



# Why did it not work? Reflections on regulating Airbnb and the complexity and agency of platform capitalism

Christian Smigiel

Department for Geography und Geology, Paris-Lodron-Universität Salzburg, Salzburg, Austria

**Correspondence:** Christian Smigiel (christian.smigiel@sbg.ac.at)

Received: 6 April 2020 – Revised: 7 July 2020 – Accepted: 21 July 2020 – Published: 19 August 2020

**Abstract.** This article deals with one of the most controversial topics in urban studies related to mobile capital and mobile people. At first glance this seems to be contradictory since numbers of short-term rentals have decreased dramatically due to the coronavirus (SARS-CoV-2) pandemic. However, this paper is not about numbers and statistics. Instead it discusses structural issues regarding governance and power relations which remain important topics (especially) in times of crisis. It provides insights regarding the following issues: firstly, it deconstructs different “myths” that still surround short-term rentals and Airbnb and secondly, it delineates the structural power of Airbnb as a new urban institution. This helps us to understand some of the conflicts over Airbnb and the pitfalls with current forms of regulation on the one side as well as showing the complexity and agency of short-term rentals on the other.

## 1 Introduction

Airbnb has become a powerful agent of platform capitalism, which consists of and combines a complex mix of socio-spatial imaginaries and politico-economic materiality. Airbnb’s “behaviour” during the first weeks of the coronavirus (SARS-CoV-2) pandemic can be taken as an example. As early as 17 March 2020 Airbnb sent a letter to the US Congress asking for financial support and “offering some policy proposals”, which included tax cuts and disaster loan measures for its “entrepreneurs and small business owners” as well as underlining its community orientation (Airbnb, 2020a).

But let us go back in time a little. The exceptional growth of short-term rentals in many European cities has led to intense debates in the media and politics as well as in research (Twickel, 2018; Kommenda et al., 2020; Putschögl and Zoidl, 2018). Data activists and critical urban studies experts in particular have provided empirical as well as conceptual insights into how housing markets and neighbourhoods are affected by the emergence of short-term rentals in general and Airbnb in particular (Cocola-Gant, 2016; Wachsmuth and Weisler, 2018; Yrigoy, 2019; Semi and Tonetta, 2020)<sup>1</sup>.

A new platform market has emerged that intensifies or accentuates processes of gentrification as well as reduces housing affordability and housing availability, and not just in tourist cities (Mermet, 2017; Ioannides et al., 2019). Different forms of protest and resistance in cities like Barcelona, Berlin, Venice, and Lisbon arose and led to a broader discussion about this new feature of the housing question (Colomb and Novy, 2017). Furthermore, these public voices politicized an issue that has become a major concern for urban policymakers as well (Amsterdam, 2019). Although reluctantly in the beginning, a growing number of European cities started to introduce regulation measures (Nieuwland and Van Melik, 2018; Aguilera et al., 2019); these measures did not work, and cities face(d) difficulties in controlling short-term rentals.

This short paper aims to provide insights regarding the following issues: firstly, it deconstructs different “myths” that still surround short-term rentals and Airbnb, and secondly, it delineates the structural power of Airbnb as a new urban institution (van Doorn, 2019). This helps us to understand some of the conflicts over Airbnb and the pitfalls with current forms of regulation on the one side, and it shows the complexity and agency of short-term rentals on the other. Thirdly, it makes it clear that the short-term rental market is not exclu-

<sup>1</sup><http://insideairbnb.com/> (last access: 29 March 2020).

sively an urban topic but needs consideration from a multi-scalar as well as a multidimensional perspective. Therefore, geography has much to offer in terms of an analytical perspective, which could help to deepen the understanding of this frontrunner of digital capitalism.

## 2 Deconstructing myths about short-term rentals and Airbnb

This chapter discusses socio-economic as well as institutional issues that surround short-term rentals and have accompanied the growth of Airbnb in the last years. Together they form a complex set of motives, discourse and constraints that have strengthened the material and symbolic meaning of short-term rentals.

### 2.1 Is it really about sharing?

The image of being a sharing economy frontrunner has become a trademark of Airbnb since it has been repeated frequently by Airbnb itself as well as by articles in the media and research (Airbnb, 2020b; Guttentag, 2013). In particular the founding myth of two young guys renting out their air mattresses in order to cope with the high housing prices in San Francisco is present in almost all types of analyses regarding the largest global short-term rental platform, and it is used to construct the image of a “socially responsible business”. On the other hand Airbnb has been successfully acquiring millions in venture capital and buying out competitors since the very beginning, something that has helped to professionalize and to expand its business activities worldwide. Triggered by generalized low interest rates in the aftermath of the 2008 global economic crisis and low rates of return on a wide range of established financial assets, investors shifted towards upcoming technologically driven business models such as Airbnb (Srniczek, 2017).

