Contributing to recent debate on the emergence of digital and agile work, this book explores the implications for labour and employment relations within and beyond organizational boundaries. Taking a multidisciplinary approach to the key issues and challenges of digitalization, this collection covers topics such as the gig economy, crowdlabor and Industry 4.0. Theory and analysis are combined as the authors examine the impact of digital and smart work on organization, HRM and labour law. With comprehensive empirical evidence for those interested in understanding the more complex trajectories of today’s transforming work relationships, this book will not only appeal to students and academics but also to policy-makers, trade unionists and employers’ organizations.

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Assessment by Feedback in the On-demand Era

Alessandra Ingrao

Introduction: What Is a Feedback System?

In the era of on-demand economy, information plays a key role. In particular, if you take into consideration “gig economy” platforms, which provide services and goods, the information related to their quality is especially important (Felstiner 2011; Prassl and Risak 2016; De Stefano 2016). To obtain the latter, they use many different types of mechanisms, exploiting information and communication technology. One of these, which is common to several platforms, is represented by the use of feedback systems (Dellarocas 2003; Ghose et al. 2009; Rosenblat and Stark 2016).

Economists report that feedback systems are supplanting traditional sources of consumer information, such as advertising (You and Sikora...
2014, p. 418). The power to rate and review service is vested in the consumer, which plays a new responsibility role in the modern social market economy. Some scholars think that becoming the producer of former consumers ("prosumer") suggests a new economic model which is different from capitalism (Harvey 2007; Rifkin 2014; Ryan 2011).

On many websites, it is usual that consumers can rate and review goods and services: TripAdvisor, for instance, provides a forum where many people offer tips on hotels and restaurants. Surfing the web, you can bump into platforms that provide service reviews. Moreover, Yelp allows customers to comment on and rate businesses. However, we are now witnessing the frequent phenomenon of “gig economy” platforms that use information, collected by the consumer of service and elaborated with feedback systems, about the quality of performance of each worker (Lee et al. 2015).

This topic will be discussed in this paper.

Feedback systems are reputation mechanisms that build trust among strangers engaging in on-demand transactions. These systems provide histories of past behaviour of a contracting party, so it records and stores its reputation, thus increasing the opportunities of well-behaved participants and decreasing those of poorly behaved ones (Thierer et al. 2015). In this way, trust is improved by rewarding cooperation.

In the literature (Thierer et al. 2015; Dellarocas 2003), it is common to distinguish between online reputational systems: centralized systems and peer-to-peer–based mechanisms.

**Centralized or Third-Party Mechanisms**

These mechanisms have nothing to do with the personal reputation of one of the contracting parties. They build trust in the centralized platforms, which act as a third party seeking to facilitate transactions. eBay, for instance, has a “money back guarantee” that refunds buyers if they do not receive their items. This mechanism does not increase the buyer’s trust in the seller, but it increases the level of security in online transactions.

**Peer-to-Peer Mechanisms**

Ratings and reviews are among the most popular peer-to-peer feedback systems. Peer-to-peer mechanisms are related directly to the reputation of one of the contracting parties. They build trust in a relationship between the two parties involved in an online transaction because one of them rates the other by using the rating system mechanism provided by the platform (Massa 2012, p. 15).

These mechanisms were born with the Internet and have existed since the rise of eBay and Amazon. But only with the birth of Web 2.0 services, they have been endorsed by a development change due to the fact that the public was allowed "to have a voice in commercial and non-commercial transactions”.

Moreover, sharing-economy digital platforms have enabled even more direct and instantaneous interactions between those supplying and those demanding services. The sharing economy relies completely on rating and review systems: many companies, such as Uber, Lyft, TaskRabbit and HelpBing, solicit their customers to provide feedback and reviews in order to find out something about the performance of the workers by using several tools, from simple stars or point systems to detailed reviews. Ride-sharing companies employ some of the most extensive rating systems, whereby both the rider and driver use a five-star system to rate each other after every ride.

