

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

Working Party No. 2 on Competition and Regulation

Taxi, ride-sourcing and ride-sharing services - Note by BIAC

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BIAC

1. Business at OECD (BIAC) Competition Committee welcomes the opportunity to submit these comments to the OECD Competition Committee's Working Party No. 2 roundtable on taxi, ride-sourcing and ride-sharing services.

1. Introduction

2. In the last decade, advances in mobile technology, connectivity, geolocation, online payment, and complex algorithms have led to the advent of new platforms and services that have fundamentally transformed the for-hire transportation economy. Through dynamic innovation, app-enabled ride-hailing and ride-sharing services (Transportation Network Companies or TNCs) have grown exponentially, disrupting a sector long inhabited by traditional modes of transportation such as taxi service and private hire vehicles (PHV). The widespread adoption of these services has offered numerous benefits to consumers, including lower prices, greater availability, faster service, higher quality, and added convenience. While the benefits of competition from TNCs are well recognized, their emergence also raises questions regarding (1) whether regulations that apply to taxis are ill-suited for the new competitive landscape leading to distortions and disadvantaging incumbents and (2) how (if at all) should regulations be adapted in order to protect competition and ensure a "level playing field." As regulators and National Competition Authorities (NCA) worldwide continue to grapple with these questions, the Competition Committee's engagement is particularly timely and relevant. BIAC appreciates the opportunity to contribute its perspective to this important discussion.

3. 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: (1) developing transitional strategies to enable traditional taxis to utilize key technologies that have driven many of the benefits TNCs have brought to the market; (2) relieving the regulatory burden on taxis in order to enhance their ability to compete, particularly where the original rationale for regulation is no longer applicable, or technology has rendered regulation obsolete; (3) ensuring that rights and privileges stemming from taxi regulations that are still justified continue to exclusively benefit taxis; (4) recognizing key distinctions between various modes of for-hire transportation; and (5) 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."

2. Introducing Innovation to Traditional Taxi Services

4. In adapting regulatory frameworks to safeguard the competitive vitality of traditional taxis, policymakers must ensure that regulations permit incumbents to take advantage of key technologies that have driven the growth and value of TNCs, including app-enabled service and dynamic pricing. These innovations will not only enhance the traditional taxi service offering but also drive overall demand across the sector, inuring to the benefit of taxis, PHV, TNCs, and passengers alike.

2.1. App-Enabled Service

5. While TNCs employ a growing number of unique, differentiated business models, their services are fundamentally based on digital, app-based platforms that help connect large networks of drivers and passengers beyond line of sight and interpret real-time passenger demand across large geographic areas. These apps drive many of the core consumer benefits offered by TNCs.¹ Lower *pricing* is one of the most frequently cited consumer benefits of app-driven services. Apps offer passengers *convenience* throughout booking, transit, and payment. Before requesting a trip, riders can often access valuable information such as estimated fare and wait times. Upon booking, riders are informed about key aspects of the ride (e.g., the driver's identity, the vehicle, arrival time, route, and estimated or exact fare) and can follow the vehicle on a map. In addition, passengers are usually not required to specify a pick-up address, which is instead tracked by GPS. Payment is often cashless via credit or debit card on file with e-receipts sent via email.² Apps can also improve transportation *availability* by quickly matching drivers and riders with greater *efficiency*.³ Many apps contain features that prevent drivers from cherry-picking preferred requests, revealing pick-up locations only after requests are accepted and/or preventing drivers from cancelling trips after acceptance. Such features can improve service to areas that have historically been underserved by traditional taxis.⁴

