



Regulation in an era of disruptive innovation  
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Competition and Consumer Commission of Singapore

# About the Competition and Consumer Commission of Singapore

- The Competition and Consumer Commission of Singapore (“CCCS”) administers and enforces three key prohibitions of the Competition Act:
  - Section 34 – Prohibits anti-competitive agreements
    - Examples include *inter alia*, price fixing; bid-rigging; market sharing; limited or controlling production or investment; exchange of commercially sensitive information
  - Section 47 – Prohibits an abuse of a dominant position
    - Two conditions need to be satisfied: (i) The firm must be dominant (i.e. has substantial market power); and (ii) The conduct must amount to an abuse.
    - Examples of abusive conduct where a firm is dominant include *inter alia*, refusals to deal, exclusivity agreements refusals to deal, tying/bundling which foreclose (or are likely to foreclose) markets or weaken competition
  - Section 54 – Prohibits anticipated and completed anti-competitive mergers
    - Specifically, mergers that have resulted, or may be expected to result, in a substantial lessening of competition (“SLC”) within any market in Singapore
    - In assessing whether a SLC has occurred, CCCS will assess whether the merged entity will possess market power and the extent to which the merger parties are close competitors.

# Regulation in an era of disruptive innovation (1)

- Over the recent decade there has been an unprecedented emergence of new technologies, disrupting markets and impacting traditional businesses:
  - Via systemic changes to traditional business models
  - Such disruption may impact traditional businesses sometimes as competing substitutes, as complementary enablers, or both
  - E.g. Netflix and food delivery platforms
- Such disruptive technologies have given rise to new questions for authorities – both sectoral regulators and competition law enforcers alike:
  - Whether existing regulatory frameworks are adapting fast enough to respond to evolving market structures and changing business models
  - Disruptors often themselves being force-fed the prevailing regulations, which may not be relevant or applicable, or finding themselves being unregulated

# Regulation in an era of disruptive innovation (2)

- Ride-hailing is an example of a disruptive technology which has deeply affected the conventional taxi industry.
- This paper:
  1. Reviews the developments in the ride-hailing sector and conventional taxi industry in Singapore;
  2. Examines how ride-hailing platforms fit in with the prevailing regulatory regimes;
  3. Highlights the challenges faced by sectoral and competition authorities in trying to balance social and economic policy objectives; and
  4. Explores how governments can continue to remain nimble and responsive to new disruptive technologies

# Ride-hailing sector in Singapore

## Overview of the traditional taxi business

- Taxi services are regulated as follows:
  - Taxi Operators (i.e companies providing taxi rental and booking services) are required to apply for a Taxi Service Operator's Licence ("TSOL") from the Land Transport Authority of Singapore ("LTA") and comply with, *inter alia*, LTA's Quality of Service standards.
  - Taxi drivers are required to pass a course and hold a Taxi Driver's Vocational Licence ("TDVL") in order to provide point-to-point taxi services.
  - Taxi fares however, are not regulated
- The conventional business model in the taxi industry in Singapore is as follows:
  - Taxi Operators earn their main source of revenue from rental fees charged to taxi drivers
  - Taxi drivers in turn, earn an income from metered taxi fares charged to passengers for the provision of point-to-point taxi services

# Ride-hailing sector in Singapore

## Problems with the traditional taxi business

- Prior to ride-hailing platforms, the conventional taxi industry had been mired in a number of problems including:
  - Poor customer service provided by some taxi drivers, perhaps due to the lack of accountability
  - Drivers not taking the most optimal route either due to either a lack of awareness or because they are not incentivised to, since the fees earned are distance or time based
  - Long waiting times and difficulty in securing a taxi ride by passengers especially during peak-hours as supply is not flexible enough to match demand or the period just before midnight since drivers may be incentivised to delay picking up passengers until after midnight to earn a midnight surcharge of 50% of the base fare.
  - Low utilisation rates of taxis with passengers being on board a taxi only around 50% of the time for a typical shift of a taxi driver

# Ride-hailing sector in Singapore

## Rise of ride-hailing platforms (1)

- In 2013, the entry of ride-hailing platforms such as Uber and Grab enabled:
  - Passengers to conveniently book a ride through a smartphone App; and
  - Almost anyone with a vehicle to provide point-to-point transportation services, which greatly increased supply as well as the responsiveness of supply to demand.



