The case for regulating ridehailing and dockless bicycles

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Introduction

• The title of this roundtable points to the commonality between these shared mobility options
  – i.e. Ride-hailing, dockless bikes, e-scooters, vanshare etc are all app-based & GPS enabled

• They are also converging toward a MaaS model
  – as the increasing common ownership suggests

• Suggests the need for consistency of regulatory approach
  – Yet this has been largely absent
Government regulatory responses

• An obvious contrast:
  • slow, uncertain responses in taxi/ride-hailing industry vs
  • a “pro-active” response to dockless bikes

• Reflects very different industry/regulatory starting points
  • Important in understanding responses & seeking to improve regulatory policy
Taxis & ride-hailing

• Ride-hailing caused major disruption to taxi markets
  – The most disrupted sector (cf AirBnB?)
  – A result of the size of the monopoly rents, due to high level of regulatory capture & consequently static (moribund?) industry

• Governments have struggled to “catch up”, leading to
  – Widely differing (sometimes rapidly changing) approaches within jurisdictions
  – Significant unresolved regulatory questions in many jurisdictions
Bike-share

• By contrast, bike-share, e-scooters etc have entered a largely unregulated space
  – The issue of impacts on incumbents is largely absent
  – But there may also be a reaction to the experience with ride-hailing

• Is the risk of acting too soon a substantial one?
  – What is the cost of regulating something that is rapidly changing and at an early stage of development, with uncertain economics?
  – Does the case for regulation meet a reasonable “threshold test”?
Context – taxis & ride-hailing

• Sustained regulatory failure, due to capture
  – Clear need for major regulatory change even before disruption occurred

• Key characteristics of the ride-hailing model called other elements of the regulatory structure into question
  – Different approaches to safety largely accepted by consumers
  – ride-hailing favoured on safety grounds in some countries, safety has rarely/never been a negative for it in the market
  – Diminished importance of rank/hail, hence market failure
Economic imperative to respond positively

• Taxis have steadily lost market share: the distorting effects of regulation have led to negative substitution
  – Significant welfare losses have resulted

• Entry of ride-hailing has seen the market expand greatly;
  – Because these distortions are being swept away
  – Because of efficiency benefits of the ride-hailing model

• Seeking to exclude/limit ride-hailing via regulation thus has substantial economic costs
The political economy

• Historically, the taxi industry has been politically highly influential (as well as capturing regulators)

• Strongly positive consumer responses to ride-hailing
  – Key benefits of speed, reliability, vehicle/driver quality and safety
  – Rapid growth means experience of these benefits are widely experienced

• Conflict between these factors drives differing regulatory responses
Political economy

• Recognition of the inevitable (Geradin)?
  – Consumer enthusiasm means sustaining bans will have high cost

• But signs suggest many governments do not yet accept this
  – Symptoms include supposedly enabling legislation that hamstrings the ridesharing model – e.g. France’s loi Thevenoud (Geradin), Ireland.
Rearguard actions?

• Even where ride-hailing is well established, regulatory “backsliding” can be observed.

• Eg - NYC:
  – Open entry for ride-hailing (regulated as FHVs) until August 2018
  – Trip numbers exceed traditional cabs
  – But a 1 year freeze on license issue was instituted
  – Given 25% turnover in ride-hailing, this will lead to declining supply
  – A review to assess congestion impact, utilisation rate & driver income commenced. Will potentially extend the “cap” or make it permanent
  – Simultaneous development of minimum driver income law
A credible response to policy issues?

• Notional policy plausibility undercut by lack of equal treatment:
  – No minimum income for taxi drivers (despite low incomes)
  – No suggestion of broader congestion charging/regulation

• An offer from ride-hail businesses of a $100m welfare fund for taxi medallion owners was rejected
  – Suggests the perceived dynamic underlying the regulatory changes

• Consistent with previous episodes where regulatory capture has been reasserted after initial reform success
Re-regulation? The example of Ireland

- Ireland’s example suggests the likely trajectory in NYC
  - Deregulation in 2000 followed strong industry opposition to more modest reform proposals
  - led to (very) large increases in taxi numbers
  - Continued industry lobbying led government to impose a “temporary” 1 year freeze on Dublin taxi numbers, during 2009 recession
  - Almost a decade later, it is still in place
Re-regulation in Ireland

