

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Working Party No. 2 on Competition and Regulation

Taxi, ride-sourcing and ride-sharing services - Summaries of Contributions

4 June 2018

This document reproduces summaries of contributions submitted for Item 3 of the 65th meeting of Working Party No 2 on Competition and Regulation on 4 June 2018.

More documents related to this discussion can be found at www.oecd.org/daf/competition/taxis-and-ride-sharing-services.htm

JT03432772

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Taxi, ride-sourcing and ride-sharing services - Summaries of Contributions

This document contains summaries of the various written contributions received for the discussion on Taxi, ride-sourcing and ride-sharing services (65th meeting of Working Party No 2 on Competition and Regulation, 4 June 2018). When the authors did not submit their own summary, the OECD Competition Division Secretariat summarised the contribution. Summaries by the OECD Secretariat are indicated by an *.

*BIAC**

In the last decade, advances in technology, have led to the emergence of new platforms and services that have fundamentally transformed the for-hire transportation economy. These services have offered numerous benefits to consumers (social) benefits such as, lower prices, greater availability, faster service, higher quality, and added convenience. This innovation-based disruption has raised important questions regarding the continuing vitality of regulation applied to traditional taxi services, and the competitive positioning of taxis under these regulations.

From BIAC's perspective, in evaluating whether and how to adapt regulation to protect competition in the new transportation economy, policymakers should, in the first instance, focus on developing transitional strategies to enable traditional taxis to utilize key technologies; relieving the regulatory burden on taxis in order to enhance their ability to compete; ensuring that rights and privileges stemming from taxi regulations that are still justified continue to exclusively benefit taxis; recognizing key distinctions between various modes of for-hire transportation; and allowing consumers and municipalities to continue to benefit from dynamic competition and not penalize or deter innovative TNC models merely for the sake of "leveling the playing field."

While BIAC agrees that competition between rival firms should take place on equal footing, this refrain often implies a zero-sum-game in which the regulatory solution is to deregulate traditional taxis altogether or impose on TNCs the same regulations to which taxis are subject.

BIAC suggests a more nuanced approach in which (1) the key distinctions between different modes of for-hire transport are recognized; (2) critical innovations that have fueled the growth of TNCs are extended to taxis; (3) superfluous or otherwise obsolete regulations on taxis are re-assessed and eliminated; and (4) taxis enjoy all rights and privileges to which they are entitled pursuant to the regulatory scheme under which they operate. These approaches will elevate the playing field, enabling taxis to innovate and more effectively compete, which in turn will create demand and lead to overall sectoral growth.

Bulgaria

The provision of taxi services in Bulgaria is regulated by the Law on the automobile transport and the Ordinance for taximeter transport of passengers which set requirements for the taxi automobiles and the taxi drivers including the issuance of a licence for taxi transport of passengers.

The Bulgarian Commission on Protection of Competition (CPC) has adopted three advocacy opinions concerning price regulation of taxi services and maximum number of taxi automobiles (Decision 553 of 17 July 2007, Decision 731 of 25 June 2010 and Decision 251 of 18 March 2015).

In Bulgaria the municipal councils have the power to determine the minimum and maximum prices of taxi services valid for the territory of the respective municipality. In its advocacy opinions the CPC states that the minimum and maximum prices restrict competition. The CPC explains that the introduction of minimum prices directly leads to restriction of the price competition. Although the maximum price is meant to protect consumers it can be used as a way of coordination of a price increase in the taxi sector which may lead to prices very close to the maximum.

In Bulgaria the municipal councils determine the number of taxi automobiles working on the territory of the municipality as well as the terms and procedure for their distribution among the carriers. In its advocacy opinion of 2007 the CPC expresses the opinion that the municipal councils should exercise these powers as at this moment this is the most suitable way for balancing the interests of the consumers and of the carriers but the existing problems have not been overcome and in 2015 the CPC suggests abolition of the maximum number of taxis.

Within its competences in the field of unfair competition in 2015 the CPC adopts a decision with regard to the provision of the service UberX. In the decision the CPC makes comparison with other similar services. Uber sets price tariff and specific criteria for the motor vehicle and the driver while the ride-sharing platforms only connect the passenger and the driver. Besides the use of the mobile app Uber is not free for the drivers. The service provided by Uber is similar to mobile apps for connecting with taxi drivers. The main difference between Uber and these platforms is that the latter make contracts with licensed taxi drivers and/or taxi companies in accordance with the requirements of the Bulgarian legislation and the price of the journey is determined by the taxi company whose driver takes the order. The CPC considers that the service UberX is an innovative alternative of the taxi transport of passengers. With Decision 540 of 30 June 2015 the CPC finds that Uber B.V. and Rasier Operations B.V. violate the good faith commercial practice because of contradiction with the legal rules regulating the performing of taxi transport and creating conditions for circumventing the law. The CPC has imposed sanctions and has ordered termination of the infringement.

Canada

In November 2015, Canada's Competition Bureau (the "Bureau") published a White Paper calling for the modernization of Canada's taxi regulations. In this paper, the Bureau encouraged municipal and provincial regulators to allow for greater competition from ride-sharing services, while also relaxing the regulatory burden facing traditional taxi services. It is the Bureau's opinion that such changes would ensure an even playing field for both taxis and ride-sharing services.

The White Paper encourages the design of minimally intrusive regulations. Specific recommendations include:

- Easing price controls, such as regulated taxi fares, to allow fares to be adjusted during periods of varying demand, such as weekends, evenings and bad weather.
- Eliminating restrictions on the number of taxi license plates issued and moving to a system where additional qualified drivers may operate as vehicles for hire.
- Allowing all drivers to respond to street hails, regardless of whether they work for a taxi company or ride sharing service, unless there is a compelling policy reason not to do so.
- Providing incentives to drivers to operate accessible vehicles in areas where consumers are under served.

