

# Platform economies and urban planning: Airbnb and regulated deregulation in London

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## Abstract

The ‘sharing economy’ has become a new buzzword in urban life as digital technology companies set up online platforms to link together people and un- or underutilised assets with those seeking to rent them for short periods of time. While cloaked under the rhetoric of ‘sharing’, the exchanges they foster are usually profit-driven. These economic activities are having profound impacts on urban environments as they disrupt traditional forms of hospitality, transport, service industry and housing. While critical debates have focused on the challenges that sharing economy activities bring to existing labour and economic practices, it is necessary to acknowledge that they also have increasingly significant impacts on planning policy and urban governance. Using the case of Airbnb in London, this article looks at how these sharing or platform economy companies are involved in encouraging governments to change existing regulations, in this case by deregulating short-term letting. This has important implications for planning enforcement. We examine how the challenges around obtaining data to enforce new regulations are being addressed by local councils who struggle to balance corporate interests with public good. Finally, we address proposals for using algorithms and big data as means of urban governance and argue that the schism between regulation and enforcement is opening up new digitally mediated spaces of informal practices in cities.

## Keywords

data, governance, housing, planning, sharing economy, technology/smart cities

## 摘要

数字技术公司建立了在线平台，将人员和未利用或未充分利用的资产与希望短期出租的业主联系起来。在这一方式下，“共享经济”已经成为城市生活中的新口号。但是，虽然有“共享”的修辞，这些方式培养的交流通常是由利润驱动的。这些经济活动破坏了传统的酒店、交通、服务业和住房形式，对城市环境产生了深远的影响。虽然关键的辩论集中在共享经济活动给现有劳动和经济实践带来的挑战上，但有必要承认它们对规划政策和城市治理也有越来越大的影响。本文以 Airbnb 在伦敦的运行情况为案例，探讨这些共享或平台经济公司如何参与鼓励政府改变现有的法规，在伦敦的具体案例中是放松对短租的限制。这对规划的执行具有重要意义。我们研究了地方议会如何通过努力平衡公司利益和公共利益来克服获得数据以执行新法规的挑战。最后，我们提出使用算法和大数据作为城市治理手段的建议，认为监管与执法之间的分裂正在开辟城市非正式实践的新型数字媒介空间。

## 关键词

数据、治理、住房、规划、分享经济、技术/智慧城市

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## Introduction

In London, as well as other major Airbnb cities, rather than arriving to a home-cooked meal served up by a hospitable individual, you could well find yourself renting a flat run by a third-party management company, and collecting your keys from an agent who lets out hundreds of other properties for hosts who are less interested in cross-cultural connections and more concerned with collecting their money at the end of the month. (Coldwell, 2016)

The sharing economy has gained popularity in a number of cities across the world and has opened up new avenues of living and working, particularly since the global economic recession of 2008 (Killick, 2015). Digital technology companies, often backed by venture capital, have created platforms through which people can share unused or underused goods and services with those seeking to use them for short periods of time. It has been argued that this is part of a wider set of seismic changes to the ways in which economic activities take place in cities across the globe towards more flexible and on-demand forms of work and living (Riley, 2012). The claim of facilitating more collective and convivial ways of accessing and utilising assets and services is beginning to have an impact on policy-making. Local and national governments have been keen to engage with the sharing economy to not only harness its potential, but also to be seen to embrace new ways of living and working. While appealing in theory, critics have noted that this benign veneer hides more complex workings of digitally mediated 'sharing' that replicate and reinforce existing

dynamics of property ownership and capitalist relations (Killick, 2015).

Cities have become key sites for the development of digitally mediated sharing, and particularly of short-term letting which straddles the divide between housing and hospitality. Airbnb, one of the most well-known and controversial of these platforms, has rapidly gained a monopolistic position in many cities around the globe (Jefferson-Jones, 2014). In its publicity campaigns, the company has repeatedly emphasised how it enables sharing the home of a local resident and enjoying an 'authentic' experience of place; yet it does so through a profit-driven foundational logic as compared with a socially driven one. It claims to offer property owners the ability to maximise the utility of their underused assets such as rooms, entire flats or other properties. As such, critical commentators have argued that it is not part of the 'pure' sharing economy as much as the corporate-driven process that involves increased utilisation of durable assets (Finck and Ranchordas, 2016; Schor, 2014). Thanks to the visibility of such critique, the question of regulating 'sharing economy' letting platforms has increasingly become a topic of debate, particularly in cities facing pressure on space due to tourism on the one hand and affordable housing needs on the other (van der Zee, 2016).

