

New Governance and Digital Platform Companies: The Case of Uber

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ABSTRACT

Based on a new governance theory as regulatory governance, this article analyzes how a new economy creates new transaction costs at the local level due to the lack of legal coordination based on diversity and competition. The literature focuses on how new platform technologies have decreased existing transaction costs (i.e., online platforms). Surrounded by uncertainties in today's diverse, complex, competitive, and a fast market environment, the lack of legal coordination has created new transaction costs for digital platform companies. There is limited research on new digital platform company experiences with high transaction costs. There is also limited information on how to overcome these costs, especially due to the lack of legal coordination. This article documents ways to understand how transaction costs are revealed through new technologies. It compares diverse regulatory impacts of the new economy on different localities, including San Francisco and Istanbul. Analyzing Uber as the case company, as well as its relationship with other stakeholders, this article adopts the governance model of regulation to identify the constitutive dynamics of the regulatory challenges. It reveals that local and global e-hail firms in the same country acquired different acceptance and responses in the local market. Thus, the level of transaction costs varied. Local communication based on diversity and competition was derived from the vested interests of lobbying powers, which led to the rising transaction costs. Comparing the local governance in two cities reveals the extent to which transaction costs affect the *raison d'être* of companies to perform activities.

KEYWORDS

Digital Platform, E-Hail Company, Online Platform, Transaction Cost, Uber

INTRODUCTION

By analyzing the new economy, which has not yet been integrated into local laws (Barnes & Mattsson, 2016), this article examines transaction costs derived from competition and diverse impacts in different localities. This article points to the dilemma between regulating innovation and preserving Uber's contribution to society (Posen, 2015; Ranchordás, 2015). In addition, it studies the legal coordination between governments and organizations in two localities. How do transaction costs vary in relation

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to diversity and competition, as well as to legal coordination in different localities? To what extent can the local governance of new economy be identified as collaborative?

Nurvala (2015) identified new digital technologies (i.e., internet sites and smart phones) as platforms to reduce transaction costs (for example, information, bargaining, and enforcement costs). However, based on the assumption that the lack of legal coordination creates transaction costs, this article documents ways to understand the transaction costs revealed by new technology and a new economy. By adopting the new governance model of regulation described by Lobel (2012), this article identifies the constitutive dynamics of the regulatory challenges of the new economy. Using this model, the following factors are identified (Lobel, 2012):

1. Increased participation of non-state actors
2. Public and private collaboration
3. Diversity and competition within the market
4. Decentralization
5. Negotiation and revision
6. Soft law (flexible legal requirements)
7. Adaptability and constant learning
8. Legal coordination

This article analyzes two factors. The first is diversity and competition within the market. Lobel (2012, p. 5) stated, "... diversity and competition refers to the notion that a sustainable legal regime must encompass a multitude of values, account for conflict and compromise, acknowledge the diversity and changing interests of many participants, and recognize the legitimacy of private economic interests while appealing to public values." The second, legal coordination, aims "to provide meaning to all other dimensions of new governance by facilitating the communication of local knowledge and the structured interactions of separate groups. A well-orchestrated government can promote and standardize innovations that began locally and privately" (Lobel, 2012, p. 6). Using this framework, the author examines problems faced by Uber in order to depict ways to facilitate communication of local knowledge and interactions among local governance actors. Examining Uber's regulatory and market failures enabled the author to understand the extent to which transaction costs are related to the lack of legal coordination and effective communication of local knowledge.

The article compares the adoption of Uber in the cities of San Francisco and Istanbul. Uber's operations were more mature in San Francisco. Therefore, Uber has different operations and levels of communication on the ground. The diverse spectrum between the cities allowed the author to evaluate various regulatory responses by governments. Analyzing the cities' Uber operations from a comparative approach depicted diverse local settings in relation to communication and the configuration of local governance. In San Francisco, for instance, Uber must follow the rules of local bureaucracy and adopt the regulations of the California Public Utilities Commission (CPUC).¹ Following this obligation, despite ongoing discussions at the institutional level, Uber confirmed that the company was responsible for following appropriate local requirements (Lien, 2016; Pierson, 2016). In Istanbul, Uber faced strong regulatory obstacles on the ground when working in those parts of the country whose local governance actors disagreed with the company's communication and new business model. From a comparative perspective, these cities represent different product cycle stages. For example, Uber has seven products in San Francisco and two products in Istanbul.²

This article, as a reference to system thinking initiated by Vargo, Koskela-Huotari, Baron, Edvardsson, Reynoso, and Colurcio (2017), aims to identify relationships and processes to better understand complex systems. Considering local insight, it identifies and compares:

1. Changes in local laws and regulations toward Uber;
2. Local response toward the company's operations, as well as conflicts and compromises on the ground;
3. Uber's response and strategy to overcome these challenges.

Utilizing a case study approach, this article is based on qualitative research-employed document analysis, in-depth interviews, and participant observation. Fieldwork was conducted in three spheres (see Appendix B). The first was a document analysis based on CPUC sites, which published Uber's decisions, discussions, communication, and comments on rulemaking. The second was in-depth interviews from Istanbul, including 10 Uber drivers, 10 BiTaksi drivers (a local e-hail company), five traditional taxi drivers (who do not use smart phone driver applications), two top-level Uber representatives, two top-level representatives from Istanbul Taxi Drivers Association (ITDA), one top-level representative of Istanbul Metropolitan Municipality's Transportation Coordination Administration (IMTCA), the president of the Istanbul Tax Office, and two representatives of the Foundation of Transportation and Logistics. In the third sphere, the author conducted participant observations on Uber rides in Istanbul to observe the process of Uber operations, as well as changes within the last six months. A software-supported content analysis with NVivo organized, classified, mapped, and categorized the data.