Apart from these macroeconomic parameters, one has to pose a more general question of what “sharing” actually means in the case of Airbnb. By scrutinizing the idea of the sharing economy, Crommelin et al. (2018) argue that Airbnb has globalized new forms of “sharing” in a way that nevertheless requires ownership or effective control of housing first of all. Empirically this is reflected in the dominance of Airbnb hosts that have multiple listings in many major European short-term rental markets (Adamiak, 2018; Cocola-Gant and Gago, 2019). Moreover, commercial providers tend to get the highest revenues and dominate short-term rental markets in quite different types of cities (Mermet, 2017; Wachsmuth and Weisler, 2018; Grisdale, 2019; Smigiel et al., 2019). Additionally, recent studies illustrate the increase in corporate Airbnb investors and transnational capital that moves to formerly hidden housing markets (Cocola-Gant and Gago, 2019). This all shows that a deepening of the commodification of housing has taken place, which the “sharing” discourse tends to obscure. Micro-entrepreneurship is one es-

sential form that describes the outcome of short-term renting as well as capturing the business idea of Airbnb (Stabrowski, 2017; Leoni and Parker, 2019). Moreover, Airbnb has constructed a profit-oriented “sharing” business that consists of numerous rules, regulations, and a quite hierarchical setting (see Sect. 3). Contrary to the discourse of sharing, these portrayed features illustrate quite particular power structures that need to be analysed.

### 2.2 Short-term rentals help the middle class and lower inequality?

Nathan Blecharczyk, one of the co-founders of Airbnb, recently stated that Airbnb helps to “protect housing and makes it easier for more hosts to pay more tax” (Blecharczyk, 2019). The previously mentioned letter to the US Congress argues that a large number of Airbnb hosts “depend on their Airbnb income to meet their monthly needs” (Airbnb, 2020a). Another often-repeated claim by Airbnb is that the platform helps middle-class households to cope with high housing prices and lowers inequality, as Stabrowski (2017) depicts. Besides public statements, Airbnb has founded different types of community initiatives in order to substantiate these claims. Home-sharing clubs as well as the Airbnb Citizen initiative are outcomes of this effort. In all kinds of initiatives and policy statements, Airbnb is using and referring to imaginary ideas of an urban middle class<sup>2</sup>. While it might be true that in some cities low- or middle-income households get additional income from home-sharing, there is no empirical evidence that lower- or middle-income households do profit generally. In contrast, in-depth studies conducted in different urban environments illustrate the opposite. First, the number of classical home-sharers<sup>3</sup> is rather low, and second, commercial hosts dominate in terms of market share as well as revenues (Grisdale, 2019). Consequently, housing units are withdrawn from the regular (long-term) rental market and shifted to the short-term rental market since landlords can generate significantly higher profits from short-term renting (Smigiel et al., 2019). This structural shift in housing can be explained with reference to the rent-gap theory. A new short-term rent gap is created in a very short period of time since Airbnb allows higher revenues without former investment or depreciation (Yrigoy, 2019; Wachsmuth and Weisler, 2018). Moreover, short-term rentals have increased the volatility or flexibility of housing as an asset since Airbnb landlords can change the duration of rent, adapt the offer in terms of changed market conditions, or decide to sell the property (Cocola-Gant, 2020). Therefore, short-term rentals lead to a deepening of the commodification of housing, which results in increased profits from housing in shorter periods of time.

<sup>2</sup><https://www.airbnb.com/citizen/> (last access: 29 March 2020).

<sup>3</sup>The vast majority of listings are entire apartments or houses. Private rooms or shared rooms are of minor importance as data on AirDNA indicate throughout Europe.

Last but not least, Airbnb is a highly unevenly distributed phenomenon that mostly affects inner-city areas (Roelofsen, 2018; Gurran and Phibbs, 2017). Therefore, it is driving up housing prices of particular segments of local housing markets, which makes it especially difficult for lower- and middle-income households to afford housing or to change flats (Barron et al., 2017).