When regulations are no more intrusive than necessary, competitive forces can influence how the industry evolves and innovates. Greater competition benefits consumers in terms of lower prices, greater product choice, higher quality of service, increased convenience, and higher levels of innovation. Regulations should also be subject to regular review to ensure that they are still responsive to market conditions.

The submission notes that the Bureau's recommendations were directly cited during the development of new taxi regulations in several Canadian cities. In its ongoing advocacy work, the Bureau will continue to encourage thoughtful regulation that addresses legitimate policy concerns. The Bureau will also continue to advocate that such regulation consider overall public interest rather than any one individual, company, or industry.

Consumers International

- Regulation of legacy taxi operators emerged from attempts to deal with real consumer harm and problems
- App based competitors have internalized the regulations targeting consumer harm in many instance making many of those regulations less relevant
- The existence of App based competitors does not replace the need for legacy operators to be regulated to protect consumers
- Some relaxation of rules may be appropriate, however, simply allowing the existing bodies to rewrite rules without consultation with consumers organisations is likely to lead to new forms of consumer harm
- Competition regulators should not be blindsided by the theoretical possibility of consumer benefits from first-degree price discrimination into allowing potentially harmful behavior without sufficient scrutiny.

*Costa Rica**

When collaborative economy companies such as Uber enter a market that has been historically regulated, as the case formal taxis, they generate a disruption that causes discontent from the guild subject to traditional regulation. This caused various manifestations in opposition by taxi drivers arguing that the service provided by Uber is remunerated passenger transportation, and that by providing it on the fringe of the existing rules, it places them in a situation of illegality and unfair competition. Indeed the Council of Public Transport (CTP), an entity attached to the Ministry of Public Works and Transportation (Mopt), and the Public Services Regulation Authority (Aresep) agreed on the illegality of the service provided, in the light of the provisions of the Law No. 8955. The Government has made unsuccessful efforts to stop Uber's operation in the country.

On the other hand, Commission for Promoting Competition (Coprocom) ordered the initiation of an investigation on paid transport of people in August 2017, whether it is in the taxi modality, or through technological platforms or otherwise, with the purpose of deepening the analysis of the regulations governing them and their implications in the country from the competition perspective. This study is currently under development. The Coprocom issued an opinion regarding TNCs, noting that all regulation attempting to be part of the Costa Rican legal framework, must necessarily address and respond to competition and free concurrence principles and postulates in the market.

Although these platforms have effective enough self-regulation mechanisms to solve potential market failures, the collaborative economy and the new markets associated with it, do not escape the possibility that these failures may occur. This situation must be considered by the government in case it is decided to issue a regulation related to digital platforms. When platforms such as Uber and others are to be regulated, authorities must identify market failures that said platforms solve, as well as minimum safety standards for users and consumers that need to be guaranteed. The legislation is simply supposed to address the problems that are not being solved by the business models themselves, and to avoid imposing requirements that duplicate attention on already solved market failures. Furthermore, it opens an opportunity for authorities to even reconsider the necessity of certain regulatory requirements related with the traditional activity.

Denmark

Traditionally taxi services (and commercial road transportation in general), has been tightly regulated in Denmark. This regulation practically eliminated price competition, restricted entry, and severely restricted competition in the market.

In 2017, a revision of the Danish regulatory framework of taxi services was adopted by the Danish parliament, entering into force in January 2018. Some of the main changes were abolishment of the restriction on the number of licenses, of the geographic restriction and of the obligation to be available 24 hours regardless of demand. These changes in the regulation promote competition between established taxi service providers.

However, some main restrictions still remains, e.g. specific technical requirements such as taximeters and seat sensors, and maximum prices.

Shortly after the new regulation was adopted, Uber left the Danish market, publically blaming the shortcomings of the new regulation, especially the continued restrictions regarding technical requirements.

Since Ubers departure, the app MOOVE has become more popular. MOOVE is owned by the largest taxi-dispatch office in Denmark, and has almost the same features as Uber such as fixed prices agreed upon in advance, and a rating system regarding the drivers – the main difference being that MOOVE only uses licenced taxi drivers. Other dispatch offices also offer taxi services through apps.

Although it seems like the taxi market has found a way to develop new solutions that at the same time complies with the new taxi regulation, there are still some challenges regarding competition, efficiencies and development of the market. The main challenge being that the apps are all linked to the dispatch offices that also offer “traditional” taxi services (e.g. hailing, and payment by meter) thereby making a kind of omnichannel business. This potentially makes the cost-effectiveness of these business models inferior to a “pure” app-based business model, like Uber.

*Estonia**

New modern business models based on digital solutions have been developed in several areas of activity including the transport sector which replace or complement traditional business practices. For this very reason, on first of November 2017 the amendments to the Public Transport Act entered into force in Estonia. As a result of the amendments, a flexible and balanced taxi regulation which takes into account different interests, and which at the same time does not make any compromises regarding the rights of passengers, was created in Estonia. The amendments eased the differences between traditional taxi services and ride-sharing.

During the process of amending the legislation the Estonian Competition Authority was asked opinion about the new rules. In its opinion the Authority expressed that taking account how the Uber and other ride-sharing services operated, it is possible to consider them as traditional taxi services. According to the outcome of the amendments, it is possible to conclude that the amendments to public transport act relaxed the taxi service requirements and platform based taxi services are now placed on more equal legal footing with traditional taxi services.

There are several platform based taxi services operating in Estonia. The most popular is Taxify, followed by Uber and 3 others. In 2016 two traditional taxi service providers jointly established a new taxi service platform, to compete with the bigger and more popular platforms. This merger was controlled by the Estonian Competition Authority and it was cleared without any competition concerns found.

*Finland**

The Finnish taxi market has been so far heavily regulated. The maximum fares for taxi trips and the number of taxis in each municipality has so far been strictly regulated by the legislator and public authorities. The taxi market will be liberalized when the new Act on Transport Services (320/2017) will enter into force on 1st July 2018. Then, the quotas set by the authorities will be removed, free entry will be possible and maximum prices will be removed. Taxi entrepreneurs are then also free to operate anywhere in the country.