**Peer-to-Peer Mechanisms in Gig Economy Working Relation/Contract: The Difference Between Control of Result of Activity and Monitoring of the Way of Execution**

Gig economy platforms use simple star systems or point systems to check reviews from customers. Rating and review systems allow platforms to measure the quality of the service offered by one worker. They collect a huge amount of personal data in order to assign workers a "professional
score" as a result of algorithmic methods. In other words, platforms analyse ratings and reviews to measure the professional reputation of each worker in order to exercise the typical employer's power of control (Sachs 2015; Dzieza 2015; De Stefano 2016).

The reason why they use this kind of method is that such a method is mainly aimed at providing a solution to the problem of asymmetric information between the parties of a contract. The platform, indeed, selects an unknown party who will do the job or provide the service requested by a client.

Someone might object that this is a traditional method of recruitment. Nevertheless, it is not the case. The so-called “sharing economy companies” use platforms to select workers “in the crowd”. Membership of the platform is open to everyone surfing the web and having the ability to use devices that allow one to access the portal and to register in it. Therefore, platforms need to get as much information as possible about the person who will provide the service.

Particularly, where the service requires the physical presence of workers (e.g. transport or cleaning), platforms have an interest in avoiding forms of liability, which may arise from unlawful conduct that employees can perform during the course of the work. Data recorded in the US, for instance, have demonstrated that there are conspicuous cases of sexual harassment committed against consumers by workers of the platforms.

Therefore, on the one hand, it is true that peer-to-peer feedback systems ensure that platforms are providing a good quality service by means of control of service results provided by each worker. Businesses need to offer high-quality and safe services, and the consequent control of the result of work is compatible with the self-employed nature of the relationship.

On the other hand, peer-to-peer feedback systems allow companies to evaluate performance of each crowdworker controlling their personal data. They do not evaluate the result of the activity, but sometimes platforms maintain the power to control the way of work performance (Sachs 2015).

In this respect, the well-known judicial cases of Lyft and Uber—spreading all over the world, from the US to Brazil, from Switzerland to the UK—are emblematic. The case law clearly shows that the functioning of peer-to-peer feedback systems is closely related to the classification issues, i.e. whether these workers are employees or self-employed. The debate over the status of Uber drivers (Daviddov 2017; Cherry and Aloisi 2017; Aloisi 2016), who are classified as “partners” (i.e. independent contractors) under the general terms and conditions, shows that the new technological forms of organizations can be an “excuse for evading law”—not only labour law but also competition law.

Uber allows customers to rate drivers by using a five-star scale feedback system, but customers cannot rate the result of the drivers’ activities.2 Uber asks customers to rate many different skills and features of the service: the cleanliness of the car, the type of music listened to in the car, where the driver picked the passenger up, whether the Uber driver helped with luggage, etc.

Also, Lyft requires drivers to “be the only non-passenger in the car”, “keep car clean on the inside and outside”, “go above and beyond good service such as helping passengers with luggage or holding an umbrella for passengers when it is raining”, and “greet every passenger with a big smile and a fist bump”. The ground of the judgement of the London Employment Tribunal clearly shows that Uber instructs their partners, giving them a “Welcome Packer” containing materials used in “onboarding” new drivers.3

After that, Uber uses the peer-to-peer feedback system as a tool to enforcing specific work rules, which are pre-defined by Uber, as an employer. Uber controls a lot of the ways that drivers behave while they work and then check whether they respect rules, looking at customers’ feedback. This is a new form of monitoring employees, which comes from using technology: it has nothing to do with the technological remote monitoring, bounded in the Italian legal system with the meaning of Article 4 of Worker’s Statute. In fact, the algorithmic analysis of reviews used by platforms has turned customers into “unwitting and sometimes unwittingly managers” (Dzieza 2015), sometimes more efficient than an individual boss.4

