

INTERNATIONAL JOURNAL OF DIGITAL AND DATA LAW

REVUE INTERNATIONALE DE DROIT
DES DONNÉES ET DU NUMÉRIQUE

Vol. 2 - 2016



ISSN 2553-6893

International Journal of Digital and Data Law
Revue internationale de droit des données et du numérique

Direction :
Irène Bouhadana & William Gilles

ISSN : 2553-6893

IMODEV
49 rue Brancion 75015 Paris – France
www.imodev.org
ojs.imodev.org

*Les propos publiés dans cet article
n'engagent que leur auteur.*

*The statements published in this article
are the sole responsibility of the author.*

Droits d'utilisation et de réutilisation

Licence Creative Commons – Creative Commons License -



Attribution

Pas d'utilisation commerciale – Non Commercial

Pas de modification – No Derivatives

À PROPOS DE NOUS

La **Revue Internationale de droit des données et du numérique (RIDDN)/ the International Journal of Digital and Data Law** est une revue universitaire créée et dirigée par Irène Bouhadana et William Gilles au sein de l'IMODEV, l'Institut du Monde et du Développement pour la Bonne Gouvernance publique.

Irène Bouhadana, docteur en droit, est maître de conférences en droit du numérique et droit des gouvernements ouverts à l'Université Paris 1 Panthéon-Sorbonne où elle dirige le master Droit des données, des administrations numériques et des gouvernements ouverts au sein de l'École de droit de la Sorbonne. Elle est membre de l'Institut de recherche juridique de la Sorbonne (IRJS). Elle est aussi fondatrice et Secrétaire générale de l'IMODEV.

William Gilles, docteur en droit, est maître de conférences (HDR) en droit du numérique et en droit des gouvernements ouverts, habilité à diriger les recherches, à l'Université Paris 1 Panthéon-Sorbonne où il dirige le master Droit des données, des administrations numériques et des gouvernements ouverts. Il est membre de l'Institut de recherche juridique de la Sorbonne (IRJS). Il est aussi fondateur et Président de l'IMODEV.

IMODEV est une organisation scientifique internationale, indépendante et à but non lucratif créée en 2009 qui agit pour la promotion de la bonne gouvernance publique dans le cadre de la société de l'information et du numérique. Ce réseau rassemble des experts et des chercheurs du monde entier qui par leurs travaux et leurs actions contribuent à une meilleure connaissance et appréhension de la société numérique au niveau local, national ou international en analysant d'une part, les actions des pouvoirs publics dans le cadre de la régulation de la société des données et de l'économie numérique et d'autre part, les modalités de mise en œuvre des politiques publiques numériques au sein des administrations publiques et des gouvernements ouverts.

IMODEV organise régulièrement des colloques sur ces thématiques, et notamment chaque année en novembre les *Journées universitaires sur les enjeux des gouvernements ouverts et du numérique / Academic days on open government and digital issues*, dont les sessions sont publiées en ligne [ISSN : 2553-6931].

IMODEV publie deux revues disponibles en open source (ojs.imodev.org) afin de promouvoir une science ouverte sous licence Creative commons **CC-BY-NC-ND** :

- 1) la *Revue Internationale des Gouvernements ouverts (RIGO)/ International Journal of Open Governments* [ISSN 2553-6869] ;
- 2) la *Revue internationale de droit des données et du numérique (RIDDN)/ International Journal of Digital and Data Law* [ISSN 2553-6893].

ABOUT US

The **International Journal of Digital and Data Law / Revue Internationale de droit des données et du numérique (RIDDN)** is an academic journal created and edited by Irène Bouhadana and William Gilles at IMODEV, the Institut du monde et du développement pour la bonne gouvernance publique.

Irène Bouhadana, PhD in Law, is an Associate professor in digital law and open government law at the University of Paris 1 Panthéon-Sorbonne, where she is the director of the master's degree in data law, digital administrations, and open governments at the Sorbonne Law School. She is a member of the Institut de recherche juridique de la Sorbonne (IRJS). She is also the founder and Secretary General of IMODEV.

William Gilles, PhD in Law, is an Associate professor (HDR) in digital law and open government law at the University of Paris 1 Panthéon-Sorbonne, where he is the director of the master's degree in data law, digital administration and open government. He is a member of the Institut de recherche juridique de la Sorbonne (IRJS). He is also founder and President of IMODEV.