### 2.3 Is Airbnb an “information service”?

On 19 December 2019 the Court of Justice of the EU (CJEU) ruled that “France cannot require Airbnb to hold an estate agent’s professional licence as it did not notify the Commission of that requirement in accordance with the Directive on electronic commerce” (CURIA, 2019). The recent decision of the CJEU marks an important victory for Airbnb since the highest European court ruled in favour of Airbnb. In a nutshell, the global short-term rental platform has been classified as an ‘information society service’ and not as a real estate agency and is therefore protected by EU law. The CJEU mentioned three reasons for this categorization of Airbnb. First, Airbnb does not directly provide accommodation. Second, Airbnb “is in no way indispensable to the provision of accommodation services, since the guests and hosts have a number of other channels in that respect, some of which are long-standing” (CURIA, 2019). And third, the EU court did not see any signs that Airbnb dictates prices. Although this short paper cannot go into detail and provide a profound critique of the decision and its circumstances, it is remarkable that the CJEU followed Airbnb’s argumentation of being a neutral platform and a “digital catalyser”. The judgement seems to misunderstand and underestimates the meaning of a platform as a regulator and stimulator (Leoni and Parker, 2019). Platforms create new markets since they “add value both to what is brought into the platform and to the platform itself” (Bratton 2016, p. 41 cit. by van Doorn, 2019). Therefore, they occupy a powerful position. For example, Airbnb holds a dominant position as it has an average market share of 80 %–95 % in many European cities. Moreover, the CJEU decision did not consider Airbnb’s agenda-setting, lobbying, regulatory approaches, in short, its political or institutional power, as the following chapter points out. Last but not least the CJEU decision is based on an outdated EU Directive that had been introduced almost a decade before Airbnb started to disrupt housing markets Europe-wide<sup>4</sup>.

### 3 Airbnb as a global and institutional player

When considering Airbnb’s impact on housing and urban tourism as well as its external (agenda-setting, lobbying) and internal political activities (e.g. bureaucratic control system), one can speak of a new (urban) institution. By analysing the

history and orientation of Airbnb community programmes, van Doorn (2019) convincingly argues that Airbnb has become a new “regulatory entrepreneur”. In fact, the aim of different political, economic, and social activities is not primarily to avoid regulations, to pay less tax, or to shape policy debates, but “Airbnb seeks to become increasingly infrastructural” (van Doorn, 2019). This also sheds a different light on public activities such as the Open Homes programme, partnerships, or the Airbnb Policy Tool Chest for local policymakers. They are oriented to create a certain “democratic legitimacy” that helps Airbnb to achieve an essential role in the urban fabric.

However, this is by far a one-dimensional process. As the previous chapter has shown, the EU legal framework and especially the EU Commission have supported and strengthened Airbnb’s position. The economic perspective prevails as, in all statements and documents in recent years, the EU Commission has praised Airbnb as a frontrunner of the “collaborative economy”<sup>5</sup>. Moreover, there are national as well as local actors (e.g. economic and tourism departments) that support Airbnb. In some municipalities “the sharing economy” has even become part of the political agenda (Aguilera et al., 2019). On the other hand, Airbnb has used its multi-scalar setting as a global company in order to bypass local and national restrictions. In fact, Airbnb is using its Irish license in order to outplay the data restrictions and tax regulations of other EU countries.

Internally, Airbnb is using its big data on transactions, reviews, and communications in order to not only govern the platform but primarily to increase the performance or “efficiency” of the users, as a netnographic study shows (Leoni and Parker, 2019). In contrast to its collaborative and democratic attitude, Airbnb exercises top-down bureaucratic control via technology and accountability.

## 4 Concluding reflections on regulations

The majority of cities have welcomed and even supported the growth of short-term rentals for some time. First, urban tourism has become an important source of income for many cities after the global financial crisis of 2008. This includes different types of tourism and guests as well as the fact that tourism is used to change the image of cities in order to attract capital investments. Second, Airbnb and other short-term rental platforms emerged only recently and started to surge in the last 5 years. Third, they are changing housing markets by utilizing legal grey zones at different scales. These are some elements that still hinder effective regulation. However, a number of cities have recently started to introduce regulations that range mainly from density and temporal restrictions to zoning of short-term rentals (Aguilera et al., 2019; Nieuwland and Van Melik, 2018; Dredge et al.,

<sup>4</sup>Currently, there are negotiations to displace the outdated Directive 2000/31 by the Digital Services Act.

<sup>5</sup>[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_20\\_194](https://ec.europa.eu/commission/presscorner/detail/en/ip_20_194) (last access: 4 April 2020).

