UBER HONG KONG: A REGULATOR’S DILEMMA

“It is currently illegal for Uber drivers to take passengers in Hong Kong.”
Nicolas Yang, The Innovation and Technology Secretary

Founded in San Francisco in 2009, Uber Technologies Inc. (Uber) provided an app through which a passenger could hail a ride from non-professional drivers who provide their own vehicles. As the poster child of the so called ‘sharing economy’, the privately held company provided GPS positioning of the drivers, artificial intelligence to predict demand and surge pricing; all to minimize pick-up time. The app also offered automatic payments and a scoring system for both drivers and passengers. All of these innovations were much appreciated by the passengers that used the app. By late 2017, the company was valued at USD69 billion and the service was available in over 600 cities in 80 countries.

But the company was not without controversy. Many countries and cities did not allow Uber to do business in their jurisdiction on the ground that Uber broke local laws and regulations. In each location the taxi sector forcibly fought Uber’s entry into the market. Uber officially launched its service in Hong Kong in July 2015. Already in June 2015, 30 taxi drivers staged a ‘go-slow’ protest, and in August 2015, 100 taxi drivers drove their taxis to the government headquarters and smashed one of their own taxi cars. Then in August and September 2015, Hong Kong police arrested seven Uber drivers in total for using a car for hire without a permit and driving without suitable insurance; five drivers were convicted. They were each fined HKD10,000, banned from driving for one year and their phones were confiscated. Again in May 2017, Hong Kong police conducted an undercover operation and arrested 22 Uber drivers on suspicion of driving without a hire car permit and a third-party insurance. In June 2017 the Innovation and Technology Bureau made it clear in a Facebook post that “Uber chose to break


Danny Friedmann prepared this case under the supervision of Wen Zhou for class discussion. This case is not intended to show effective or ineffective handling of decision or business processes. The authors might have disguised certain information to protect confidentiality. Cases are written in the past tense, this is not meant to imply that all practices, organizations, people, places or fact mentioned in the case no longer occur, exist or apply.

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the law when it actually had a choice”, ignoring its social responsibility while only chasing profit.3

Should Uber be allowed to operate in Hong Kong?

**Traditional Taxi Market**

In contrast to other forms of public transport, taxis provide a personalised point-to-point service. The drop-off point could be determined by the passengers. A taxi could be hailed on the street (taxi hail), taken at designated points (taxi rank), or pre-booked (taxi dispatch). In many markets the regulator applied a two-tiered regulatory system. This allowed to differentiate between taxi hail and taxi rank on one side and taxi dispatch on the other. In London and New York City they make another useful distinction: between taxi services and private hire vehicle services. In the first were taxis allowed to ply for hire in both the cruising and dispatch markets, while private hire vehicles were only allowed to operate the dispatch market on a pre-booked basis.

In most cities, the taxi industry was heavily regulated in terms of entry, price, and service. Often, the industry was also a major source of consumer complaints. Several major cities in the U.S. had experimented to partly or wholly deregulate their taxi markets. These included San Diego, Seattle, Sacramento, Kansas City, Oakland, Fresno (CA), Charlotte (NC), Portland (to a limited extent), and all cities in Arizona state including Phoenix and Tucson. In these cities the taxi dispatch segment constituted between 70 and 90 percent. In general, prices did not fall, and there were no important price-service innovations as a result of deregulation.4 Deregulation did significantly increase supply, with increases ranging from 18% in Kansas City to 127% in San Diego. The replacement of taxi drivers by new taxi drivers (turnover) was concentrated with small operators.5 According to Taxicab, Limousine & Paratransit Association, deregulation of the taxi dispatch market lead to several adverse effects including increased prices, a decrease in vehicle quality and in increase in the average age of vehicles.6 Most cities that experimented with deregulation had since reverted to some form of regulation.

**Hong Kong Taxi Market**

The Hong Kong taxi market, which had 0.93 million passengers per day, was divided according to the three traditional market segments. Hong Kong’s regulation used both the taxi rank/taxi hail versus taxi dispatch distinction and the taxi services versus private hire vehicle services distinction.

In Hong Kong there were 18,163 licenses for taxi hail and taxi rank together. 60% of the licences was held by individuals, while the rest was held by companies. There were about a total of 9,000 individual and company licence holders.7

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5 Ibid., 41.

