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Regulating the new economy

Eight lessons from a case study of ride sharing, Uber and the ACT Government



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Eight lessons on regulating the new economy



Lesson 1 Early public statements of top political support



Lesson 2 Run a transparent and time-bound process



Lesson 3 Establish a small, cross-government working team



Lesson 4 Focus on creating the largest pie



Lesson 5 Understand what is best left to market-based solutions, and government can fill in the gaps



Lesson 6 Think hard about existing regulation and how to best transition incumbents



Lesson 7 Consider both the cost and revenue implications for government



Lesson 8 Learn and take the best from the new economy companies

The new economy is here to stay

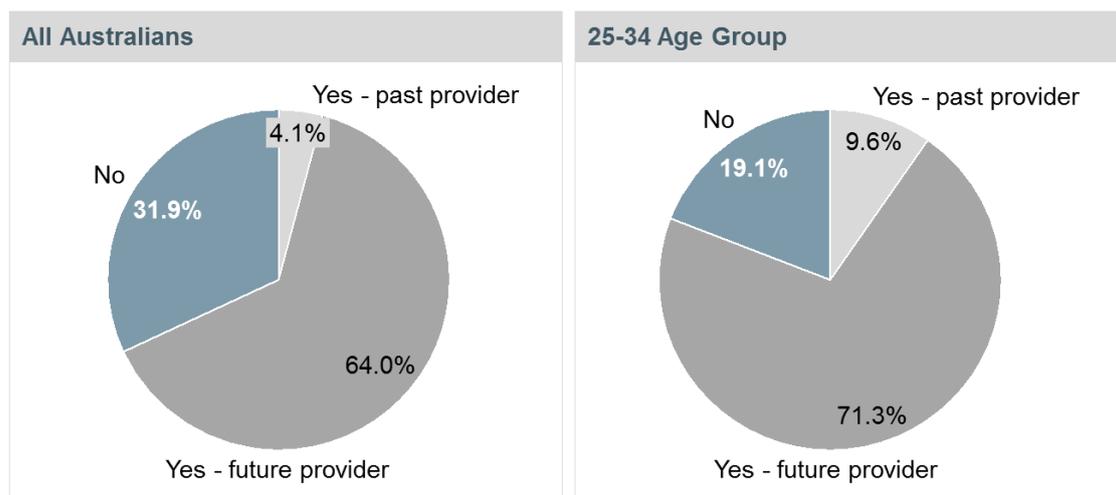
The new economy is fast becoming a part of our daily lives. Ridesharing, freelancing, music streaming, house sitting and social media have been unleashed by an explosion of new platforms. The digital giants Google, Apple, Facebook, Amazon (collectively known as GAFA) are being joined by newer players in the growing 'gig economy' including Uber, Airbnb, Upwork and Airtasker.

In Australia, the sharing economy is becoming more mainstream, especially among younger people (See Exhibit 1). Last year, 1 in 25 Australians (and 1 in 10 younger Australians) had already earned money through a sharing economy platform. Looking ahead, more than two-thirds of the population said they would consider making extra money in 2015 through 'on-demand' platforms like Airtasker.¹

EXHIBIT 1

More than 50% of Australians are willing to earn income as a service provider on digital platforms

% of survey answers to the question: "Would you consider earning some extra money in 2015 through "on-demand" services through apps/websites such as Airtasker, Freelancer... etc.?"



Source: Airtasker

How should governments respond to the new economy?

Governments have been struggling to adapt to the new economy. As customers flock to the price and convenience of digital platforms, governments are often left to mop up of the consequences for anxious cab drivers, booksellers, hotel operators and other 'disrupted' industries. Governments are under pressure to adapt their safety regulations, labour standards, privacy laws and taxation regimes to the new economy.

How should governments respond? Some have gone down the road of "dotcommunism", applying bans or heavy regulations to require the new economy to submit to the often ill-fitting regulations that

¹ Airtasker (2015) Future of Work Research Monitor. Available [here](#).

currently govern industry incumbents. Uber has faced various bans and restrictions in cities including Amsterdam, Brussels, Berlin, Paris, London, Madrid, New York, San Francisco, New Delhi and Manila. Airbnb was fined in Barcelona, is mired in a protracted legal dispute with New York, and is battling crackdown from authorities in San Francisco, New Orleans and Berlin.