Taxi services have been also a matter of competition law. Some taxi associations have been at the origin of price cartels where taxi operators coordinated their bid for municipal public procurement contracts for transport services. Most cartel cases have occurred in the late 1990s and early 2000s. There have been also many dominance cases in taxi sector where a single taxi entrepreneur has complained that a dispatch center has applied discriminatory practices. In these dominance cases, the Finnish Competition and Consumer Authority (FCCA) has often used its right to prioritize and declared a case inadmissible. However, the FCCA has initiated *ex officio* investigations in the case where at least some of the regional dispatch centers have presumably introduced exclusivity contracts to the drivers accessing their services with an aim to deter new rival dispatch applications to penetrate the market. The case is pending.

On 14th April 2014, the FCCA published an initiative regarding taxi market. In its initiative, the FCCA advocated that the quotas regarding maximum number of taxi licenses should be removed.

*Hungary**

In Hungary, taxi services were subject to very limited regulation. In 2013-2014 period, taxi regulations got stricter to address some issues such as tax avoidance and increasing consumer complaints in street hailing segment of the market. These regulations include introduction of fixed tariffs, certain colour (yellow) and stricter technical requirements for vehicles and inspections. After the introduction of the high fixed tariffs, in the autumn of 2013, Uber entered the market in the capital of Hungary, with basic fees that corresponded to the level of the previous market-based tariffs for pre-ordering by phone. As of 2018, the Budapest taxi market may be characterised with uniform colour, younger and more environment friendly taxis, higher regulatory costs and higher travel costs for passengers. On the market of taxi dispatchers, the strong concentration has taken place and in parallel with this phenomenon the turnover and productivity of these taxi dispatcher associations have significantly increased.

Before 2013, in a liberalised, competing-on-price situation, the Hungarian Competition Authority (GVH) conducted several proceedings on the market of taxi transport services. The decisive part of these proceedings was related to the capital city's taxi market and concerned the competition restriction activities of taxi dispatch service providers (e.g. unified base fare-increasing cartel, bid-rigging, market share activities regarding the usage of taxi ranks at the airport etc.). GHV also conducted competition advocacy efforts regarding several taxi regulations. The GVH did not consider vertical price fixing as a restriction of competition, as until 2013 there existed substantial price competition in the pre-booking, multi-actor market among the taxi dispatchers.

The GVH was not aware of any competition concerns regarding the appearance of ride-sourcing services. Uber exited the market as a consequence of the intervention of the public authority and the tightening measures adopted in response to the pressure exerted by the lobby of incumbent trip organisers and independent taxi drivers. On the basis of the information available, Taxify, which replaced Uber on the market, has so far not exerted significant competitive pressure on the remaining taxi dispatchers.

India*

Taxi industry in India has undergone a radical change in the last 7 years owing to the relentless disruptions caused by technology and innovation. At the time when cab aggregators like Ola and Uber entered the Indian markets, in 2010 and 2013, respectively, India apparently had no legislative framework to specifically regulate digital cab aggregators. In India, taxi services are regulated at state level. However at national level, the Motor Vehicles (Amendment) Bill, 2016 which awaits approval defines taxi aggregators and conditions to have an aggregator licence. In December 2016, the Ministry of Road Transport and Highways (MoRTH), on the directions of the judiciary in India, also came up with ‘New Policy Guidelines to Promote Urban Mobility’.

In order to meet the need for empirical analysis on this issue, the Competition Commission of India (CCI) considered it imperative to undertake a research/study on ‘Competition and Regulatory Issues related to Taxi and Cab Aggregator Industry’. The study is expected to analyse the practice of surge pricing in select Indian States, from competition as well as economic policy perspective.

In terms of competition law enforcement, As many as 10 cases have been received in the radio taxi industry by the CCI. Most of these cases were closed at the *prima facie* level. However, one case concerning abuse of dominant position by OLA in the relevant market of Bengaluru (a city in Karnataka) was sent for investigation. After detailed investigation, CCI was of the view that OLA does not hold a dominant position in the relevant market (*radio taxi services in Bengaluru*) because of the presence of competitive constraints posed by UBER. While assessing the dominance of OLA, CCI applied a nuanced approach considering the challenges posed by traditional antitrust tools and approaches. In its assessment, CCI did not only rely on market shares due to its certain limitations as an indicator of dominance in the given market. Rather CCI relied on factors such as strength of network effect, entry barriers, and assessment of strategies adopted by the players to assess dominance.

Recently, there have been news reports of the proposed consolidation of OLA and UBER. As per the news report the Softbank, which has emerged as the largest shareholder in both Uber and Ola, has been hoping to ‘make peace between them (Ola and Uber) at some point’ through this proposed consolidation. Considering that the asset/turnover threshold in the Indian combination regime may lead to this deal falling outside the purview of notifiable transaction, recent news report of the proposed consolidation of OLA and UBER has added more complexity to the issues that are yet to be decided.

*Indonesia**

Taxi industry in Indonesia is highly regulated. The main provisions are price limits, maximum number of taxi, permit arrangements, and minimum service standards. Tariff for taxi service is relatively high.

The circumstances of urban transportation system in Indonesia create an opportunity for new business model to develop alternative services, namely ride sharing or ride hailing. The service in Indonesia was pioneered by Uber followed by Grab in 2014. A local start-up company, Gojek, emerged first in Indonesia as a motorcycle ride hailing in 2010. Today, Gojek provide various transportation and other services and compete with other platforms to provide car/taxi hailing booking app. The Car/taxi hailing services provided by these platforms, adding options for consumer to get car/taxi ride with relatively cheap price compare to traditional taxi.

Government started to regulate ride sharing in 2016. Government set new category to accommodate the new business model into the regulation, some arrangements for ride sharing including price limits, quota, legal aspects, certificates, and depot/garage possession. Government believes that those restrictions will make ride sharing and traditional taxi compete at equal playing field.