In the platform economy, the control power leads to the exercise of disciplinary power and is also put in place in a strange and innovative
way (Rosenblat and Stark 2016). When a driver’s average star rating falls below a certain level, established by Uber, the company deactivates the profile of this driver in the platform. Therefore, Uber and other companies like Lyft retain the power to automatically exclude a worker from the use of the platform if his or her performance does not meet the employer's expectation. US District Judge Chen stated: “Uber may terminate any driver whose star ratings fall below the applicable minimum star-rating, and a significant amount of evidence in the record indicates that Uber does, in fact, terminate drivers whose star ratings fall below a certain threshold determined by Uber”. In this case, deactivation of the platform account sounds like an unjustified dismissal. The power to withdraw from a contract is immediate, automatic and without apology.

Uber and Lyft systems highly motivate drivers to keep their scores up. This is reflected by the fact that companies sometimes send out e-mails with very specific advice about what drivers can do to earn positive ratings, such as offering snacks or not talking to customers about other business interests.

Therefore, it is clear that the digital work platforms use digital technologies to exercise a form of control that is not compatible with the autonomous nature of the contract stated in their general terms and conditions. For this reason, the settings of feedback systems could be an element that the judge has to analyse in order to declare that an employment relationship exists between the platform and the crowworker.

It is not fitting and efficient for gig economy platforms to hire workers as employees. First, “and most obviously, a fleet of employee drivers would be more expensive than a fleet of independent contractor drivers” (Sachs 2015a); second, if gig workers were employed, platforms would have to ensure labour law legislation, the application of which would make them lose flexibility in managing the workforce. For this reason, it is important to point out that platforms, after several court rulings that recognize the employee status of drivers, will be inclined to rapidly change the settings of feedback systems to cut the chance of that happening in the future. Presumably, they will refrain to exercising power of control as an employer and they will develop a data performance tracking method that is opaque and more refined. So it is becoming relevant for labour law scholars to study new ways to protect human dignity against algorithmic and automated decision, irrespectively of the classification of the contract.

### Rating and Review Systems Under Competition Law: The Issue of Classification of Uber's Economic Activities: Is It a Mere Intermediary or a Transportation Company?

The way in which platforms use feedback systems is relevant not only under labour law but also under competition law.

In Europe, many different national courts are wondering whether Uber is a mere intermediary between supply and demand of a digital service, as Uber argued, or a transportation company. Qualification of Uber’s economic activities is crucial in the states where competition law imposes stricter regulation for taxi services since the provision of this type of service is subject to governmental licences and authorizations, which Uber does not have. For this reason, the Juzgado de lo Mercantil n° 3 de Barcelona ruled to refer the question concerning the classification of Uber activity to the European Court of Justice in order to assess it in light of European competition law. In particular, it must be determined whether the service offered by Uber benefits from the principle of the freedom to provide services, as “information society services” under the provision of Directive on electronic commerce 2000/31/EC of the European Parliament and of the Council of 8 June 2000, or whether its services fall within the field of transport which is regulated by the law of the member states. In the first case, licences and authorizations required by a member state may be incompatible with the principle of the freedom to provide services.

The European Court of Justice will decide, presumably, in line with the opinion of Advocate General Maciej Szpunar. According to Szpunar, the service offered by Uber does not fall within the concept of “information society service” under Directive 2000/31/EC.
The opinion that Uber is a company providing a transportation service is based on the quantity of algorithmic control that Uber exercises over drivers. The Advocate General observes that drivers who work via the Uber platform "do not pursue an autonomous activity that is independent of the platform". On the contrary, that activity exists solely because of the platform, without which drivers could not work. The Advocate General also points out that Uber controls the economically important aspects of the urban transport service offered through its platform. Indeed, Uber imposes conditions which drivers must fulfil in order to take up and pursue their activity; financially rewards drivers who accumulate a large number of trips, and informs them of where and when they can rely on a high volume of trips or advantageous fares or both; exerts control over the quality of drivers' work, which may even result in the exclusion of drivers from the platform; and effectively determines the price of the service.

