

Antitrust vs. Monopoly: An Uber Disruption

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“It is no coincidence that some of America’s most lethargic industries—steel, footwear, rubber, textiles—are also among the most heavily protected.

-Thomas DiLorenzo, Why Free Trade Works

Introduction

The foundation of our economic system is based off of competition and a free market. Antitrust laws were established in order to promote competition and preclude monopolies from occurring so that society as a whole will benefit. According to the Federal Trade Commission, “Free and open markets are the foundation of a vibrant economy. Aggressive competition among sellers in an open marketplace gives consumers — both individuals and businesses — the benefits of lower prices, higher quality products and services, more choices, and greater innovation. The FTC’s competition mission is to enforce the rules of the competitive marketplace — the antitrust laws. These laws promote vigorous competition and protect consumers from anticompetitive mergers and business practices.”¹

How a Monopoly Is Losing Control

In the taxi industry, innovations have been scarce and

¹ Emily Badger, *Taxi medallions have been the best investment in America for years. Now Uber may be changing that*, The Washington Post, (Jun. 20, 2014), <http://www.washingtonpost.com/blogs/wonkblog/wp/2014/06/20/taxi-medallions-have-been-the-best-investment-in-america-for-years-now-uber-may-be-changing-that/>.

government regulations have created high barriers to entry that many taxi companies lobby to keep in order to protect their bottom line. All the licensing requirements and regulations taxi companies need to abide by in order to operate have resulted in decades of a government-backed monopoly. Then came Uber, a tech start-up out of San Francisco five years ago, which has exploited a weakness of this monopoly through innovation. Uber created a smartphone application that efficiently connects drivers with riders. Drivers for Uber only need to meet a few simple requirements: you need to be at least 21 years old, have a 4-door vehicle that is from 2005 or newer, have a driver's license and insurance, and be able to clear a background check.

The issue between Uber and the taxi companies are that Uber and its drivers do not need to pay for taxi medallions or other taxi licenses since they do not consider themselves a taxi service but a "ridesharing service" instead, allowing the company to provide consumers with cheaper rides than taxi companies.² Being an innovator, Uber has disrupted the taxi industry and with this major upheaval, has attracted high-stakes lawsuits as well. Although antitrust laws have been created to promote innovative companies like Uber, taxi agencies, such as the NYC Taxi and Limousine Commission, have been fighting to either ban or regulate Uber in their respective territories. This paper will explore the conflict between Uber and taxi companies with the goal of displaying the need for antitrust enforcement.

Before considering antitrust protection, it is important to clarify what classifies a company as a "transportation company." Regulations governing taxi companies imply that a transportation

² Id.

company owns the vehicles in which they provide transportation and employs its drivers.³ Since Uber simply assists in connecting drivers and riders, and does not own any vehicles that provide transportation, the company argues that it should not be governed by regulations concerning taxis. Even though the company serves the same market of consumers in the taxi industry, it does not mean the company should be required to conduct business operations in an identical manner. In fact, allowing companies to choose their method of business is what propels our country to be a leader in innovation. Dictatorships and communist countries that tell companies how to do business slow their innovation cycle and impede in their countries' growth. If Uber were to be governed by standard taxi regulations, it would drive both consumer prices up and costs of driving for drivers as well. This would defeat the company's mission to deliver, "transportation as reliable as running water, everywhere for everyone," which indicates a focus on low price points.⁴

After the recession of 2008 - 2009, The Taxi and Limousine Services industry has been stagnant at best. Although the industry's total revenue in the United States for 2014 was \$12 billion and has grown 2.7%,⁵ Uber has grown exponentially since its inception and has been recently valued at a whopping \$41 billion, which is up

³ Sheldon Richman, *The War on Uber and Lyft Shows How Unfree Our Economy Has Become*, Reason.com, (Nov. 13, 2014), <http://reason.com/archives/2014/11/13/stop-those-who-would-stop-uber>.

⁴ Brad Stone, *Uber Taps Obama's Right-Hand Man to Lead Its Lobbying Efforts*, Bloomberg Business, (Aug. 19, 2014), <http://www.bloomberg.com/bw/articles/2014-08-19/uber-hires-ex-obama-campaign-chief-david-plouffe-as-policy-director>.

⁵ *Taxi & Limousine Services in the U.S.: Market Research Report*, IBIS World, (Feb. 2015), <http://www.ibisworld.com/industry/default.aspx?indid=1951>.