6 Other effects included: Fares became confusing and unpredictable to passengers; taxi riders in low-density areas were neglected and access to 24/7 transportation became difficult; taxi riders became prone to price inflation and exploitation; drivers struggled to make a living wage due to an increase of new drivers and an abundance of supply vs. rider demand; driver quality decreased; accidents increased due to an increase of inexperienced (and sometimes untrained) drivers on the road; operators struggled to fund business operations and maintain top quality standards because of increased competition and decreased revenue; traffic in high-density areas increased due to an influx of cars on the road and more “cruising” activity; air quality decreased. Taxis, TNCS and Deregulation: Is History Repeating Itself? Taxicab, Limousine & Paratransit Association, undated, available at: http://www.whosdrivingyou.org/history-repeating-itself

7 Among these licence holders, around 75% held one taxi licence; around 5% held 5 or more taxi licences; less than 2% held 10 or more taxi licences. Public Transport Strategy Study, Transport and Housing Bureau, March 2017. Available from: http://www.td.gov.hk/filemanager/en/publication/ptss_final_report_eng.pdf.
In Hong Kong there were 926 hire car service (648 private hire car service, 162 hotel hire car service, and 116 tour hire care service). In 2017, the rental cost for taxi drivers was HKD440 per 10-hour shift, with two shifts per day.

**Taxi Market Regulation in HK**

**Quantitative regulation**

There were three major types of taxi in Hong Kong: urban, village and island taxis. In 1924, the urban taxi was introduced. Urban taxis could be easily recognised because they were red in color. The number of urban taxis increased very slowly, remaining below 700 until 1959. As a result of economic development in the 1960’s, the number of urban taxis grew more rapidly, and reached 2,000 units in 1962. In 1976, the figure had grown to 4,745 units. By 2001, there were a total of 15,250 urban taxis picking up and dropping off people throughout Hong Kong (except roads in South Lantau).

In the less densely populated New Territories people could also hail village taxis that were green in color. Village taxis were first introduced in 1976 to this area with an initial fleet size of 750 units to cater for the growing passenger demand. As a result of new town development programmes and public housing programmes planned by the Hong Kong government, demand for village taxi services continued to grow. More village taxi licences were issued and the supply of village taxi services was increased. By 2001 a total of 2,838 village taxis were operating on the roads of the New Territories.

The third type was the Island taxi which was blue in color. Lantau was an island of Hong Kong that was connected to the New Territories with two bridges. The island was best known for being home to the Hong Kong International Airport and Disneyland. [see Appendix 1]. Island taxis were introduced in 1982 to serve the needs of residents of Lantau Island with an initial issue of 20 licences; to provide an alternative for the illegal ‘pak-pai’ or ‘village hired car’. By 2001, there were 75 island taxis providing taxi service on Lantau Island. Like the village taxis in the New Territories, Island taxis were only allowed to provide their services within the confines of Lantau Island.

**Luxurious mode of transport**

Before 1964, the right to operate taxis was granted to a limited number of big taxi companies, free of charge. New licences were issued when it was considered that there was a shortage of taxis on the streets. Since 1964, taxi licences in Hong Kong had been issued through public tender, to provide the registered holders a right to own and operate taxis. The norm was that taxi companies employed taxi drivers, provided depots and maintained the fleet. At that time taxi service was considered to be an expensive and luxurious mode of transport. The quality of taxi service at that time was perceived to be high.

**Fragmentation taxi service**

After the social unrest in 1966 and 1967, and a boom in the real estate market, the government changed its policy by allowing individuals to own and operate taxi services. Taxi companies started selling their taxi licences to individual taxi drivers and depots to real estate developers. There were over 37,000 individual taxi operators. Efforts to coherently cooperate, support a uniform code of practice and set service standards all had been unsuccessful.

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8 The maximum of private hire care service permits was 1,500, of hotel hire care service permits was 400, and of tour hire care service permits was 400.
10 Lit Chun-wa (2001) “A review of taxi policies in Hong Kong” (Thesis) University of Hong Kong, Pokfulam, Hong Kong SAR.
Taxi licence speculation

In 2009, the price of a taxi and license combined was HKD3.5 million. The rapid increase in price came about as the government applied restrictive measures against real estate speculation while stocks were not performing well. Speculation with taxi licences followed, not paired to an interest for innovation. In 2013 a taxi licence cost HKD7.66 million. On 21 February 2018, an urban taxi licence cost HKD6.04 million, a village taxi licence HKD5.58 million, and an island taxi licence HKD6.55 million.

Taxi without a permit

Under the law, using a car for hire without a permit was a criminal offence. It was punishable by a HKD5,000 fine and three months’ imprisonment on the first conviction, and HKD10,000 and six months’ imprisonment on a subsequent conviction. According to the prosecutor against the 5 arrested Uber drivers, regulating the types and number of vehicles were rationally connected to the legitimate aim of providing “safe, efficient, reliable and -environmentally friendly and sustainable transport system in Hong Kong for meeting the needs of the community”.