While scholarly debates have mainly focused on the economics of short-term letting and on the challenges it poses to established hospitality industries and forms of labour (Cockayne, 2016; Edelman and Geradin, 2015; Schor, 2014), less emphasis has been placed on how the activities and

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uses facilitated by ‘sharing’ platforms are remaking spaces and territorial governance. This paper aims to address this gap by focusing on the under-examined impact of the sharing economy on urban governance, and particularly on planning. Against an imaginary of deterritorialised global uses, the new economic practices mediated by digital platforms are met with geographically specific pre-existing planning policies and practices of regulation and enforcement. Drawing on secondary sources, policy documents and qualitative interviews with planning officers about the regulation of Airbnb in London, UK, we analyse policy shifts and practices of enforcement at local government level and examine how emerging digitally mediated uses of space usher in both new urban regulations and unexpected challenges to their enforcement, raising wider questions about the role of information technology companies in transforming city governance across the globe.

## Urban planning policy and the challenges of the sharing economy

The Sharing Economy is a movement: it is a movement for deregulation. (Slee, 2016: 26)

Since the ‘sharing economy’ entered wider public discourse in 2011, it has been celebrated as the new frontier of economic innovation and as capable of disrupting existing industries as well as ways of life. Within its ‘contrasting and contradictory framings’ (Martin, 2016), the narrative of economic opportunity has become increasingly dominant. The growth of the sector has been presented as desirable and necessary as it fosters the micro-entrepreneurialism of individuals monetising underutilised assets alongside being ‘a major commercial opportunity for entrepreneurs, companies, industries and/or countries’ (Martin, 2016: 153).

This celebration has found fertile ground in the established ‘enterprise discourse’ and attempts at regulating the sector were initially portrayed by advocates as unnecessary ‘red tape’. The strong binary opposition between innovation and control has been argued to be central to neoliberal discourse: ‘on the side of freedom and prosperity are the qualities of enterprise, initiative, self-reliance and their outward manifestation: entrepreneurship. Ranged against them, but about to be swept aside, are the evils of progressive taxation, government control and welfarism’ (Armstrong, 2005: 41). In the establishment of the neoliberal project of entrepreneurialism, the transformation of the role of central and local governments has been seen as pivotal (Harvey, 1989; Ward, 2003), and as particularly visible in planning policy deregulation.

Critical literature on the impact of neoliberal discourse on urbanism has examined the complicity of governments in shifting and suspending laws and regulation in an attempt to encourage private enterprise and court global corporate investment. Scholars have noted how neoliberalism has been allowed to expand through tactics such as creating zones of exception (Ong, 2006), suspending rules and regulations (Roy, 2009), selectively enforcing them (McFarlane and Waibel, 2012) or replacing them with new policies, legislations and regulators. Rather than the rolling out of a coherent and all-encompassing urban paradigm, however, urban neoliberalism is better thought of as developing in geographically and temporally uneven and variegated ways (Brenner et al., 2010) and as a heterogeneous and non-linear process of neoliberalisation (Peck, 2010), challenging and adapting to but also being resisted through different locally specific socio-economic and political relations (Holman et al., 2018). In this context, it is important to qualify that neoliberal ‘deregulation’ does not equate to the withdrawal or

absence of regulation, but should rather be understood in terms of practices of re-regulation or 'regulated deregulation' (Aalbers, 2016). The notion of regulated deregulation is suggested by Aalbers to clarify and better conceptualise the role of deregulation under neoliberalism as the process by which 'some economic agents are given greater freedom from state control but the market framework itself is regulated' (2016: 3). Recent moves by cities around the globe to reshape market rules to enable the proliferation of large digital-led platform economies such as Airbnb could be seen as a prime example of regulated deregulation in planning.

Since its founding, Airbnb has developed as rapidly as it has attracted calls for regulation. A key critique of the platform and its 'sharing' rhetoric has been that it actually encourages the professional use and the accumulation of additional properties in order to acquire rents. Higher income from short lets encouraged by Airbnb have also incentivised property owners to shift to renting on the platform rather than putting it on the long-term rental market where they would earn less. It has been suggested that these shifts have significant impact on local rental and property markets (Cocola-Gant, 2016) while also circumventing local regulations around safety and taxation (Finck and Ranchordás 2016: 46–47; Levin 2016). Moreover, the use of the platform for vacation rental impinges on the existing hospitality industry, 'disrupting' traditional forms of hosting travellers (Guttentag, 2015). Concern around running 'illegal hotels' that circumvent rules and regulations protecting consumers around issues of safety, security and discrimination (Edelman and Luca, 2014) has been used by the established hospitality sector to demand regulation of the presence and expansion of the service. Blurring the boundaries between hospitality

and housing, the platform has been affecting urban regulations around both.

