UBER: THREAT OR OPPORTUNITY FOR HONG KONG’S TRANSPORTATION?

Case ID: 2020005A

Background

In a bustling city like Hong Kong, full of business, professional, and social interactions, making it easy for its citizens to commute from one place to another is essential. Like other large cities, an efficient transport system has been a cornerstone of Hong Kong’s rapid economic development.

Of all the forms of public transportation in Hong Kong, for the longest time the only mode that offered point-to-point service was taxis. There are different types of taxi services, from metered street hails to more luxurious pre-booked limousines.¹

Until recently, Hong Kong’s taxi industry has been dominated by a handful of companies. With improving communications and mobile computing technologies, there has been an expansion in the range of point-to-point services available. The most prominent newcomer is Uber, a company often hailed as a pioneering disruptor to the transport industry worldwide.

Uber has dramatically changed the way urbanites travel. Commuters can now book a car with a single tap on a smartphone instead of flagging taxis on the streets. In addition to ordinary sedans, Uber also offers luxury limousines as well as vehicles with larger seating capacities. Because Uber’s platform does not reveal customer destinations before ride requests are accepted, drivers are not able reject trips based on travel distances or drop-off points, a practice that happens often with street hails. This made a world of difference for commuters who needed to make short trips or travel to less populated areas.

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This new technology-enabled form of transport poses a significant challenge to the dominant incumbents in the industry. Traditional and licensed taxi operators, feeling threatened, protested against the disruptive newcomers who are still not formally licensed. Taxi drivers complained that Uber stole their customers. Safety is another major issue because it remains unclear whether Uber passengers are effectively insured when using Uber’s services.

The taxi industry has a strong lobby in Hong Kong. Lawmaker Hon. Frankie Yick Chi-ming, who represents the transport sector, argued that current penalties for unlicensed ride-hailing apps were not effective, and urged the government to seize these vehicles after arresting and charging the drivers.²

In 2015, Uber’s General Manager for North Asia Sam Gellman said the firm was willing to sit down with the Hong Kong Government to talk and work on a regulatory regime.³ The taxi industry vehemently opposed legalizing Uber. However, there was strong support for Uber among commuters. More than 50,000 Hongkongers signed an online petition in support of Uber following several arrests of Uber drivers and raids of Uber offices.⁴ The government now faces a dilemma whether to promote disruptive new technologies and the sharing economy or protect the interests of the incumbent taxi industry. A proposal from the Transport and Housing Bureau to introduce a premium franchised taxi scheme in 2017 was deemed unsatisfactory by many stakeholders who wanted a more comprehensive—rather than stop-gap—solution to the problem.

### Current Taxi Licensing System

The affordability of Hong Kong’s metered point-to-point transport (relative to other global cities) is a traditional point of pride. Despite its relative affordability, the actual quality of taxi services has long been lacking in comparison with other modes of transport. In 2015, the Transport Complaints Unit under the Transport and Housing Bureau received 10,359 complaints regarding taxis, a ten-year record high. Taxi-related complaints comprised more than 40 per cent of total complaints across all transport modes. The most frequent cause for complaints was taxi drivers refusing hire; followed by rude or impolite behaviour; and failure to take the most direct routes. Due to withdrawals by complainants and insufficient information provided for follow up investigations, only 9 per cent of complaints referred to the police were successfully summonsed. A lack of substantive improvement in service standards after many years inculcated in Hong Kong citizens a widespread sense of frustration towards taxis.

The tendency of taxi drivers to refuse less profitable hires can be partly blamed on the taxi licensing system and the high cost of obtaining a taxi license. Under the current regime, taxi licenses are both permanent and transferrable, so license holders are allowed to sell their licenses. Taxi drivers themselves aren’t usually license holders as well, renting their cars from actual license holders instead. Some license holders control large numbers of taxi licenses.
The Hong Kong government stopped issuing new licenses in 1994. In end-2018, there were 18,143 valid taxi licenses in Hong Kong. These 18,143 taxi licenses were controlled by 9,000 individual and corporate license holders. Of the 9,000 license holders, around 75 per cent held one license, around 5 per cent held 5 or more licenses, and less than 2 per cent held 10 or more licenses. Between 2015 and 2017, the cost of a taxi license fluctuated around HK$6 million to HK$7.25 million. Because of their restricted supply and easy transferability, the taxi license has become a tool for speculation or investment, disproportionally benefitting a small number of investors.