Fare regulation

As of November 2017, urban taxis were the most expensive, with a flag fall of HKD24. A 10 kilometres journey in an urban taxi cost HKD89.5. In a village taxi this same journey would cost HKD71.5 while in an island taxi it would cost HKD79.

Qualitative regulation

Taxis needed to be examined annually. To become a taxi driver you had to be 21 years old or above, have no criminal record and have a license to drive a commercial vehicle.

According to University of Hong Kong Professor Richard Wong, the territory’s taxi fleets were poorly maintained and ageing; 80% of the vehicles were at least five years old. The general public perceived the level of service of Hong Kong taxis as low. Taxi drivers in Hong Kong were not rated, but passengers could file complaints against them, by filling out a paper form. The law demanded that taxi drivers had third-party insurance. Those providing taxi services without a license and third-party insurance would be held liable to penalties including a fine of HKD10,000, 12 months’ imprisonment and suspension of their driving licence for 12 months to three years.

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13 Section 43 Road Traffic Ordinance.
14 For urban taxis, the fare for the first two kilometres was HKD24, every subsequent 200 metres or minute waiting time cost HKD1.7, until the amount reached HKD83.5, after that it would cost HKD1.2 for every 200 metres or minute waiting-time. For village taxis, the fare for the first two kilometres was HKD20.5, for every subsequent 200 metres or minute waiting time it cost HKD1.5, until the amount reached HKD65.5, after that it would cost HKD1.2 per 200 metres or minute waiting time. For island taxis the fare for the first two kilometres was HKD19, every subsequent 200 metres or minute waiting time cost HKD1.5, until the amount was reached of HKD154, after that it would cost HKD1.4 per 200 metres or minute waiting time. Taxi fare of Hong Kong, Transport Department, available at: http://www.td.gov.hk/en/transport_in_hong_kong/public_transport/taxi/taxi_fare_of_hong_kong/index.html.
15 Road Traffic Regulations.
17 The taxi represented 7.4 percent of all public transport in Hong Kong, but represented 46.4 percent of all complaints about service (refuse hire 26.3 percent; overcharging 18.5 percent; behaving uncivilly 17.9 percent; failure to take the most direct route 15.7 percent; improper driving behaviour 14.3 percent). There was no link between license/permit and required service level in the regulation.
18 Section 4 Motor Vehicles Insurance (Third Party Risks) Ordinance.
19 Ibid.
Private hire car permits

Private hire care service were strictly not a form of public transport and their fares were not regulated. Under the Road Transport Ordinance, no person should drive or use a private car; or permit a private car to be driven or used for the carriage of passengers for hire or reward unless a Hire Car Permission was in force in respect of the vehicle. Conditions imposed on such permits further stipulated that private cars should only be used if booked in advance of a journey, and they might only operate from a specified and registered address. Drivers were also prohibited from operating by transmitting or receiving radio messages. Unlike a taxi licence, a Hire Car Permission was time-limited, non-transferable and would be cancelled once the ownership of the concerned private car was transferred to another person. There were 648 private Hire Car Permissions issued in Hong Kong in 2017.21

Incremental policy changes in HK

Changes in the taxi policies in Hong Kong had been incremental. When making and changing policies, subsequent governments tried to take several factors into account. First, there was the interests of the passengers for adequate and cheap transport and their protection against malpractice. At the same time the government aimed to protect the interests of the taxi trade, owners and drivers, their revenue, profit and stability. Lastly, they considered the efficient use of road space and the control of congestion. While more radical changes had been discussed, the government had never decided to change the restricted licence system.

Uber

In 2009, Garret Camp and Travis Kalanick founded Uber. Before founding Uber and becoming its CEO, Kalanick had started several other companies. His first company, Scour, was founded after he dropped out of UCLA engineering. The online file sharing company was sued by major entertainment labels for USD250billion for copyright infringements and subsequently went bankrupt. Kalanick then started RedSwoosh, another peer-to-peer file sharing service, which was bought by Akamai for USD19million. Together with Camp he started Stumble Upon, a social media site. Then Camp and Kalanick decided to develop an app that would make it possible to hail a journey with the push of a button. During Kalanick’s reign as CEO of Uber, the company had been accused of sistemically breaking the law: obstructing justice,23 sexual harassment,24 stealing intellectual property,25 invading customers’ privacy (name and geolocation) even after they had finished the journey,26 bribing government officials in China, and subsequently Uber was sued by major technology companies for infringing some of its patents and trade secrets.

India, Indonesia, Malaysia and South Korea, providing an unfair work environment, and more. In 2017, Dara Khosrowshahi took over as CEO to solve these problems and reform Uber’s controversial culture.