¹ Recent empirical studies focusing on for-hire transportation in various jurisdictions have shown that UberX offered lower prices for rides of similar distance and duration. *See, e.g.*, ANNA FELLÄNDER, CLAIRE INGRAM & ROBIN TEIGLAND, SHARING ECONOMY—EMBRACING CHANGE WITH CAUTION (2015), available at http://entreprenorskapsforum.se/wp-content/uploads/2015/06/Sharing-Economy_webb.pdf; EUROPEAN COMM'N, FINAL REPORT, STUDY ON PASSENGER TRANSPORT BY TAXI, HIRE CAR WITH DRIVER AND RIDESHARING IN THE EU (Sept. 26, 2016), available at <https://ec.europa.eu/transport/sites/transport/files/2016-09-26-pax-transport-taxi-hirecar-w-driver-ridesharing-final-report.pdf>. Many surveys have also shown that passengers often perceive TNCs to be less expensive than taxis. *See, e.g.*, CITY OF TORONTO, GROUND TRANSPORTATION REVIEW—FINDINGS REPORT (Sept. 2015), available at www.toronto.ca/legdocs/mmis/2015/1s/bgrd/backgroundfile-83503.pdf (finding that 94.5% of passengers using ride-sourcing services instead of taxi identified lower prices as a reason for their choice); Aaron Smith, *Shared, Collaborative and On Demand: The New Digital Economy*, PEW RESEARCH CENTER (May 19, 2016), available at www.pewinternet.org/2016/05/19/the-new-digital-economy/ (68% of survey participants believed that ride-sourcing and ride-sharing services were cheaper than taxis).

² In the US, 86% of ride-hailing users indicate that these services save time and reduce stress, while 60% think that ride-hailing services are more reliable than a traditional taxi or public transportation. Aaron Smith, *Shared, Collaborative and On Demand: The New Digital Economy*, PEW RESEARCH CENTER (May 8, 2016), 27-29, available at http://assets.pewresearch.org/wp-content/uploads/sites/14/2016/05/PI_2016.05.19_Sharing-Economy_FINAL.pdf (50% of respondents in survey believed that ride-sourcing apps “serve neighborhoods taxis won't visit.”).

³ Judd Crammer & Alan Kruger, *Disruptive Changes in Taxi Business: The Case of Uber*, 105 AM. ECON. REV. 177-182 (2016) (Uber drivers have higher capacity utilization rate than taxi drivers).

⁴ *See* Carl Bialik, Andrew Flowers, Reuben Fischer-Baum & Dhruvil Mehta, *Uber Is Serving New York's Outer Boroughs More Than Taxis Are*, FIVETHIRTYEIGHT (Aug. 10, 2015), available at <https://fivethirtyeight.com/features/uber-is-serving-new-yorks-outer-boroughs-more-than-taxis-are/>; *see also* Smith, *supra* note 2.

Apps can also reduce information asymmetries and enhance *safety* by enabling verification of driver and passenger identities, allowing passengers to share ride information, and including ratings systems, reputation mechanisms, and panic buttons, among other features.

6. Digital platforms can enhance several key aspects of service and significantly bolster the ability of taxis, PHVs and TNCs to compete. Recognizing the value of app-enabled service, traditional taxis have increasingly been adopting the technology, and third parties have been developing new products for deployment in the field.⁵ As these efforts continue, regulatory impediments to the adoption of new technology by incumbents should be re-examined and, in the absence of rational policy justifications to the contrary, removed.