IMODEV is an international, independent, non-profit scientific organization created in 2009 that promotes good public governance in the context of the information and digital society. This network brings together experts and researchers from around the world who, through their work and actions, contribute to a better knowledge and understanding of the digital society at the local, national or international level by analyzing, on the one hand, the actions of public authorities in the context of the regulation of the data society and the digital economy and, on the other hand, the ways in which digital public policies are implemented within public administrations and open governments.

IMODEV regularly organizes conferences and symposiums on these topics, and in particular every year in November the Academic days on open government and digital issues, whose sessions are published online [ISSN: 2553-6931].

IMODEV publishes two academic journals available in open source at ojs.imodev.org to promote open science under the Creative commons license CC-**BY-NC-ND**:

- 1) the *International Journal of Open Governments/ la Revue Internationale des Gouvernements ouverts (RIGO)* [ISSN 2553-6869] ;
- 2) the *International Journal of Digital and Data Law / la Revue internationale de droit des données et du numérique (RIDDN)* [ISSN 2553-6893].

SHARING ECONOMY, SHARING INFORMATION. ARE OPEN DATA ADDRESSING US TOWARDS A NEW WIKIECONOMY?¹

by **Marino CAVALLO**, Lecturer, University of Bologna.

Analysis of the economy is currently based on many tools and features provided by the digital world, and the transmission of data has become increasingly easy thanks to digitalization. These transmissions of information, as well as the storage and processing of information, now affects almost all interactions and transactions of individuals and organizations. As a consequence, organizational systems and institution that control society can use sophisticated tools for analyzing individual and collective behavior, and businesses offering goods and services have unprecedented opportunities to steer consumers' behaviors. At the same time, Web 2.0 has made all interactions and conversations concerning “new media” potentially relevant for shaping marketing offers and sales promotions. But, in order to function in the context of social networks and blogs, advertising must be based on information and connected to knowledge about phenomena and events of everyday life. These facts make it difficult to precisely define the boundary between advertising, business information, public relations and objective information. It is possible for unconventional marketing, based on spontaneous word of mouth and on viral news spreading on the Internet, to make people aware of what is happening in the world and by enabling them to interpret reality and events.

On the other hand, new rules have developed within the digital economy which provide previously unforeseen opportunities to individuals and social actors. One of the main innovations of the last few years has been the rapid spread of new economical paradigms that seem to challenge classical market dynamics. The economical relevance of services has greatly increased in relation to the prior industrial economy, and services are strongly affected by the relational aspects between producers and consumers. At the same time, new technologies, especially Web 2.0 technologies have greatly expanded communications possibilities and interactions between individuals, and has generated a new type of business involving the sharing of resources that are transformed into services which are directly offered to potential consumers, without intermediaries. This dynamic is based on the use of computing

¹ The paper contains extracts of the book *DESIGNING AND PROMOTING E-SERVICES*, Angeli Editore, Milano, IT, *in press*.

platforms that allow direct connections between producers and consumers, or supply and demand. This essay is aimed at exploring these issues and outlining some guidance for using open data as an opportunity for self-enhancement.

§ 1 – THE COLLABORATIVE COMMONS PARADIGM AND DIGITAL ECONOMY

The rapid spread of ICT-based services has radically transformed the economy of most advanced countries. The services society has deeply altered the decision-making processes that affect market supply and demand dynamics: Now relational aspects are becoming more important and the ability to fully understand the communicative and cultural universes of consumers has become crucial for the success of businesses.

Jeremy Rifkin has pointed out that we are at the beginning of a revolution that will challenge the capitalist system. The new system is referred to by American scholars as the “coollaborative commons” with origins that date back to feudal Europe. At that time, agriculture was organized in community-based patterns with fields and pastures being shared. In the late Eighteenth century, due to the fencing of lands and the concentration of ownership, cooperation and sharing were gradually overcome.

The essence of capitalism is to commoditize things so that they are characterized by a value of exchange and price. Gain is realized through a profit margin and each person involved in the supply chain adds its own profit margin. The goal of each participant is to maximize its profit margins. Competition tends to erode sharing through improving efficiency and endless innovation of production processes (Rifkin, 2014).

Today, we are in an unprecedented, and potentially disruptive situation. In a digital economy, the marginal costs of production and distribution tend to fall precipitously and to settle close to the zero. Web society is thus a society where marginal costs are “almost zero” and this requires a very marked reconfiguration of economical rules. An e-book can be designed and distributed with no marginal costs. The spreading of information, and the enabling of citizens, is enhanced by the fact that a third of the world has access to the Internet today. People have been printing 3D objects and goods on their own. Millions of students have access to a highly qualified education through online educational tools available for free on web.