**Uber Business Model**

Uber became well-known as representative of the platform economy. Its business model was based on several virtuous loops [see Appendix 2]. To lower pick-up times, Uber used big data and algorithms to predict demand, congestion, supply and demand matching, supply positioning, behavioural psychology tactics via smart dispatches, and dynamic pricing. In New York the pick-up time was lowered from 12 minutes to around 5 minutes in 2015. Kalanick claimed that the pick-up time in Uber’s home base San Francisco was 2 minutes and 45 seconds in 2015. Uber had raised close to USD12billion from investors, who valued the company at over USD60billion. On the one hand Uber had been an eloquent advocate for drivers’ rights to take part in the ‘gig’ economy (work whenever you want to work). On the other hand it had never made a secret of its wish to switch to autonomous cars as fast as possible.

Uber matched drivers and passengers via the Uber app. Passengers could download the app, and add credit card and contact information. A passenger that wanted a journey could open the app, enter their destination and press a button to call for a car. The passengers could see the price and a map of their location displaying the various Uber drivers including the driver coming towards him or her. The app would also display the time the car was expected to arrive at the pick up location, the name of the driver, and how the driver was ranked.

Uber’s pricing was determined on an initial fee, price per distance, price per minute and service costs [see Appendix 3]. After measuring more demand for journeys in relation to the supply of drivers in a particular area, Uber could initiate surge pricing, which meant that the price would be x times the normal fare, to incentivise Uber drivers to service the area. The highest surge price Uber ever used was 50 times the normal fare, which took place in Stockholm, Sweden in 2014. There had been a public outcry against Uber’s surge pricing during times of crisis, which was characterised as price gouging. Because of this, Uber tended to limit the range of the surge pricing between 1.1 and 5 times the normal fare.

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31 According to Kalanick there was more demand if the San Francisco Giants won. Kalanick claimed that three hours before the San Francisco Giants would win Uber could see an uptick in the demand. Marc Benioff of Salesforce interviewed Travis Kalanick at Dreamforce 2015, a software conference in San Francisco (17 September 2015) “ Fireside Chat with Travis Kalanick and Marc Benioff”, YouTube, available at: [https://www.youtube.com/watch?v=Zo8L8WSsSr4](https://www.youtube.com/watch?v=Zo8L8WSsSr4).

32 Uber used behavioral psychology tactics, by constantly refining its app to make it addictive like a video game. When drivers tried to log off, the app notified that they were close to meeting an income target. “Also, much like Netflix encourages binge-watching by automatically loading another show, Uber’s forward dispatch sends drivers new trips before they finish with their current assignments.” Noam Scheber (2 April 2017) “How Uber Uses Psychological Tricks to Push Its Drivers’ Buttons”, New York Times, available at: [https://www.nytimes.com/interactive/2017/04/02/technology/uber-drivers-psychological-tricks.html](https://www.nytimes.com/interactive/2017/04/02/technology/uber-drivers-psychological-tricks.html).


After the journey driver and passenger could rate each other on a scale of 1 to 5 stars. It was Uber’s intention to cancel the partnership with drivers that received systematically low scores. The drivers could use their own car, or lease it, and could start and finish their work whenever they choose to. Uber did not provide for any social safety net provided for their drivers. Uber did not see the one million drivers worldwide as its employees, but as independent entrepreneurs. Uber saw its role as intermediary that was matching the drivers with passengers via its app.

Uber’s mission was to match transport for everyone and everywhere. Uber provided two main matching services: UberBLACK and UberX. UberX was the most popular Uber service with passengers, because the vehicles used for this service were not considered luxury vehicles and therefore cheaper, but the average quality of the journey would be lower as well. In contrast, UberBLACK featured high-end sedans and charged a higher rate compared with UberX. Drivers of UberX are self-employed, while drivers of UberBLACK are either self-employed or drive as employees of an affiliate limousine service.

Uber was frequently differentiating its business proposition per city or region to experiment what worked. Uber had branched out into the delivery of food (UberEATS), medicines (UberHEALTH), and into urban logistics. Uber had also entered into the credit card business as of October 2017. UberPOOL, where passengers could share journeys, represented 20% of all Uber journeys. It lowered prices further so that at some point it would become cheaper than owning a car. This could lead to a scenario without traffic congestion and pollution and resonated with Uber’s key value of “celebrating cities”. According to Kalanick, it could save an hour per day for each of the commuters in San Francisco that would otherwise be stuck in a traffic jam.

Uber claimed in 2014 and was still claiming in 2017 that the medium business income for drivers was USD74,191 in San Francisco after deducting the Uber commission of 20%. But this income needed to cover costs such as gas, insurance, parking, maintenance and repairs and the original sale or lease price of the car, and to work more than 40 hours per week. Some drivers claimed that they earned less than the minimum wage.