Competition in traditional taxi industry has become one of Indonesian Competition Authority's (KPPU) advocacy points of interest since 2001. KPPU have sent recommendation letters to government regarding regulation on traditional taxi and ride sharing/ride sourcing. However, government determines to continue implementing regulations that potentially hinders competition, particularly by imposing price floor policy for both traditional taxi operator and ride sharing/ride sourcing platforms.

Italy

The Italian Competition Authority (Authority or AGCM) has long promoted a pro-competitive reform of the taxi regulation, even before the appearance of New business models and services and it has employed all the advocacy tools at its disposal, including advocacy opinions, hearings before the Parliament and, for the first time, an *amicus curiae* opinion to the Tribunal of Rome in the course of Uber proceedings in 2017.

In Italy, the current regulatory framework for taxi and other ride-sharing services is based on the national law no. 21 of 1992, amended in 2008. However, it is at the local level that the economic and qualitative standards are regulated with provisions concerning the number of licenses, the assignment procedures, fares and quality of the service.

New firms employing innovative business models have faced significant regulatory challenges in Italy, including lawsuits in Rome and Milan filed by taxi associations. The key challenges relate to the question as to whether the existing regulation is applicable to the new mobility services and, if not, what principles a new regulatory framework should follow to allow ride-sourcing and ride-sharing services to operate at scale and contribute to improve urban mobility, while ensuring that these new services are provided in a safe and transparent manner.

To assist the government and the legislator in their efforts of rethinking the existing regulation, the Italian Competition Authority has proposed the adoption of a new framework in which traditional taxi services and new forms like Uber are considered competing services. The proposed framework would envisage:

- The introduction of a light regulation on these new services to ensure that the public policy concerns (passenger safety, road safety) are attained; and,
- The removal of unnecessary regulatory burdens on traditional taxi drivers to enable them to compete on a level playing field with the new services.

The Authority also invited policymakers to consider monetary compensations to accompany the liberalization reform and attenuate its social costs by looking at experiences of other jurisdictions. Disruptive technologies may indeed exacerbate these social costs in scope, pace and effects, increasing the political costs of changing the status quo.

The AGCM has not dealt yet with the competition issues raised by decentralized platforms.

Latvia

Amendments in the Road Transport Law,¹ adopted by the parliament on September 28, 2017, came into force on March 1, 2018 created new basic common framework for taxi and ridesharing² providers. Also, more detailed regulations issued by the Cabinet of Ministers for taxis³ and ridesharing⁴ services later was adopted on March 6, 2018. Actual legal framework defines the common features of both kind of services. Both kind of service providers are obliged to receive licenses – taxi service provider in respective city municipality or in particular Regional Planning authority that combines several regional municipalities, ridesharing service providers are obliged to apply for in Road Transport Administration.

Drivers for both service providers are obliged to have 3-year driving experience, and need to register in taxi driver register. Taxis and ridesharing providers are obliged to register also in the Enterprise Register as enterprise (a commercial merchant or company) that automatically means that person (also company) is obliged to provide complete accounting for it business. To minimize the risks of tax evasion some restrictions in legislation were introduced for potential rideshare companies - obligation to accept only electronical payments and use of online ordering only (street hailing is not permitted).

Competition Council of Latvia (CCL) also was involved in evaluation of these legislative proposals and challenged the imposition of excessive requirement for the ridesharing services providers to register Enterprise Register, obligation to store data of mobile app providers on servers in Latvia and others. Both kind of services are similar and competing. But in CCL view the business model for ridesharing should be evaluated from different perspective. Ridesharing should be adapted more for economic motivation of use of private cars, to facilitate the mobility, efficient the use of resources and competition in the market. But provision of taxi services should remain as main model for those who conduct passenger transportation by car as permanent business through company or full-time job individually.

Potential ridesharing providers should be differentiated and given the option of choosing less burdensome forms of economic activity for example applying fixed tax payments similar already introduced for flat rentals for individuals. Most of car owners unlikely are motivated to provide services for full-time and most likely consider as economically unreasonable and burdensome registration of separate enterprise. That will result in less competition, choice and mobility options for consumers. This certain restriction for registration and business set up contrary to others restrictions CCL objected was adopted in legislative package.

¹ [Amendments of Road Transportation Law](#) (in Latvian).

² Term “ridesharing” is used in this contribution used as most common term. Term used in Road Transport Law defines such services as “*passenger carriage by car (...) offered, demanded and approved using electronic means of communication on-line only via a website or mobile application, for which payment is made only in cash*”.

³ [Requirements for obtaining a special permit \(license\) from the planning region and the republic city and the procedure for the carriage of passengers by taxi](#). (Text of regulation only in Latvian)

⁴ [Procedure for passenger carriage by passenger car](#) (Text of regulation only in Latvian)

*Lithuania**

Uber started to operate in Lithuania's capital, Vilnius, in 2015. It is followed by Estonian company Taxify. In January 2018, it was reported in the media that a strike is planned to be organized by the drivers urging Taxify and Uber to increase prices for ride-sharing services. In this regard, the Competition Council provided a comment drawing drivers' attention to the principle of fair competition and to the fact that encouraging competitors to boycott the provision of particular services may fall under the practices prohibited by competition law.

A changing landscape of passenger transportation services raised the need for a reaction of the legislator. Legislative amendments were made on 27 September 2016 to the Road Transport Code of the Republic of Lithuania. Amendments, which entered into force on 1 January 2017, provided definition of transportation services and required service providers to get a permission to operate. Service providers are also subject to other requirements by the Rules on the Transportation of Passengers by Cars in Exchange for a Payment and by Taxi Cars, which was adopted in December 2016.

In its opinion regarding these amendments, Lithuanian Competition Council expressed that, bearing in mind the innovative nature of such novel services, the regulation of the provision of ride-sharing services should be regulated, but only to the extent needed for the protection of consumer interests.