A new economic revolution is getting closer and will be based on a huge - integrated and intelligent - technological platform that has been defined by Rifkin as the “Internet of Things”.

The Internet of Things is composed of Internet communications; the Internet of Energy (distributed and decentralized networks governing the new sites of renewable energy - smart grid) ; the Internet of new logistics (where goods and objects are connected to each other and constantly send information suitable to optimize the whole delivery process). The Internet of Things will form an

integrated network that will put people, objects, infrastructures together, and that will be a perfect support for the “prosumers “or “ConsumActors” that will be the protagonists of this new economy involving e-services and relational power rather than conventional economical rules. The merging network is a sensitive structure where each point is both transmitter and receiver in a complex network made up of sensors, digital hubs, artificial intelligence. There are obviously problems and risks; such an integrated and responsive network is also a disturbing control system so that privacy and personal freedom must receive enhanced protections. It is necessary to design and implement new regulatory systems and legal arrangements to ensure respect for civil rights in the era of cybercontrol (Rodotà, 2012).

The organizational side of this new infrastructure that connects objects, people and delivery system, is called the “collaborative commons”. This is the virtual place where billions of people cooperate and work in a self-managed way (Rifkin, 2014, Palmarini, 2012). In this virtual place, there are voluntary groups, creative and cultural entrepreneurs, educational institutions and associations and, in recent times, thanks to collaborative Internet platforms, solo individuals providing their expertise: driving a car, cooking, hosting tourists. In fact, this collaborative common can be easily adapted to the rich fabric of third sector and civil economy, which strongly contributes to the production of wealth and employment in our country and throughout the world (Bruni, Zamagni, 2015).

§ 2 – WEB AND OPEN DATA ENCOURAGE CIVIL ECONOMY

There is also a new actor to take into account, one who is able to influence the economy and to play an important role: the consum-actor. Consum-actor is a major economic player and is becoming aware of its own power which consists of “voting through buying choices “as written by Leonardo Becchetti. Consum-actor can affect market shares by deciding to reward an environmentally-friendly company and to punish other companies that discriminate against workers or outsource to countries that provide little protection and guarantees for human rights. The slogan of the NGO Oxfam awareness campaign on environmental and ethical values has proven to be very effective, “No business is so big to ignore its consumers” (Becchetti, 2014).

The effects of consum-actor's awareness are having an effect on the successful civil economy. One of these examples is represented by cooperative enterprises, which were founded by workers who decided to sell together consumer goods and products, or to get credit. They try to help each other when facing difficulties and economic crisis. Cooperative businesses are an impressive force in Italy, in Europe, and in many parts of the world. These businesses have high turnovers and they have been trying to contain layoffs activating solidarity contracts and forms of mutual aid.

Social cooperation plays an increasing role within this sector, including banks, supermarkets, and insurance companies. The

values that are the basis of cooperative business are highlighted in this sector: equality, solidarity, centrality of people, much more than capital and profit. Furthermore social cooperation (education, assistance, community welfare, etc.) is one of the most promising sectors for developing e-services.

Another interesting aspect of the civil economy is related to trade. In recent years, the growth of fair trade has been made possible thanks to responsible consumers and to the organizational capacity of entrepreneurs guided by the logic of price instead of profit maximization. In Southern countries, there is an increasing number of small production units and business networks that can trade in North Western markets. This has generated income and development opportunities in poor areas of the planet.

To pay the poor is not only ethically commendable, but is a bargain as demonstrated by Muhammad Yunus, Nobel winner, in his book *Grameen Bank*. Microcredit, small amounts of money given to poor people in many countries in order to help them develop enterprises or small production units, gave surprisingly high rates of return, far higher than those of traditional lenders (banks' lending money for speculation or providing loans to those who already have money, just to be clear).

This is a good lesson for those who pontificate on the insolvency of poor people and on the financial risks related to development projects. Under these efforts, projects and private initiatives have developed in the field of ethical finance in order to support environmentally friendly companies or businesses that are committed to social objectives. The results of these funds are often better than many other credit products packed with financial derivatives and are acquired without worrying about business ethics. Civil economy is an actual and credible alternative paradigm for business, job creation and territorial development.