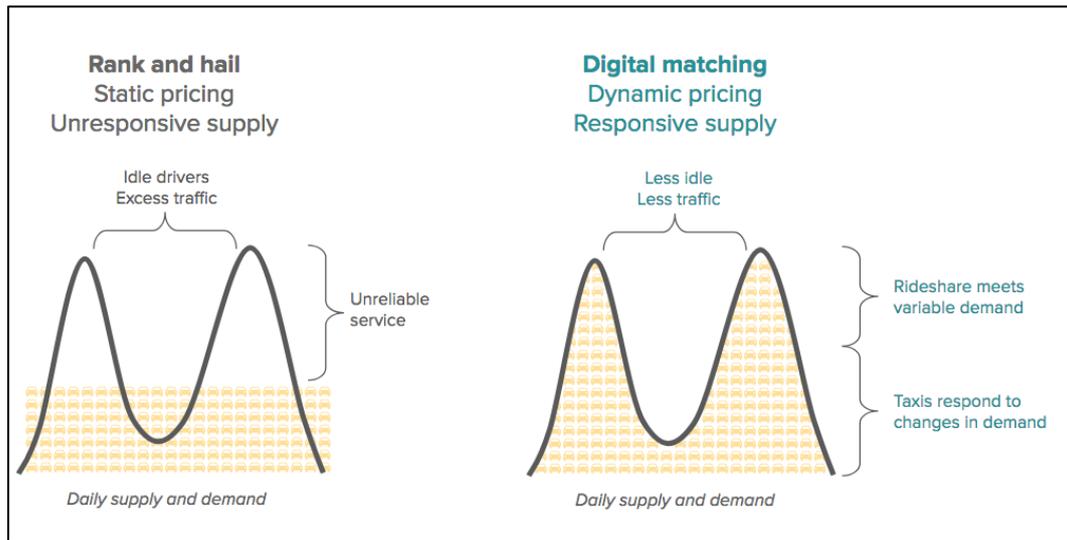
2.2. Dynamic Pricing

7. In the for-hire transportation marketplace, passengers want to reliably obtain affordable rides when and where needed. Drivers want to reliably receive trip requests and carry passengers for the maximum amount of time per hour on the road. An efficient marketplace operates at an equilibrium where supply matches demand across time and location. Dynamic pricing (often referred to as “surge pricing”) uses algorithms to monitor demand and supply in real time and sets prices at levels designed to achieve market balance. During peak times, when the number of passengers requesting rides in an area exceeds the number of drivers available to fulfill those requests, prices increase. Higher rates attract more drivers to the area (increasing supply) and signal to passengers that rides are scarce, discouraging passengers who value rides the least in that moment (decreasing demand) and allocating rides to passengers who value them the most. As supply and demand balance out, fares return to standard rates.

8. While dynamic pricing in the ride-share context has provoked no small amount of public outrage, as well as some interesting questions for competition law enforcement, it is well-settled that dynamic pricing can yield efficiencies leading to (1) lower overall prices; (2) improved reliability by connecting drivers with passengers during periods of high demand when vehicles are scarce; (3) less congestion by ensuring vehicles are on the road only when needed; and (4) better vehicle utilization by minimizing idle time – among other welfare-enhancing outcomes.⁶

⁵ Sara Ashley O'Brien, *Yellow Cab Drivers are Using This App to Compete with Uber*, CNN (May 10, 2017), available at <http://money.cnn.com/2017/05/10/technology/streetsmart-nyc-taxi/index.html>.

⁶ See also Jonathan Hall, Corey Kendrick & Chris Nosko, *The Effects of Uber's Surge Pricing: A Case Study* (2015), available at http://economicsforlife.ca/wp-content/uploads/2015/10/effects_of_ubers_surge_pricing.pdf.

Figure 1. Static vs. Dynamic Pricing

9. In contrast to TNCs, taxis have historically been subject to strict regulations establishing fixed rates for service. These regulations have been justified mainly as a means to protect passengers who do not know when the next potential ride will be available or the likely price of the trip prior to entering the vehicle. Fixed fare schedules were established to counteract these information asymmetries, provide transparency, prevent price-gouging, and ensure a fair rate of return to drivers.

10. Despite the legitimacy of these objectives, the strict imposition of rate schedules has several potential drawbacks. First, regulated rates may restrict competition by preventing taxis from reacting to the dynamic pricing of TNCs. Second, without the ability to adjust pricing, peaks in demand are addressed by higher fixed prices across the board resulting in fewer people able to afford trips. Periods of extreme demand are met with an insufficient supply of vehicles, leaving riders stranded or experiencing long waiting times. Indeed, this is precisely the type of market failure that occurred when Uber's surge pricing system failed for a short period of time on New Year's Eve 2014-2015.⁷ Finally, given the sophistication and ubiquity of mobile technology and the ability of consumers to conduct research and price-compare in real time, the information asymmetries that originally supplied the basis for fixed rate schedules are likely much less relevant today.

11. For these reasons, and in order to enhance the ability of taxis to compete, regulators should consider permitting taxis to practice dynamic pricing on pre-requested trips. As New York City Taxi and Limousine Commissioner Meera Joshi recently observed while announcing a pilot program allowing yellow cabs to use surge pricing,

⁷ *Id.*

“[Surge pricing is] an opportunity for taxis to have a bigger presence in the smartphone arena” giving them “flexibility [that] will allow them to do pricing... that reacts to need.”⁸

2.3. Importance of Innovation to Overall Segment Growth

12. The introduction of new technologies to traditional taxis will not only enhance taxi services, it will also drive demand and overall sectoral growth, benefiting all modes of for-hire transport, including taxis, PHVs, and TNCs. Innovation leads to higher utilization, which in turn yields efficient and competitive fares. Competitive fares subsequently induce new demand for transport services. The global growth of TNCs aptly illustrates this virtuous cycle. Many jurisdictions have experienced growth in the TNC segment driven by new demand from passengers who would not otherwise use traditional taxi.