Governments' attempts to develop regulatory frameworks to govern the activities of Airbnb have differed across cities and at various scales, in approaches and aims. As Finck and Ranchordás (2016) have noted, at one end of the spectrum are those urban governments that engage in a *laissez-faire* or minimalist approach. Some of these have attempted to experiment with the process of producing new regulations, collaborating with the platforms, piloting policies, allowing these services to operate temporarily in an attempt to remake their regulatory environments. At the other end are those governments that have used existing planning regulation to restrict or reject the operations of 'sharing economy' platforms. As governments engage with the activities mediated by these platforms, they produce and implement changes in urban planning policy and practice that can often reveal contradictory priorities at different levels of government. Regulation and its implementation can become a particular issue for local authorities and planning enforcement officers, who attempt to address the questions of 'public good' against central governments that may be more interested in short-term economic gains than longer term social needs (Lord and Tewdwr-Jones, 2014). With the celebration of the sharing economy being dominated by the neoliberal language of entrepreneurship, the question of balancing short-term gains and the wider public good is particularly crucial for the understanding of the challenges posed by digital platform economies to planning frameworks and practice.

In this paper we analyse the regulatory challenges generated at the level of local planning enforcement by the activities of Airbnb in London as a case of shifting regulations and competing priorities and practices around encouraging 'sharing' in cities.

To develop our argument, we first analyse the discourse deployed by corporate and state actors to discuss regulation in the 'sharing economy', how it informed specific national policy strategies and how these strategies were then embedded into practice at lower levels of urban governance. We argue that the discourse is informed by a 'flattening' vision of digitally led social innovation and technocratic governance, as evidenced by secondary sources such as published first-hand accounts, newspaper articles and reports from industry and third-sector organisations. We continue by discussing the specific regulatory framework around short-term letting in London and the conditions of operations of Airbnb in the capital, drawing on the analysis of publicly available data gleaned from Airbnb and from the independent online data platform *Inside Airbnb*. To address different responses to the regulatory challenges of Airbnb in London, we analyse shifts in planning policy and examine their implications through selected qualitative interviews with planning enforcement officers from the four inner city boroughs in London where the issue of short-term letting through digital platforms, and particularly Airbnb, was more acute at the time of the study (2016): Islington, Camden, Royal Borough of Kensington and Chelsea (RBKC) and Westminster.

The four boroughs presented key differences. In terms of political alignment, Camden and Islington were Labour-controlled whilst Westminster and RBKC were Conservative-controlled. Although the local housing rental markets differed in absolute terms, they presented similarities in relative terms, for example when comparing the average letting value through a standard tenancy to that of a similar property through a short-term let. For a one-bedroom flat, the difference was £49 to £150 per day in Islington, while at the highest end, in RBKC, it was £67 to £178 per day. Finally, while all four

boroughs showed the highest numbers of properties listed on Airbnb in London, the total amount ranged from 3288 offers in Islington, of which 1831 were entire homes, to over 4700 in Westminster, of which 3284 were entire homes (*Inside Airbnb*, October 2016). These corresponded to 1.8% and 2.7%, respectively, of the total number of dwellings in each borough (Department for Communities and Local Government, 2016). In the latter part of the paper we outline how different planning departments responded to short-term letting through Airbnb and look at how the challenges of enforcing regulations around platform economies reveal the increasing incorporation of digital companies into the management and planning of cities, further developing neoliberal practices of urban governance. We end by examining how ideas of technology-led governance have emerged in response to the discrepancy between data generated by platform economies and the data required to enact and enforce new regulatory frameworks. In the conclusions, industry calls for algorithmic regulations are examined to raise wider questions about the implications of sharing economy platforms for urban planning and policy-making.

## **Airbnb and visions of regulatory 'flattening'**

What began as somewhat revolutionary ideas of sharing assets, goods and services, has shifted away from these more convivial exchanges<sup>1</sup> to increasingly monetised ones as venture capital firms come to intervene and influence these processes (Slee, 2016). As the aim has shifted away from sharing to profit-making, companies have also sought to scale up their global operations through influencing urban governance structures. The challenge of on-demand provision of services and spaces has been shown to affect labour relations (for example, Deliveroo, TaskRabbit, Butler, etc), transport (such as

the controversial taxi application Uber (Slee, 2016) and ways of using urban spaces (for example, JustParking). Platform economy companies position themselves discursively and practically at the forefront of a social and economic revolution. The celebration of web-based sharing technologies as a source of social innovation is often presented as a value-neutral question of connectivity between users and assets through personal 'empowerment' (Rachel Botsman, quoted in Slee, 2016). The roots of this narrative can be found in the discourse of *informationism* emerging in the 1990s around the so-called 'Internet Revolution' (Neubauer, 2011).