In 2014, the Competition Council found that the decision of Vilnius City Municipality to participate in the establishment of the public company "Vilnius veža", providing taxi services, infringed Article 4 of the Law on Competition. Article 4 of the Law on Competition prescribes the duty of the institutions of public administration to ensure the freedom of fair competition. The Competition Council held that the Vilnius City Municipality infringed Article 4 of the Law on Competition, since it created the conflict of interests in terms of an economic activity and public administration and thereby did not ensure the freedom of fair competition and created different competition conditions in the relevant market in terms of granting privileges to "Vilnius veža" and discriminating its competitors.

*Mexico**

Taxi regulation can inhibit competition between different transport modalities, but also among taxis. In June 2015, Mexican Federal Economic Competition Commission (COFECE) issued an opinion on Network Transportation Services (TNCs). COFECE identified that local transport regulations had fallen behind this new wave of innovation, producing a degree of conflict among interest groups (traditional taxis and users) and certain ambivalence by local governments. In the Commission's opinion, this tension needed to be resolved by pursuing consumer welfare and ensuring that the competition process was duly protected. For COFECE, TNC services correct market failures, offer new alternatives and generate consumer welfare, foster the innovation process, contribute to mobility and produce network efficiencies. Therefore, any prohibition or restriction under false premises would pose a risk to the competition process. That is why, the opinion recommended local governments -Governors and local Congresses- to encourage these services by legally recognizing them and, if there was any need to regulate them, to address only security concerns. The opinion helped to effectively position the topic on the public agenda from a competition perspective and to guide some local governments to act accordingly. However, this debate also shed light on the fact that regulation can hinder competition between different transport modalities, but also among taxis by: i) including unjustified obstacles to competition; and ii) facilitating anticompetitive conducts

There are requirements that might inhibit competition between taxis. These include barriers to entry (: multiple authorizations mechanisms), expensive entry fees that vary among states, but that in most cases are non-proportional to the administrative cost, limits to the number of permits, preferences to local suppliers and incumbents when granting new concessions, and the request of specific car models to grant an authorization. Some examples of provisions that inhibit differentiation among suppliers. In 2015, COFECE published the document "Miscellany of regulatory obstacles to competition: a state-level regulation analysis", and found that many of these provisions are common in several states. In December 2016, COFECE issued an opinion recommending modifications to the regulatory framework for taxi transport services from airports, and a transition from the current model of exclusive access or restricted towards an open model.

One of the motivations to issue the opinion described above was an abuse of dominance case which resulted in fines for Mexico City's International Airport administration (AICM) in 2016. The AICM has substantial market power because in order to offer the taxi service at that facility. COFECE resolved that the AICM used this power to impose differentiated clauses in the contracts that were signed with the different suppliers of taxi services. These clauses benefited incumbents. Moreover, the contracts included discriminatory rebates among the associations.

Another competition law case in the AICM was about an agreement among five taxi associations to jointly hire a consulting firm to carry out a "rate-setting study" to determine the future price of taxi services and improve their revenue in 2011. In September 2017, COFECE fined five taxi associations with 1.3 million dollars and ordered AICM authorities be informed on the matter for all the legal purposes.

Norway

Norwegian taxi services are highly regulated. The regulatory framework varies between urban and rural areas, and contains a combination of regulated access, regulated prices in rural areas as well as regulations to ensure driver and vehicle quality. However, technological and economic developments imply that most of the economic and political justifications for the regulations have weakened. Thus, the current regulatory framework imply a significant barrier to entry for new and innovative business models; models which can potentially enhance competition and benefit consumers. Moreover, attempts to enter by new and innovative business platforms has resulted in prosecution by the police due to a lack of compliance with the current regulatory framework. The Norwegian Competition Authority (NCA hereafter) has advocated that the present regulatory framework is reconsidered in light of the current economic framework and technological realities as well as proportional political goals, not the least relating to passenger safety. In this contribution, the current regulatory framework for the taxi services is presented together with NCA's perspective and advocacy initiatives. The current government has recently signalled changes in the regulatory framework. This contribution also presents the background and the envisaged content of the regulatory changes under consideration.

Peru

In Peru, conventional taxi services are regulated by local authorities (provincial and district municipalities). In particular, rules include the compulsory physical elements that a taxi unit should comply with. On the other hand, the digital platforms related to taxi trips, car sharing services or similar services, have no specific regulation and, as in other jurisdictions, are not subject to the supervision of a sectoral authority.

The heterogeneity of our geopolitical framework⁵, which implies significant heterogeneity of regulatory requirements, has opened many opportunities to investigate regulations that are not justified and could restrict the access of new taxi drivers, distorting supply side conditions and reducing the welfare of consumers. In these cases, INDECOPI exercises a regulatory role applying an ex-post control on administrative regulations⁶ of public institutions such as municipalities and ministries. INDECOPI has begun also to play a role in terms of ordering the market by taking decisions on cases related to digital platforms getting together taxi drivers and customers.

For example, in one case, the Commission for Bureaucratic Barriers of INDECOPI pronounced about the third article of the Municipality Decree N° 016-2009-MPH that established a series of restricted areas for taxi services within the city of Huaral, and after a reasonability analysis of this regulation, the Commission determined it was an irrational bureaucratic barrier. The reason was Municipality did not assess the impact of its restriction on local independent taxi drivers.

In another case, the Commission for Consumer Protection N° 3 of INDECOPI fined Uber for not informing consumers about the effective currency in which the firm will charge for the rides, in particular, the application informed prices in local currency but charged consumers in USD. This important decision regards that price uncertainty because of flawed information may distort the ability of consumer to make better decisions.

As a consequence of continuous administrative demands of conventional taxi drivers against taxi platform services, the Commission for Unfair Competition at INDECOPI, ruled that the platforms cannot be regarded as unfair competition for conventional services because they do not actually provide taxi services. This decision taken is consistent with a view by which competition in the market should be enhanced by digital platforms.