- **United States:** In a report regarding ridesharing operations and their impact on the taxicab industry since being introduced in 2015, the City of New Orleans noted that “[T]he introduction of TNC Service did not take away significant customers from the taxi industry. Instead, it increased the number of overall customers utilizing for-hire transportation. . . [and] provided approximately 1 million new trips that otherwise may not have occurred by meeting an untapped consumer demand for a different type of ridership experience.”⁹
- **Australia:** A recent report regarding the use of ride-sharing and taxi services prepared for the Independent Pricing and Regulatory Tribunal of New South Wales noted that “[r]idesharing has grown the overall point-to-point transport market rather than substituting for taxis.”¹⁰
- **Singapore:** In a recent speech on Car Ownership and Taxi and Chauffeured Services at the Ministry of Transport Committee of Supply Debate (2016), Senior Minister of State Ng Chee Meng stated that: “Our taxi drivers are embracing new technologies. The number of pre-booked taxi trips has increased by 50% over the last three years, with the bulk of this increase coming from bookings via apps. As a result, both taxi commuters and drivers have benefitted. Taxi drivers, especially those from the smaller taxi companies, tell me that they get more jobs from

⁸ Dana Rubinstein, *New York City Considers Giving Yellow Cabs Surge-Pricing Capability*, POLITICO (Mar. 13, 2018), available at www.politico.com/states/new-york/city-hall/story/2018/03/13/new-york-city-considers-giving-yellow-cabs-surge-pricing-capability-311536.

⁹ Press release, City of New Orleans, City Provides Update on Ridesharing Operations Since Introduction to New Orleans Market in Spring 2015 (Feb. 23, 2016) available at <https://nola.gov/mayor/press-releases/2016/20160223-pr-ridesharing-update/?feed=8aebddb2-1189-4016-8192-75f1533b5229>.

¹⁰ Adrian Kemp & Howard Gu, Use of ride sharing and taxi services in New South Wales: A report for the Independent Pricing and Regulatory Tribunal (Nov. 2017), available at www.ipart.nsw.gov.au/files/sharedassets/website/shared-files/pricing-reviews-transport-services-admin-taxi-fares-and-licences-from-july-2018/publications-taxi-fares-and-licences-from-july-2018/consultant-report-houstonkemp-use-of-ride-sharing-and-taxi-services-in-nsw-december-2017.pdf.

bookings, and earn more. Indeed, taxi driver incomes have increased continuously over the past three years.”¹¹

- **Malaysia:** In a recent op-ed, the Malaysian Minister of Transport observed that “[i]nstead of seeing the e-hailing companies as the new ‘taxi industry,’ I prefer to look at it in a way where both services can co-exist. Each has its own goals. . . 59% of e-hailing application users have never hailed a taxi before.”¹²
- **Brazil:** In a recent study assessing the impact of Uber on competition for point-to-point transportation services, Brazil’s competition authority, the Administrative Council for Economic Defense (CADE), found that ride-sharing has started meeting pent-up demand from those who did not previously use the services of taxi drivers.¹³

13. As these remarks illustrate, the TNC model is unlocking new demand through innovation and differentiation in terms of safety, efficiency, affordability, and other key factors. Competitive taxi models utilizing new technology will unlock similar demand.

3. Relieving the Regulatory Burden on Traditional Taxi Services

14. Because traditional taxis are typically considered local public transportation services, they are normally highly regulated. Regulations can cover numerous aspects of service such as rates, quotas, geographic scope, professional certifications, vehicle certifications, and insurance, among other areas. In some cases, public policy rationales underlying taxi regulations should be re-examined and studied to determine whether they remain viable today. This inquiry should consider technological and other significant