European Protection of Personal Data and Ratings and Reviews: The Question of Reliability of Reputational Feedback Systems

Based on the analysis of the platform feedback system, it is possible for us to deal with the second major problem arising from the use of rating and reviews: the reliability of the evaluation and reputation system (Dell'Acqua 2003; You and Sikora 2014; Strahilevitz 2007; Schor 2016).

The evaluation system is based on an algorithm which collects and analyses third-party evaluations of the professionalism of each worker. There is no doubt that this kind of evaluation is a form of personal data "processing" under both the Italian and European Personal Data Protection Law. And it gets really interesting when you think about those ratings and reviews coming from consumers to become personal data on workers' performance collected and "stocked" by gig economy platforms. Consequently, they fall within the scope of Directive 95/46/CE. The Directive applies to personal information that is subject to "processing". For the purposes of the Directive, the term "processing" applies to a comprehensive range of activities: it includes the initial obtaining of personal information, the retention and use of it, and access and disclosure. All of these operations under the privacy regulation must be clear and transparent for data subjects (workers or independent contractors) to enable them to exercise their right to object, in whole or in part, on legitimate grounds, to the processing of personal data concerning them.

Sharing-economy rating systems, in this context, might not be the best way to predict the quality of a contractual service or to evaluate the performance of each worker. These reviews often include more subjective judgements that are not taken into account by potential buyers. For this reason, feedback systems increase the risk to create inaccurate, inexact and incorrect reputational profiles, which do not provide a real representation of the evaluated subject. The risk of unreliability depends on the absence of mechanisms that ensure objectivity in evaluating performances. For instance, the kind of person who writes a review is not necessarily a good representative of all the people using the service, or review writers are likely to be people who have had either a very positive or a very negative response to a service, and often only few people rate a service.

Owing to the impact of the system on labour contractual relationships, the potential negative repercussions and damages that workers may suffer in the gig economy are especially relevant. Crowdworkers passively undergo a negative evaluation, which may have harmful consequences both on the salaries (TaskRabbit) and, in extreme cases (Uber), on the existence of their employment relationship. The gig workers, furthermore, are exposed to the risk of discriminatory decisions by users, and the dynamics of rating systems do not guarantee transparency in users' evaluation or the possibility for the evaluated party to reply (Hannak et al. 2017).

Particularly relevant in this regard is a decision of the Italian Data Protection Authority, the first Italian measure that ruled on the question of legitimacy of web-based platforms that collect, analyse and store personal data in order to create a "reputational profile". The Authority declared illegal an algorithmic system which assigns to each registered user (professional) alphanumeric indicators in order to permit
continuous assessment of economic and professional capacity. It was stated to be illegal on the grounds that such an activity is an affront to human dignity. By imposing a prohibition on any present and future operation of data processing, the Data Protection Authority considered that the system involves significant privacy issues because of the delicate nature of the information that it uses, the pervasive impact on the data subject, and the ways in which the company intends to put the evaluation in place. Although, in principle, it is legitimate to provide services that can help make the socio-economic relations more efficient, transparent and secure, the system under consideration of the Authority presupposes a massive collection (also online) of information which is likely to have a significant impact on the economic and social representation of a large audience (clients, candidates, entrepreneurs, freelancers and citizens). The elaborated “reputational rating” could affect the lives of “catalogued” people influencing others’ choices and conditioning the evaluated subjects’ facility to enjoy the admission to benefits, services or performances (Masum and Tovey 2012). As for the alleged objectivity of professional evaluation, the company was unable to demonstrate the reliability of the algorithm that would govern the determination of the rating system. Furthermore, the Data Protection Authority ruled against a kind of feedback system which does not foresee any possibility of contestation and opposition of the screened subjects. In general, the Authority doesn’t want to allow an automated system to decide on such delicate and complex aspects as those related to reputation, because, in these situations, there is a high risk of creating inaccurate profiles and not responding to the social identity of people screened.