The exorbitant price of taxi licenses is passed on to taxi drivers by license holders in the form of expensive rental fees. This pushes taxi drivers to prioritise more profitable hires—those travelling longer distances or to more populated areas with higher demand. This could account for the widespread practice of hire refusal, one of the most common causes of commuter complaints. Together with a lack of competition in the industry, this has contributed to poor service standards in the point-to-point transport sector.

A Disruptive Technological Solution

Founded in 2009 in San Francisco, Uber provides commuters with a simple way to request for ad-hoc point-to-point transport via a smartphone app. Passengers are also able to rate their drivers anonymously after each trip.

With Uber’s entry into Hong Kong, a wrench was thrown into the city’s taxi licensing system. Uber quickly gained popularity among Hong Kong’s commuters, who have long demanded better point-to-point transport options. The phenomenon served as a wake-up call to the taxi industry.

The Hong Kong Government was initially supportive of Uber. In May 2015, Uber was listed as one of the “Success Stories” by InvestHK, a government department that attracts foreign direct investment. InvestHK wanted to burnish Hong Kong’s reputation as a leading international business location in Asia. In the “Success Stories” promotion, InvestHK explicitly acknowledged that Uber made Hong Kong more accessible and safe, and pledged their support for the company.

A Looming Threat

Although Uber’s services fill a vacuum in the current Hong Kong transport service market, it does not operate under any legal framework. A hire car permit is required to drive or use a private car for carriage of passengers for hire or reward, and Uber drivers in Hong Kong have been providing these services without the required permits. Since Uber is not operating legally
in Hong Kong, any third-party insurance bought by Uber to cover drivers and passengers could be void when accidents happen.9

In mid-2015, the issue of Uber was brought to the attention of the legislators who actively discussed the issue in the Legislative Council of Hong Kong. Government officials, Prof. Anthony Cheung Bing-leung and Mr. Yau Shing-Mu, then-Secretary and Under Secretary for Transport and Housing respectively, remained firm that e-hailing services were illegal to operate in Hong Kong without exception.10 The lack of a formal legal framework and disruption to incumbent taxi operators put Uber’s Hong Kong operation at risk.

As the impact of Uber’s growing popularity on the taxi industry became more evident, taxi drivers lobbied the government to ban Uber. Taxi drivers claimed that their income had dropped 20 per cent because of Uber. Taxi drivers formed alliances, such as the Illegal Carriage of Passengers for Reward Concern Group, as part of their concerted effort to protest against e-hailing services. The Panel on Transport of the Legislative Council invited concerned groups to discuss the issue. At a meeting held on 7 July 2015, 26 taxi interest groups were present, in contrast to the single representative from GoGoVan, an Uber-like service focused on freight transport. In the meeting, Mr. Yau Shing-Mu promised to refer such cases to the Hong Kong Police Force for them to enforce the Road Traffic Ordinance.11

Several rounds of protests and slow-drive demonstrations were staged by the taxi interest groups, causing much traffic disruption. Mr. Yuen Yeung-Wai, Chairman of Taxi Dealers and Owners Association Limited said:

“Uber drivers do not hold any taxi licenses and they operate without any insurance protection. It is unfair to us if Uber can offer transportation illegally. Therefore, we feel compelled to protest, and to let Hong Kong citizens understand us.”

Taxi industry leaders also threatened to escalate their protest actions if the government remained passive in curbing illegal car-hailing.