THE CASE OF UBER

Uber was chosen as the case company through a case study approach. The company was classified as an e-commerce high market capitalization company or unicorn. This type of company is defined as "information technology (IT)-based (software mostly but hardware as well) start-ups that bridge pent-up demand and supply through innovative services and products mostly rooted in the mobile internet wave and the opportunities it brings along" (Simon, 2016, p. 12). Watanabe, Naveed, and Neittaanmäki (2016) analyzed Uber as the actor of a paradigm change in the advancement of information and communications technology (ICT) through online platforms. Today, Uber provides e-hailing services in 586 cities and 79 countries around the world. Its market value is more than US\$50 billion.

Uber creates employment, generates entrepreneurial opportunities, decreases city traffic, creates secure transportation by a transparent system registering every action,³ and uses full-day customer support⁴ technology to overcome the overcharging of tourists. Moreover, Uber enables venture capital to be more productively used by bringing together multiple buyers and sellers (Koopman et al., 2015):

- Competitive and specialized supply and demand;
- Trade expansion by cutting transaction costs;
- Optimal aggregation of consumer reviews;
- Diminished problem of asymmetric information between producers and consumers;
- Increased customer value after facing an inefficient and unresponsive taxi industry.

The Uber business model is identified as an on-demand service, a transport network company (TNC), ridesourcing (Rayle et al., 2014), an e-hail company (Rauch & Schleicher, 2015), a broker, and a "price-regulator and financial transaction clearing house" (Motala, 2016, p. 506) operating through smart phone apps (Horpedahl, 2015). Like other digital platforms, Uber benefits from marketplace commission (Richardson, 2015). Despite high returns, the company generates lower margins due to the global scale of the taxi industry (Motala, 2016).

Smith (2016, p. 383), who identified the company's business model as an "Uber-all economy of the future," stated that Uber entails a bottom-up change with trust and community consensus. Similarly, Belinfanti (2014, p. 792) focused on "bottom-up grass root solutions" by

emphasizing a “corporate governance benefit.” Therefore, Uber’s market process is not distinct from the aspects of innovation, regulation, competition, and vested interests (Schneider, 2017). Uber’s business model was also argued within the literature of sharing economy (Cohen & Kietzmann, 2014; Pisano, Pironti, & Rieple, 2015) and collaborative consumption (Botsman & Rogers, 2010). Richardson (2015, p. 121) defined the sharing economy as “forms of exchange facilitated through online platforms” that enable consumers to share access to assets, resources, time, and skills (Woskow, 2014). Belk (2014, p. 1595) identified the new form of ownership as the “use of temporary access non-ownership.”⁵

Challenges and Controversies in the Public Administration

Criticism against Uber varies based on its business philosophy for discrimination, safety issues, privacy issues, and compliance with labor standards (Watanabe et al., 2016). Online platforms create controversies by going beyond traditional assumptions (Cusumano, 2015) proposed by local regulation. In addition, they use intensive resources and regulate nonprofessional services and noncommercial goods (Rauch & Schleicher, 2015). Economist Paul Krugman identified Uber as an important political issue within the smartphone revolution (Krugman, 2015). Governments did not have a strong regulatory framework to regulate these revolutionary technologies (Posen, 2015). Horpedahl (2015) noted that transport network companies, including Uber, violated local laws and regulations.

Compared to the new competition of technology platforms, traditional taxi operators carried the implications of monopoly. These include higher prices, lower service quality, and decreasing opportunities to gain in sales and innovation (Mitchell, 2012). Uber riders found conveniences in their lower prices and reliable services (Ross, 2015) in comparison to traditional alternative competition concerns (Guo & Bouwman, 2016). Schneider (2017) summarized the regulatory challenges faced by Uber as: (1) the lack of regulators’ understanding in differences between taxis and a platform; (2) difficulties in launching a service based on vehicles when the number of authorized vehicles is strictly capped, with a secondary market for license trading at inflated prices; (3) the extraordinarily fragmented taxi industry with strict rules under authorities’ control; and (4) the pressure of the taxi industry on regulatory authorities. Regulatory challenges posed by these companies were also identified in relation to the problem of fairness in terms of the differences of regulatory application from traditional taxi operators (Rayle, Shaheen, Chan, Dai, & Cervero, 2014).

Platform companies remain in a legal grey zone in terms of tax, labor, competition, and anti-discrimination laws. This is due to vague laws or the lack of laws allowing these companies to transport passengers if the drivers are not licensed taxi drivers (McKee, 2017). Within the U.S., regulators react to Uber in a variety of ways. In Austin, Texas, the city regulates the market as if it provides the transportation. In the City of New York, the city plans to introduce legislation to regulate Uber. In Pittsburgh, Pennsylvania, Uber was officially invited to operate in the city (i.e., self-driving cars) (Schneider, 2017).

Since Uber does not meet regulations imposed on traditional companies, some authors criticize the company’s performance to be “contingent” and how these companies “leave vital but unanswered questions concerning the conditions of, access to and profits from labors” (Uber’s drivers working without benefiting regulations imposed on conventional employers) (Richardson, 2015, p. 127). Cohen and Kietzmann (2014, p. 280), in discussing the concept of shared mobility, pointed out that the lack of harmony among multiple agents of shared mobility “reduces the positive sustainability impact of their individual and collective initiatives.” They suggested that the long-term viability of shared mobility service providers would depend on collaboration with local stakeholders, including the adoption of regulatory requirements and the active support of the community (Cohen & Kietzmann, 2014). McKee (2017) asked the questions of who should regulate and to what extent. This article focuses on problematic areas (i.e., transaction cost and interest groups) to map Uber’s regulatory challenges created by vested interests in the local market.

TRANSACTION COSTS AND INTEREST GROUPS

Coase (1973) explained how digital platforms decrease transaction costs between buyers and sellers. Uber-like platforms decreased transaction costs related to searching, contacting, and contracting (Benkler, 2004; Henten & Windekilde, 2016). In discussing transaction costs, Williamson (1981) emphasized that all costs and troubles incurred in making an economic transaction were based on transaction frequency, specificity, uncertainty, limited rationality, opportunistic behavior, and time. It references North's (1994) analysis, as well as reviews how opportunistic behaviors create costs and benefits. Opportunistic behavior is not separated theoretically from opportunism; opportunistic behavior is positively influenced by the benefits from such behavior (Williamson, 1981, adopted from Groshal & Moran, 1996, p. 19). This article analyzes how opportunistic behavior may create costs (i.e., sanctions) and the extent to which these costs affect the *raison d'être* of companies (i.e., banning, forbidding).