The mechanism examined by the Italian Data Protection Authority is very similar (but not identical) to the one which the platform of gig economy relies on, because it collects personal information concerning reputation and uses data to affect professional, business and worker life of the evaluated subject who passively suffered the rating evaluation.

European General Data Protection Regulation on “Automated Individual Decision Making”: A New Measure for Gig Economy Workers Against Algorithmic Decision

The importance of finding legal measures which protect human dignity against algorithmic decision brings us to consider the “Copernican Revolution” in data protection law. In April 2016, for the first time in over two decades, European Parliament adopted new regulations for the collection, procession and use of personal information. The General Data Protection Regulation (GDPR) EU/2016/679 will replace the Directive 95/46/CE from 25 May 2018 in order to provide identical provisions applicable in all EU countries. The scope of the GDPR, which does not require an enabling legislation to take effect, is strengthening the protection of natural persons’ information.

In this respect, the GDPR contains Article 22, which regulates “Automated individual decision-making, including profiling”, which potentially prohibits a wide forms of algorithms used by the gig platform (Goodman and Flaxman 2016). Article 22 states, as a general principle, that the data subject has the right not to be subject to a decision based exclusively on automated processes which produce legal effects concerning him or her. “Profiling” aimed at “analysing or predicting aspects concerning natural person’s performance” (see definitions provided by Article 4, paragraph 4) falls within the scope of Article 22.

The reasoning behind the legal provision deals with the right of a gig worker to receive a human explanation for an algorithmic decision in order to “contextualize” the platform’s decision.

This has been confirmed by the exception provided in the second and third paragraphs: a total ban of automatic decisions disappears if the latter is “necessary for entering into, or performance of a contract between the data subject and a data controller”; however, even in the case of exceptions, data controllers (the platform) must provide “suitable to safeguard the data subject rights and freedoms”, most notably first “the right to obtain human intervention on the part of the controller”, second “to express his or her point of view” and third (and most important) “the right to contest the decision”.
In view of the above, described safeguards do not solve all problems connected with the qualification issue but do have the effect to oblige all gig platforms to justify and contextualize every decision which may interfere with working lives in order to guarantee the right of defence of each worker.

The Right of Crowworkers to Move from One Platform to Another and the Right of Data Portability

This section will discuss whether, regardless of the qualification of the contract, crowworkers have the right to access and view the feedback score obtained from clients and whether they are entitled to transfer the ratings data from one platform to another.

As for the first question, there is no doubt that crowworkers are aware of their professional score from the platforms. Uber drivers, for instance, have the right to see and access their current rating in the ratings tab of the platform application. Pursuant to privacy regulations, data subjects can still use their right “to obtain from controller confirmation as to whether or not personal data concerning him or her are being processed and access to the personal data”.

The answer to the second question is more complicated. There is no doubt that once a person worked for a certain period of time for an employer, the employee has built up a background of knowledge, which will take with him or her if he or she changes job. It is also possible that his or her former employer will get in touch with the new one in order to give references on the worker. This can also happen to crowworkers. It has been said that their professional skills are measured by the platform algorithms based on the customer feedback. Therefore, the problem is whether it is possible to assign to each crowworker the right to transfer the feedback obtained from one platform to another. This is very important within a market as highly competitive as the gig economy, in which one worker can perform his duty to several platforms.

Article 20 of GDPR 2016/679 introduced a new right to “data portability” laid down in Article 20 of GDPR. It states: “The data subject shall have the right to receive the personal data concerning him or her, which he or she has provided to a controller, in a structured, commonly used and machine-readable format and have the right to transmit those data to another controller without hindrance from the controller to which the data have been provided (...).” The purpose of the right to data portability is, on the one hand, to empower the “data subject”, giving him or her more control over the processing of his or her personal data by one “data controller” and, on the other hand, to support the free flow of personal data in the European market with a view to promote competition between service providers and, in general, “data controllers”.