# Ride-hailing sector in Singapore

## Rise of ride-hailing platforms (2)

- Ride-hailing platforms have resolved many of the problems faced in the traditional taxi industry:
  - A ratings system and the requirement for drivers to maintain low cancellation and high acceptance rates at the risk being penalised disincentivises drivers from cherry-picking jobs
  - The use of a dynamic fixed-price model, where the price of a ride is set up-front incentivises drivers to take the most optimal route in order to complete more trips within the same period of time to increase their earnings
  - The use of (i) dynamic pricing which changes based on real-time demand and supply conditions; (ii) a heat map which tracks and reflects real-time demand and supply conditions; and (iii) algorithms which match passengers and riders, has helped to alleviate supply bottlenecks during peak periods, improve matching efficiency and increase vehicle utilisation rates.



# Regulatory developments in Singapore

## Debate for and against regulation

- During the early stages of its entry, ride-hailing platforms were largely allowed to run unfettered.
- Many commentators in Singapore generally agreed that some form of regulation should be imposed on ride-hailing platforms and Private Hire Vehicle (“PHV”) drivers in order to:
  - Protect consumers both from a financial and safety perspective; and
  - Ensure that Taxi Operators and taxi drivers can compete on a level playing field against ride-hailing platforms and PHV drivers.
- On the other hand, some commentators were sceptical on whether there was a need for regulations:
  - This included questions on the need for regulations that deviate from free market principles, and whether this can be best decided by users instead.
  - Other arguments put forth included that in a free-market economy, consumers should be given the option to decide for themselves whether they prefer convenience and affordability over safety, and as such, uniform safety standards should not be imposed.

# Regulatory developments in Singapore

## Third-Party Taxi Booking Service Providers Bill (2015)

- Responding to the call for regulations, the Third-Party Taxi Booking Service Providers Bill was passed in 2015 to regulate ride-hailing platforms which provided third-party taxi booking services (the “2015 Act”).
  - The main objective of the 2015 Act was to protect the interests and safety of passengers and to preserve the fundamental tenets of LTA’s regulatory policies.
  - As ride-hailing platforms were still nascent, the Government decided to adopt a light-touch approach.
  - The 2015 Act required ride-hailing platforms with more than 20 participating taxis to hold a Third Party Booking Registration Certificate and, *inter alia*, specify fares upfront; dispatch only licensed taxis and drivers holding valid TDVLs; furnish information as specified by LTA including the details of taxis and drivers; and comply with certain service requirements.

# Regulatory developments in Singapore

## Expansion of regulations (2016)

- With the increase in the number of PHV trips booked through ride-hailing platforms, regulations were expanded in 2016 to further safeguard the interests of passengers, in particular, safety
  - A balance was struck as the government continued to maintain its' pro-innovation and business-friendly stance
- The expansion in regulations saw PHV drivers being required to:
  - Pass a course and obtain a Private Hire Driver's Vocational Licence ("PDVL"); and
  - Undergo medical tests and background screenings; and (iii) be put under a demerit point system
- PHVs used for bookings under ride-hailing platforms were also required to be registered with LTA and display a tamper-proof decal for identification by passengers.