Research had shown that the average driver that was under a year with Uber estimated his/her income to be USD14.76 per hour, while in practise it was only USD9.23.

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38. In 2014, Uber offered food delivery with the same app as hailing a journey. It then realized that these business were very different and started the UberEATS stand-alone app, which was launched in 2016 in Toronto and then rolled out to many more cities.


41. Ibid.

42. But, CNN Money shows this number still without context in a short video (source: Uber) that pops up with news about Uber with “5 stunning stats about Uber” on 27 October 2017: “People have taken 2 billion Uber rides. Uber’s estimated value: $60 – 70 billion. Which was larger than Mattel ($11.6 billion), Whole Foods Market ($9.9 billion) and Hertz ($4 billion). And it was only 7 years old. Cars were just the start. Uber’s tested the delivery of: ice cream, Christmas trees, cupcakes, kittens. The medium income of an UberX driver in San Francisco was USD74,191.” Dan Kedmey (28 May 2014) “Do UberX Drivers Really Take Home $90K A Year On Average? Not Exactly”, Time, available at: http://time.com/119587/do-ubers-drivers-really-take-home-90k-a-year-on-average-not-exactly/.


One in six Uber drivers in any given month was new to the company. But more than half of new drivers would stop driving for Uber within 12 months. Uber understood that such a high turnover was not sustainable. In the summer of 2017, Uber started with the “180 Days” programme. In this period new measures were announced to correct some of the drivers’ complaints. Uber would charge passengers if the driver had to travel longer than eight minutes to arrive at the pick-up location, when they had to wait for the passenger, or in case of late cancellations.45

**Uber’s roll-out into Hong Kong**

Uber had been rolling out its services throughout different continents, countries and cities. On 17 July 2014, Uber launched in Hong Kong. Initially, Uber offered the premium UberBLACK service for proof of concept and revenue and then introduced the more affordable UberX. Uber would enter a market with low fares, subsidise the drivers if necessary, and once the service had gained a foothold, the fares were raised. In Hong Kong, Uber raised fares by as much as 80%, in August 2017.46

**Stakeholders Response to Uber**

**The Taxi Sector**

The arrival of Uber in Hong Kong was met by complaints from the taxi sector. Their main complaint was that Uber unfairly competed with them, by not complying to regulations, to which taxi drivers were obliged to adhere. On 6 July 2015, taxi drivers protested against Uber.43 And on 24 July 2015, a group of taxi drivers smashed a taxi of their own to protest car-hailing using private cars.48 In the fall of 2015, the taxi sector also discussed other ways by which they could face companies like Uber including the idea to launch luxury taxis with an app and implement GPS and electronic payment for taxis.49 In May 2016, the Hong Kong Taxi Council (HKTC) which comprised 17 taxi drivers’ organisations, 9,000 taxi owners and 8 call centres, launched “Taxi!”, an app where passengers could book with their smartphone and rate their journey. Drivers with good ratings could receive a cash prize while those with bad ratings would need to undergo training or could no longer be part of the Taxi! app.51

**The Government**

On 11 August 2015, an undercover operation was held by the Hong Kong police, codenamed Cellbreaker. As part of the operation the police raided the Hong Kong Uber office and arrested

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43 Andrew J. Hawkins (24 October 2017) “Uber will now charge you extra if your driver has to travel longer to reach you, Extra fees kick in for pickup trips longer than eight minutes”, *The Verge*, available at: https://www.theverge.com/2017/10/24/16533940/uber-long-pickups-late-cancellations-driver-earnings.


five Uber drivers for driving without a permit and third-party insurance.\textsuperscript{52} The next day, two more drivers were arrested for the same reason.\textsuperscript{53} On that same day, Uber’s success story was removed from the site of InvestHK.\textsuperscript{54} On 10 March 2017, five Hong Kong Uber drivers lodged appeals following conviction for driving without permit and third-party insurance, while two Uber drivers pleaded guilty.\textsuperscript{55} Then, on 23 May 2017, 22 Uber drivers were arrested on suspicion of driving without a hire car permit and third-party insurance.