In a context in which most of taxi users still prefer conventional taxi services (about 68% according to a recent survey in Lima), and the number of consumers using digital platform is expected to increase, INDECOPI plays an important role taking decisions consistent with a view by which fair competition is stimulated without overlooking consumers and promoting the voluntary elimination of bureaucratic barriers.

⁵ According to our geopolitical and institutional framework, there are 196 provincial municipalities and 1,655 district municipalities national wide.

⁶ Relating to the reviewing and approving of proposed laws, it is important to highlight that the Commission does not have faculties to review any Law (primary legislation); but its faculty responds to the reviewing of administrative regulation (secondary legislation).

Romania

Starting from clarifying the issues related to the higher or lower degree of substitutability between these passenger services, the traditional vs. alternative, new and innovative ones, current submission analyses a series of issues ranging from non-discriminatory access to the market taking into account that the traditional taxi transport market features important administrative barriers, to the creation of a framework that would allow for intensification of competition between different categories of suppliers.

Russian Federation

In 2017, the FAS Russia approved the merger of Yandex.Taxi and Uber (conclusion of an agreement on joint activities).

Taking into account the identified market leaders (Yandex, Uber, Gett, Fasten), the FAS Russia found that the market for taxi aggregators is quite young; there are significant changes and modernization in this market. There are currently no dominant companies in this market, but Yandex, Uber and the Fasten group have signs of dominance that may arise in the future, as market shares were subject to significant changes and there was more than a twofold increase in the market volume in the first half of 2017.

Survey of participants of the market of taxi aggregators showed that the administrative barriers to entry this product market for new participants are low, but it requires significant investments with small payback periods. At the same time, access to the resources necessary for organizing the activity of the taxi aggregator is free with a multitude of offers.

When considering the merger, the FAS Russia analyzed the impact of network effects and consumer behavior in order to find out whether the merging company could determine the conditions for the circulation of goods and gain the opportunity to abuse its position in the market.

The market for taxi aggregators' services is a classic example of a market with prominent network effects: the consumer value of a product is growing as the number of both consumer groups and passengers increases.

A study of consumer behavior has shown that switching applications of taxi aggregators occurs without any difficulties.

The impact of both identified factors - ease of switching and network effects - is increasing because the market of taxi aggregators' services in the Russian Federation is at a stage of rapid growth. The increase in the volume of the market per year is more than 100%, and this growth is expected to maintain due to the increase in the use of smartphones by consumers and the penetration of mobile communication services in the UMTS and LTE standards.

Along with the results of the market analysis, which showed that there are at least 4 federal taxi aggregators and a lot of local taxis in the territory of the Russian Federation, the FAS Russia concluded that the transaction itself does not lead to restriction of competition at the present time. At the same time, the FAS Russia considered it necessary to ensure the preservation of competition conditions in the future, and to issue a ruling to the participants of the transaction. The conditions of the ruling were developed taking into account the features of the market in order to preserve the existing possibility of switching for passengers and drivers, so the companies received a requirement to prohibit the introduction of any restriction of both groups of consumers in the selection and use of third-party aggregators, as well as to fully and most accessibly inform users about a legal person carrying out transportation with preservation of the history of trips.

*South Africa**

In South Africa, the land-based public passenger transport sector is highly fragmented in nature, and is dominated by the taxi industry accounting for approximately 70% of total transport usage. The remaining 30% share of land-based public passenger transport industry in South Africa is captured by bus and rail, accounting for 20.1% and 9.9% respectively. Public transport is regulated by the National Department of Transport (DoT) in terms of National Land Transport Act, No. 5 of 2009 (NLTA).

The taxi industry is largely informal but subjected to public transport regulations. It comprises of different types of taxis, namely the (i) minibus taxis, (ii) metered taxis, (iii) app-based taxis and (iv) other niche players in the market such as tuk-tuks, and four-plus-ones.

The Competition Commission of South Africa (CCSA) has received more than ten complaints in the public passenger transport industry, one of which related to app-based taxi services. In 2015, the metered taxi industry alleged that Uber was (i) conducting unfair business practice [...], (ii) non-compliant with the South African public transport rules and regulations [...] and (iii) charging below cost rates to the detriment of traditional metered taxi operators. The CCSA investigated the complaint under abuse of dominance provisions (predatory pricing) and found that Uber driver-partners were not charging prices below cost in any of the cities in which Uber operated.

The CCSA is currently conducting a market inquiry into the land based public passenger transport which is expected to be finalised in May 2019. So far, the Commission reported that despite the surge pricing implemented by the new players, traditional metered taxis' prices remain higher than app based prices. It also noted that the traditional metered taxis are modernising their business in response to competitive constraints imposed by app-based services by developing its own e-hailing apps. Drivers are responding to the introduction of new services as some of the traditional metered taxi drivers opted to register with Uber or Taxify and in some instances, they register on both apps.

The Commission has engaged with various stakeholders such as transport regulators and key participants in the metered taxi industry and continues to do so on its ongoing. The National Land Transport Amendment Bill [B7-2016] currently under consideration by Parliament seeks to make explicit provisions for regulation of e-hailing services and this will ensure regulatory certainty and to some extent reduce the conflict between traditional metered taxis and app-based taxi services.

Spain*

At present, the dynamics of competition in the transport sector are undergoing significant changes, mainly due to the development of the sharing economy and the information and communication technologies. This provides new challenges for the Competition and Regulatory Authorities, which face a number of issues brought about by these new developments.

The new services offer an alternative to the services traditionally offered by the taxi and the chauffeur-driven passenger car hire services. These new services have been developed in a context where the regulations of the taxi and private hire vehicle markets have major unjustified restrictions on entry and practice of the activity in Spain. The National Commission on Markets and Competition (CNMC) is of the opinion that limiting or prohibiting the development of these new models and the entrance of new players in the market via restrictive regulation is not only problematic, but also counterproductive, as it has a negative impact on the market itself, by limiting its potential growth, innovation and its consumer welfare.