**Arrests of Uber Drivers**

Shortly after these demonstrations and the Legislative Council meetings, the Hong Kong Police Force carried out an operation that led to the arrest of five Uber drivers. These drivers were caught by undercover agents who booked Uber services through the app. Three of Uber’s office staff were also arrested in the same operation.12 The taxi industry of course welcomed this crackdown on Uber.
After the police operation, InvestHK removed Uber from the “Success Stories” section of the department’s website. The apparent contradiction between InvestHK’s enthusiasm for Uber as a shining example of Hong Kong’s openness to innovative businesses, with the actual treatment of companies offering point-to-point transport services caused much embarrassment and confusion.

The crackdown on Uber was received negatively among the Hongkongers who saw Uber as a solution to the persistent lack of good quality point-to-point transport services. Uber launched a petition to garner support in response. In the span of a week, Uber was able to gather 54,000 signatures. Even some legislative councillors supported the campaign, such as Hon. Frankie Yick from the Transport constituency, and Hon. Charles Peter Mok who represented the information technology industry. In a radio program, Mok said the whole incident was ironic as each government department worked “in its own way without any communication.”

**Premium Franchised Taxi Scheme**

Acknowledging the demand of Hongkongers for better service quality and more convenient point-to-point transport services and the popularity of Uber, as well as the pressure from the city’s taxi trade and the need to regulate Uber, then-Secretary for Transport and Housing Bureau Anthony Cheung proposed a premium taxi service as a solution. The Bureau stated:

> “In order to solve the problem, there is a need to introduce a new operation and management model to centralise them so that the quality of service could be maintained and there is some supervision of performances.”

A study was undertaken to explore the feasibility of a franchise model for such a service, and its findings were presented to the Legislative Council’s Transport Panel in mid-2016.

Noting the community discussions, a Legislative Council Secretariat report in November 2016 stated:

> “Many were of the view that the quality of taxi service varied, and there was discontent over behaviours such as refusal to hire and poor attitude of taxi drivers. The Administration had therefore proposed some short, medium and long-term measures to improve taxi service in Hong Kong. For short-term measures, the Transport Department was helping the taxi trade explore the feasibility of enhancing taxi service within the present legal and regulatory framework. For medium and long-term measures, the Administration would study whether it would be feasible to introduce premium taxis... According to the Administration, the policy objective of introducing premium taxis is to set new service standards for the
taxi trade, enhance quality of service and meet the community's demand for diversified services.”

In June 2017, the final report of the Public Transport Strategy Study was issued by the Transport and Housing Bureau, which included suggestions on how to improve the quality of taxi and hire car services and a recommendation on introducing franchised taxis. Its main characteristics would include:

“...operating through a franchise model; setting of service standards in respect of vehicle types, compartment facilities, drivers’ training, customer services and handling of complaints, etc. through franchise terms; and also proposing the requirement for the operators to maintain an employer-employee relationship with their drivers in order to monitor the service quality of drivers. The fares of the new services will be higher than that of ordinary taxis. The new services include the “online hailing” feature and can be arranged by mobile hailing applications.”

(See Exhibit 1 for more details of the proposed premium taxi scheme.)

Many found the proposal unsatisfactory, saying it treated symptoms without tackling root causes. Many argued that what was needed was an overhaul of the taxi regime. Mike Rowse, former Director-General of InvestHK, argued what Uber asked was not to be exempt from the law, but rather for existing regulations to be amended. The taxi industry opposed the scheme, fearing it would hurt their income. In any case, since the proposed scheme came only towards the end of Chief Executive CY Leung’s term, the actual implementation would be dependent on the next Chief Executive.

**Uber Remaining Confident**

Uber’s operation was not substantially affected by the police’s crackdown. Some Uber drivers remarked that they considered the crackdown as an appeasement towards the enraged taxi alliances, and that it was not a significant threat to Uber’s operations. Given the support from the general public, Uber remained confident and that it would continue to thrive in Hong Kong.

