Legal and Regulatory Challenges of the Sharing Economy

Presentation by

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Today, the United Nations Guidelines on Consumer Protection of 2015 (Guidelines 2015) provide an advanced global standard on consumer protection for the purpose of delivering justice to every individual consumer. How are we to understand justice for the consumer, and by what means can this purpose be achieved? Member states have various interpretations and practices. The Guidelines 2015 act as a global regulator albeit in an inherently soft law character. How are we, then, to evaluate the existing process of consumer protection? What are the shortcomings and how do we overcome them?
A Comparative Analysis

• Case studies from the transportation sector
  • Uber in the UK
  • Didi in China

• Regulatory challenges and societal implications
  • Competition law
  • Labour law
  • Consumer protection law
  • Data protection law
Uber driver held after fatal shooting of passenger in Denver

Uber accused of silencing women who claim sexual assault by drivers

Customer accused of raping Uber driver near uptown Charlotte

Uber driver's wife bursts into tears as he is convicted of grabbing a drunk customer, 27, on her doorstep before carrying her back to his car and raping her on the back seat

Uber driver arrested over murder of British embassy worker Rebecca Dykes

Killing Spurs Didi, China’s Ride-Hailing Giant, to Revamp Its Service
NotCoolUber.com

Uber has jumped the shark. It is now painfully apparent that it doesn’t care for its drivers and it doesn’t pay them well

- Uber had cut pay to drivers in Detroit to 24 a mile and 24 cents a minute. That is crazy low.

- Uber is paying some of their workforce less than minimum wages for their shifts. This is a big issue because 45% of drivers have families and 48% of all driving work is done by full time drivers.

- Hundreds of thousands have been offered an Uber car loan that now is up to 2x as difficult to pay off

- Uber has increased their take of the pie by up to 130% while cutting rates to drivers by up to 45%. There have been no reported cuts in the amount of
Challenges Regulating Disruptive Tech

• Regulate or innovate?
  • UK: ‘Global centre for the sharing economy’
  • Anti-competitive practice
  • Precarious working conditions
  • Inapplicability of current laws
Legal Characterisation of Uber

- UK Competition Law and Employment Law
  - Online info intermediary, transportation service provider, or both?
  - Aslam & Farrar v Uber 2015: contractor or employee?
  - Banned from operating in London September 2017
  - Granted temporary licence June 2018
Further Considerations

• Legal and regulatory issues to be addressed
  • New rules or extend the application of existing ones?
  • Proactive or reactive regulation?
  • Regulation: hard, soft, or collaborative?
  • Creating rules for different areas and sectors
  • Worker’s legal status and rights
  • Regulating on a case-by-case basis
Sharing economy in China

The amount of financing reached about US$32.54 billion in 2017.

A case study: Didi

Transport
Everyday life services
Knowledge and skills

Data
Algorithm management
Utilise resources across platforms

Demand
Supply

Source: National Development Report of Sharing Economy 2018
Didi in national and global sharing economy

Domestic success

International investors

Global expansion

AI to drive green and smart cities

Didi has grown as **the largest riding-hailing market** in the world - it has reached **over 14 million private drivers** and **300 million active users** by summer of 2016.
Trust building: From mobility solution supplier to travel oriented all-in-one platform

- A combination of labor platform and capital platform
- Didi has developed hybrid different services, such as Taxi, Express, Premier, Luxe, Hitch, Bus, Minibus, Designated Driving, Enterprise Solutions, Bike, and food delivery
- Transform technology-enabled mobility services
- Build travel oriented comprehensive services, including financing, information services, driver’s clubs
Regulation in development:
From non-regulation to fragmented regulation

- Unregulated
- Mis-regulated
- National Regulation
  - Legalising ride-hailing services
  - Regulate it as one type of transport services facilitated by digital technologies
- Localised regulation
  - Licensing
  - Local regulatory platform
A recent case

• The passenger, Li Mingzhu, 21, a flight attendant, was raped and killed on late night of May 6 after using Didi Hitch service in Zhengzhou, a northern Chinese city.

• The case results in active online debate, ceasing services of Didi Hitch, and more stringent self-regulation.

• Su Shiya, 21, a student in southern China, examined her Didi profile and found that drivers had tagged her as an “intellectual beauty” and a “sweetheart.”

• “These comments are open to all the Didi drivers,” she said. “They all know what I look like.” She said she found the comments chilling, and has since replaced her image with that of an animated dog.
Regulatory implications

• What data could Didi collect
• How to share with other governmental departments such as police forces for regulatory and law enforcement purposes
• To which degree should Didi mediate information such as price, distance, comments, which matters to fair trade, riding safety

Data Sharing

Police forces

Tax

Telecommunication

Finance

Ordering ride-hailing services

Didi’s operating platform

Regulatory platform of ride-hailing services

Complaints about misinformation of cars or drivers or unsatisfied using experiences

Law enforcement

Passengers
Regulatory dilemma

- A contract-based trade
- Matching information between providers and users
- Introducing social interaction - encourage using users’ and drivers’ comments and online interaction to increase consumption loyalty

- Voluntary behaviour on both sides; platform should not take joint liability
- The platform should assume partial joint ability such as verifying information and ethical use of drivers’ and passengers’ personal data
- Social interaction is not suitable for building trust for all kinds of services
Principles for emerging regulatory and governance models

Unifying national regulation across cities and regions

Data
- Data verification – ID and other sensitive personal data
- Data sharing - right breach
- Data misuse – users’ comments and profile

Stakeholders
- With public sector
- With private sector
- With passengers

Regulatory risks
- Data justice
  - For public good
  - For law enforcement
- Data abuse
  - Prevent competition
  - Damage trust

An effective Dispute Resolution Platform is required with clarified accountabilities of stakeholders
Thank you!

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