On the other hand, many countries, unsure of how to respond, have left the key players unregulated, often operating in a legal vacuum. Some authorities have embraced the new economy, such as the cities of Colorado Springs and Minneapolis which moved rapidly to allow ridesharing. Some new economy business leaders are quick to suggest they don't need regulation at all. But all industries need rules to protect their workers and customers. If governments roll over, they risk the possibility that the new economy will create a free-market free-for-all.

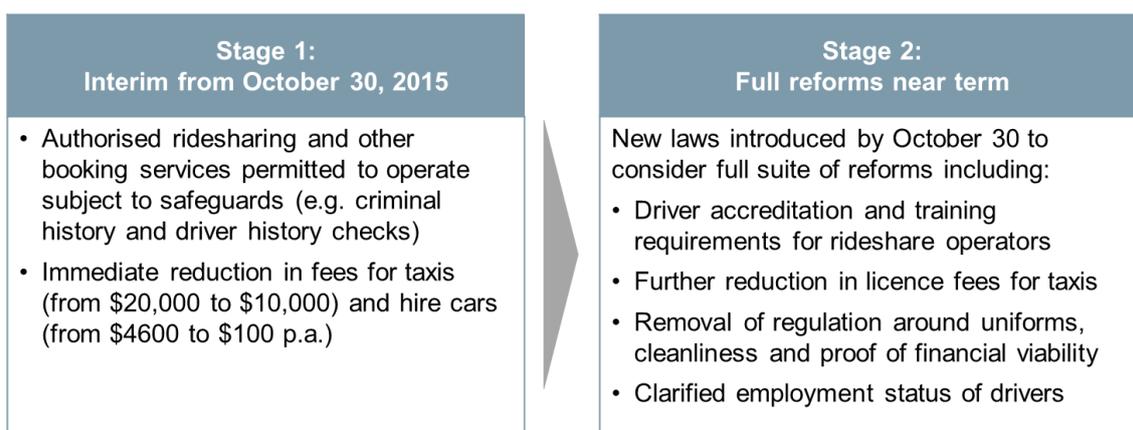
The sharing economy offers great promise: consumers like the convenience, lower prices, and diversity, and providers like the flexible sources of income. Does it need to be this tortuous to develop smart regulation that facilitates the sharing economy, while protecting consumers and ensuring a level playing field for incumbents? Regulation has certainly tackled far more complex systems and behavior in the past.

Case study: Australian Capital Territory and UBER

The recent reforms by the Australian Capital Territory (ACT) to the taxi and ridesharing industry represent a promising example of smart regulation for the new economy. Last month, Canberra became the first capital city in the world to regulate ridesharing before services commenced in the area. Rather than ignoring Uber and the ridesharing industry, the ACT Government thought hard about how to enlarge the pie for consumers and new entrants, while helping to ensure that incumbents remained sustainable (see Exhibit 2).

EXHIBIT 2

ACT Government taxi industry innovation reforms: Snapshot of stages 1 and 2



Eight lessons for regulating the new economy

Lesson 1: Early, public statements of top political support

Political leadership is essential. Early public statement from senior political figures offer certainty for companies and consumers, and provides political capital and momentum for the bureaucracy.

In the ACT, the Chief Minister (the jurisdiction's prime minister or premier) and the responsible Minister made clear and early statements of support for reform. In January this year, the Government announced an Innovation Review of the taxi industry. The Chief Minister publically noted that "the taxi industry is evolving" and further innovation includes "rideshare business models that can provide users with a more accessible and competitive sector in the ACT".² Officials within the ACT Government noted that these statements helped the community, industry and bureaucracy focus on "how" to implement reforms, rather than just debate "whether" to implement reforms.

The ACT Government never muddied the waters with contradictory messages. In June, the Chief Minister argued that "the government is going to have to evolve its regulatory environment in order to respond. I just think it would be crazy to think that you can put up barriers and regulatory rules that will stop this sort of activity from happening. You can't, so you are better off working with these new businesses."³ Importantly, statements like these confirm the government's commitment in plain English.

"I just think it would be crazy to think that you can put up barriers and regulatory rules that will stop this sort of activity from happening. You can't, so you are better off working with these new businesses..."

ACT Chief Minister Andrew Barr, June 2015

Lesson 2: Run a transparent and time-bound process

A transparent process for consultation, deliberation and legislation provides clarity to key stakeholders and ensures their perspectives are well understood. Ideally, the review and consultation process is not drawn out. Lengthy processes lack responsiveness to companies and fail to capitalize on community and government momentum.

