I. Introduction

The taxi industry is in the midst of a crisis. Once protected by a regulated monopoly of the commercial passenger motor vehicle transportation market (hereinafter “ground transportation market”), the industry now faces increasing competition from a new type of transportation service—ride-sharing.1 The emergence of companies like Uber, the most successful ride-sharing company, threatens to eliminate the taxi industry’s stronghold on the ground transportation market and possibly the industry itself.

Established in 2009, Uber describes itself as a “ride-sharing” company that operates by sharing consumers’ information with drivers through a mobile app. Uber’s data sharing description, disparaged by many as semantics, protects it from the stringent regulations that govern the taxi industry.2 Consequently, in only six years, Uber has gained significant market-share in both the United States and abroad. At this time, Uber operates in 58 countries and has an estimated market value of over $41 billion.3

Uber, however, has not escaped scrutiny during its rise to the top. The taxi industry has lobbied against Uber across the United States and abroad and some state legislatures and local

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governments have enacted new regulations to govern Uber and other ride-sharing services. This paper briefly explores the taxi industry’s reactions and the regulatory reactions to Uber and argues that the emergence of ride-sharing services will eliminate the taxi industry’s regulated monopoly of the ground transportation market. Nevertheless, this paper ultimately concludes that the taxi industry may survive in a deregulated ground transportation market if it shifts its focus from regulation to innovation.

II. Taxi Industry’s Reactions

Taxi medallion owners and some taxi drivers across the United States have combated the emergence of Uber by lobbying local and state governments and filing numerous lawsuits against Uber. The taxi industry primarily argues that Uber engages in unfair competition because it operates outside of the regulatory framework that burdens the taxis industry.4

The regulatory framework that governs the taxi industry varies per location, but many cities and states share similar requirements. Most cities regulate the taxi industry with a medallion system.5 Under this system, a taxi driver must either lease or own a medallion to operate. Cities limit the supply of medallions to further regulate industry. For example, New York only has 13,437 licensed medallion taxis in operation.6 Other regulations include standard fare structures and criminal background checks.7

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6 Id.
7 Emily Badger, Taxi medallions have been the best investment in America for years. Now Uber may be changing that., WASH. POST BLOG (June 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/
Prior to Uber, the taxi industry willingly subjected itself to these regulations because the regulations reduced competition in the ground transportation market. But, the taxi industry now feels burdened by these regulations because Uber has gained significant market-share by ignoring the regulations. Uber, however, has countered the taxi industry complaints by arguing that it is not subject to the same regulatory framework as taxis because it is an information sharing technology, not a transportation service. It emphasizes that it does not own any vehicles, but rather merely relies on its network of independent drivers to provide services to customers.

Furthermore, Uber argues that the regulations governing taxis should not apply to its services because regulators could not have envisioned Uber’s technology when they drafted the regulations.

Uber’s description of its services has triumphed over the taxi industry’s complaints regarding unfair competition. Several cities have permitted Uber to begin or continue to operate despite the taxi industry’s complaints. Even though many of the unfair competition lawsuits against Uber are still in litigation, no court has definitively determined that Uber’s practices constitute unfair competition. Consequently, the taxi industry’s attempts to remove Uber from the ground transportation market have for the most part, failed.

III. Regulatory Reactions

The FTC has indicated that it considers ride-sharing to be a pro-competitive innovation that enables consumer choice in the ground transportation market. In June of 2013, the FTC submitted a letter to the District of Columbia Taxicab Commission to express concerns about

8 Id.
10 Badger, supra note 7.
some of the Commission’s proposed regulations for ride-sharing services. In expressing its concerns, the FTC noted that ride-sharing technology “may be more responsive to consumer demand, may promote a more efficient allocation of resources (e.g., vehicles and drivers) to consumers, may expand demand for passenger vehicle transportation services, and may reduce consumers’ transaction costs in paying for such services.” It further cautioned that regulations, such as specific vehicle requirements, could impede competition. At the same time, the FTC supported both background checks and insurance requirements for any ride-sharing drivers.

Some state legislatures have taken a more aggressive approach toward the ride-sharing market than the federal government, focusing primarily on insurance and criminal background check requirements. The Kansas state legislature recently passed new legislation that requires Uber and other ride-sharing companies to enhance their insurance and background check policies. The legislation requires ride-sharing companies to perform background checks on their drivers through the Kansas Bureau of Investigation.

Uber has reacted differently to these enhanced regulations. In Kansas, Uber simply stopped its operations. However, in Maryland, Uber praised Maryland’s recent legislation, which also included certain insurance and background check requirements. Its varied reactions to these similar regulations likely stems from the fact that Kansas’ regulations are more stringent.