When considering e-hailing companies, literature focused on how digital technologies reduce transaction costs (Martin, 2016). This argument is based on several factors: (1) the lack of information asymmetry between the company, drivers, and riders; (2) lowered risks; (3) increased mutual trust; and (4) process transparency (Belk, 2014; Frenken & Schor, 2017; Fuentes-Bracamontes, 2016; Guttentag, 2015; Huber, 2017; Molz, 2013; Schor & Fitzmaurice, 2015). Similarly, studies on collaborative consumption combined economic and technological factors by analyzing cheaper transaction costs through information technology (Barnes & Mattsson, 2016) and how the Internet of things (IoT) reduces transaction costs (Gerpott & May, 2016). Yet, these platform technologies do not reduce transaction costs to zero (such as, requesting time and waiting time, McKee, 2017).

Although digital platforms were discussed in relation to decreasing search and transactions costs (Nadler, 2014), this article focuses on how the market entry of e-hailing companies has increased transaction costs for global players and given rise to rent-seeking behaviors of interest groups. There is little research on new digital platform companies' experiences in high transaction costs, especially due to the lack of legal coordination and ways to overcome these costs. Therefore, this article focuses on how the new economy has created new transaction costs for the companies. According to Schneider (2017, p. 55, p. 75), "... since competition regulation attempts to regulate future markets by using the past as an anchor, it significantly distorts the markets. It creates market-entry barriers, it favors incumbents, and it increases transaction costs. In fact, competition regulation creates collusions and instigates arbitrage."

This article benefits from the interest group theory. Motala (2016, p. 503) summarized this theory, stating that it "provides some insight into why the current regulatory regime is in place, and the nature of political resistance to a formal change in the regulatory regime" where regulation is "the product of special interest influence and capture." E-hailing companies are viewed as new entrants, innovators, and challengers to the traditional taxi industry. In turn, interest groups (i.e., unions, lobbyist) focus on influencing the regulatory process. The existing taxi industry pursues specific interests to maintain their market presence in the licensing and price competition monopoly (Motala, 2016).

In the case of Uber, interest group activities resulted in regulatory capture. This was defined as a process "by which regulatory agencies eventually come to be dominated by the very industries they were charged with regulating" (Schneider, 2017, p. 65). Since the regulator has vested and capital interest based on their power position (Djankov, La Porta, Lopez-de-Silanes, & Shleifer, 2002), the regulatory agency acts in favor of the interests of the industry to "keep the interest groups quiet" (Koopman, Mitchell, & Thierer, 2015, p. 536). This power position can be identified as "the reputation of the regulator" (Koopman et al., 2015, p. 536). Since regulation favors some business models and agents, Uber tries to "de-regulate privately or to develop business models that take advantage of loopholes in regulations" (Schneider, 2017, p. 66). Linking interest group theory to transaction costs came as deregulation and overcoming regulations created transaction costs. For example, when Uber cars were stopped by the police and removed from traffic, Uber paid the judiciary expenses by

compensating the detention expense and the driver's daily loss during the judiciary period (nearly two months).

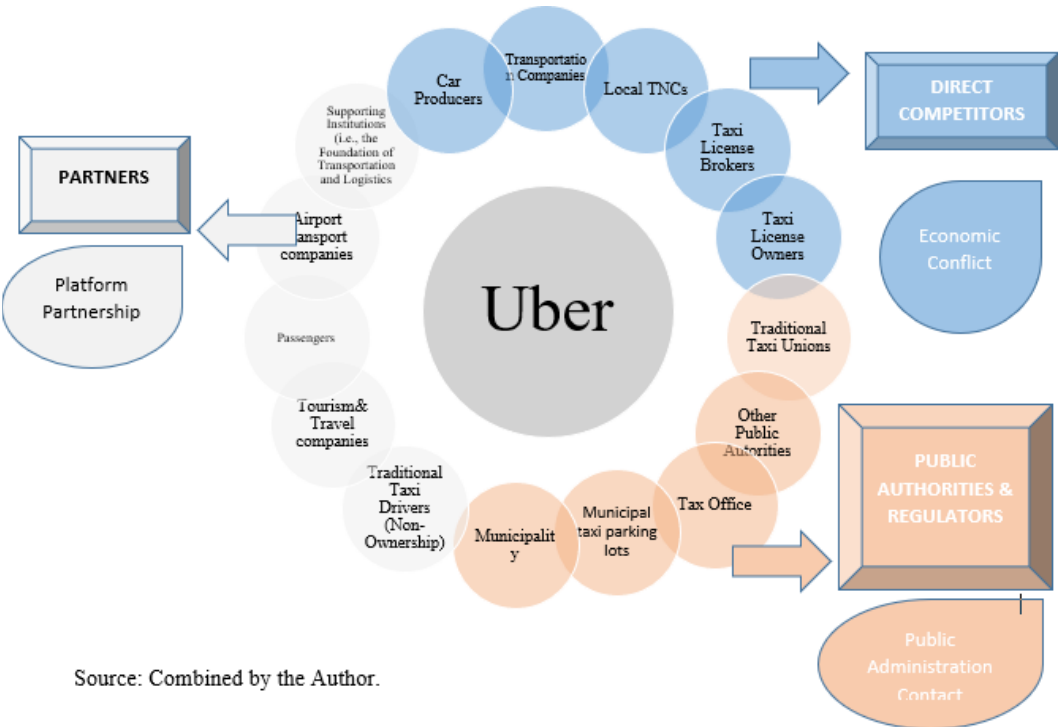
REGULATORY EXPERIENCE: ISTANBUL AND SAN FRANCISCO

Identifying Uber's main market actors depicts the political arena and conflicts between partners and main actors of the local market. This also depicts the type, level, and extent of local communication. Figure 1 shows the local market's main actors that have direct or indirect relationships with Uber. Three main roles can be identified: (1) partners; (2) direct competitors; and (3) public authorities and regulators (i.e., regulating taxi supply). First, partners utilize Uber's online platform. This can be identified as a platform partnership with passengers and airport transport companies, travel companies, and traditional taxi drivers (those who are not the owners of the license/plate/medallion). Second, direct competitors have economic interest conflicts with Uber. These include car producers, bid contractor travel companies, local TNCs, taxi license owners, and brokers. Third, public authorities and regulators have administrative contact with Uber through conflict or compromise. These include municipalities, municipal taxi parking lots (i.e., ISPAK in Istanbul), the tax office, and unions representing traditional taxis and other public authorities (i.e., CPUC).