The key claim of *informationism* was that technological development would decentralise power, making existing nation-state and civil society institutions obsolete and unnecessary. The kernel of this discourse was a prescriptive, celebratory narrative that contrasted ideas of personal empowerment with purported anachronistic state institutions, presenting them as antithetical. As stated by the American conservative commentator Lawrence Kudlow in 1999, 'the internet empowers ordinary people and disempowers government' (Kudlow, quoted in Neubauer, 2011: 215). An important element of this decentralisation of power through technology was the 'flattening' of existing place-based specificities (Friedman, 2005; Neubauer, 2011) and the end of 'the tyranny of geography' (Slee, 2016). Contrary to Kudlow's forecast, the exponential development of Information and Communication Technologies and its impact on everyday life has, on the contrary, opened up an unprecedented degree of incorporation of technology and place-based urban activities. The technological utopianism of Silicon Valley's digital companies has in fact informed calls to greater government intervention and collaboration, a further instance of the unprecedented role of IT companies in influencing and shaping city governance (Kitchin, 2014).

The latest rethinking of the relationship between digital technological innovation and urbanism, often discussed under the rubric of the 'smart city', has moreover strongly positioned states and urban governments as key institutional actors within the wider digital revolution (Deakin, 2013; Hollands, 2008; Kitchin, 2014).

The global 'scaling up' of platforms such as Airbnb has crucially raised the question of the role of existing urban policy frameworks and their multiple geographically specific manifestations. On the issue of engaging with specific local policies, the position of platform economy companies is at times expressed publicly with candour. In a 2015 radio show, spokespersons from a range of platform economy companies including Airbnb lamented the 'patchwork of cities' regulations' that they face when they scale up their sharing applications across transport, labour and spatial activities.<sup>2</sup> Airbnb's staff in particular identified the existence of place-specific urban governance, both in terms of taxation and in terms of qualification, as the main barrier to implementing their vision. Their wish was for a top-down strategy of 'model legislation' transferrable from one city to the next: 'if we could take one city and do it right there, Portland is our best example in the US, and replicate that, ideally top down [...] basically create a model and then scale it. What would be challenging is if every city wants to behave differently'.<sup>3</sup> The vision of global scaling is here expressed with a degree of naivety typical of the iconoclastic approach of Silicon Valley's entrepreneurs (Slee, 2016).

Evident in this approach is a dismissal of geographical specificities through the proposal of a 'flattening' vision in which a pilot legislation is scaled up, 'ideally top down' to all cities. Appealing to urban units of governance is discussed as a solution to the territorial fragmentation of taxation and planning legislation. The answer for Airbnb

has been to encourage mayors and national governments to rethink urban regulation to re-inscribe emerging short-let practices within existing legislations, or to change legislations to accommodate them where they lay outside formal uses. Lobbying work by Airbnb's Shared Cities Network was launched in the autumn of 2013, leading to the adoption of a 'Shareable Cities Resolution' in 2013 (US Conference of Mayors, 2013) and more recently, to the establishment of an Airbnb Mayoral Advisory Board with the aim of helping 'other cities embrace home sharing' in the words of its chair and former mayor of Philadelphia, Michael Nutter (reported in Andrews, 2016).

Speakers to the radio programme also discussed how the situation is different in Europe, where lobbying yielded more unified legislative responses. While in the USA 'every city wants to behave differently' posing a challenge to their aspiration, 'abroad we've seen a lot more progress on this front', for instance in France and in the UK, where 'the national legislation sets a national policy, but then allows cities to customise it'. In 2013, the British government set up a Round Table on the Sharing Economy with attendees from all the major commercial sharing economy platforms, including Airbnb. As reported by sharing economy entrepreneur attendee Alex Stephany, the approach of the government could be encapsulated by the introductory speech by the then Chancellor of the Exchequer, who addressed participants with the encouragement 'tell us what we can do to help you break down barriers' (quoted in Stephany, 2015: 151). Among attendees was Patrick Robinson, Head of European Public Policy for Airbnb. A few months later, in January 2014, the Deregulation Bill had its first reading in the House of Commons. Among the changes introduced by the bill was the 'deregulation' of short-term letting in

London, which involved the removal of city-specific limits and the introduction of new regulations designed to address and support the online-mediated use of residential properties for hospitality. The transformation of existing legislation, and the introduction of new enforcement procedures and the rationale for these raise important questions about the role of local governments and planning officers in the city, but also about the practice of implementing such changes, as will be discussed in further detail in the following section.

### **Short-term letting in London**

Local governments such as local councils within the UK have a long history of addressing private and commercial interests, balancing between encouraging industry and implementing the welfare state. Among their various responsibilities is the provision of social services, housing and the licensing of economic opportunities. The provision and regulation of affordable housing by the government, for example, has seen shifts over time. While this is a complex discussion, it is worthwhile noting a few historical points here to trace key elements of affordable housing provision. In the post-war period, there was considerable expansion of state-subsidised council housing which eventually gave way to a decline in municipal and national house building, the privatisation of existing stock through Right to Buy schemes and its overall residualisation (Murie, 2016). This shift was met with a system of direct tenant subsidies for both social rented and private rented tenants. This too has come under assault in the recent years as the costs of subsidies have increased, particularly in the capital where housing costs are extremely high (Hamnett, 2010).