In Spain, the existence of restrictive regulation, based on licenses, *numerus clausus* and regulated tariffs, *inter alia*, prevents the entry of new agents in taxi and PVH markets. The current regulations (i.e. national, regional or local) include a number of requirements and legal provisions that restrict competition and make it harder, if not impossible, for the new sharing economy services to enter the market and compete in an effective manner. Moreover, the fact that taxis and PHVs have different regulations further fragments the urban transport market, imposing different requirements and conditions to similar services. It is therefore mandatory to review the existing horizontal regulations in these markets.

In light of the above, the CNMC has undertaken a number of initiatives with the aim to shed light on the major regulatory challenges brought about by the new models on the urban transport services. In March 2016, the CNMC published the preliminary findings of a Study on the New Models for Service Delivery and on Sharing Economy and launched a public consultation on the preliminary conclusions and recommendations of the study. The study brought up the existence of significant barriers to competition in the markets for taxi and private hire vehicles, and recommended to eliminate or remove the requirements such as a *numerus clausus* on the supply of taxis and private hire vehicles, the restriction on the territorial scope of the license and the compulsory insurance premiums. The CNMC has published several reports on draft regulation concerning the markets for taxi and private hire vehicles as well.

The CNMC has also challenged restrictive regulations in courts. All the cases are still pending before the courts.

Sweden

This contribution begins by providing a background to the Swedish taxi market. The market is largely liberalised, meaning that anyone who fulfils the requirements for carrying out the profession can enter the market. There are no restrictions on entering the market through quotas or price regulation, but the profession is regulated by requirements on, for example, taxi driver certification, licences for taxi services, vehicle requirements and the requirement of a taximeter. The Swedish competition law exemptions on certain cooperation in taxi services are also described.

The contribution continues by describing a recent government inquiry into the adjustment to new conditions for taxis and ride-sharing, which made certain proposals including introducing a new category of taxi with a new type of control device as an alternative to a taximeter. A recent government bill based on some of the inquiry's proposals is also described, the purpose of which is to facilitate the emergence of new technical solutions and business models without compromising the possibilities for tax control or protections for consumers and workers. The contribution notes that a technology-neutral regulation of control devices would make it possible to reap the advantages of technological innovations without compromising control possibilities. The legislative proposal aims to create a level playing field between different categories of taxi.

Developments in the Swedish taxi market are also described in the contribution. These developments include an overall increase in taxi vehicles, although the situation regarding availability differs greatly across the country. There are also signs of consolidation, both of taxi companies and dispatch centres, as well as the emergence of meta-dispatch centres. The contribution notes that how this consolidation and the emergence of meta-dispatch centres will affect competition depends in part on how these operate.

Finally, the question of ride-sharing and services offered by transportation network companies (TNC-services) is considered in this contribution.

*Switzerland**

In Switzerland, taxi services are regulated at cantonal and municipal level while national horizontal regulation such as labour law also has impact on this sector. The motives to regulate taxi services are threefold. Firstly, regulation aims at providing compensation for public service provision aspect of taxi services. Secondly, there are safety considerations. Thirdly, regulations concern information asymmetry between the taxi providers and the customers. However, the innovation in ride-sourcing services affects mostly these regulatory rationales. The new technology reduces the need of price transparency obligations. Additionally the mobile applications make use of the GPS, which challenges the necessity of a regulatory requirement on local routes knowledge. These outdated regulations in the taxi sector should be abolished.

The Federal Council adopted in 2016 the "Digital Switzerland" Strategy to ensure that Switzerland can benefit from increasing digitization and address its challenges. For transportation services, it concluded that the technological innovation should in fact reduce the necessity of regulations. The Swiss government is currently evaluating the possibility to adapt or even partially lift the existing traffic law regulation with respect to these differences to ensure a level playing field.

The Swiss Competition Commission (COMCO) has strong advocacy instruments under Internal Market Act (IMA) which prohibits disproportionate restrictions on market access for businesses resident outside of the respective canton or municipality. Before 2012, COMCO observed that some cantonal or more often communal regulations of the taxi trade did not comply with the said act. COMCO provided a recommendation to implement the free access market based on the IMA in the ride-sourcing sector. The city of Zurich implemented the content of the recommendation in its new taxi ordinance, which came into force on 1 January 2013. Other cantons, as Geneva, Vaud or Bern, implemented or are trying to implement new regulations concerning the ride-sourcing service which are almost, even if not fully, in line with COMCO's recommendation of 2012.

*Turkey**

One of the most critical sectors affected by technological development is transportation. There are different types of technological tools used in the field of transportation. These are pricing algorithms, employing surge pricing and the appearance of centralized and decentralized platforms.

Pricing algorithms can pave the way for prices differentiation for each customer which results in extracting the entire surplus away from the consumers to the transportation companies, abuse of personal data or tacit collusion. Though these negative conclusion, pricing algorithms could also have positive affect on market through creating efficiency.

New pricing methods used in transportation service like Surge Pricing are also important. Companies use Surge Pricing to maximize their profits without considering negative effects on customers.

Centralized platforms (CPs), like Uber, determine general rules for service, transportation fees, technical specification of vehicles and working area for drivers. Setting price for independent drivers and allocating a working area or a specific customer group could decrease consumer welfare and might be an infringement of competition law. Yet if the number of CPs is abundant, CPs could create consumer benefits such as lower fees and improved availability.

Decentralized platforms (DCPs) are also being used in transportation business. The negative aspect of DCPs is the lack of supervision of drivers by DCPs, which could result in low customer satisfaction.

Turkish system is no different than its peers in such a way that the barriers to entry into the local transportation markets such as the number of taxi plates issued, safety, technical and insurance requirements for taxi vehicles and taxi drivers, and taxi fees are determined by local municipalities.

Like in other countries, there is tension between taxis and taxi platforms (ride sharing services), mainly Uber. There have been some efforts by the government to solve the tension between Uber and taxi drivers. The Ministry of Customs and Trade has prepared a report about Uber, which states that a “sound *regulation*” is needed for application-based ride sharing services and the “*legal voids*” regarding the operation of the ride-hailing platforms in Turkey should be sorted out.