San Francisco

The San Francisco Municipal Transportation Agency (SFMTA) regulates registered taxis in San Francisco. After SFMTA increased the number of medallions from 1,500 to 2,100, it added drivers to control supply and demand problems in the taxi market (Vanian, 2016; SFMTA, 2013). The strategy's push factors, similar to Turkey, proved the current problems of the taxi system: (1) taxi shortages;

Figure 1. The main actors of the local market



Source: Combined by the Author.

(2) rising fees for plates/licenses/medallions; (3) high costs to secure a taxi business, including taxes and additional costs; (4) low service quality; and (5) problems balancing driver incomes and plate/license/medallion values (SFMTA, 2013). The use of online platforms is another trend reported in relation to decreasing revenue of traditional taxis (Vanian, 2016). For instance, a San Francisco taxi driver earned \$1,500 by working 50 hours per week as an UberXL driver. The same driver earned \$1,250 per week by working 40 hours. The passengers' demand to use mobile platforms is another pressing reason for this shift.

Diversity and Competition: Vested Interest

SFMTA, in partnership with Hara Associates, studied best practices of taxi regulation related to taxi supply. Hara Associates, a company that serves policymakers and regulators in the U.S. and Canada, provides policy advice, program evaluation, and economic impact assessments. Problematic areas between Uber and regulators in San Francisco relate to fare calculation, the driver's background check, airport regulation, and an Uber driver's employment rights. The primary actors include CPUC as rulemaking authority, district attorneys, Taxicab Service Association, law firms,⁶ traditional taxi drivers, Uber's drivers, and state bureaucracy (Hara Associates, 2013).

Throughout the legal documents, the core discussion focused on how to define Uber. CPUC, which regulates the transport network companies, has passed several regulations since 2013. The CPUC defined TNC as a "transportation network company, an organization, including, but not limited to, a corporation, limited liability company, partnership, sole proprietor, or any other entity, operating in California that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using a personal vehicle" (California Legislative Information, 2014, p. 1).

According to a law firm that represents the Taxicab Service Association in the U.S., "They are no different than any other car service company that dispatches drivers to pick up a passenger. Instead of a dispatcher using a two-way radio they use a smart phone ... They are a car service company and should comply with all rules, regulations, and local laws just like everyone else does" (Goodale, 2014, p. 1).

On the contrary, Uber presented itself as a "company that opens technology to cities by providing efficiency, environmental sustainability with a system where everything is registered."⁷ In response to the CPUC's decisions and regulations, Uber communicated its position to the company's attorneys. Uber's main arguments were based on innovation and consumer demand by insisting that there was no link between public safety concerns and smartphone applications. The company's justification related to the following explanation: "Uber's smartphone application simply connects persons needing transportation to transport charter party (TCP)⁸ holders that already fulfill the CPUC's training, substance abuse testing, vehicle maintenance, and insurance requirements" by constantly emphasizing that "Uber is a software technology company with headquarters in San Francisco, California. Uber is not a transportation company" (CPUC, 2012, p. 138). According to the company, any regulation extended toward Uber would violate the policies promoting innovation and information technologies (i.e., United States federal policies and European Union digital policies).

On September 9, 2013, the CPUC identified TNC as charter party passenger carrier and created the category of TNC to accompany the existing category of TCP by emphasizing that "current TNCs ... actually are providing transportation services for compensation" (O'Neill & Prabhakaran, 2013, p. 7). It was noted that Uber "receive compensation for transportation and that the transportation is prearranged;" the CPUC identified Uber as TCP subject to CPUC's jurisdiction (CPUC, 2014, p. 1).

Legal Coordination

In San Francisco, based on the CPUC's regulation on airport operations of TNCs, a new nonexclusive license agreement for TNCs to and from Los Angeles International Airport was approved by the L.A. Board of Airport Commissioners in July 2015. With this TNC permit, several TNC application

instructions and checklists were published on the website of the Los Angeles World Airports, including license agreement forms, business tax registration certificates, and insurance forms. Within this license, Lyft and Uber were approved to provide pick-up services from Los Angeles International Airport (LAWA, 2016).

The following regulatory requirements were adopted in San Francisco:

1. Required permit/certificate for TNC (not drivers);
2. App and Website disclosure when the driver uses a personal car;
3. Prohibited street hails;
4. Registered drivers and timely notice regarding drivers' records;
5. Security measures;
6. Display and trade dress requirements;
7. Proof of pre-arranged ride;
8. Public Authority's scrutiny upon passenger complaints;
9. Airport operations authorized by the airport authority;
10. Collection of one-third of 1% of total revenues by the public authority (or face a fine);
11. Commercial insurance requirements.

Moreover, Uber drivers started to unionize in the U.S. to "strengthen their demands for better working conditions and pay" (Goodale, 2014, Dec 10, p. 1). Discussions between CPUC and Uber were documented on the CPUC website, including discussion papers and documents. In November 2016, at the time of writing this article, the Uber site (www.ubermovement.com) published "CPUC Rules and Regulations" to explain the regulation via a training video. These included the requirements of trade dress, self-reporting of drivers for vehicle mileage, and disclosure of driver information with the CPUC. Uber was in line with the CPUC regulation in terms of the notification of the regulatory requirements to the drivers (CPUC, 2016). However, they were not all fulfilled by the company. For instance, in January 2016, the CPUC fined Uber US\$7.6 million for failing to meet data reporting requirements in 2014. Uber agreed to pay the fine to avoid a 30-day suspension of license in the U.S. (*LA Times*, 2016; Pierson, 2016). Fine payments constituted the company's main transaction costs.