¹¹ Hansard, Parliament of Singapore, 11 July 2016 (Minister of Transport); Singapore, Ministry of Transport, Speech by Senior Minister of State Ng Chee Meng at the Committee of Supply Debate 2016, on Car Ownership and Taxi and Chauffeured Services, on 12 April 2016, available at www.mot.gov.sg/news-centre/news/Detail/Speech%20by%20Senior%20Minister%20of%20State%20Ng%20Chee%20Meng%20at%20the%20Committee%20of%20Supply%20Debate%202016.%20on%20Car%20Ownership%20and%20Taxi%20and%20Chauffeured%20Services.%20on%2012%20April%202016/. Minister Ng has elsewhere noted that “[in] the peak hours, when we have an inadequate supply of taxi drivers, many of the commuters’ interests are served because there is a supplementary group of drivers that come in the form of Uber and Grab. They are mostly part time drivers. . . Today, an estimated 8,000 to 10,000 drivers provide chauffeured services during peak hours. This has effectively increased the supply of point-to-point transport services by about a third during these hours. Many commuters I met, told me that they really appreciate how chauffeured services supplement taxi services, especially during periods when taxis are in short supply.” (emphasis added). Hansard, Parliament of Singapore, July 11, 2016 (Minister of Transport).

¹² Datuk Seri Liow Tiong Lai, *Both E-Hailing and Taxi Services Can Coexist*, THE STAR ONLINE (Mar. 24, 2017), available at www.thestar.com.my/opinion/columnists/walking-on-the-edge/2017/03/24/riding-with-the-times-both-e-hailing-and-taxi-services-can-coexist/.

¹³ CADE, Rivalidade após entrada: o impacto imediato do aplicativo Uber sobre as corridas de taxi porta-a-porta (Dec. 2015), available at <http://en.cade.gov.br/topics/about-us/dee/arquivos/rivalidade-apos-entrada-o-impacto-imediato-do-aplicativo-uber-sobre-as-corridas-de-taxi.pdf> (in Portuguese).

market developments and the extent to which such developments may have rendered regulations stale or obsolete. Where appropriate, government should take steps to streamline the regulatory burden on taxi drivers, operators and vehicles.

15. For example, Singapore recently reduced the 60-hour training course for taxis to 25 hours and replaced route knowledge training and testing with GPS education.¹⁴ Likewise, governments in Australia announced the elimination of obsolete requirements such as driver training and knowledge testing.¹⁵ These amendments recognized that driver quality and competence can be verified by other means including digital feedback.

16. Where there are legitimate and current justifications for taxi regulation, government should take steps to ensure that taxis enjoy the rights and privileges guaranteed under the regulatory scheme. For example, where appropriate, taxis should retain the exclusive right to ply for passengers in the street and from taxi ranks. Rank and hail services, which constitute the majority of taxi trips worldwide, usually involve distinct public considerations and are therefore subject to distinct regulations. Where taxis are subject to rank and hail rules, it is appropriate for taxis to retain the exclusive right to undertake rank and hail trips. Many jurisdictions treat taxi licenses or medallions as valuable assets capable of being traded on a secondary market. License holders are among the most vocal opponents of transport innovation, citing the extinction or diminution of their licenses as a result of competition from TNCs. The preservation of rank and hail and other privileges attendant to taxi regulation will ensure that licenses continue to confer exclusive and valuable economic rights. Finally, in crafting regulation and protecting associated and privileges, government should recognize key distinctions between various modes of for-hire transportation.

4. Conclusion

17. The advent of and exponential growth of TNCs has fundamentally transformed the for-hire transportation economy yielding many consumer (and social) benefits. 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. Much of the discussion around these questions has been informed by the philosophy 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.

¹⁴ Press Release, Land Transport Authority (Singapore), Taxi Driver’s Training Updated To Better Reflect Changing Industry Practices (Apr. 12, 2016) *available at* www.lta.gov.sg/apps/news/page.aspx?c=2&id=07a7dc34-9883-48f2-ba0d-ca27f2c0fa8c.

¹⁵ Press Release, New South Wales Min. for Transport & Infrastructure, A new transport economy: Consumer choice, competition and downward pressure on fares, (Dec. 17, 2015), *available at* www.transport.nsw.gov.au/news-and-events/media-releases/a-new-transport-economy-consumer-choice-competition-and-downward (“From midnight tonight, more than 50 pieces of red tape for taxi and hire car drivers will be repealed, creating a more level playing field in the point to point transport market... [This is] expected to generate more than \$30 million in benefits each year for the industry.”).

18. 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.