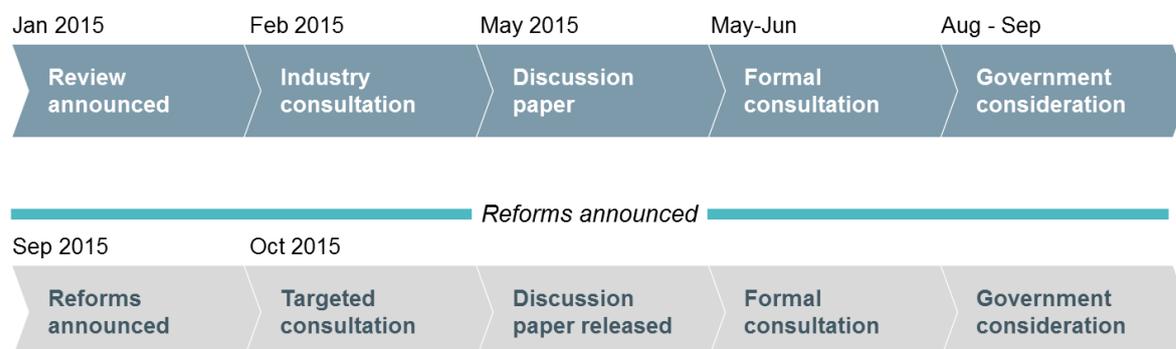
The ACT Government established a clear process and timeline for the review and the government's response (See Exhibit 3). Importantly, there has been no slippage in this process and the reforms remain on track, providing certainty for incumbents and the new entrants.

² ACT Government, "Tax review to increase innovation, choice and value" Media release, 28 January 2015. Available [here](#).

³ SMH, "Uber coming to Canberra", June 16 2015. Available [here](#).

EXHIBIT 3

ACT Government taxi industry innovation reform timetable



Lesson 3: Establish a small cross-government working team

Once public statements of political support and a clear, time-bounded review process has been established, a final process step is required. A small working team from the relevant Departments enables the active involvement of key decision makers and affected areas of government.

In the ACT, officials gathered regularly from a number of departments, including Treasury and Access Canberra. The ACT Government understood the importance of involving all relevant areas in the policy creation and decision-making process, rather than formulating the policy in the lead policy area and providing to others to comment. While, in the compact ACT government, this may have meant officials in the same building heading down the corridor for a meeting, other jurisdictions can also recreate this agility.

What is required is a small taskforce, with representatives from the relevant departments who are continuously involved in the process and empowered to make decisions. This means the members must be sufficiently senior or with direct access to decision makers.

Lesson 4: Focus on the creating the largest pie

Good regulation focuses on creating the largest possible pie, rather than preserving the interests of incumbents or protecting existing government regulation and revenue sources.

The ACT Government actively turned their mind to how to create the largest pie of economic and non-economic value. So much so, that the economic modelling they commissioned for the project explicitly comprised analysis of the surplus generated for consumers, producers (both new entrants and the taxi industry) and the government under different scenarios.⁴ The territory then published this analysis.

⁴ Centre for International Economics (August 2015) "Modelling of policy scenarios for the ACT on-demand transport sector". Available [here](#).

Total surplus was found to increase under the introduction of ridesharing, at \$3.5 million per year higher than under no ridesharing and \$2.6 million higher than under unregulated ridesharing (the situation in many jurisdictions).

In particular, consumers were found to benefit substantially under the orderly introduction of ride-sharing. Consumer surplus was found to increase by an additional \$6.6 million per year with legislation of ridesharing, compared with no ridesharing, and an additional \$4 million per year compared with unregulated ridesharing. Emphasising their commitment to consumers, the Chief Minister commented that “these industries don't exist for the producers, they exist for the consumers”.⁵

EXHIBIT 4

Centre for International Economics modelling: Benefits under different scenarios (\$m / year)

| | No ridesharing | Unregulated ridesharing | Base policy change |
|---------------------------|----------------|-------------------------|--------------------|
| Consumer surplus (change) | \$43.8 | \$45.8 (+\$2.0) | \$50.4 (+\$6.6) |
| Taxi industry revenue | \$63.3 | \$53.9 | \$51.7 |
| Hire car revenue | \$6.8 | \$6.8 | \$6.9 |
| Ridesharing revenue | \$0.0 | \$8.6 | \$13.3 |

Source: Centre for International Economics (August 2015) “Modelling of policy scenarios for the ACT on-demand transport sector”