2016). There is a diversity of policy responses in European cities that also depend on the actors and alliances that politicized the short-term rental issue (Aguilera et al., 2019). Although there are many regulations in place, they lack feasibility. First, municipalities lack people who are able to control the regulations. Second, many regulations are small-sized “solutions” that do not address the issue properly<sup>6</sup>. Third, regulations, as well as the public discourse, tend to focus on topics such as local tax avoidance or the supposed misuse of social housing by Airbnb hosts, topics that do not take into account the actual power relations. In fact, most regulations do not tackle the commercialization of short-term rentals or fail to address the institutional setting that helps big platforms to operate. Instead, existing rules create a bureaucratization which tends to favour professional hosts and pushes out home-sharers. To sum up, one of the major pitfalls of current forms of policy response is that they address short-term rentals as a specific topic without including it in the wider frame of housing or economic policies. Additionally, the outsourcing of labour is not tackled at all since the image of platform capitalism as a form of empowerment and entrepreneurship determines policy responses.

Last but not least, public municipalities lack the data to know where and how to regulate. This is due to the fact that Airbnb does not share detailed data sets as they are their most important assets. However, this reflects a failure of governance since there is hardly any coordination among the different political bodies in Europe.

**Data availability.** No data sets were used in this article.

**Competing interests.** The author declares that there is no conflict of interest.

**Review statement.** This paper was edited by Nadine Marquardt and reviewed by one anonymous referee.

## References

- Adamiak, C.: Mapping Airbnb supply in European cities, *Ann. Tourism. Res.*, 71, 67–71, <https://doi.org/10.1016/j.annals.2018.02.008>, 2018.
- Aguilera, T., Artioli, F., and Colomb, C.: Explaining the diversity of policy responses to platform-mediated short-term rentals in European cities: A comparison of Barcelona, Paris and Milan, *Environ. Plan. A*, <https://doi.org/10.1177/0308518x19862286>, in press, 2019.
- Airbnb: Advocating on Behalf of our US Host Community, available at: <https://news.airbnb.com/advocating-on-behalf-of-our-us-host-community/> (last access: 31 March 2020), 2020a.

- Airbnb: Fast Facts – Airbnb Newsroom: available at: <https://news.airbnb.com/fast-facts/> (last access: 29 March 2020), 2020b.
- Amsterdam, C. O.: Press release “Cities alarmed about European protection of holiday rental”, available at: <https://www.amsterdam.nl/nieuwsarchief/persberichten/2019/persberichten-laurens-ivens/press-release-cities-alarmed-about/> (last access: 31 March 2020), 2019.
- Barron, K., Kung, E., and Proserpio, D.: The Effect of Home-Sharing on House Prices and Rents: Evidence from Airbnb, SSRN, <https://doi.org/10.2139/ssrn.3006832> 2017.
- Blecharczyk, N.: Airbnb Responds to EU Court Decision, available at: <https://news.airbnb.com/airbnb-responds-to-eu-court-decision/> (last access: 20 March 2020), 2019.
- Cocola-Gant, A.: Holiday rentals: the new gentrification battleground, *Sociol. Res. Online*, 21, 10, <https://doi.org/10.5153/sro.4071>, 2016.
- Cocola-Gant, A.: Short-term rentals, Covid-19 and platform capitalism, available at: <http://www.albasud.org/blog/en/1220/short-term-rentals-covid-19-and-platform-capitalism>, last access: 25 June 2020.
- Cocola-Gant, A., and Gago, A.: Airbnb, buy-to-let investment and tourism-driven displacement: A case study in Lisbon, *Environ. Plan. A*, <https://doi.org/10.1177/0308518X19869012>, in press, 2019.
- Colomb, C. and Novy, J.: Protest and resistance in the tourist city, in: xiv, *Contemporary geographies of leisure, tourism and mobility*, Routledge, 343 pp., 2017.
- Crommelin, L., Troy, L., Martin, C., and Pettit, C.: Is Airbnb a Sharing Economy Superstar? Evidence from Five Global Cities, *Urban Policy Res.*, 36, 429–444, <https://doi.org/10.1080/08111146.2018.1460722>, 2018.
- CURIA: France cannot require Airbnb to hold an estate agent’s professional licence as it did not notify the Commission of that requirement in accordance with the Directive on electronic commerce, in: Judgment in Case C-390/18 *Airbnb Ireland*, EU, 2019.
- Dredge, D., Gyimóthy, S., Birckbak, A., Jensen, T. E., and Madson, A.: The impact of regulatory approaches targeting collaborative economy in the tourism accommodation sector: Barcelona, Berlin, Amsterdam and Paris, *Impulse Paper No. 9* prepared for the European Commission DG GROWTH, SSRN, available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2853564](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2853564) (last access: 29 March 2020), 2016.
- Grisdale, S.: Displacement by disruption: short-term rentals and the political economy of “belonging anywhere” in Toronto, *Urban Geogr.*, <https://doi.org/10.1080/02723638.2019.1642714>, in press, 2019.
- Gurran, N. and Phibbs, P.: When Tourists Move In: How Should Urban Planners Respond to Airbnb?, *J. Am. Plan. Assoc.*, 83, 80–92, <https://doi.org/10.1080/01944363.2016.1249011>, 2017.
- Guttentag, D.: Airbnb: disruptive innovation and the rise of an informal tourism accommodation sector, *Curr. Issu. Tour.*, 18, 1192–1217, <https://doi.org/10.1080/13683500.2013.827159>, 2013.
- Ioannides, D., Roeslmaier, M., and van der Zee, E.: Airbnb as an instigator of ‘tourism bubble’ expansion in Utrecht’s Lombok neighbourhood, *Tourism Geogr.*, 21, 822–840, <https://doi.org/10.1080/14616688.2018.1454505>, 2019.