In London, the stress on affordable housing supply was exacerbated by more lucrative practices of short-term letting, both for

tourism and for low-income residents. In an effort to balance both the affordable housing shortages in the capital and the demands of tourism, national legislation was implemented in 1973 that made London an exception within the country. This legislation, titled the Greater London Council (General Powers) Act of 1973 prohibited short-term lets – defined as less than 90 days in the calendar year – for properties or parts of properties in the city. Those wishing to let properties for short periods would have to apply for planning permission for a change of use.<sup>4,5</sup> One of the rationales behind this was a consideration that the change of a space from long-term residential to short-term vacation rental would lead to a concomitant increase in traffic, noise and nuisance in a neighbourhood or building, affecting the security of residents and the character of neighbourhoods.

On the basis of this policy, London boroughs have attempted, in varying degrees, to monitor and enforce regulation against short-term lets that take place without change of use permission. In Westminster council, for example, a team of six officers has previously deployed a strategy of door-to-door inspections to detect infractions. Landlords found renting their properties illegally have been issued with warnings and fines. While this system has been far from perfect, it has helped to construct a semblance of control over unsanctioned short-term letting within the council boundaries (Holman et al., 2018). In less-resourced councils, the ability to enforce the law with regards to short-term lets has been even more limited, as will be discussed in greater detail below. With the advent of the platform economy, and particularly Airbnb, local councils have continued their regulatory oversight of such activities as well, in line with their mandate. In addition to the reasons outlined above, council officers have also offered arguments for regulating illegal or informal use of residential property in order to protect an already overstretched

rental property supply, particularly in areas characterised by high living costs.

### *Deregulating short-term letting*

This is an opportunity for the Capital to catch up with the 21st Century way of living. (Department for Communities and Local Government, 2015)

Since 2012, when Airbnb first entered the London market, it has gathered strength at increasing pace, from an estimate of 14,000 listings in June 2015 (Quattrone et al., 2016) to over 49,000 in October 2016 (*Inside Airbnb* London), with greater concentration and impact in inner London boroughs. Faced with this growth, in 2014, the central government began consulting on the issue with local authorities and platform economy companies. In September 2014, it commissioned Debbie Wosskow, CEO of the home-sharing online platform Love Home Swap, to write a review of the sharing economy and to make recommendations on ‘how the UK can become the global centre for the sharing economy’. In recognising London’s chronic undersupply of long-term residential properties, and referring to the regulation of Airbnb and other short-term let platforms, one of the key recommendations of the report was that ‘egregious breaches of regulation – for example, letting out a large number of rooms through sharing economy platforms, but not complying with tax and regulatory requirements – must be dealt with firmly’ (Wosskow, 2014: 28).

In March 2015 the Department for Business, Innovation & Skills responded to the report by outlining a point by point response to the recommendations. In terms of Airbnb hosts breaching planning regulation, the response stated that change of use would continue requiring planning permission and that ‘[i]f a change of use occurs without planning permission, the local



planning authority can consider taking enforcement action' (Department for Business, Innovation and Skills, 2015: 13). Later in the paragraph, the recommendation about firm action against breaches is evaded, as the response continues: '*Enforcement action is discretionary*, and local planning authorities should *act proportionately* in responding to suspected breaches of planning control [...] and *take action where it is appropriate to do so*' (Department for Business, Innovation and Skills, 2015: 13, emphasis added). The stress on the discretionary dimension and appropriateness of enforcement action seem to indicate a desire to leave ample margin for negotiations. Here, as in the opening quote, the vision of regulatory flattening brought about by digital companies is accepted and promoted by the Department for Business, Innovation and Skills in the name of progress and inter-urban competition.

In the Deregulation Act passed in March 2015, the government proposed and implemented the removal of 'red tape' by enabling short-term letting without change of use if under 90 cumulative days in a calendar year. In doing so, it disregarded objections raised by local councils and MPs to relaxing the safeguards that had thus far been put in place (Holman et al., 2018). The rationale for remaking regulations on the question of short-term letting is evident in the Department for Communities and Local Government's report 'Promoting the sharing economy in London' (February 2015). In it, deregulation is argued to '... enable Londoners to participate in the sharing economy and benefit from recent innovations in information technology by letting out either a spare room or their whole house in the same way as other residents across the country' (Department for Communities and Local Government, 2015). The official rhetoric in favour of sharing economy platforms expressed here draws on the discourse of individual empowerment (Martin, 2016) while

neglecting the role played by corporate players and businesses (Slee, 2016).