Istanbul

Uber operates exclusively in the city of Istanbul, Turkey. Table 1 summarizes the comparative position of Uber in Istanbul's taxi market to illustrate differences compared to the traditional taxi market. The lack of similarities between Uber's operations and the current taxi market was a common feature in each city. These differences put Uber in a contested position among the actors of the taxi market.

Table 1. Comparison of Istanbul's taxi market and Uber

	Istanbul	Uber XL	Uber Taxi
Taxi Vehicle Licenses	Capped (a)	Uncapped	Capped
Market price for licenses	US\$474,000 ⁹	\$0	\$0
Taxi driver's aptitude	Controlled by test ¹⁰	Criminal record check	Criminal record check
Taxi fares	Regulated (b)	Nonregulated	Nonregulated
Taxi vehicle license	17,595 ¹¹	-	-
Taxi vehicle/1,000 population	1-3 (c)	-	-

(a) ITEO (2012); (b) ITEO (2016); (c) Abbas (2016), Mangalindan (2014)

In Istanbul, taxi drivers hesitated to join the system due to the following reasons: (1) Uber is a foreign company; (2) BiTaksi is integrated into the local system (i.e., taxes); (3) ITDA's reluctant positions to motivate drivers to use TNC platforms; (4) police control qualifies UberXL as illegal;¹² (5) BiTaksi works exclusively with capped taxis and traditional drivers; (6) the BiTaksi system is not so strict that drivers do not hesitate to join; (7) BiTaksi creates a community through driver loyalty programs; (8) BiTaksi, a national company, uses nationally created software; (9) BiTaksi promotes the taxi profession; and (10) regulators and interest groups have nationalistic tendencies.

Uber cars were also purchased by individual entrepreneurs/ Uber drivers and companies. They paid a special consumption tax when purchasing their cars, as well as possessed a car license¹³. A problem occurred with individual entrepreneurs in terms of taxes. In fact, Uber took commission from UberXL drivers rather than UberTaxi drivers. Therefore, the Uber system was free to UberTaxi drivers and brought more business to traditional taxi drivers (non-ownership¹⁴). Taxi drivers who used both UberTaxi (or other TNC platforms) and street hailing earned more than when exclusively using street hailing. UberXL drivers, even when paying a 20% commission to Uber, could earn more with online platforms, especially during Turkey's summer season.

Diversity and Competition: Vested Interest

ITDA, the lobbying power of the traditional taxi industry, represents approximately 17,395 taxi drivers. It does not support Uber's operations because:

1. Taxi drivers should pay one to two TL to municipality parking lots (ISPARK);
2. While serving passengers, Uber takes 20% commission from drivers;
3. Uber users increase in favor of passengers;
4. The increase in base fare determined by the municipality is very limited (5% two years ago);
5. "Taxi drivers pay high taxes ... there is a tool called Uber and you do not pay tax ... more profitable ... every taxi driver would move to this [Uber] system;"
6. "A taxi driver/owner pays the special consumption tax while purchasing their cars ... they apply base fare determined by the municipality ... they have a car license and do not use a regular car."¹⁵

According to ITDA, the licensing of UberXL drivers is "problematic because of the reason that UberXL drivers D2 License Document only allows drivers to carry passengers specified with their names from one specific place to another ... Someone with a journalist license cannot operate as a butcher, Uber is doing this with a D2 document. In fact, they have to get a license from the Municipality and Ministry of Transportation."¹⁶ However, according to the *Official Gazette*, No: 27255, a D2 License Document is given for nonscheduled transportation with a bus. Therefore, ITDA proposed that with D2 License Document, only the preregistered passengers who booked before the trip should be carried. According to the Law No: 2918 – added item 2, drivers with vehicles that are used outside their permit/licenses will be fined by 14.400.000 YTL and the vehicle will be suspended from traffic for 15 days (Turk Hukuk Sitesi, 2015).

ITDA does not want traditional taxi drivers to use Uber or Bitaksi because they earn driver commission. An inconsistency occurred in UberTaxi because it is not required to pay commission to Uber. Moreover, ITDA remained silent against Uber due to the fact that "if they organize protests, every taxi driver will learn about Uber and start using it."¹⁷ Another dilemma highlighted the fragmented taxi lobby, including traditional taxi drivers, taxi license plate owners, taxi companies, and formal institutions. One may ask whether ITDA represents individual taxi drivers, taxi license plate owners, or the power of the association.

ITDA considered Uber as its competitor although they do not let their taxi drivers use mobile platforms. ITDA mentioned that "Uber is a system running quietly but not very popular in Turkey because we [ITDA] did not react to them. Here is the only association for drivers. We are institutionalized and take role in social affairs. We conducted formal communication with the

Ministry of Science, Industry and Technology in order to inform them that Uber's system and model is problematic ... As a response, the Ministry replied that they cannot do anything against informatics crime as there is nothing as an illegal action."¹⁸ Therefore, ITDA was in touch with the Ministry of Finance and Ministry of Interior. According to ITDA, "Uber is illegal when they carry on taxi service with black Vito cars, there should be a difference between taxi drivers and Vito (Uber XL Mercedes cars) drivers."¹⁹

ITDA wanted to develop a system like Uber or BiTaksi with the support of the municipality. If not, they requested rules and sanctions on new technologies. They also proposed that the municipality create price segmentation and promote luxury cars. For instance, a yellow taxi would have a base fare of 3.40TL, an upper segment (i.e., Mercedes cars) with 25% mark-up, and a Black Vito with higher fares. They tried to discover "how to fight with Uber." They wanted Uber to pay taxes, stating that "if Uber becomes subject to tax, nobody will choose it." ITDA treated Uber as an illegal taxi operation and suggested fining passengers who use Uber with the similar strategy that ITDA overcame the illegal capped taxi operations in Istanbul.

