian (online), (1 May 2015) <<https://www.theguardian.com/technology/2015/apr/30/airbnb-calgary-home-trashed-drug-induced-orgy>>.

⁴⁹ Codagnone, above n 6, 23.

economy operators are putting in place safety-related procedures, such as background checks, and are harnessing digital feedback loops in allowing clients to review the quality of services provided.

The nature of collaborative economy activities and the use of digital platforms allows for the screening of any unwanted, discriminatory behavior, entailing that such conduct is more likely to be policed.⁵⁰ However, it remains the case, including within the PA, that self-regulatory approaches have been adopted and effectively implemented by only a handful of operators. Many still try to take advantage of loopholes arising from outdated or inadequate regulatory measures that tend to leave governments with many unanswered questions regarding the rights of consumers in the collaborative economy.⁵¹

B. TAXATION

Taxation has been and remains a major bone of contention and public policy headache in the collaborative economy context. Tax authorities worldwide regularly announce crackdowns on collaborative economy operators in an effort to reduce tax leakage from individuals and firms who fail to declare (or do not fully declare) the income derived from collaborative economy activities.⁵² As the sector develops, it will prove imperative for PA governments to develop clear guidance on whether and how the activities carried out by any natural or juridical person profiting from the collaborative economy are declared and subject to taxation. Such an assessment may in some instances require that a distinction be drawn between running a business and engaging in a pastime. The distinction depends on the frequency of the activity, and perhaps on the interest shown in engaging in remunerative activities (i.e. to earn a profit).⁵³

There are quite clearly numerous collaborative economy activities that need to be reported for taxation purposes. Following Yuan, the tax treatment of every short-term stay in a private property should be the

⁵⁰ For example, if a particular yellow cab in New York steadily doesn't pick up passengers of a particular ethnicity, its likely to go unpunished; however, if a Lyft driver does the same, the ensuing data trail might make it relatively easy to track and correct. See, in this regard Sundararajan, above n 14, 141-142.

⁵¹ Dostmohammad, above n 21, 2.

⁵² Yuan, Helena, *The Sharing Economy and Taxation* (2016) 51(6) *Taxation in Australia* 293. In a similar vein, in March 2016, the British Government announced a new sharing economy tax break to let people earn £2,000 tax free from sites like Airbnb and eBay. This means that taxpayers who profited from economic activities in the sharing economy last year, will get no tax break, and will be expected to pay tax on all of their earnings. See 'AirBnB tax chaos: Sharing economy boom to push fines for late tax returns above 1 million', *The Telegraph* (online), 5 October 2016, <<http://www.telegraph.co.uk/news/2016/10/05/airbnb-tax-chaos-sharing-economy-boom-to-push-fines-for-late-tax/>>.

⁵³ Yuan, above n 52.

same as a longer-term residential rental. Therefore, ‘...all income must be declared in the person’s income tax return and all expenses incurred directly relating to earning the rental income may also be claimed as deductions’.⁵⁴

Any approach towards taxation of collaborative economy activities has to consider the very nature of payments made over digital platforms. This is important because, even though the collaborative economy business model is similar in many ways to traditional rentals or sales ‘...the method in which the transaction originates differs, making the tax consequences less clear’.⁵⁵ Such problems may be compounded when transactions are initiated across borders, calling once more for deepened dialogue among the region’s tax authorities with a view to ensuring the respect of tax neutrality between traditional and collaborative economy transactions.

C. REGULATION

One of the main problems related to the development of the collaborative economy is the multiplicity of often overlapping regulatory policies, some developed for traditional activities, others applied specifically to digital transactions. Given that the collaborative economy offers new ways of providing and consuming services, many of which have traditionally been subjected to high regulatory compliance burdens, the possibility of conflict is clear.⁵⁶ For example, the operation of Uber in urban transport markets has triggered the opposition of local authorities looking to enforce taxi licensing laws in highly regulated markets.

A recurring challenge in adapting existing regulatory policies to new market realities is that prevailing regulations were typically (and naturally) established without the participation of new market players but set by regulatory authorities on the basis of traditionally supplied economic activities. New forms of participative regulatory dialogues are needed to address today’s more complex environment. As Gasser notes ‘...the laws written to regulate taxicabs, hotels, and other industries fit poorly with the new platforms, providers, and consumers using the sharing economy’.⁵⁷

⁵⁴ Yuan, above n 52.