<sup>6</sup>For example, temporal restrictions allow short-term renting for a certain period of the year (up to 3 or 4 months) without providing effective monitoring.



- Kommenda, N., Pidd, H., and Brooks, L.: Revealed: the areas in the UK with one Airbnb for every four homes, *The Guardian*, 2020.
- Leoni, G. and Parker, L. D.: Governance and control of sharing economy platforms: Hosting on Airbnb, *Brit. Account. Rev.*, 51, 1–22, <https://doi.org/10.1016/j.bar.2018.12.001>, 2019.
- Mermet, A. C.: Airbnb and tourism gentrification Critical insights from the exploratory analysis of the ‘Airbnb syndrome’ in Reykjavik, *Contemp. Geogr. Leis. T.*, 3, 52–74, 2017.
- Nieuwland, S. and Van Melik, R.: Regulating Airbnb: how cities deal with perceived negative externalities of short-term rentals, *Curr. Issu. Tour.*, 23, 811–825, <https://doi.org/10.1080/13683500.2018.1504899>, 2018.
- Putschögl, M. and Zoidl, F.: Airbnb: Segen für Urlauber, Fluch für Einheimische, *DerStandard*, Vienna, 2018.
- Roelofsen, M.: Exploring the Socio-Spatial Inequalities of Airbnb in Sofia, Bulgaria, *Erdkunde*, 72, 313–327, <https://doi.org/10.3112/erdkunde.2018.04.04>, 2018.
- Semi, G., and Tonetta, M.: Marginal hosts. Short-term rentals suppliers in Turin, Italy, *Environ. Plan. A*, <https://doi.org/10.1177/0308518X20912435>, in press, 2020.
- Smigiel, C., Hof, A., Kautzschmann, K., and Seidl, R.: No sharing! A mixed methods study of shortterm rentals and its socio-spatial implications in the city of Salzburg, *Raumforsch. Raumord.-Spat. Res. Plan.*, 78, 1–18, <https://doi.org/10.2478/rara-2019-0054>, 2019.
- Srnicek, N.: *Platform capitalism*, Polity Press, Cambridge, 2017.
- Stabrowski, F.: ‘People as businesses’: Airbnb and urban micro-entrepreneurialism in New York City, *Camb. J. Reg. Econ. Soc.*, 10, 327–347, <https://doi.org/10.1093/cjres/rsx004>, 2017.
- Twickel, C.: *Auf Ärger eingerichtet*, Die ZEIT, Hamburg, 2018.
- van Doorn, N.: A new institution on the block: On platform urbanism and Airbnb citizenship, *New Media Soc.*, <https://doi.org/10.1177/1461444819884377>, in press, 2019.
- Wachsmuth, D. and Weisler, A.: Airbnb and the rent gap: Gentrification through the sharing economy, *Environ. Plan. A*, 50, 1147–1170, <https://doi.org/10.1177/0308518x18778038>, 2018.
- Yrigoy, I.: Rent gap reloaded: Airbnb and the shift from residential to touristic rental housing in the Palma Old Quarter in Mallorca, Spain, *Urban Stud.*, 56, 2709–2726, <https://doi.org/10.1177/0042098018803261>, 2019.