For some time, the Hong Kong government had not made a definite decision on whether ride-hailing services such as Uber could be legal in Hong Kong, and if so under what circumstances.\textsuperscript{56} In October 2017, the Innovation and Technology Secretary, Nicolas Yang, made it clear that “[i]t is currently illegal for Uber drivers to take passengers in Hong Kong.”\textsuperscript{57}

In December 2017, Chan Man-keung, chairman of the Association of Taxi Industry Development in Hong Kong, said that if Uber wanted to operate locally, it had to abide by taxi regulations. He suggested that Uber could purchase taxi licenses, which cost about HKD7 million each, or rent a fleet from taxi operators and subcontract the service to Uber drivers.\textsuperscript{58}

Instead of issuing new taxi licenses, the idea was to convert regular taxis into premium taxis. These premium taxis would be operated by three franchisees. Each franchisee would get a license for 200 vehicles for a five year period. The fleet of each franchisee needed to be comprised of at least 50% of wheelchair accessible vehicles. For 2018, the Hong Kong government proposed to issue 600 franchised taxi licenses, with newer and more luxurious vehicles, a higher level of service, and fares 35 to 50 percent higher than current taxi fares. The Hong Kong government has been actively involved in upgrading the taxis before: between 2000 and 2006, it supported the replacement of diesel engine taxis with less polluting LPG engine taxis, by providing grants of HKD4,000 per taxi. The franchised taxi service would be restricted to dispatch services or fixed-route-fixed-fare services.\textsuperscript{59}

The public

Just as Uber had done in other jurisdictions, when Uber met resistance in Hong Kong from the taxi sector and government, Uber used social media to mobilise the public. Nearly 50,000 members of the public signed an online petition in favour of continuing service.\textsuperscript{60}


\textsuperscript{58} Cannix Yau (20 December 2017) “EU ruling on Uber will give Hong Kong an ‘excuse’ to block service, unless it follows taxi laws”, SCMP, available at: \url{http://www.scmp.com/news/hong-kong/economy/article/2125130/eu-ruling-uber-will-give-hong-kong-excise-block-it-unless-it}.

\textsuperscript{59} Transport Advisory Committee, 2008.


According to a survey held in September 2015, Hong Kong people preferred Uber over traditional taxis, because of better and more comfortable service and shorter pick-up times.61

**Academia, Consumer Council and Think Tank**

To improve quality and innovation of taxi services in Hong Kong, Professor Richard Wong of the University of Hong Kong advocated in 2016, that the Hong Kong government should deregulate online contracting activities, but retain the controlled price for taxi journeys hailed on the streets.62

In 2017, the Consumer Council of Hong Kong advised the government to allow ride-hailing service in the hire car service segment, using the existing quota of 1,500 for private hire care service, under the condition that they did sufficient background security checks on drivers, made sure that they were adequately insured, and that the vehicles had valid Hire Car Permits.63 The Consumer Council of Hong Kong expected that 600 franchised taxis would insufficiently influence competition, innovation and the service level of the taxi market of over 18,000 taxis.

Andrew Shuen Pak-man, founder of the Lion Rock Institute, a Hong Kong think tank, which advocated a free market, urged the government to relax its licensing regulations to allow more competition: “Car-calling app services are not cheaper than taxis, but they are still very popular,” said Shuen. “It is solid proof that many people are unhappy about existing taxi services and there is a big market for Uber and similar services.”64

**International Response to Uber**

The international responses to Uber could be categorized into three strategies: 1. Creating a level playing field that applied the same regulation to taxis and ride-hailing services; 2. Making small adaptations in the regulation that made ride-hailing services possible; 3. Implementing regulation that protected the taxi service providers.

**Level Playing Field**

In Beijing the national policy of China by the Ministry of Transport65 and regulations obliged ride-hailing service companies, like Didi Chuxing, Zuche and YongChe Technologies, to review qualifications of their drivers, inspecting drivers’ private cars, insurance, and to guarantee their services. The inspection results must be reported to the local transport authority. There were certain requirements for operating vehicles such as restricting the maximum seat number at 7, being equipped with GPS and an emergency alarm system. The car must be registered at the Public Security Bureau (the Police Department) to obtain an on-line pre-booked taxi transportation permit.

In Singapore, individual taxi service operators were required to achieve a minimum fleet size of 800 taxis by the end of the fourth year of operation to ensure that they had sufficient critical

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mass to provide an adequate level of service to the commuters. All taxi drivers working in Singapore should be licensed and trained. Fares were deregulated. The charging structure was publicised.

On 1 September 2015, Singapore allowed ride-hailing service providers to operate their third-party taxi booking mobile application. It was announced that any third-party taxi booking services with more than 20 participating taxis were required to register with the Land Transport Authority (LTA) with a non-refundable application fee of SGD400. Private hire car drivers were required to obtain a Private Hire Car Driver’s Vocational Licence in March 2017. Ride-hailing service providers could work with the taxi operators for pre-booked taxis, but the existing taxi operators had monopoly rights for street hailing/taxi stand pick-ups.