ITDA contacted the tax office to ask for a scrutiny of Uber in terms of taxing. Since the previous month, the office had been working on Uber's operations (just after ITDA's communication with them). At the time of the interview, they were close to understanding the Uber's system intricacies. Once they uncovered the system, they aimed to scrutinize its commercial activities. The president of the Istanbul tax office noted that "if private transportation buses and traditional taxi licenses are subject to tax, Uber should have been as well. However, they operate outside of these standards in an area that has not been taxed, like Twitter." He added, "... even those among us attempted to use it but the system does not generate an invoice that is qualified to be used in a standard invoicing system in Turkey ... based on our recent knowledge about Uber, the whole payment directly goes to the Uber system, this means the principal capital goes to Uber and the company seems to make money out of the Turkish market ... also the drivers [of mostly UberXL] constantly do transportation, they become assessee ... we are not against technology companies but if they conduct commercial activities, they become subjected to pay tax and thus we must follow them." He added that there is no Uber office in Turkey although Uber has an office in Istanbul. Therefore, the tax office was not adequately on top of Uber's operations if they had not been conducted by the ITDA's lobbying activities.

Legal Coordination

In Istanbul, the control and decision-making authority on Uber's operations is IMTCA, which is the largest network of metropolitan municipality partnering and coordinating transportation activities with other institutions (i.e., police forces). During the in-depth interview, the representative challenged and initiated the conversation by asking the author "Do you find Uber secure?" The representative added that "the Uber operations are against the law and based on the Law No: 5216 on taxi transportation, this is the area of my authorization and I have different methods to apply it such as public bid, partnering, or asking authorized documents." He mentioned that if a company plans to enter into a new market, it is necessary to "apply the local institutions for required permits ... the institutions either give you permit or not ... the right to give or not to give permit is up to me ... I keep all these rights." For instance, since BiTaksi communicated with IMTCA, the local company was treated as a "good boy." According to the representative, Uber had no legal status and no place in his authorized area. Although Uber Turkey requested an appointment, IMTCA rejected their request. This signified that either Uber was late to request the appointment or IMTCA did not want to communicate with Uber due to their plan to develop a mobile system with high class cars. IMTCA's Istanbul representative mentioned that Uber "created illegal taxi demand ... in fact they do not have the authority to increase the number of taxis."²⁰

Since September 2016, the police in Istanbul have been stopping and detaining UberXL vehicles to ask passengers how they rented the Vito vehicle.²¹ Several drivers told the author that if the police stopped the vehicle during participant observations, the author should not respond that the car

was obtained via Uber. Instead, the response should be that it was obtained via the ABC Tourism Company.²² An Uber driver noted that a passenger escaped the police by saying that “the vehicle belongs to me.” Another Uber driver mentioned that “this vehicle was withheld by the police many times and removed from traffic for 36 days. The reason for the first withholding was terrorism.”²³ Uber undertook the withheld cost and paid the driver 100TL until the vehicle was returned upon finalization of the court case.

On December 12, 2016, the police department in Istanbul released a decision to fine Uber drivers who operated vehicles that they did not own or qualified as Uber operations. Like illegal taxi operations, the fines applied as 2,533YTL for the first stop by the police and 4,022YTL for the second stop. No fine would be charged if the driver owned the vehicle. However, the vehicle would be detained by the police for 60 days. Passengers would be fined 281YTL. According to the Foundation of Transportation and Logistics (the institution had been handling the judicial process of Uber drivers who had been detained by the police), more than 90% of the court decisions were in favor of the drivers. Therefore, the Uber operations did not violate the local law.

These were the company’s major transaction costs, including the cost to withdraw from traffic, court cases, and daily payments to drivers during the withdrawal period. Different from previous cases in San Francisco, the policy controls addressed the passengers in Istanbul. The police forced both drivers and passengers to reveal the name of the company. Considering these examples, transaction costs can be viewed as tools to overcome local market challenges to achieve the company’s longevity. Uber’s company value reached more than US\$60 billion with financial investors, including Goldman Sachs (Bautzer, 2016). Uber’s growth strategy as a smart technology company entering an environment that lacked smart regulation was to agree to pay transactions costs. Otherwise, Uber would not be able to perform their services and survive in different localities.

NEW AND COLLABORATIVE GOVERNANCE?

In light of the comparison on the Uber’s operations in San Francisco and Turkey, the communication between Uber and local community was more intense and developed in terms of diversity and competition as compared to Istanbul. Moreover, Uber’s operations can be classified as follows: (1) San Francisco, as relatively advanced communication (comprising both conflict and compromise); (2) Istanbul, as weak/no communication (the lack of institutional communication between local authorities and Uber, i.e., the only contact with the police control of Uber XL vehicles). Therefore, the policy and rule-making processed include the diversity of participants. The document analysis conducted on CPUC website indicated the advanced level of local development through TNC based regulations in San Francisco as opposed to the lack of such regulations in Istanbul. According to Lobel (2012, p. 5), “multiparty involvement is advocated as a way to create internal norms, cultivate a culture of learning and manage new market realities by combining ‘hard law’ with more flexible, ‘softer’ requirements.” This is what Ansell (2012) discussed as “collaborative governance” and thus what is needed is to create collaborative governance.

On the contrary, there are no regulatory communication and basis for Uber in Istanbul. Regulators do not communicate with Uber and apply police control against Uber cars. ITDA was acted against Uber quietly without disclosing any data regarding their taxi driver members who have registered to Uber system. On the contrary, the San Francisco Cab Drivers Association (SFCDA), an association for registered taxi drivers, operating similar to its equivalent institution in Turkey named after ITDA, by promoting fair working conditions and business practice, reported that one-third of the taxi drivers in San Francisco have registered to TNCs in the last 12 months in 2014 (Vanian, 2016). In Istanbul, Uber encountered several local players and powerful actors. In Istanbul, the resistance against Uber especially from taxi plate owners was related to the fact that Uber drivers do not pay taxi license fees and taxes.