While the report claims that the policy is 'aimed at helping residents, and not providing opportunities for the commercial sector' (Department for Communities and Local Government, 2015), data published by the independent website *Inside Airbnb* in 2015 and 2016 revealed a different picture on the ground. Contrary to the benign discourse of Londoners using Airbnb to earn income from spare rooms, the data showed that 51.3% of all listings in the capital<sup>6</sup> were entire homes, and that 41.3% were multi-listings – that is, multiple listings for a single host.<sup>7</sup> In London as in other European cities (Sans and Quaglieri, 2016), multi-listings have been taken as an indication of the encroachment of professional letting into the short-term let platform economy (Finck and Ranchordás, 2016; Slee, 2016) with potential wider implications for the rental housing market (McCoy and Sigee, 2016). The expansion of sharing platforms and particularly of the situation in which some propertied individuals and organisations amass increasing numbers of properties to put on the short-term let market for high profits have given rise to concern among planning enforcement officers across the four boroughs studied. Corroborating the data noted above, officers in the inner-city borough of Westminster for instance have commented that, contrary to the rhetoric of empowering individual property owners, their own evidence revealed a large proportion of business and profit-making uses of properties. This created a friction with the duties and responsibilities of local councils to regulate commercial uses as well as to preserve and maintain supply of housing for long-term residential use. In other global cities, such concerns have given rise to the implementation of strict regulations or the outright banning of entire homes listings.<sup>8</sup> With the Deregulation Act 2015, we see instead the emergence of regulated deregulation, with significant

impact on conditions of enforcement and local governance, as will be examined in more detail in the following section.

## Practices of enforcement and the quest for data

Despite its name, the Deregulation Act 2015 has not entirely deregulated London's legislation on short-term letting policies. Short-term lettings that occur beyond the 90-day rule are subjected to fines that are set out in previous legislation. As was succinctly put by a planning officer from Westminster Council, the Act 'didn't abolish the 1973 Greater London General Powers Act, it simply amended it. It doesn't say that you can't do [short-term letting] at all: it now says that you can do it under [new] terms'. The new Act should therefore not be understood as an example of deregulation as liberalisation, but as a form of re-regulation or 'regulated deregulation' (Aalbers, 2016) in which new forms of regulation and new terms of enforcement are established to create a variegated playing field where some market actors are privileged over others, leading to the generation of socio-economic inequalities.

Since the Act only came into effect in October 2015, at the time of the study planning officers across the four inner city boroughs substantially agreed that they had not 'seen the full impacts of this latest deregulation of short-term lets'.<sup>9</sup> However, all of them raised concerns about the difficulties of enforcing the 90-days rule in the absence of a formal notification process that would enable officers to monitor the length of time a specific property, in part or its entirety, is let for the short term. The issue had been previously raised in conversations with the Department for Communities and Local Government, with planners from inner London boroughs discussing the possibility of an official registry, as has been the case in other European cities, such as Barcelona

and Berlin.<sup>10</sup> The suggestion to have a formal notification process was resisted by central government as 'unnecessary red tape'<sup>11</sup> leaving enforcement officers in a difficult position as 'people can just do [short-term letting] legally without having to notify anybody' (planners from four inner city London boroughs). As put by a RBKC officer:

our concern is about the practicality of enforcing it and actually having evidence that a planning inspector, or alternatively a judge, would take seriously. So it is a real practical problem. We have not had any cases yet, but I'm sure that some will come up over time and we will have to look at this. So, for us, our main problem with the legislation [...] [is] about the practicality of how do we actually implement this?

Two separate issues are raised by officers in their responses. The first concerns the ability to detect a breach of the legislation, which a formal notification process would have enabled. The second, following from that, is their ability to produce planning evidence for potential prosecution.

To date, the question of detecting a breach of the 90-day-per-year rule has been addressed through ad hoc combinations of online data mining and triangulation with official information sources. Westminster is the inner-city borough historically most affected by short-term letting and the experience of its planning enforcement officers can thus be seen as indicative of the lengths to which a well-resourced enforcement team needs to go to generate evidence about an issue that is considered politically important. A common desk-based strategy enacted by its officers to find breaches is to filter online data for multi-listings: 'the effort that is now required to establish that someone is now doing it for more than 90 nights a year is considerable: but it is not impossible'.<sup>12</sup> Searching for hosts who have more than one property on the platform, for instance, often

'implies that it is an agent or that they are in business'. The analysis of data available publicly online on Airbnb, such as the number of reviews left on a host's profile, is combined with door-to-door inspections and corroborating witness accounts from local residents to build up a case. Triangulating different sources of information, however, is not always straightforward as the publicly available data is partially obscured, as explained by the same Westminster officer:

Airbnb [...] only give you dates for the reviews going back a certain length of time [...] you can get postcodes, but even then, if you look at their map they don't always correspond to where the properties actually are. So, I might recognise a photo and it doesn't actually correlate with the postcode given. So quite often I have to use [Google] Street View and then match up from there.

