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