The web has made it possible to concretely develop a new form of economy. We can call these innovations the “collaborative commons”, or the “sharing economy”, or even the “collaborative economy”. The concept expressed by these definition is always the same and it deals with people offering their knowledge and skills. These organizational forms use the Web as a distributed cooperative structure and marketing platform. These structures are based on the collaboration of many people in constant and continuous contact through the Web. These organizations exceed the classic inside-outside division by promoting new working schemes and new relations with customers “Startups “can count on users that are directly involved in the construction of the business itself because: users generate horizontal communication flows that improve and help innovate the services provided. Consumers and “new entrepreneurs “participate together in the creation, design, distribution and evaluation of business performances These new forms of business are easily created in those sectors based on dematerialization, transmission of information, and on access to utilities rather than on property of goods.

Phenomena such as shared knowledge and informal economy are becoming the nucleus of a great economic and social transformation. In fact, more and more often in web society we see a crucial transformation of these “capabilities”, that are oriented in the direction outlined by the economist Amartya Sen, in the sense of providing multiple alternatives and possibilities, a plurality of choices, multiple degrees of freedom and different action scenarios (Sen, 2003). People and social groups become protagonists and these 2.0 capabilities enhance the possibilities for people to access peer-to-peer networks for exchanges and transactions. So, at least in part, individuals are no longer burdened by the restrictions of traditional economic organizations, that were based based on a high concentration of capital, resources, and of decision-making power. In the past, this was possible only with substantial budgets. Nowadays, it is possible to accomplish this objective by sharing assets and properties such as cars, rooms, time and abilities. In other words, it is not an absolute novelty, as many authors observed. The difference, in a digital society, involves the pervasiveness of networks and efficient platforms that bring supply and demand together with sustainable investments and low-risk capital (Mandelli, Arbore, 2015).

The digital business model is spreading and it encourages also new fundraising strategies for launching new products or services: crowdfunding uses a “door to door “based approach in a form of “broadbased shareholding of good ideas and good causes”.

It is possible to search for funds to make a film or a documentary, to support an environmental cause, to help poor people and victims of calamities, or to restore a monument. But one can also launch business projects in ways that avoid the endemic shortage of venture capital that characterizes asphyxiated credit systems, such as the Italian one.

It is enough to convince a critical mass of small investors and potential consumers for a business plan to take off. The two sides share economic development, including the social, ethical and other business-oriented development and ideas that can begin even with limited resources. This path results in projects that are concrete and profitable while also being ethical and innovative. All one need do is to convince a critical mass of small investors, perhaps future consumers interested in the service or idea, and a business plan can take off. The shared economy has two faces: a social or ethical side and a business-oriented side. Today, these two roads are not in conflict, and they often follow parallel paths resulting in projects that are concrete and profitable, as well as ethical and innovative.

§ 2 – TOWARDS SHARED AND PARTICIPATIVE SERVICE DESIGN : E-SERVICES IN CIVIL ECONOMY

Networks are at the heart of rising business models, including e-business models. There are new rules to follow, especially regarding planning and designing functions and delivery processes. As for the

phase that focuses on needs analysis, and on the subsequent determination of services, social media favor continuous interactions and horizontal communications, involving the sharing of experiences and the instantaneous transmission of information. Traditional market research, surveys and insights from sample groups that test a service or the perception of a brand are no longer sufficient. If not completely replaced, they must be integrated with and supported by new techniques of consumer behavior analysis. Thus, those involved need to be engaged in continuous monitoring of the Web so that they can identify the relevant communication poles, capable of sorting news and amplifying the effect of contents, in order to understand consumer profiles and social trends that can effectively guide the design of new services and the promotion of e-services.

As for the next step of service delivery, it is necessary for companies to introduce new feedback devices that take into account specific features of social network communication. Use and consumption on Web are strongly influenced by shared evaluations about purchasing and consumption experiences. The delivery of e-services must function in conjunction with these expectations and dynamics. It would be interesting, for example, to introduce ' design architectures systems “capable of stimulating and enriching the online interaction mediated by social networks and by horizontal communication.”