Right to data portability allows the direct transmission of personal data from one data controller to another in a structured, commonly used and machine-readable format. This kind of right might be helpful to gig economy workers because it will help them switch between different competitive platforms. For instance, an Uber driver who can move to Lyft, taking his professional rating score with him, is not discouraged from leaving Uber, because he does not have to start over to build his personal rating score when moving to a new platform. By providing gig working empowerment by preventing lock-in, the right to data portability is expected to foster opportunities to share rating scores between different platforms in a safe and secure manner.

In regard to the requirements of Article 20 GDPR, only personal data “provided” to a data controller by an individual are included in the scope of the right to data portability. Moreover, Article 20, paragraph 4, GDPR states that compliance with this right shall not adversely affect the rights and freedoms of third parties. In our case, third parties are the consumers-users who, under the heading of freedom of expression, expressed their evaluation on the service.

The first condition does not raise any significant problem: Article 20 GDPR states that only personal data fall within the scope of the right to data portability. This means that any anonymous data will not fall within such scope. In addition, Article 29 (Working party) states that when personal data, processed by a controller (the platform), include
information on personal data of several data subjects, “data controllers must not take an overly restrictive interpretation” to the requirement of Article 20. In regard to the second condition, the requirement of data provided by the subject constitutes a major obstacle in the recognition of the right to data portability of crowdworkers. In fact, in the opinion of Article 29—which is soft law and therefore not legally binding—“provided by” means that only data totally generated by data subjects fall within the scope of the right to data portability. Data created by the platform algorithm via ratings and reviews of customers are “inferred” and “derived”, even though such data may be part of the worker profile stored by the platform.

In light of the above, the denial of the right to data portability can be a source of economic damages for gig workers; for this reason, in the context of a sharing economy, a broad interpretation, which includes inferred and derived personal data about professional reputations in the concept of data “provided” by data subjects, must be adopted.

Notes

1. The first judicial cases were American. Many administrative bodies have concluded for the existence of form of employment, using the right to control test and the economic reality test: US Labor Commissioner of the State of California, O’Connor v. Uber Technologies Inc., n. C-13-3826, EMC, 2015; Id., Berwick v. Uber Technologies, Inc., C-11-47, 739 EK, 2015; Bureau of Labour and Industries of Oregon, Advisory Opinion, 14 Oct. 2015; the Department of Labour and Workforce Development, Alaska, 3 Sept. 2015, with which Uber is obliged to pay employee contributions to the State; United States District Court for the District of Columbia, Erik Search v. Uber Technologies Inc., Defendants Civil Action n. 15–257 (JEB), in a case of civil liability. After that, two Brazilian courts reached the conclusion that Uber drivers are employees because they receive by Uber detailed instruction and are subjected to algorithmic control: Tribunal Regional do Trabalho da 3ª Região, 33ª Vara do Trabalho de Belo Horizonte, Brazil, 13 Feb. 2017, n. 2534b89 and Tribunal Regional do Trabalho da 2ª Região, 13a Vara do Trabalho de São Paulo, 20 April 2017, n. e852624; contra Tribunal Regional do Trabalho da 03ª Região, 09ª Turma, Minas Gerais, Brazil, 23 May 2017, n.75181a9. After that, in Switzerland, the National Institute of Social Security, Suva (http://www.cdit.ch/svizerra/cronaca/169480/uber-deve-pagare-i-contributi-sociali, 5 Jan. 2017) stated that Uber drivers are employees because the platform is not a simple tool that connects customers seeking driving services, but it acts like an employer. Finally, it is crucial to mention the decision of the London Employment Tribunal, 28 Oct. 2016, Aslam, Farrar e a. v. Uber, c. 2,202,551, Dir. rel. Ind., 2017, 2, commented by D. Cabrelli. The judge stated that Uber riders are "workers" and not employees, and so they have right to minimum wage and working time, because they aren’t under any obligation to switch on the Application or, even if logged on, to accept any driving assignment that may be offered to them and stated that "these freedoms" are incompatible with the existence of an employment relationship.