⁵⁵ *Taxing the sharing economy Introduction to the tax issues that may arise from the new sharing economy*, PwC, <<https://www.pwc.com/us/en/industry/entertainment-media/publications/assets/pwc-taxing-the-sharing-economy.pdf>> 2.

⁵⁶ Sundararajan, above n 14, 137.

⁵⁷ Gasser, Urs, *The Sharing Economy: Disruptive Effects on Regulation and Paths Forward*, <http://institute.swissre.com/research/risk_dialogue/magazine/Digital_Economy/sharing_economy_disruptive_effects.html> (06 Jun 2016) 1.

As noted earlier, regulatory deficiencies abound in areas such as worker safety rules and consumer protection. For example, in classifying workers as *independent contractors*, Uber does not consider itself responsible for the behavior of its drivers, and Airbnb assumes no responsibility with regard to the maintenance, repair or cleaning of rental units.⁵⁸ At the same time, trying to impose existing regulations to new business models in the collaborative economy sphere without due consideration to differing characteristics could hinder the use of digital trade and its manifold economic and social benefits.

More effective regulatory approaches are needed to promote self-regulatory practices among the companies operating within collaborative economy ecosystems. Seen this way, self-regulation need not be tantamount to deregulation but rather involve ‘a reallocation of regulatory responsibilities to parties other than the government’.⁵⁹

Better identifying the above challenges and responding to them through appropriate stakeholder dialogue architectures are needed within the PA for the full developmental potential of the collaborative economy to be reaped and its distributional downsides properly mitigated. Table 2 below lists some of the key regulatory challenges arising from the growth of the collaborative economy and identifies potential public policy approaches.⁶⁰

Table 2. Regulatory challenges of the collaborative economy

| Regulatory Challenges | Issues to be considered | Possible public policy responses |
|----------------------------|---|--|
| Consumer Protection | <ul style="list-style-type: none">- Asymmetrical information- Security | <ul style="list-style-type: none">- To make compulsory the implementation of rating and reputational systems or other mechanisms to discourage |

⁵⁸ Dostmohammad, above n 21, 2. Note that, according to these authors, ‘this makes these companies highly profitable as they are able to offload the responsibility for liability, regulatory compliance, and taxes onto private contractors’.

⁵⁹ Ibid 2-3.

⁶⁰ For the drafting of the column ‘possible approaches’, some recommendations made by the European Commission have been taken into account. See, in this regard, European Commission, ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *‘A European agenda for the collaborative economy’* Document COM (2016) 356 final, Brussels 2 June 2016.

| | | |
|-----------------|---|---|
| | <ul style="list-style-type: none">- Quality of the service/good | <p>harmful behavior by market participants.</p> <ul style="list-style-type: none">- This may in some cases reduce risks for consumers stemming from information asymmetries. |
| Taxation | <ul style="list-style-type: none">- Tax compliance and enforcement- Difficulties in identifying the taxpayers and the taxable income | <ul style="list-style-type: none">- Local governments should conclude agreements with platforms for the collection of taxes. For example, in the European accommodation sector, platforms facilitate the payment of tourist taxes on behalf of service providers.⁶¹- To raise awareness on tax obligations, making tax administrators aware of collaborative business models- Information about national tax obligations, including those linked to employment status, should be clearly communicated to stakeholders.- |

⁶¹ According to the European Commission, an example of good cooperation between tax authorities and collaborative businesses comes from Estonia. In this country, transactions between the driver and the customer are registered in the collaborative platform, which then sends the relevant data (for taxation purposes) to the authorities, who will then pre-fill taxpayer tax forms. See European Commission, above n 60, 14.