As explained by behavioral economists, and in particular by the American scholars R. Thaler and Sunstein C. choices are not neutral. A “libertarian paternalism”, (Thaler and Sunstein, 2009) ,may enforce some goals such as healthier lifestyles, farsightedness in pension investments, or environmental sustainability

Good decisions can be encouraged and obtained by a “gentle push” capable of directing substantial masses of taxpayers, citizens, workers towards socially responsible, sustainable and collectively desirable choices. The application of these concepts in the context of e-services could be aimed at developing “cognitive incentives “to use digital services. It may be possible for example to use the same “guidance device” regarding soft policies for the design of online services and to assess the relational performance of digital services. This would mean enhancing the architecture of choices in new services design through feedback systems capable of showing the positive and negative effects of an option or an alternative. If widely used, these control mechanisms could encourage rational actions, and would allow reflection on the impact of our behaviors and on the best alternatives linked to certain individual decisions. These immediate feedback systems, focused on responsive actions, can be implemented thanks to social media to improve e-services interfaces and online service provisions. They feedback systems can also be used to exploit social and collective sides of our actions, for example by using horizontal communication tools. As a result, it would be possible to develop and improve the “reputational systems” of e-services, upon which much of their success is based. Due to “communicative paternalism” it is possible to build

reputation systems capable of producing trust and advice, thus promoting the use of digital services and transferring functions from face to face-based delivery systems to online delivery processes.

In the contemporary world, and in social network communication, motivation is a scarce resource: it is very difficult to convince people to pay attention to a service or an offer conveyed by the web. This fact strong implications for the promotion and marketing of e-services. Persuasive and evocative advertising must be replaced by a new code. To get an audience on the web, one must convey news, knowledge, or know-how. The hope is to generate a spontaneous circle based on the characteristics of Web and audiences that are constantly connected and mutually active as poles transceivers.

Finally, let is reflect on the social dimension of e-services. The service economy is significantly different from the industrial economy. In the service economy, the capital needed to start a business are smaller; company size is reduced, and the human and organizational resources that must be coordinated are far less numerous. E-services enjoy the benefits arising from low initial barriers: centrality of the idea rather than financial capital density; the key role of knowledge; and the ability to use the network as an immense potential market for innovative services. This does not mean that everything is easy on the Web: selection is severe and the width of the e-audience also implies a paroxysmal crowding multitude of subjects offering products and services and seeking their own market.

New forms of economy are based on the peculiar organization of e-services offering to develop autonomous and self-managed platforms for delivery. The social and relational component is more important than the financial and competitive sides. The possibility to raise funds on the Web, the sharing of goods (home, car, office), and cooperative work with self-regulated flexibility, provide concrete examples of new areas of entrepreneurship that can offer professional spaces and opportunities to many people. They may be young workers with innovative skills and knowledge, but can also be families trying to put to their skills on the market, or to invest an underutilized part of a small family fortune.

Social media extends the spaces suitable for promoting informal talents, underutilized resources and small assets that can be invested in new markets or “micro-markets “organized and managed by cooperative services.

Nowadays, unusual forms of social economy, such as crowdfunding and cooperative work, can be used to combat new forms of poverty produced by economic crisis, to promote social inclusion, or even to create co-operative and transparent management of public goods (Sacconi, Ottone, 2015; Mattei, 2014).

BIBLIOGRAPHY

LEONARDO BECCHETTI, WIKIECONOMIA. CIVIL ECONOMY MANIFESTO, Bologna, Il Mulino, 2014. (in it.)

LUIGINO BRUNI, STEFANO ZAMAGNI, CIVIL ECONOMY, IL MULINO, BOLOGNA, 2015. (in it.)

MARINO CAVALLO, DESIGNING AND PROMOTING E-SERVICES, Milano, Angeli, 2016. (in it.)

ANDREINA MANDELLI, ALESSANDRO ARBORE, DIGITAL MARKETING, Milano, Egea, 2015. (in it.)

UGO MATTEI, COMMONS. A MANIFESTO, Roma-Bari, Laterza, 2011. (in it)

JEREMY RIFKIN, THE ZERO COST MARGINAL SOCIETY. THE INTERNET OF THINGS, THE COLLABORATIVE COMMONS, AND THE ECLIPSE OF CAPITALISM, New York , Palgrave Macmillan, 2014.

STEFANO RODOTÀ, THE RIGHT TO HAVE RIGHTS, Roma-Bari, Laterza, 2012. (in it.)

LORENZO SACCONI, STEFANIA OTTONE (EDITORS), COMMONS AND COOPERATION, Bologna, Il Mulino, 2015. (in it.)

AMARTYA SEN, THERE IS A BETTER WAY! AN INTRODUCTION TO THE DEVELOPMENT AS FREEDOM APPROACH, Winnipeg Canada, International Institute for Sustainable Development, 2003.

RICHARD H. THALER, CASS R. SUNSTEIN, NUDGE. IMPROVING DECISIONS ABOUT HEALTH, WEALTH, AND HAPPINESS, New York, Penguin Books, 2009.