2. General condition of Uber contract stated: “Star Ratings. After every trip, drivers and riders rate each other on a five-star scale and give feedback on how the trip went. This two-way system holds everyone accountable for their own behaviour. Accountability helps create a respectful, safe environment for riders and drivers. Drivers can see their current rating in the Ratings tab of the Uber Partner app.

How is my rating as a driver calculated? Your rating is based on an average of the number of post-trip stars riders gave you (from 1 to 5 stars). In the Partner app, you’ll see your rating as an average of the last 500 rated trips, or the total number of rated trips you’ve taken if less than 500.

The easiest way to keep your average rating high is to provide good service on every trip. Drivers on the Uber platform provide excellent service, so most trips run smoothly. But we know that sometimes a trip doesn’t go well, which is why we only ever consider an average of many ratings when calculating your rating instead of individual trips.

What leads to deactivation? There is a minimum average rating in each city. This is because there are cultural differences in the way people in different cities rate each other. We will alert you by email and text message if your rating is approaching this limit.

We check your rating after every 50 rated trips, so that we can let you know as early as possible if you are approaching this limit and provide you with any support you might need to improve your rating, like tips from our top-rated partner-drivers.
If you are a new driver and your rating falls below the minimum in your first 50 trips, we will invite you to participate in a quality session for further support, either online or in person at the Uber office. If your average rating still falls below the minimum after multiple notifications after a 50 trip period, your account will be reviewed and may in some cases be deactivated.

3. *London Employment Tribunal*, 28 Oct. 2016, cit. The judge makes a very detailed analysis of the operation of feedback system in the chapter called “Instruction, management and control or preserving the integrity of the platform?”. He describes the way in which Uber instructs drivers to ensure a satisfactory “rider experience” to the customers. Uber gives a “Welcome packet” to each driver containing material, including “5 Star tips” that explain “What riders like” and “What Uber Looks For”. Then Uber uses the rating system as a tool to exercise control over drivers and their behaviour.

4. Tribunal Regional do Trabalho da 03ª Região, 33ª Vara do Trabalho de Belo Horizonte, in which Judge Filipe de Souza Sickert explains that technological power of the gig economy platform has been dramatically exaggerated.

5. O’Connor v. Uber Technologies, Inc. et al., CI3–3826 EMC.


8. Working Party ex art. 29, opinion no. 4/2007;

9. It's very interesting the Italian case law about the civil liability of intermediaries like TripAdvisor that comes from fake reviews: Trib. Rimini, 7 May 2013, Dir. informazione e informatica, 3, 2013, 382–389. See also decision of Authority for Communications Guarantees, 22 Dec. 2014, proc. PS9345 “TripAdvisor—false recensioni online”, with which the Authority impose a fine of 500,000 euros to the Platform because it hasn't an appropriate control system against "fake reviews". The sanction has been cancelled by the Administrative Court, Tar Lazio, sez. I, 13 July 2015 no. 9355, because TripAdvisor cannot be held responsible for a misleading business practice because the deceit is not relevant enough.

10. Italian Data Protection Authority, decision no. 488 del, 24 Nov. 2016, [doc. Web n. 5,796,783], “Piattaforma web per l’elaborazione di profili reputazionali”. Compare also Italian Data Protection Authority, Newsletter no. 423 del, 28 Dec. 2016, “No all’algoritmo della reputazione, viola la dignità della persona”.


12. Article 29 Data Protection Working Party, *Guideline*, cit. 7. They provide the example of telephone records which may include details of other people, especially parties involved in incoming and outgoing calls. In this case pursuant to Opinion of Article 29, the data subject has the right to transmit data from one controller to another one.

13. Compare Article 29 Data Protection Working Party, *Guideline*, cit. 8, which states "For example a credit score or the outcome of an assessment regarding the health of a user is a typical example of inferred data".

References


Rifkin, Jeremy. 2014. La società a costo margine zero. Milano: Giuffrè 352 ss. and 396 ss.