In New South Wales, Australia, taxi license owners and taxi drivers would be compensated for the introduction of ride-hailing services. The NSW government had an AUD250 million industry adjustment package and would impose an AUD1 levy for a maximum of five years on all point-to-point transport providers. A total of AUD98 million was reserved for compensation payments of AUD20,000 per ordinary and transferable licence, for up to two licences, which were held before 1 July 2015; AUD142 million for taxi licensees facing hardship because of the changes; and up to AUD10 million for a buy-back scheme for perpetual hire car licensees.

**Small adaptations in the regulation**

London had already a personalised point-to-point pre-booked car transport service, because private hire vehicles could already provide pre-booked service through licensed operators, as long as they did not pick-up passengers from the street or use taxi stands. Uber was granted an operating licence to operate as a private hire vehicle company for a five-year period in London from May 2012 to May 2017.

The number of private hire vehicles in London increased from 49,854 in 2012 to 87,409 in 2016. This brought congestion, pollution and illegal parking problems in the city. It also increased the cost for Transport for London (TFL) ensuring private hire operators fulfilled their licensing obligations and tackled illegal activity to keep passengers safe.

In March 2016, TFL approved a new plan to modernise the private hire car sector: private hire vehicles would be required to have “hire and reward insurance” (a class of insurance which allowed persons to legally carry other people in return for payment in place for the duration of the licence). In addition, there would be a formal English language requirement for all drivers that were booked via a ride-hailing app, and ride-hailing service providers would be required to guarantee fare estimates for customers in advance of every journey.

TFL granted Uber a four-month operator’s licence in May 2017 allowing itself time to decide whether to grant a five-year licence. In September 2017, TFL did not issue another five-year period private hire operator license to Uber. TFL concluded that Uber was not fit and proper to hold a private hire operator licence and considered that Uber’s approach and conduct demonstrated a lack of corporate responsibility in relation to a number of issues, which had potential public safety and security implications.

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Parallel to the abovementioned regulation, Uber had a conflict with TfL about whether it should pay its drivers minimum wage and holiday pay. In October 2016, the Employment Tribunal held that Uber should do so,70 and in November 2017 the Employment Appeal Tribunal confirmed this.71

In New York, an independent research commissioned by the major, De Blasio, about the influence of Uber and other ride-hailing services on road congestion in New York, concluded that they were not responsible for this problem in New York. In June 2017, the New York State Department of Motor Vehicles (DMV) announced the approval for Uber and its ride-hailing competitor Lyft to offer ride-hailing service in Upstate New York and on Long Island. Ride-hailing companies, such as Uber needed to pay a USD100,000 application fee and an annual renewal fee of USD60,000 in New York.

Protectionist measures

In Barcelona, Spain, the proportion of hire cars with a driver in the market had been set in a ratio of 1 for each 30 licensed taxis. A hire car driver was obligated to perform the service based on a prior reservation (for a pre-arranged fixed fare) and to return to the place of business, namely, the dispatch centre, after each journey; except if there was a prior reservation. The hire cars must provide 80% of the service within the regional area of authorisation.

In December 2014, after a Spanish court ruled that Uber was in violation of local regulations which amounted to unfair competition for taxi drivers, Uber suspended its service in Barcelona. The court asked the Court of Justice of the European Union (CJEU) whether Uber was an online service or a taxi. On 20 December 2017 the CJEU held that EU law must be interpreted as meaning that Uber’s service constituted a transport service.72 Therefore, EU law allowed member states to impose on ride-hailing companies the obligation to have licences and permits for their vehicles to carry out their ride-hailing services as taxi service providers or hire car service providers.

The Way Forward

One could argue that Uber’s emergence had led to Schumpeter’s creative destruction; a “process of industrial mutation that incessantly revolutionizes the economic structure from within, incessantly destroying the old one, incessantly creating a new one,”73 sweeping away an over regulated and non-innovative taxi industry with new technology and more liberal ideas about work and reward. Regulators had to decide how they would respond to the disruption caused by the entry of Uber into the local taxi market. Ideally such an approach would incentivize innovation but take the legitimate expectations of incumbents and the needs of other stakeholders into account.

APPENDIX 1: MAP OF HONG KONG SPECIAL ADMINISTRATIVE REGION OF HONG KONG
APPENDIX 2: MODEL OF PLATFORM ECONOMY’S VIRTUOUS LOOPS: UBER

![Diagram showing the virtuous loops of Uber platform economy]

APPENDIX 3: Estimation of Uber Price: How Much Does Uber Typically Cost?