In comparison, as a reference to the clusters of new governance defined by Lobel (2012), none of the local governance cases in relation to Uber can be identified as collaborative whilst the levels of local communication, the level of participation of non-state actors and citizens, the lack of public/private collaboration, the lack of decentralization, the lack of or limited negotiation and revision, the lack of limited adaptability and constant learning. This article reveals how this lack of collaborative governance create transaction costs that affect the *raison d'être* of companies to perform activities.

PUBLIC ADMINISTRATION AND UBER

Cannon and Summers (2014) studied on how digital platform companies can position themselves with regulators. These suggested them to find the best regulations that fit their position and share them with the government; make a well-researched case for the value provided by the company; share their data; be responsive to regulators' legitimate concerns; and be offensive (rather than defensive) with regulators. Similarly, Rauch and Schleicher (2015) proposed three predictions on how local governments will approach to digital platform companies in the near future. As such, cities will (1) subsidize sharing firms to get them to enter or expand certain services; (2) harness sharing firms for economic redistribution; and (3) hire sharing firms as contractors to provide city services.

The solution to these discussions was not to force Uber to comply with existing regulations but to create new "experimental" and "flexible" regulation that would ensure safety and consumer's freedom of choice (Posen, 2015, p. 426, 429). Therefore, it was suggested that the best way to "protect consumers is to allow Uber to continue its operations, subject to experimental regulations directed at ensuring passenger safety" (Posen, 2015, p. 408). In similar vein, Morgan and Kuch (2015, p. 565) proposed the term "radical transactionalism" that was defined as the "creative redeployment of legal techniques" to weave social and ecological values into the economic exchange.

CONCLUSION

This article analyzed Uber operations with a comparative approach in San Francisco and Istanbul with a particular focus on contested and contradictory local configurations of the Uber's market process that both creates and intervenes into a political arena where diverse interests of different actors conflict to each other. In both cities, the main regulatory bodies and interest groups aim to control supply and demand as a power mechanism as well as with the focus on maintain their power in the industry. Despite the similarities of the taxi market in each country, analyzing the local communication of Uber in each city revealed diverse local configurations and responses. These new configurations of local power relations are related to the interaction between the public and private spheres, the politics of supply and demand balance, the transaction costs of new technology companies to stay alive, and harsh reaction and lobbying activities towards these companies.

Although the new economy reduces the transaction costs between the market actors with digital platforms, the companies of new economy face transaction costs that prevent them to operate and to achieve acceptance in the local market. Although the local law does not prohibit Uber's operations, the regulators fine the Uber drivers and riders. The article revealed three main conclusions. First, local and global e-hail firms in the same country acquired different acceptance and response in the local market and thus the level of transaction costs varied. Uber as a global company with is Uber Taxi product was least accepted by the local market and Bitaksi as a local e-hail company has lower transaction costs. Second, the lack of proper local communication based on diversity and competition was derived from the vested interests of lobbying powers that led to rising transaction costs. Third, as in the case of Istanbul, this lack of collaborative governance create transaction costs that affect the *raison d'être* of companies to perform activities.

Based on these results, this article suggested the need for active collaborative governance for each actor of new market by creating creative and innovative solutions, rather than integrating new actors

of technology into the existing system. The regulators need to develop an intense communication with Uber by including other stakeholders that will also lead to the creation of social value. New technologies urge Uber to align incentives with key stakeholders in order to achieve growth.

Moreover, there is a need to overcome diverse problems with diverse solutions toward regulating innovation. For instance, one rhetoric of interest groups and thus regulators that are affected by them, is based on worldwide Uber's banned cases rather than its innovative examples. When Uber was qualified as illegal in Istanbul, the justification was based on the ban of UberPOOL product in Paris. However, UberPOOL and Uber XL and UberTaxi are different products of Uber. Each Uber operation, product and service create different political arena and thus each Uber operation has been treated with diverse local response such as UberPOP in Paris and UberXL in Istanbul. For instance, UberTaxi does not charge any commission to drivers and would be a real partner to traditional taxi drivers; however, UberXL might be a competitor (despite charge 20% commission) with a competitive pricing. Similarly, different country cases should not be generalized by rule makers, for instance, if UberPOP operated in Paris, it is not necessarily to say that UberTaxi and UberXL create the same impacts on the local market in Istanbul.

This article would be the reference point in order to understand the positions, needs, and problems of each actor. As the political arena is highly contested and it is hard to bring each actor in one place to create a common ground, this article would present a starting point for the background of how to work toward achieving different forms of collaborative governance. The collaborative governance would eliminate transactions costs not only for TNCs (i.e., court expenses covered and daily cash payments made by Uber to drivers withdrawn by the police and but also for the public (i.e., police controls). As Barnes and Mattsson (2016, pp. 207-208) revealed, "the pressure from the public will change laws and other regulatory issues." As Uber services are promoted and used, the incremental support and acceptance may be achieved. The next question would be how Uber can compete with local e-hail companies and with other local e-hailing service initiatives in the public sector.