| | | |
|--------------------------------------|---|---|
| Labor rights and entitlements | <ul style="list-style-type: none"> - Lack of clear criteria as to whether an employment relationship exists. | <ul style="list-style-type: none"> - Private individuals who offer collaborative economy services should not be automatically treated as professional service providers. - The establishment of guidelines as to how to qualify a person as a trader. At least three criteria must be taken into account: Frequency of the service, profit-seeking motive and level of turnover - The establishment of guidelines in order to find out whether an employment relationship exists; focused on the following three criteria: the existence of a subordinated relationship; the nature of work, and the presence of remuneration. |
| Competition Policy | <ul style="list-style-type: none"> - Relationship between firms operating traditional and collaborative economy business models. Questions of unfair competition with traditional B2C providers. | <ul style="list-style-type: none"> - Better understanding how collaborative economy platforms operate (e.g. network effects, two-sided or multi-sided markets) - Addressing the risks of anticompetitive practices |

| | | |
|------------------------|---|---|
| | <ul style="list-style-type: none"> - First movers enjoy advantages that could confer dominant/monopolistic positions within the collaborative economy. Questions of industry concentration more generally and triggers for competition policy enforcement. | <ul style="list-style-type: none"> - Assessing the possible need for changes in competition policy enforcement metrics. |
| Self-regulation | <ul style="list-style-type: none"> - Limited number of cases of self-regulatory measures by collaborative economy companies. - Lack of clear rules from the government. | <ul style="list-style-type: none"> - Collaborative platforms are encouraged to continue taking voluntary action to fight illegal content online and to increase trust (for example by helping to ensure the quality of the services offered by providers of underlying services on their platform). - Such voluntary measures should not automatically be taken to mean that collaborative platforms that benefit from the exemption from intermediary liability no longer do so. |

Source: Authors' own elaboration

PA governments (at the national and sub-national (including municipal) levels), in partnership with key civil society stakeholders active within and outside the collaborative economy, should consider establishing a taskforce aimed at periodically conducting an audit of the adequacy of prevailing regulatory and taxation structures in the context of the collaborative economy and recommend needed adaptations. The proposal has been made that citizen advisory committees be created to provide meaningful contributions to the work of such a taskforce.⁶²

Another promising avenue is to encourage active cooperation between collaborative economy operators and governments. Airbnb for example has worked with regulators in cities such as London and Amsterdam in approving 'Airbnb friendly laws' and Uber has received regulatory approvals in a number of US cities as well as in the Philippines.⁶³

The Director General of the International Labour Organization recently pointed out the need to devote greater regulatory scrutiny to sharing economy activities, noting how operators in this new market sphere have to be regulated according to the (differing) values of each society.⁶⁴ The latter observations, pertinent as they are, must be set against the reality of business models whose protagonists typically expect them to be deployed and grow in a relatively homogeneous manner on a global scale. While overly idiosyncratic and contextualized regulatory approaches to the collaborative economy may hinder efforts at scaling up product offerings, regulatory responses must adapt and respond to cross-country differences in collective preferences. Efforts are needed within the PA to determine whether significant cross-country differences in attitudes towards the collaborative economy persist and whether scope exists to adopt convergent regulatory responses to its growth. Doing so would help nurture the sector's vibrant entrepreneurial spirit whilst also responding pro-actively to attendant dislocation forces.

V. CONCLUDING REMARKS AND RECOMMENDATIONS

Despite the number of challenging regulatory, taxation and competition-related issues coming in the wake of the collaborative economy's growth, its further development promises important business opportunities

⁶² Dostmohammad, above n 21, 5.

⁶³ Ibid 5-6.

⁶⁴ 'Ryder, Guy, OIT director: *Cada sociedad debe regular la economía colaborativa*, La Nación (online), <http://www.nacion.com/economia/politica-economica/economia-colaborativa-OIT-Guy-Ryder_0_1557044309.html> [Ryder, Guy, OIT director: *Cada sociedad debe regular la economía colaborativa*, La Nación (online), <http://www.nacion.com/economia/politica-economica/economia-colaborativa-OIT-Guy-Ryder_0_1557044309.html>].

and the development of new digital platforms likely to promote enhanced trade and investment in services within individual PA members and the regional grouping as a whole. Initiatives launched at the level of individual members could usefully be tested, expanded and escalated to an enlarged regional market of PA consumers and service suppliers, as is already happening at the domestic level in a few PA members. The existence of a common language, similar values and cultural identities all favor the growth of region-wide entrepreneurial initiatives provided that regulatory frameworks framed in the analog age adapt and converge on a regional scale.

