共享經濟創新商業模式於歐盟各國發展所遭遇之公平競爭議題



共享經濟(Sharing-economy)為近來很穷的議題,其概念係藉由網路平台分享自有資產、資源、時間及技能及其他有用的事物,透過資源分享能更有效利用或者獲得收入。共享經濟不僅能夠促進經濟成長、鼓勵創業,同時也促進資產有效再利用,許多創新服務成功案例,例如Uber、Lyft、Airbnb等因此產生,然而,這類型之創新商業模式推展至世界其他各國發展時,卻遭遇到法規範的差異,與各國政府監督與管理出發點的不同,對各國政府與創新商業模式皆成為未來的挑戰。

舉例來說,目前Uber公司在法國、西班牙和德國等國禁止其提供服務,由於德國政府認為Uber未事先依法律規定辦理司機與營業車輛登記,故禁止Uber於德國境內服務;而西班牙政府認為Uber公司未取得經營執照,亦禁止其於西班牙提供服務。然而Uber公司認為,上述國家對於公司的發展已產生限制競爭與不公平的對待,進而向歐盟執委會(European Commission)提出申訴。

依歐盟條約(The Treaty on the Functioning of the EU, TFEU)規定,歐盟會員國各該內國法之制定原則上不可抵觸歐盟競爭法(EU competition laws),是以,各該歐盟會員國必須遵守歐盟競爭法訂立至少符合歐盟競爭法的相關規範。因此,若認為歐盟會員國的規範與實務操作有悖於歐盟條約所制定之公平競爭規則時,可向歐盟執委會提出申訴,該委員會如發現確實有違背公平競爭規則時,可要求該歐盟會員國修訂其國家的監管制度。

對此,歐盟、各該會員國之監管部門、市場競爭當局試圖尋找解決問題的平衡點,並在適當的監管與促進創新與競爭的環境下,俾利共享經濟於各國的推動與發展。

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