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ENDNOTES

- ¹ The CPUC, as a rulemaking authority, examined existing and emerging regulatory questions with respect to TNCs. This included the appropriate background check standard for drivers who primarily transport unaccompanied minors, trade dress standards for TNCs, and data and information appropriate for collection by the CPUC's Safety and Enforcement Division. Proposed decisions on these issues are anticipated in early 2016 (CPUC, 2015).
- ² In San Francisco, the following Uber products operate with different price levels and services: Uber BLACK (with high-end cars, professional service); UberSUV (with high-end SUVs, professional service); UberX (affordable rides); UberXL (affordable rides for groups up to six); SELECT (premium cars, affordable fares); and POOL (share the ride, share the cost). In Turkey, they are UberXL (room for everyone) and Taxi Credit (classic taxi, more reliable) (see Appendix A).
- ³ There are gaps within the system. For instance, some Uber drivers may turn off the Uber application when they get passengers on board. In doing so, they avoid paying commission to Uber.
- ⁴ Uber drivers complained about the lack of a direct Uber contact during emergency situations. Uber representatives informed the author that they launched a driver support center to address drivers' problems in Istanbul.
- ⁵ Recent research within the sharing economy literature questioned whether Uber was truly a sharing organization. For instance, Schor (2016) criticized companies like Uber for not technically sharing. Instead, Schor (2016, p. 29) saw them as predatory due to their "unethical practices." Therefore, Uber did not fit a true social enterprise within the sharing economy (Posen, 2015). As the company is profit-driven, it was argued that sharing does not always mean caring due to safety concerns and risks (Ranchordas, 2015). Similarly, Gobble (2015) argued that Uber goes beyond the sharing economy while enabling one-on-one transactions without governmental permission. Thus, Uber was banned in several countries (Brazil, Italy, and Spain) or faced severe restrictions (the UK) by being forced to wait five minutes before picking up a customer. In addition, apps were banned from displaying available vehicles on a map, which forced customers to pay up-front fares (Goodyear, 2015). Moreover, Davis (2015) argued that due to Uber's

misrepresentation to its drivers, as well as its unfair business practices in California, that Uber should share the responsibility for the risks that its drivers face on the road if the company truly identifies as sharing. Considering the personal safety and risks of personal data protection, Yetim (2015) identified the legal problems that Uber faced throughout the world by specifically focusing on the problem of Uber's protecting of personal data.

For instance, Arthur Goldstein, partner at Davidoff Hutcher & Citron, a law firm representing the Taxicab Service Association in the U.S.

Based on in-depth interviews with Uber representatives (conducted by the author in October 2016).

More than 3,300 companies and 10,000 TCP vehicles are authorized to operate at LAX. All TCP carriers that conduct business at LAX (i.e., pick-up passengers) are required to have a current executed license agreement with the Department of Airports, display a valid vehicle decal, and have a functioning automatic vehicle identification transponder affixed to each vehicle (LAWA, 2016).

1,600,000 in Turkish Lira converted to USD by the author on November 18, 2016.

According to the new regulation enacted in January 2017, taxi drivers should hold the public transportation usage certificate to increase the quality and qualification of drivers.

Based on the in-depth interview with IMTCA.

Based on the in-depth interview with traditional taxi drivers and BiTaksi drivers (conducted by the author in October 2016).

Based on the in-depth interview with Uber representatives and Uber drivers (conducted by the author in October 2016).

Taxi drivers who are employed by taxi plate/license owners. In this case, two to three drivers use the vehicle and are paid monthly. This is based on in-depth interviews with traditional taxi drivers.

Based on the in-depth interview with ITDA representatives (conducted by the author in October 2016).

Based on the in-depth interview with ITDA representatives (conducted by the author in October 2016).

Based on the in-depth interview with ITDA representatives (conducted by the author in October 2016).

Based on the in-depth interview with ITDA representatives (conducted by the author in October 2016).

Based on the in-depth interview with ITDA representatives (conducted by the author in October 2016).

Based on the in-depth interview (conducted by the author in November 2016).

Based on the in-depth interview with Uber drivers (conducted by the author in October 2016).

Based on participant observations with Uber drivers (conducted by the author in October 2016).

The state of emergency conditions in Istanbul have given police the force to validate the detention of Uber vehicles based on any reason (even if a reason does not exist). This includes terrorism. Based on the in-depth interview with Uber drivers (conducted by the author in October 2016).

APPENDIX A: UBER FARES

Table 2. Uber fares

	Base Fare	Booking Fee	Minimum Fare	Per Minute	Per Mile	Per KM	Cancellation Fee
San Francisco (USD)							
Uber BLACK (with high-end cars, professional service)	8.00		15.00	0.35		3.55	10.00
UberSUV (with high-end SUVs, professional service)	15.00		25.00	0.40	4.30		10.00
UberX (affordable rides)	0.00	1.95	5.95	0.15	1.10		5.00
UberXL (for affordable rides for groups up to six)	2.00	1.95	6.95	0.20	1.75		5.00
SELECT (with premium cars, affordable fares)	4.00	1.95	8.95	0.30	2.35		10.00
POOL (share the ride, share the cost)	0.00	1.95	6.20	0.13	1.00		5.00
Turkey (TRY)							
UberXL (room for everyone)	4.00		13.00	0.20		2.20	13.00
Taxi credit (classic taxi, more reliable, metered)	3.45		8.75	0.34		2.10	5.00
Taxi meter Istanbul (TRY)	3.45		8.70	0.4		2.10	
Taxi meter San Francisco (USD)	3.50				0.55		

Source: [www.uber.com](https://www.uber.com/en-TR/fare-estimate/) (Fare <https://www.uber.com/en-TR/fare-estimate/>)
<http://ibb.gov.tr/sites/TopluUlasimHizmetleri/Documents/TopluUlasimDocs/ucrettarife/Taksi%20Ta%C5%9F%C4%B1mac%C4%B1%C4%B1%C4%9F%C4%B1%20Taksimetre%20C3%9Ccret%20Tarifeleri.pdf>

APPENDIX B: RESPONDENTS

Table 3. Respondents

Respondents	Profile of Respondents	Number of Respondents	Interview Duration (per Interview)
In-Depth Interviews			
Uber drivers	UberXL drivers	10	30 min.
BiTaksi drivers	Users of BiTaksi online platform	10	30 min.
Traditional taxi drivers	Those who do not use an online platform	5	30 min.
Uber representatives in Turkey	General manager and PR coordinator	2	1 hour
Istanbul Taxi Drivers Association	President and media coordinator	2	1 hour
Istanbul Metropolitan Transportation Coordination Administration	Deputy director	1	1 hour
Istanbul Tax Office	President	1	1 hour
Participant Observations			
UberXL driver		25	30-40 min.