Among the main limitations retarding the development of the collaborative economy within the PA and Latin America more broadly are: (i) a lack of updated regulatory policies, owing to the still predominant focus of governments on more ‘traditional’ economic activities; (ii) the absence of clear rules and procedures with regard to taxation, where significant scope for leakage prevails, and labor market regulation, notably as regards the nature of employment relationships between firms and independent workers and the levels of social protection enjoyed by the latter; (iii) the scope for potential prejudice to consumers in the presence of information asymmetries between providers and consumers of services in the sharing economy.

Much greater analytical granularity is furthermore required on the potential benefits and downsides for employment, earnings, gender, labor market participation, as well as social and consumer protection arising from the expected growth and spread of the sharing economy in sectors such as education, financial services, health and business services. All are issues that remain poorly explored in public policy research in the PA and beyond.

Summing up, the collaborative economy holds considerable potential to leverage the development of new business models and the emergence of new service offerings over region-wide digital platforms. For consumers and businesses from the member countries of the PA to take full advantage of the opportunities arising from the growth of the collaborative economy, a series of enabling conditions and flanking policies need to be in place. These include:

- (i) **Digital connectivity:** Improving the level and quality of access to the Internet and to mobile and smart technologies, thereby allowing for P2P interactions to take place on a broader scale. Online crowd-based networks are the operating principle of the collaborative economy, relying on the ability of buyers and sellers to connect to the Internet and use novel applications.

- (ii) **Digital literacy:** Advancing region-wide levels of digital literacy would enable more consumers and people to trust and use the collaborative economy's digital platforms. Such trust tends to be lower in Latin America than in other regions in the world, though efforts at increasing digital literacy for consumers and entrepreneurs are afoot throughout the regional grouping. Lack of public knowledge about the business models operating in the collaborative economy hinders their growth. Building trust online also requires that steps be taken to address a range of issues revolving around the security, transferability across borders and confidentiality of data and of cross-border online payments. Scaling-up product offerings is also contingent on the absence of measures that unduly fragment digital markets, such as data localization requirements.

- (iii) **Skills development:** Many of the labor market deficiencies that hold back the growth of traditional services transactions are present in the collaborative economy and weigh equally on its development. This includes a lack of entrepreneurial skills, of adequate managerial skills, particularly within SMEs, and weak innovation capabilities, all of which can hinder the adoption and use of new business models. Cross-country differences in innovation capabilities can affect the emergence and growth of region-wide collaborative economy initiatives, as can the supply (or lack thereof) of venture capital able to bet on and fund the emergence of novel business models. The development of common curriculum devoted to collaborative economy characteristics in PA business schools would be desirable, as would efforts at deepening financial markets with a view to nurturing the growth of vibrant venture capital sectors.

- (iv) **Regulatory environment:** The quality of domestic regulatory frameworks and institutions affects all agents participating in the collaborative economy - from operators of digital platforms to providers of goods and services over them as well as consumers. In several market segments where the collaborative economy operates, antiquated or poorly adapted regulatory frameworks can be sources of

friction, creating uncertainty over legal rights, tax and disclosure obligations and liability towards users. Promoting greater convergence in regulatory approaches to the collaborative economy among PA members would benefit nascent entrepreneurial initiatives and help them operate on a regional scale. At the same time, efforts are needed to align policies aimed at dealing with the distributional downsides likely to be associated to the collaborative economy's further growth for specific categories of workers and industries whose business models and long-held *modus operandi* are upended by new technologies, service delivery platforms and market players. Of particular importance is the need for region-wide convergence in consumer protection regimes and in their enforcement. This should include effective consumer dispute resolution systems for cross-border disputes involving PA consumers and/or firms. A further area where stepped-up regulatory cooperation efforts will be needed concerns the use and safety within and across borders of electronic payments, where the PA lags behind other developing regions in South Asia and East Africa in terms of inclusive financial innovation.

- (v) **Targeted assistance to micro, small- and medium-sized enterprises (MSMEs):** Stepped-up efforts are needed to develop region-wide Internet platforms allowing service sector MSMEs to connect with other service suppliers, business partners and clients and access relevant information (i.e. financing programs, regulations). Such efforts could be rolled into already existing PA-wide platforms (i.e. Connectamericas.com and Observatorio Regional PYME Alianza del Pacífico) to avoid duplication and facilitate one-stop online research.