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12 Id.
13 Id.
14 Nevada has the most severe legislation against Uber. It banned ride-sharing services entirely. Eva Grantsimran Khosla, Here’s everywhere Uber is banned around the world, BUSINESS INSIDER (Apr. 8, 2015), http://www.businessinsider.com/heres-everywhere-uber-is-banned-around-the-world-2015-4
Kansas’ regulations require Uber to use the state background check system, whereas Maryland’s regulations only require ride-sharing companies to have a background system that uses fingerprinting.\textsuperscript{18} Furthermore, the Kansas legislation requires more extensive insurance coverage than Maryland’s legislation.\textsuperscript{19} Uber’s willingness to eliminate operations entirely in a market demonstrates its exponential growth and its disdain for any regulation that threatens to burden its growth.

The taxi industry has also expressed mixed reactions to new regulatory frameworks for Uber and other ride-sharing companies. Although the industry supports regulation for Uber and other ride sharing services, many taxi companies argue that there should not be a two-tiered regulatory framework for the ground transportation market.\textsuperscript{20} They argue that by failing to hold Uber to the same regulations as taxis, state legislatures grant Uber and other ride-sharing companies an unfair competitive advantage. As demonstrated by recent legislation, however, it seems likely that a two-tiered approach will become the standard for regulating ride-sharing services because it provides a compromise between the taxi industry’s unfair competition concerns and consumers’ desire to use innovative services.

\textbf{IV. Uber’s Impact on the Commercial Passenger Transportation Market}

Uber’s popularity has soared since its founding in 2009. Consumers have quickly shifted to Uber due to the potential for lower fares, cleaner cars, and a higher-quality transportation experience. In fact, by December 2014, Uber claimed that it was facilitating approximately one

\textsuperscript{18} Id.
\textsuperscript{20} Boroyan, \textit{supra} note 2.
million trips per day. Nevertheless, from the consumer’s perspective, Uber still has room for improvement, especially with regard to its reputation, pricing, and customer privacy and safety.

Although consumers view Uber as an innovative service, many consumers and journalists dislike Uber’s approach to gaining market-share. Some journalists have compared Uber’s CEO, Travis Kalanick, to the robber barons of the early 20th Century. They assert that Kalanick and his executives function as digital robber barons because Uber has gained significant market-share through utilizing its size to generate below market fares, poor labor treatment, and anticompetitive behavior, such as ordering and canceling rides from other ride-sharing services.

Moreover, Uber’s reputation faltered significantly in 2014 due to statements made by its executives and the public’s growing concerns regarding customer privacy and safety. Most notably, in November 2014, an Uber executive stated that the company should set aside one million dollars to find dirt on its critics. Also in the same month, an Uber executive used Uber technology to track a Buzzfeed reporter without her permission. This conduct prompted Senator Al Franken, the subcommittee chairman for the Senate’s Subcommittee on Privacy, Technology, and Law, to write a letter to Uber’s CEO, which questioned the accuracy of Uber’s stated privacy protections and requested more information about its data collection policies.

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Consumers and regulators also have expressed significant concerns regarding customer safety. Because Uber is not subject to the same regulations as the taxi industry, it is not subject to the same background check requirements in most states. Consequently, many fear that Uber’s own safety checks are inadequate, and recent attacks by Uber drivers on customers have only amplified these fears. Within the past year, several female passengers have alleged that their Uber driver sexually assaulted them, and one man almost lost an eye after his Uber driver attacked him with a hammer.26

Uber’s current weaknesses with customer privacy and safety policies give the taxi industry the opportunity to adjust its own strategy to remain relevant in the ride-sharing economy. The taxi industry can retain customers who want to use innovative services but who also seek the protected benefits of the taxi industry: well-trained drivers and enhanced safety regulations. Accordingly, if the taxi industry changes its strategy from lobbying and lawsuits to innovation, it will likely have a chance to survive in the ride-sharing market.27 To succeed in the ride-sharing market, the taxi industry should create its own mobile app to attract customers who seek the convenience of using their smart phones.28 Moreover, it should adjust its pricing structure to match the flexibility of Uber’s surge pricing model.29 If the taxi industry does not make innovative adjustments, it will eventually become irrelevant in the ground transportation market.

28 Id.
29 Id.
V. Conclusion

The increasing growth of Uber will undoubtedly dismantle the taxi-industry’s regulated monopoly of the ground transportation market in most local markets. Uber’s demonstrated weaknesses in customer privacy and safety, however, leave loopholes for the taxi industry to make its own impact on the ride-sharing market. Ultimately, the taxi industry may be able to survive the rise of Uber if it shifts its focus toward innovation rather than regulation.