• Licence sales were also banned in 2013
  – most drivers are now in their 60s and 70s
  – License must be handed back (unless willed to family members!)
• Fleet size down by 25% since 2009 & continues to decline
• Ride-hailing is effectively prevented from operating by regulation
• Supply restrictions & monopoly rents re-established by stealth
Other examples

• Withdrawal of Uber’s licence in London in 2017 (now restored)
• Two cases at ECJ (from Spain & France) seeking to restrict Uber operations (see Geradin)
  – Based on technical legal argument, rather than policy/regulatory principle
• Increasing focus on ride-hailing as a contributor to congestion
  – Echoes a common argument against de-restricting taxi supply
Conclusions on ride-hailing regulation

• While many governments recognise the need to bring ride-hailing into the regulatory system, others have not
  – Choice of second-best means of mitigating incumbents’ losses has also led to poor choices in many cases (e.g. hypothecated levies)

• Evolution of some “reformed” regulatory regimes shows the lobbying power of the taxi industry is not a thing of the past
  – Proposals to further regulate the reformed industry should be considered sceptically
Bike-sharing – and its evolution

• This is an industry experiencing rapid growth & transition
• This growth has quickly made it prominent – and led to a rapid regulatory response.
  – A clear contrast to ride-hailing
  – And perhaps a reaction?
• But the rapidly changing nature of the industry implies significant risk for a “proactive” regulatory approach
Key questions

• Is the current model durable?

• Is it rapidly becoming something else:
  – Purchase of major providers by ride-hailing companies
  – Rapid growth of mini-scooters (electric)
  – Introduction of electric scooters (i.e. Vespa type) – Paris, Rome, Berlin
  – Other possibilities (Segways, UniWheels, Hoverboards)

• Implications for regulation?
Some regulatory implications

• Externalities
  – Likely a much smaller issue where unit cost is much higher – with lesser proliferation of vehicles
  – Removal from streets for recharging, thus frequent relocations

• Consumer protection
  – This issue has been much discussed to date – but the deposit requirement underpinning it seems to be disappearing

• Safety
  – Uncertain place in urban infrastructure (mini-scooters, uni-wheels) suggests “modal conflict”, with safety implications
  – More demanding re: technique
  – Higher speeds (electric scooters)
Regulatory issues

• So, two of the more prominent regulatory issues for dockless bikes may be of relatively little concern in the future
  – Or at least fall below the threshold for regulation

• Conversely, the safety issue – secondary with bikes – may be more significant
Implications

• Risk of regulation choking an industry which may be marginally economic
  – e.g. recent bankruptcies
  – But buy-outs by ride-hailing companies

• Risk of distorting its development
  – (i.e. affecting modal choice via regulatory decisions)

• Broader implications for the development of MaaS?
Synthesis – implications for regulatory policy

• The common technological base and rationale of shared mobility, suggests the need for a broadly consistent regulatory approach

  – Increasing convergence – through common ownership and steps toward MaaS underlines this point

• An approach of adopting common principles is a useful starting point
Regulatory principles

• A common, regulatory framework
  – differentiated (only as much) as needed

• Presumption of open markets
  – Implies right of entry & neutrality b/w incumbents & entrants

• A clear focus on addressing market failure
  – This implies identification of underlying dynamics, not observation of undesirable (but potentially transient) outcomes
Regulatory principles

• Technologically neutral
  – Rapid evolution & convergence make this essential
  – “Future-proofing” (Geradin) unrealistic – but a principles & market failure based focus should approximate this as well as possible

• Realistic (or proportionate)
  – Range of objectives should be limited to avoid “over-reach” & compromise of core objectives
  – E.g. What is the wider “cost” of pursuing integration with PT, specifically addressing inclusion, congestion?
  – In ride-hailing, avoid addressing hardship for incumbents
Regulatory principles

• Sound institutional arrangements
  – A safeguard against capture
  – History of taxi regulation points to the danger
  – Very strong financial backing of many players in this sector highlights the risk
  – Sector-specific regulation has historically been a key weakness – notably in the taxi case
  – A role for competition authorities?
  – Importance of good governance, broader oversight
Closing the policy loop

• The “policy cycle” should include sound review provisions:
  – Reviews should be scheduled, required to follow good process, public, consultative & accountable (i.e. feed into reform/redesign of regulation)

• This is particularly critical for emerging industries
  – As the risks of initial regulatory failure are significantly higher