Such a procedure is evidently elaborate and resource-intensive in a context in which 'a lot of councils don't have the resources' (Westminster officer). In Camden, officers have made use of the open access data scraping platform *Inside Airbnb* to detect multi-listings, and the data amassed by the platform have been used as a partial database to scope the extent of the issue and to build evidence for regulators to prosecute breaches.

### *Algorithmic regulation and 'liberalising with technology'*

In the absence of an official registry and notification process, access to detailed, geo-referenced and non-anonymised Airbnb data thus becomes a key element to monitor and enforce regulations about both multi-listings and the 90-days exception. The amount of data that an enforcement officer can gather and analyse, however, is highly limited, raising the central issue of accessing information about digital platform economic exchanges. In London, as in other global cities, gaining

access to platform-led short-term letting and particularly Airbnb data has become key for city officers concerned with potential breaches in planning regulation but requests are often resisted by companies. In Islington, for instance, attempts to set up data sharing with commercial short-term letting platforms, such as One Fine Stay, have proven unfruitful because of client confidentiality agreements. Moreover, as observed by legal scholars, 'many sharing economy companies operate in a manner contrary to law, [so] their resistance to efforts to obtain information about their practices is not surprising' (Miller, 2016). The resistance to share information vital to urban regulatory practices has led some local governments to take antagonistic stances, and legally enforce data requests, as exemplified by a high-profile case in New York in 2014.<sup>13</sup>

In response to the issue of access to data for public enforcement, proposals for further digital intermediation have been put forward towards a radically different approach to regulation (Miller, 2016). Advocates for platform economies have called for government to 'liberalise with technology' towards a 'light-touch framework' (Stephany, 2015: 178). Within this framework, governments are encouraged to rely on the vast amounts of data generated through these platforms, which surpass the amount of data at the disposal of local regulators and planning enforcers. Effective mining of real-time data through appropriate algorithms, it is argued, can allow regulators to take 'a more hands-off approach – until the data tells them to act' (Stephany, 2015: 178). In a further consolidation of the role of digital platforms in urban governance, this is the idea at the core of 'algorithmic regulation' (Miller, 2016; Quattrone et al., 2016) applied to new platform economies: to establish real-time mining of large sets of data that enable detection of 'anomalous behaviours', such as are implemented by retail banking and other

sectors. This detection process is envisioned to produce regulations that are 'responsive to real-time demands' (Quattrone et al., 2016).

The idea of a 'real time city', in which governance is radically transformed by continuous access to big data has been debated by critical 'smart cities' scholars (Batty, 2013; Kitchin, 2014) and concerns have been raised about the tendency towards a technocratic mode of governance via information and analysis systems which 'presumes that all aspects of a city can be measured and monitored and treated as technical problems which can be addressed through technical solutions' (Kitchin, 2014: 9). The question of regulation is again central, but with an additional concern about its corporatisation. With digital technology increasingly affecting the governance of physical spaces, concerns have been raised about the power shift from regulation by law to a new paradigm of 'governance by code' dominated by private companies (Schulz and Dankert, 2016) towards what critics have called 'algorithmic states of exception' (McQuillan, 2015).

## Conclusions

The sharing economy has posed a set of unique challenges to urban planning and governance that requires careful analysis. The discourse of 'sharing', connoting a convivial aspect to these practices, highlighting the opportunity for average families to make use of un- or underutilised assets to supplement their income, not only seeks to maximise the appeal of these companies to ordinary citizens, but mask more complex arrangements that mark their profits. The aim of this paper has not been to act as an indictment against digital platform for short-term letting such as Airbnb. Rather, it has been to highlight the ways in which the challenges associated with the corporate-led 'sharing economy' move beyond economic

policies to reshaping regulation of everyday urban spaces. As this article has argued, the challenge of regulating these activities has met with central government policies for economic 'deregulation' while raising concerns for those institutions tasked with managing and enforcing regulation at the local level, such as planners and local councils. As the case of the four London inner boroughs has shown, by not putting in place adequate resources to enforce new regulations, regulated deregulation that claimed to support micro-entrepreneurialism is likely to contribute, in practice, to a further entrenchment of asset-based inequalities, with significant implications for the safeguarding of public interest at the local and city level.