There has only been one antitrust case involving a ride sharing application in Turkey. In that case Bitaksi (an online (Istanbul) local taxi hailing application) was accused of abusing its dominant position by creating an unfair practice via its app over the customers who do not upload the same app. In its decision dated 02 July 2014, Turkish Competition Authority dismissed the claim by stating that mobile taxi calling app market is a new and an emerging market, there are alternative taxi hailing applications, there is no entry barrier, therefore there is yet no need to carry out a dominance assessment for any particular app. TCA also evaluated that even if it is accepted Bitaksi is in dominant position in a relevant market, there is no evidence abusing of its dominant position.

United Kingdom

The UK Competition and Markets Authority's (*CMA*) understanding of taxi and private hire markets in the UK is informed by its predecessor's (the Office of Fair Trading (*OFT*)) 2003 Market Study into the regulation of taxi and private hire services,⁷ the 2007 evaluation of that Market Study,⁸ the *CMA*'s examination of a merger between two private hire operators in the city of Sheffield,⁹ and its more recent reviews of the licensing conditions imposed by various licensing authorities.¹⁰ As part of these latter reviews, the *CMA* has responded publicly to proposals for changes to private hire licensing conditions made by, among others, Transport for London (*TfL*)¹¹ and Sheffield City Council.¹²

In addition, the *CMA* currently sits on a working group established by the UK Department for Transport to report to the UK Government on the future regulation of taxis and private-hire vehicles (the "Task and Finish Group on taxi and private hire vehicle licensing").¹³

This paper looks at some of the issues that came up as part of the *CMA*'s work in this sector, in particular in relation to quotas / quantity restrictions, ride-sharing and exclusionary conduct. The paper also touches on the *CMA*'s experience in relation to consolidation within the taxi industry in the UK, however its work here has been more limited to date.

In its approach to the taxi and private hire markets, the *CMA* recognises the need for regulatory safeguards to protect legitimate aims, such as passenger safety, and the needs of particular passengers, for example those with disabilities. The *CMA* however takes the view that such regulatory interventions should be proportionate, as excessive or unnecessary regulation can act as a barrier to competition and new entry, limiting choice and reducing incentives to provide lower fares, improved service quality and innovation, therefore potentially counterproductively harming the interests of passengers. The *CMA* considers that it is important that the right balance is struck so as to ensure that services remain both affordable and of high quality, noting that reducing competition and hence incentives to provide lower fares may have the effect that consumers resort to less safe means of transport.

⁷ *OFT*, "[The regulation of licensed taxi and PHV services in the UK](#)" (*OFT*676, November 2003).

⁸ *OFT* / Europe Economics, "[Evaluating the impact of the taxis market study](#)" (*OFT*956, October 2007).

⁹ ME/6548-15, [Completed acquisition by Sheffield City Taxis Limited of certain assets and business of Mercury Taxis \(Sheffield\) Limited](#) (29 October 2015).

¹⁰ [CMA Guidance to Local Authorities on taxi and private hire licensing](#).

¹¹ *CMA*, [Response to TfL's private hire regulations proposals](#) (2 December 2015).

¹² *CMA*, [Taxi and private hire regulation: CMA letter to City of Sheffield](#) (28 September 2016).

¹³ See <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2017-11-07/HL3031/>.

United States*

In the United State, passenger motor vehicle transportation services are regulated at the state or local level. Common regulatory features include licensing requirements, entry restrictions, fare regulations, safety and liability issues, handicapped access, universal service and non-discrimination requirements. Around forty-five states passed legislation reharding new types of services which are referred as transportation network companies (TNCs). A number of jurisdictions have also updated their regulatory frameworks to allow traditional forms of passenger motor vehicle transportation to arrange fares through digital dispatch, typically subject to existing regulated rates. In addition, some jurisdictions such as Washington D.C. and New York City have recently allowed taxicabs to charge fares not subject to regulated rates, for trips arranged through a smartphone application, while still requiring regulated metered fares for street hails charge dual-mode fares, and others are considering similar approaches to help taxicabs better compete with newer forms of transportation.

The Federal Trade Commission (FTC) has been involved in this sector through reports, advocacy efforts, advocacy filings and enforcement action. Since 2013, FTC staff have provided four advocacy comments in regard to various regulatory proposals concerning the development of new types of passenger motor vehicle transportation services. The advocacy comments have noted that these technologies and new methods appear to be responsive to consumer demand, and also may promote a more efficient allocation of resources, help to meet unmet demand for passenger motor vehicle transportation services, and improve service in traditionally underserved areas. It has been recommended that unless regulation is necessary to achieve some legitimate public interest, markets should be left unfettered to permit competition to flourish. The comments emphasize that regulatory frameworks, when needed, should be flexible enough to allow new and innovative forms of competition to enter the marketplace.

Moreover, The FTC held a workshop in 2015 to explore issues relating to emerging Internet peer-to-peer platforms—often called the “sharing” economy—and the economic activity these platforms facilitate. The FTC issued a related report in 2016, summarizing the workshop, providing an in-depth assessment of evolving business models, and highlighting a number of competitive benefits and potential consumer protection challenges posed by disruptive business models in markets such as passenger motor vehicle transportation.

The Department of Justice and FTC filed a joint amicus brief in November 2017 in the U.S. Court of Appeals for the Ninth Circuit in *Chamber of Commerce v. Seattle*. The case concerns an ordinance enacted by the city of Seattle in the State of Washington that permits independent for-hire drivers to collectively negotiate their contracts with taxicab associations, and transportation network companies such as Uber and Lyft. The Chamber of Commerce sued the city in federal district court, alleging that the ordinance violates the Sherman Act by impermissibly authorizing price fixing among competing independent drivers. The amicus brief urges the court to reject the state action doctrine in this case. At the end of the judicial process, the Ninth Circuit agreed with the joint amicus brief