
SHARING ECONOMY



UBER'S WATERLOO

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By Thomas A. Dickerson
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Uber's business model of a digital platform between consumer and driver (as opposed to a transportation company) and, further, that its workers are merely independent contractors (as opposed to employees and, hence not governed by local labor laws), may be approaching collapse sooner than anticipated, at least, in the United States¹ and now in the European Union. Notwithstanding Uber's extraordinary worth of \$69 billion, its aggressive business practices and its genuine popularity worldwide ("Uber has expanded into more than 300 cities across six continents"²), the forces of change are at the gate. "Eighty-one percent of millennials say they prefer ride-share services to traditional taxis, but not everyone welcomes them with the same gusto"³. Nonetheless, "Uber is banned in several countries and cities throughout Europe after losing lawsuits in Spain, Belgium, Germany and France. Uber also has a case that the court will rule on regarding their classification in Barcelona. The main taxi operator in the country has asked the (European Court of Justice) to decide if Uber is a digital or transport service"⁴.

Uber In France

A French law enacted in 2014 makes it a crime to operate illegal taxi services restricting the use of software to hail customers. Uber claims that it is being targeted⁵. In 2015 taxi driver protests resulted in the banning of UberPop and two of its executives have been fined \$905,000⁶. But France allows higher-end ridesharing services whose drivers have commercial licenses and are properly insured⁷.

Uber In The UK

In the UK Uber's drivers have been classified as employees as opposed to independent contractors by a London employment tribunal which means that the drivers should receive minimum wages, rest breaks and holiday pay." The GMB union described the decision as a 'monumental victory' for some 40,000 drivers in England and Wales...The ruling accused Uber of 'resorting in its documentation to fictions, twisted language and even brand new terminology' adding 'The notion that Uber in London is a mosaic of 30,000 small businesses linked by a common 'platform' is in our mind faintly ridiculous"⁸.

Uber In Italy

Uber was banned throughout Italy in a court ruling on April 7, 2017 in favor of taxi associations asserting the Uber's business model amounted to unfair competition. "That means Uber's Black, Lux, Suv, X, XL, Select and Van services are all blocked from operating in Italy and Uber cannot advertise at all in the country"⁹.

Uber In Denmark

Uber has quit in Denmark as of April 18 claiming unworkable changes in taxi rules which take place next year capping new taxi licenses at 125 per quarter and restricting the type of cars and requiring them to have taxi meters. Uber claimed that it had 2000 drivers and 300,000 Danish riders¹⁰.

Uber In Switzerland

In Switzerland "Uber has been dealt another blow in its long-running battle over the employment status of its drivers, with a Swiss insurance agency ruling that the drivers are workers for which the company must pay social security. The mobile cab-hailing app company had argued that its drivers are freelance contractors, but Swiss public sector insurer Suva found that they should be classified as staff"¹¹.

Uber Before The European Court

In November of last year Uber appeared before the European Court of Justice arguing that it is helping to bolster Europe's economy with its business model. The legal challenge is a direct attack on how Uber operates in Europe, i.e., is Uber a transportation service or a digital platform acting independently to connect drivers with passengers¹².

Uber's Waterloo

In a recent report generated by Maciej Szpunar, an advocate general at the European Court of Justice in Luxembourg, Uber is categorized as a transportation company and not solely a digital platform. By designating Uber a transportation service, Maciej Szpunar noted further that Uber, like any other transportation service in the EU should comply with each European countries' transportation rules. "Uber therefore controls the economically significant aspects of the transport service offered through its platform"¹³ Mr. Szpunar's opinion will be reviewed by the European Court of Justice, which is expected to make a final ruling by late summer.

Conclusion

If the European Court of Justice agrees with this Report Uber's business model may have to be dramatically changed as it may be forced to change in the United States¹⁴. In addition to complying with local transportation regulations, Uber drivers in Uber's two most important markets, the United States and the EU, may, ultimately, be treated as employees protected by local labor laws¹⁵.

¹ See Uber: The Turning Of The Tide, www.law360.com (4/24/2017); Uber On The Brink, www.law360.com (5/8/2017).

² See Scott, Uber, Seeking to Expand, Defends Itself at Europe's Highest Court, www.nytimes.com (11/29/2016).

³ See Craggs, Where Uber Is Banned Around the World, www.cntraveler.com (4/20/2017).

⁴ Id.

⁵ Id.

⁶ See Hays, Uber, French Execs Fined \$905K Over UberPop Service, www.law360.com (6/9/2016).

⁷ What cities, states or countries have banned Uber?, www.qura.com.

⁸ Johnston, *Uber drivers win key employment case*, www.bbc.com (10/28/2016) .

⁹ See Statt, Italy issues a nationwide Uber ban, www.theverge.com (4/7/2017).

¹⁰ Farvel, *Uber is getting out of Denmark*, <https://qz.com> (3/28/2017)

¹¹ See Johnson, *Uber Dealt Another Blow in Workers' Rights Battle*, www.law.com (1/5/2017)

¹² See Scott, Uber, Seeking to Expand, Defends Itself at Europe's Highest Court, www.nytimes.com (11/29/2016).

¹³ See Guarnaccia, *Uber May Need Permits to Operate in EU, Court Advisor Says*, www.law360.com (5/12/2017).

¹⁴ See Dickerson, Uber At The Brink, www.law.360.com (5/8/2017).

¹⁵ See Editorial Board, The Gig Economy's False Promise, www.nytimes.com (4/10/2017) ("In reality, there is no utopia at companies like Uber, Lyft, Instacart and Handy, whose workers are often manipulated into working long hours for low wages while continually chasing the next ride or task. These companies have discovered they can harness advances in software and behavioral sciences to old-fashioned worker exploitation, according to a growing body of evidence, because employees lack the basic protections of American law".