# Regulatory developments in Singapore

## Grab-Uber Merger (2018) (1)

- Under section 54 of the Competition Act, mergers that have resulted, or may be expected to result in a SLC within any market in Singapore for goods or services are prohibited.
  - To avoid imposing unnecessary costs on businesses, Singapore adopts a voluntary merger notification regime
  - However, not notifying a merger situation that raises competition concerns under the Competition Act carries risks since CCCS can investigate mergers on its own initiative

# Regulatory developments in Singapore

## Grab-Uber Merger (2018) (2)

- CCCS commenced investigations on 27 March 2018 into the un-notified Grab-Uber Merger (“Merger”) and subsequently issued an Infringement Decision (“ID”) against Grab and Uber as the Merger was found to have led to an SLC in the provision of ride-hailing platform services in Singapore
  - Grab possessed around 80% market share post-Merger
  - Despite entry by several small players, Grab's market shares remain high
  - There were strong network effects which made it difficult for potential competitors to scale and expand in the market, which were exacerbated by Grab’s imposition of exclusivity obligations on taxi companies, car rental partners, and some of its drivers
- To lessen the impact of the Grab-Uber Merger on drivers and riders, improve competition in the market and level the playing field for new players, CCCS issued directions requiring Grab to *inter alia*:
  - Ensure that its drivers are free to use any ride-hailing platform and are not required to use Grab exclusively; and
  - Remove its exclusivity arrangements with any taxi fleet in Singapore.

# Regulatory developments in Singapore

## Proposed Point-to-point Passenger Transport Industry Bill

- Recognising the fundamental changes that have taken place in the industry and the need to adapt regulations accordingly, LTA has most recently in 2019 announced that it is proposing to license all street-hail and ride-hail operators.
  - The new regulatory framework will entail two licences:
    - One for street-hail operators; and
    - One for ride-hail operators
  - In recognising the negative effects of exclusive arrangements, LTA's new regulatory framework will also prohibit exclusive arrangements by ride-hailing platforms, which is in line with CCCS' directions.
- Over the past few years, instead of rushing to force-feed prevailing regulations LTA adopted a light touch approach and allowed ample time for the industry to develop.
  - The outcome is desirable as promising innovations are not stifled, and opportunities to collaborate to innovate can be seized.

# Regulatory approaches to disruptive technologies generally (1)

- Regulations are typically used by Governments to address market failure, which would in the absence of regulation, fail to lead to the efficient allocation of goods and services, resulting in a net loss of welfare.
- In deciding whether to and how to regulate, Governments should:
  - Identify the market failure or systemic problem underlying the need for action
  - Evaluate the costs and benefits of alternative approaches and select the one which maximises net benefits to society
    - Costs and benefits should be evaluated incrementally against a realistic baseline (in most cases, the current state in absence of regulations)
    - Costs and benefits should be presented in discounted present-value terms
    - Consider the direct costs of regulation (i.e. costs incurred by Government to draft, implement and enforce regulations) and indirect costs of regulation (i.e. costs incurred by stakeholders to comply with regulations)
  - Aim to understand whether and how proposed regulations impact different groups of stakeholders and also evaluate the effects of tailored requirements for each distinct stakeholder good where possible



## Regulatory approaches to disruptive technologies generally (2)

- We note that such an approach may not be easy as:
  - It involves quantifying costs and benefits which may not be so easily quantifiable (e.g. safety, loss of competition)
  - In evaluating proposed regulations, the interests of different stakeholders who value different groups and services differently must be balanced as such proposed regulations may result in 'winners' and 'losers'
- Such an approach may be even more difficult in respect of disruptive technologies as such as ride-hailing platforms

# Conclusion

- While there is no universal answer to whether and how disruptive technology should be regulated, we are of the view that:
  - In a market characterised by rampant innovation and dynamic market shares, care must be taken in order to avoid stifling innovation and restricting the ability of firms to remain nimble when imposing regulations.
  - As such industries are highly prone to lobbying by the 'losers' of the creative destruction process, it is important to bear in mind whether proposed regulations have the effect of improving market outcomes or protecting incumbents by, for example, raising barriers to entry for small players.
  - Regulations should be periodically reviewed and updated where necessary and relevant, in response to changes in technology, business models and industry.
  - As an alternative or complement to regulations, Governments should aim to educate the public and relevant stakeholders.



# Thank You