The crackdown on Uber not only raised public awareness, but further highlighted the urgency to improve the city’s point-to-point transportation. Uber positioned itself as a quality transport service provider, with a vehicle fleet that provided more comfort for customers at a higher price point than traditional taxis. As seen from Uber’s solid business performance in the city, alongside widespread support from the populace, there seems to be a clear demand for high quality point-to-point transportation.
While the legal proceedings of the arrest were still in progress, Uber launched a series of new services in Hong Kong to improve its services and further consolidate its operations despite opposition from the government. Uber launched UberX in December 2015, providing more affordable services with fares comparable to local taxi services, which extended its range of services to cover both basic and luxury point-to-point transport. In 2017, Uber announced that American International Group (AIG) had been providing rideshare insurance (an equivalent of third-party insurance required by the law as a prerequisite of transport services) for its services since October 2016. As proof of the insurance coverage’s validity, Uber highlighted cases of successful claims by passengers.

**Quality Taxi as a Panacea or a Futile Attempt?**

In April 2017, some legislative councillors proposed the "Taxi 2020" Development Blueprint. The document proposed the launch of a new taxi fleet that provides premium services at a higher cost. Such premium services, called Quality Taxi Services, would include a monitoring system, taxi driver background checks, and dashboard cameras inside each vehicle.

The licenses of Quality Taxi would be open for bidding by public operators, including Uber should they wish to operate under this legal framework. On top of offering premium services, the Blueprint also proposed improvements to the current taxi fleet, such as the introduction of a demerit-point system. It was stressed that the objective of introducing a new premium taxi fleet was to catalyse improvements in the current taxi fleet.

The proposal met with intense opposition from taxi operators who staged a demonstration with over 300 drivers. They argued that the sale of premium services licenses through open bidding would likely push up prices. Rising license prices has been a core problem of the local point-to-point transport services. License bidders would likely be investors who could afford the high initial investments, and these operators would be prone to rent out these premium taxis at high prices. The additional cost would again be passed on to taxi drivers in the form of high rents, leaving the problem of hire refusals unresolved as a result.

**Another Arrest Operation**

In May 2017 the Hong Kong Police Force carried out another operation arresting 21 Uber drivers. The spokesperson of the Police Force urged Uber to respect the laws of Hong Kong for the sake of passenger safety.

Uber General Manager Kenneth She argued that the existing laws governing private hire vehicles were enacted 40 years ago, and hence were “very outdated” and “backward”. He further remarked that the arrests were detrimental to Hongkongers. Uber supported this position.
by commissioning the Chinese University of Hong Kong to conduct a study on Hong Kong’s transport services. The study indicated that over 80% of the interviewees favoured the legalization of Uber.²⁶

Mr. Frank Chan Fan, the Secretary for Transport and Housing, once again urged Uber to recognize the government’s duty to balance the interests of all public transport stakeholders, and that governmental regulation of private car hiring companies would be necessary. He cited the example of London, where Uber had been denied the license to operate because it failed to comply with certain requirements.²⁷ He also urged Uber to operate under the already existing licensing system by applying for the Hire Car Permit.²⁸ However, some legislators in the Legislative Council Panel on Transport argued that the unreasonably long application procedure and the high entry barriers discouraged private hire companies from operating legally.²⁹

**Uber’s Unclear Future**

While the Hong Kong Government acknowledges the urgency to improve the city’s point-to-point transportation, it remains unclear if the government will embrace the newcomer. One of the major concerns is the impact that legalizing Uber will have on 40,000 taxi drivers.³⁰ The government has explored alternative solutions such as enacting changes in taxi regulations and urging Uber to abide by the current laws. Yet, some are doubtful if improved taxi services can recapture market share from Uber.