The relationship between platform economy companies and urban regulation raises some important issues for the role of the state in relation to the 'regulatory flattening' imagined and implemented by companies such as Airbnb. Marginal and informal practices of short-term urban sharing have long existed, but it is now through a combination of intermediary digital platforms and the role of the state in pushing for regulated deregulation that they are able to expand at an unprecedented pace and scale, often to the benefit of a particular set of people, such as asset owners, as also evidenced by the high proportion of multi-listings. While legal scholars have argued that platform economies are 'forcing regulators to rethink what the public interest means in the digital age and how to update this notion' (Finck and Ranchordás, 2016: 48), the inability to know the extent of the practices and of potential breaches makes it difficult for regulators to properly assess what public interest might mean in this context. As the case of short-term letting in inner London has shown, local officers and governments face two main possible courses of action: either to enforce regulation through slow and obsolete methods of data gathering, or to hand regulation

and governance over to digital companies altogether, allowing the latter to actively intervene in the very definition of regulation. The refusal of platform economies to share vital data thus contributes to enabling the expansion of speculative practices in cities and the further entrenchment of neoliberal practices of regulated deregulation.

What is particularly problematic here is how this may lead to practices of enforcement becoming more reliant on processes of corporatisation. Technocratic governance through corporate-led big data can pose the danger of a 'technological lock-in' in which city government would be beholden 'to particular technological platforms and vendors over a long period of time creating monopoly positions' (Kitchin, 2014) that risk leading to 'a corporate path dependency that cannot easily be undone or diverted' (Kitchin, 2014). In other words, it is not just that the change of regulations through deregulation are likely to privilege corporate and elite interests (Aalbers, 2016), but also that corporate and elite interests are becoming fundamental to the remaking of regulations as a tool of corporate urban governance through digitisation and big data. If the corporate-led 'sharing economy' is a movement that challenges existing ways of working and living in cities, it is also, importantly, a movement to re-regulate and consolidate the role of digital corporate powers in transforming and embedding themselves into urban societies and their governance, directly, through lobbying, or indirectly, through maintaining control over data. The rise of platform economies thus not only shows the way in which digital companies become increasingly incorporated into the management and planning of cities and gain further control of everyday lives, but also reveals how the opacity of their activities and relationship to state institutions usher in new spatial uses. The challenges brought about by digital-led short-term sharing of space need to be taken

more seriously within urban scholarship as we see the proliferation of such activities, and their powerful corporate intermediaries, in cities across the globe.

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## Note

1. Many of these sites such as couchsurfing.com began as websites where people would host others in their homes through reputational economies free from monetary exchange.
2. 'Regulation and the Sharing Economy' radio podcast a16z, with speakers from Airbnb, Instacart, LocalMotion, Lyft, Teespring and Tilt, 15 April 2015. Available at: <https://soundcloud.com/a16z/a16z-podcast-regulation-and-the-sharing-economy> (accessed 22 March 2016).
3. It is worth noting that Portland, Oregon, was heralded by Airbnb CEO Brian Chesky as Airbnb's first 'shared city' in his visual essay 'Shared City' (Chesky, 2014).

4. The change of use would be from residential use (C3 in UK planning law) to use as a hotel (C1).
5. Change of use may also be prohibited or limited by tenancy agreements.
6. *Inside Airbnb* London, available at: <http://insideairbnb.com/london/> (accessed 24 August 2016).
7. Lower estimates have been stated in the *Supplementary Written Evidence from the British Hospitality Association 1* that in London at least 40% of all listings are 'professional hosts running pseudo-hotels' (British Hospitality Federation, 2016).
8. In Berlin, for instance, concerns by citizens and the local government about the decrease of supply of long-term rental properties through short-term letting has led to a wholesale ban on entire home listing on Airbnb and other property sharing platforms in 2016 (Sally, 2016).
9. Islington's planning enforcement officer B.
10. In Barcelona, for instance, Airbnb hosts are required to register their properties with the Tourism Registry of Catalonia, the breach of which has been prosecuted in a display of 'one of the most prohibitive approaches' (Finck and Ranchordas, 2016; Sans and Quaglieri, 2016).
11. Islington's planning enforcement officer A.
12. Westminster's planning enforcement officer A.
13. Concerns with the potential violations by Airbnb hosts of a New York City law that bans renting out an apartment in a multiple-dwelling building for periods of less than 30 days, Attorney General Eric Schneiderman requested Airbnb to disclose names and addresses of all 15,000 hosts in the city (Attorney General Schneiderman, 2014). After an initial refusal, Airbnb finally agreed to disclose to NYC authorities internal data concerning nearly half a million transactions over a four-year period (Slee, 2016). The result of this inspection led to the publication of the report *Airbnb in the city*, which substantially supported the initial hypothesis (Office of the NY State Attorney General Eric T. Schneiderman, 2014).

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