126% from its last valuation.⁶ The company is also forecasted to bring in \$2 billion in total revenue next year, which is nearly 20% of the entire taxi industry. To put this in perspective, currently Uber's valuation has the company valued higher than Twitter, Delta Air Lines, Charles Schwab, and Kraft Foods, just to name a few massive companies.⁷ No wonder Taxi Commissions, not only in the U.S. but also around the whole world, are doing whatever they can to keep Uber out of their respective territories. Uber in recent months has been engaged in fierce fights with hundreds of local regulators and neither side will be backing down anytime in the foreseeable future. Although the company is being attacked from all angles, Uber's co-founder and CEO, Travis Kalanick, is leading an aggressive front to expand rapidly. Dave Ashton, co-founder of Snap car (an Uber competitor), said, "They don't even make any effort to comply with what they think are bad laws."⁸ What Ashton is referring to as bad laws is the regulations that taxi companies are trying to impose on Uber. As previously mentioned, Uber does not consider themselves a taxi service and refuses to abide the laws and regulations that they do not believe include them. In order to stand their ground, the company strategically hires lawyers and lobbyists as they expand to new locations to fend off taxi commissions and local regulations. By using antitrust laws in their defense, Uber has become a major threat to taxi companies.

The rapid growth Uber is experiencing is frightening taxi commissions and is forcing them to use whatever they have in their arsenal in order to prevent this hostile take over and retain their

⁶ Douglas MacMillan, Sam Schechner, and Lisa Fleisher, *Uber Snags \$41 Billion Valuation*, *The Wall Street Journal*, (Dec. 05, 2014), <http://www.wsj.com/articles/ubers-new-funding-values-it-at-over-41-billion-1417715938>.

⁷ *Id.*

⁸ *Id.*

government-backed monopoly. Taxi companies are lobbying for laws directed at Uber and other ride-sharing services to force them to comply with taxi regulations and safety measures. Also, taxi commissions are not the only ones worried about the competition. Individual taxi drivers and medallion owners are protesting ride-sharing services as well, due to many of them investing plenty of their own dollars into the taxi business.⁹ Many drivers buy their own taxi licenses (medallions) and plan on selling them at a higher value for retirement purposes. Medallions, depending on the location, range anywhere from \$350,000 to \$1 million in big cities.¹⁰ The only problem is that medallions are valued based on demand and, since Uber has decreased the demand of taxicabs, their values are plummeting at a consistent rate. Thus far, the only answer taxi commissions have at the moment is to try to regulate Uber or push to get them banned from their cities.

Violations of Antitrust Laws

By trying to impose regulation after regulation on Uber, taxi commissions appear to be in violation of antitrust laws.¹¹ These commissions survive off of taxi companies and bring in money for their particular cities through licenses. Medallions and various licenses are sold by cities, and Taxi commissions' jobs are to regulate the industry in order to promote so-called fair competition and to maintain and increase medallion values. Ever

⁹ Id.

¹⁰ Emily Badger, *Taxi medallions have been the best investment in America for years. Now Uber may be changing that*, The Washington Post, (Jun. 20, 2014), <http://www.washingtonpost.com/blogs/wonkblog/wp/2014/06/20/taxi-medallions-have-been-the-best-investment-in-america-for-years-now-uber-may-be-changing-that/>.

¹¹ *Guide to Antitrust Laws*, Federal Trade Commission, <http://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws>, (last visited March 16, 2015).

since Uber disrupted the industry, however, Taxi commissions have been compelled to do everything within their power to protect taxi companies and more importantly, city revenues through licensing fees. By trying to create and enforce new regulations to capture Uber within their scope, they are unreasonably restraining competition, directly affecting interstate commerce (violation elements of Sherman Antitrust Act).¹²

Effects of Regulations

Even though the taxi industry is heavily regulated and government-backed, do they necessarily have the right to create new regulations to make a company fall within their scope when said company does not consider its business operations consistent with taxi companies? If they do have the right, what makes our country so different from the dictatorships around the world that we are so adamantly against? Antitrust laws were implemented so that consumers can reap the benefits of lower prices, higher quality products and services, more choices, and greater innovations while promoting a competitive marketplace. By regulating Uber instead of finding ways to make the taxi industry more efficient, taxi commissions will be adversely harming consumers as well as contradicting the very purpose of our antitrust laws.

Conclusion

It is evident that imposing regulations on Uber is not only against our antitrust laws, but these regulations will hurt consumers the most. “The only losers from thwarting Uber are riders, who must suffer the inefficiency and backwardness of the local monopoly, and would-be drivers who can’t break into the business

¹² Id.

because of that protectionist, interest-ridden system.”¹³ Therefore, enforcing antitrust laws is in the best interests of society as a whole. The taxi industry is just one example but it shows that the enforcement of antitrust laws provides consumers products and services at the best possible price and encourages constant innovation. Although innovative companies hurt competitors’ bottom lines, they offer competitors an incentive to innovate so that they can continue to compete, allowing their businesses the chance to evolve. If taxi commissions took a different angle at this Uber dilemma and broadened regulations to help make taxi companies more competitive, then maybe the industry would not be suffering as much as it is now. The issue is that broadening regulations will provide less revenue to the states due to decreased licensing fees, making this strategy unfavorable to local governments. Until the goal is to truly protect consumers, encourage innovations, and decrease government interventions, our economy will suffer and never reach its true potential.

¹³ Sheldon Richman, *The War on Uber and Lyft Shows How Unfree Our Economy Has Become*, Reason.com, (Nov. 13, 2014), <http://reason.com/archives/2014/11/13/stop-those-who-would-stop-uber>.