A study conducted by the Consumer Council in 2017 highlighted Hong Kong consumers’ desire for better quality and a greater range of point-to-point service vehicle types. The Council recommended “the introduction of a parallel regime consisting of both taxi and e-hailing services with resultant benefits of increasing competition, which would in turn strengthen the service quality of market players”.³¹ However, the future of Uber remains uncertain as the city is still figuring out the correct balance between incumbent industries and disruptive new entrants. In addition, whether the premium franchised scheme proposed by the previous government will eventually be adopted by the current administration remains unclear.
1. “It is proposed to introduce 600 franchised taxis in total (i.e. about 3% of the 18 000-odd taxis in Hong Kong). The cap on the total number of franchised taxis should be stipulated in law, which could only be revised with the consent of the Legislative Council;

2. “Each franchisee should comprise 200 vehicles. This has been made reference to the present fleet operation experience of the taxi trade and taken into account the fact that a fleet must be of certain scale for serving passengers and maintaining operation efficiency. Operating in fleets can help address the current difficulty in managing centrally the service quality of ordinary taxis;

3. “Three franchises should be granted by fair and open tender. The Government will monitor the operators’ services through the franchise terms, and the operators will be responsible for ensuring that their services (including the performance of the drivers) will be proper and efficient as prescribed in the franchise. If an operator fails to meet the service level or standards prescribed under the franchise, the Government will be able to impose penalties through franchise terms or even revoke the franchise in serious cases;

4. “The overall fare level of franchised taxis will be about 35% to 50% higher than that of ordinary taxi fare so as to maintain a certain division of labour between franchised taxis, ordinary taxis and hire cars corresponding to their respective passenger groups;

5. “The franchise will set clear requirements for the operation and service quality of franchised taxis, including an “online hailing” feature and requiring the operators’ fleets to be comprised at least 50% of wheelchair accessible vehicles. If a bidder for franchised taxi service proposes a percentage of wheelchair-accessible vehicles higher than that required, he/she will be given a higher score in the assessment;

6. “The operators are required to propose a franchise fee when bidding for the franchise. They have to pay that specified amount of franchise fee once the franchises are granted;

7. “Bidders are required to submit technical (company structure, proposed vehicles to be used and compartment facilities, driver monitoring as well as reward and penalty mechanism, drivers’ training, customer services and complaint handling system, etc.) and financial (franchise fee) proposals. The technical proposal will be the primary consideration, while the financial proposal will only be the secondary consideration;

8. “A company will not be issued with more than one franchise so as to maintain a healthy competition in the franchised taxi market. Participation of both existing taxi operators and new entrants are allowed. Companies with experiences in operating local taxis and other public transport services would be given higher scores in the bidding;

9. “An employer-employee relationship helps enhance the occupation protection for drivers and attract new blood to the trade. Therefore, the applicants’ proposed measures for monitoring driver service quality as well as reward and penalty mechanism will one of the considerations in the assessment; and

10. “The duration of franchise should be 5 years under the trial scheme. The franchise is non-permanent and non-renewable. The operator must compete in bidding for a new franchise upon its expiry, so that the Government will be able to review and amend the terms of the franchise where necessary when new franchises are to be issued.”

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Exhibit 1
Endnotes

1 Public transport vehicles and other private car used for the carriage of passengers for hire in Hong Kong are regulated by the Road Traffic (Public Service Vehicles) Regulation (Cap. 374).


9 The HKSAR Government, “Combating Illegal.”


Ridesharing has been spreading in various places worldwide, due in part to the difficulty to apply for a private car hire license. Many countries have embraced such trend, providing for legal frameworks, streamlining the application procedures, and granting licenses to operate private car hire if conditions are met. A case in point is Australia where Uber was fully legalized. Reforms in the state of Victoria, for example, made private car hire industry regulated, keeping the industry up to standard with the existing taxi industry, including criminal history matching, medical checks, or providing assistance for the physically challenged. The new legislation, besides legalizing private car hire industry, also aimed at assisting existing taxi operators and people who still rely on taxi transport in times of rapid change to the transport industry. Measures, which include increasing the supply of taxis, providing incentives to taxis to upgrade their facilities and ensuring a fair competition, have also been introduced (Victoria State Government, “Taxi and Hire Car Industry Reforms,” 2019, https://transport.vic.gov.au/ways-to-travel/taxis-hire-car-and-ridesharing/industry-reforms/).

While the daily taxi patronage was about 1 million in 2018, that for Uber was 20,000 in the same year.