Soft-lending programs for MSMEs to help them open new export markets and allowing them to establish contacts and create networks through repeat visits and participation in incubators, start-ups and trade fairs in other PA countries and

beyond represents a further form of desirable pooled support. Such an initiative could also be extended to PA observer states once in place.⁶⁵

Equally worthy of regional buy-in is the issue of encouraging the scaled-up participation of collaborative projects involving MSMEs in several PA members to the Entrepreneurial Capital Fund of the Pacific Alliance. Established in 2017, the Fund will have a significant focus on services entrepreneurs, including in areas such as ITC, health sciences, engineering services, financial mobility, biotechnology, renewable energies, education and crowd-funding platforms.

Dedicated support policies for MSMEs require credible information on the resilience of service sector exporting firms. Documenting such performance would provide better indications of targets in public policy interventions. There is anecdotal evidence suggesting that once service sector MSMEs start to export, they are prone to continuing down such a path. If such a trend obtains in the PA, MSME support could focus on allocating resources towards supporting SMEs' first export relationships.⁶⁶ Efforts are currently afoot to develop a general index for public policies on MSMEs in Latin America and the Caribbean (IPPPALC by its Spanish acronym), which is an adaptation of the OECD Index on Public Policies for SMEs. Because the IPPPALC Index does not attempt to assess MSME policies in relation to service sector activities, PA governments and the policy research community within it could usefully pool their resources in undertaking such analytical work given the preponderance of MSMEs in the service economy and their centrality to employment creation.⁶⁷

⁶⁵ Ibid 21.

⁶⁶ Lejárraga, Iza et al, *Small and Medium Sized Enterprises in Global Markets: A Differential Approach for Services?* (OECD Trade Policy Papers No 165, 2014) 67.

⁶⁷ See Estudio de Actualización del Índice de Políticas Públicas para PYMES en America Latina y el Caribe (IPPPALC) (SP/RREAIPP-PYME-ALC/DT N° 2-16 SELA, 8 Julio 2016) [Updating Report of the Public Policies Index for SMEs in Latin America and the Caribbean (PPISLAC) (SP/RREAIPP-PYME-ALC/DT N° 2-16 SELA, 8 July 2016)]. Cf Luis Rubalcaba, 'La Innovación en los Servicios' en Diego Aboal, Gustavo Crespi y Luis Rubalcaba (eds), *La Innovación y la Nueva Economía de Servicios en América Latina y el Caribe/Retos e implicaciones de política* (Centro de Investigaciones Económicas, 2015) 39, 46 [Luis Rubalcaba, *Innovation in Services*' in Aboal, Diego, Crespi, Gustavo and Rubalcaba, Luis (eds), *Innovation in the New Services Economy in Latin America and the Caribbean/*

- (vi) **Data availability:** The greater availability of disaggregated statistical information on services output, trade, investment (including intra-regional patterns of services production and exchange) continues to be a challenge that holds back the development of properly informed public and private decision-making. This situation suggests the usefulness of a PA-wide work program that could facilitate the comparability of statistics and provide access to more disaggregated bilateral trade data. Such an initiative is already in place, albeit with limited resources, at the regional level within the Latin American Integration Association (ALADI). However, the small number of PA members should enable faster progress in targeted data collection efforts in this area, providing a key input to enhanced public policies supportive of the service economy. The current paucity of data on the collaborative economy arguably hinders efforts to allocate public resources to the areas that need it most. The lack of suitably disaggregated data at the firm level within PA members makes it difficult to assess and monitor current policies and strategies tackling services sectors. The challenge for PA members is not just to develop services-oriented strategies and policies, an area in which the region in many regards has done better than most other parts of the developing world. Greater efforts need to be directed to developing and enacting smarter, evidence-based policies, which in turn demand better monitoring and evaluation metrics.

Challenges and Policy Implications (Centre for Economic Research, 2015) 39, 46]. The latter supports the view on the need to recalibrate policy assessment indicators when it comes to services innovation.