<table>
<thead>
<tr>
<th>Cost</th>
<th>Initial Fee</th>
<th>Price Per Mile</th>
<th>Price Per Minute</th>
<th>Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>uberX</td>
<td>USD0.40</td>
<td>USD0.97</td>
<td>USD0.14</td>
<td>USD1.58</td>
</tr>
<tr>
<td>uberXL</td>
<td>USD2.15</td>
<td>USD1.68</td>
<td>USD0.26</td>
<td>USD1.70</td>
</tr>
<tr>
<td>UberSELECT</td>
<td>USD4.02</td>
<td>USD2.17</td>
<td>USD0.33</td>
<td>USD1.70</td>
</tr>
<tr>
<td>UberBLACK</td>
<td>USD7.22</td>
<td>USD3.33</td>
<td>USD0.44</td>
<td>USD1.80</td>
</tr>
<tr>
<td>UberSUV</td>
<td>USD14</td>
<td>USD4</td>
<td>USD0.49</td>
<td>USD0</td>
</tr>
<tr>
<td>LUX</td>
<td>USD15.65</td>
<td>USD4.35</td>
<td>USD0.52</td>
<td>USD1.80</td>
</tr>
</tbody>
</table>

Source: http://uberestimate.com/
APPENDIX 4: Taxi markets regulation/deregulation

There were three dimensions of regulation/deregulation in regard to personalised point-to-point transport: quantitative-, fare- and qualitative regulation/deregulation.

Quantitative regulation/deregulation
The rationale for a policy of quantitative regulation was based on the idea that too many taxis would lead to negative externalities such as road congestion and pollution. In markets where the supply of taxis was restricted, and the populations increased, such as Hong Kong, New York, Paris and Sydney, the licenses to operate a taxi were considered to be lucrative instruments of speculation, until the arrival of ride-hailing services such as Uber. In case of a restricted supply of taxi licenses, governments took the legitimate expectation of license holders about the return of their investment into account. Despite a system of restricted licenses, some governments, such as the one in New South Wales, allowed for ride-hailing services to enter the market, but excluded private cars from providing street hail and taxi stand services, and offered incumbent taxis compensation. Because of the expected benefits of lifting market barriers to enter the taxi market such as increased competition, innovation, better service and decreased waiting times, deregulation of restrictions on the quantity of taxis was often advocated by authors. Transportation policy consultant Bruce Schaller assessed the experiences of 43 cities and counties in the United States and Canada with regard to the effects of entry deregulation on taxis availability and service quality. He found that without entry controls in the street hail and taxi rank market, the number of new entrants into industry will grow, leading to an oversupply of taxis in the cruising market. This would spread fare revenue thinly among taxi drivers, who need to cut costs leading to a deterioration in vehicle and driver quality, as well as incentives to only drive the profitable trips. Schaller claimed that open entry had a negative effect on the dispatch services when deregulation was applied to all taxi markets. With open entry to the taxi market, new entrants aimed to capitalise on the most trip dense areas by focusing on serving the airport and downtown taxi stands, which led to a decline in the quality of services, and longer waiting times.

Fare regulation/deregulation
The rationale for fare regulation was to prevent overcharging and transparency. Fare regulations were typically fixed, meaning that the regulator assessed the market and determined what price customers would be charged based on distance, time and additional services offered such as carrying luggage etc. Fares could be computed by a meter system or by a zone system. Fixed fares could also exist in the form of maximum or minimum fares, which were considered intermediate practices of fare regulation. When Sweden deregulated its taxi industry in 1990, it enacted a law that required drivers to inform potential customers of its fare levels prior to commencing the journey, and issued guidelines to aid taxi drivers in conveying this information. In a deregulated market there was evidence that fare rates could increase as new entrants joined the market, despite economic theory suggesting an increase in supply would lead to a decrease in price. According to Dempsey, this could be because under a regulated fare regime the cost increases were not yet fully incorporated in the price; or because of the asymmetric nature of the street hail and taxi stand services, there was no incentive to be price competitive.

Qualitative regulation/deregulation

Probably all jurisdictions considered that a certain minimum standard of quality regulation for operators, drivers and taxi vehicles was necessary to ensure the safety and security of customers and taxi drivers. Also most places required taxis to be easily identifiable, and representatives of the city might impose requirements for vehicle type, exterior appearance, suitable equipment, sufficient insurance which included third person protection, and the drivers needed to be qualified, no criminal record and physically and mentally fit to be allowed to legally drive for hire. Street-hail and taxi rank markets behaved differently to the pre-booked dispatch taxi market, and thus reacted differently to uniform regulatory policies imposed upon the entire taxi industry if these markets were treated as a homogenous market. Without regulating minimum service and safety standards, taxi drivers and operators might be tempted to safe on maintenance of the taxi fleet and training of the taxi drivers to reduce operating costs, leading to worsening service quality for customers.