Lesson 5: Understand what is best left to market-based solutions, and government can fill in the gaps

Not all positive outcomes need to be driven through regulation. Regulatory reform provides an opportunity for government to take a hard look at whether regulation is required, or whether there are some positive outcomes for consumers and providers that can be achieved through market-based solutions. Some international legal academics have described this type of market-based solution as self-regulation (See Exhibit 5).⁶

In the ACT, the government actually removed a number of its existing regulations on the taxi and hire car industry in favour of market-based solutions that would deliver good outcomes. Notably, the government removed requirements regarding uniforms, vehicle cleanliness, service standards and proof of financial viability, arguing that companies are best placed to manage this internally. The Government explicitly argued that uniforms and hygiene are “far more appropriately enforced by the TBS” (transport booking service) or, in the case of service standards and proof of financial viability, “best left for business planning”.⁷

⁵ SMH, “Uber coming to Canberra”, June 16 2015. Available [here](#).

⁶ Cohen, M. and Sundararajan, A., (2015), “Self-Regulation and Innovation in the Peer-to-Peer Sharing Economy”, *The University of Chicago*, pp. 121. Available [here](#).

⁷ ACT Government (September 2015) “ACT Tax industry innovation reforms fact sheet: Taxi and Hire care industry”

Types of self-regulation

- 1. Voluntary self-regulation:**
No government involvement or mandates
- 2. Coerced self-regulation:**
Industry formulates rules due to threat of government regulation
- 3. Sanctioned self-regulation:**
Industry formulates rules subject to government approval
- 4. Mandated self-regulation:**
Government requires industry to establish a self-regulatory framework

Lesson 6: Think hard about existing regulation and how to best transition incumbents

Given they have the most to lose with the disruption, incumbents are often the most vocal and angry critics of the sharing economy. In the ACT, the taxi industry has been actively campaigning against the legalisation of ridesharing.

But regulating the sharing economy provides an opportunity for government to reassess its existing regulations and restrictions. Governments can offer concessions to incumbents to ease the burden and to ensure that they are able to compete with lower cost, disruptive players. To ensure that the industry could compete and remain sustainable, the ACT Government took a hard look at what existing regulations were really necessary and how to ensure incumbent players remained competitive. To this end, they introduced numerous measures to ease the burden on incumbents (see Exhibit 6).

Exhibit 6

ACT Government measures to transition the taxi industry

1. Replaced the existing concept of a taxi network with a Transport Booking Service, so that old and new companies were similarly classified
2. Scrapped a number of restrictions relating to uniforms, hygiene, and proof of financial liability
3. Cut licence fees for hire car drivers from \$4,600 per year to \$100 per year,
4. Reduced licence fees by 75% for taxis from \$20,000 to \$5,000
5. Removed \$350 operator fee
6. Replaced annual health checks one check per 5 years
7. Permitted accredited private vehicle inspectors to undertake vehicle inspection, rather than attendance at the RTA (a government institution)
8. Modified training requirements

Lesson 7: Consider both the cost and revenue implications for government

Good regulation should place any negative impact to government revenue in the context of broader benefits, such as consumer benefits. Governments should also be mindful that not undertaking reform often poses costs to government, such as the costs of enforcing or administering previous regulation.

The ACT Government took a hit to revenue by dramatically reducing taxi licencing costs (from \$20,000 to \$5,000). However, the Government realised that industry payments for accessing a monopoly were no longer appropriate, and that reducing the fee would generate substantial consumer surplus. The Government also recognised that if they did not legalise ridesharing, the enforcement costs would be substantial. Accordingly, they weighed the revenue loss against the foregone consumer surplus and the costs of enforcing tough restrictions on ridesharing.

Lesson 8: Learn and take the best from the new economy companies

Many jurisdictions have viewed the sharing economy as agitators that need to be managed within existing frameworks. Best-practice regulation attempts to genuinely understand the innovation and work with the relevant actors to introduce regulations that are reasonable and don't stifle the business. The new company can offer concessions, such as consumer protections or provider training and insurance, which are least costly to its business model and its providers.

Uber CEO David Rohrsheim commented that “[the ACT Government] took the time to meet us and get to know the business”. Uber and the ACT Government agreed on ways to protect consumers, such as fare ranges, customer complaint mechanisms, requirements for drivers to remain drug and alcohol free, criminal and driving history checks, and car safety checks.

The recent reforms by the ACT Government to regulate Uber and other ridesharing represent a promising example of new regulation for the new economy. We agree with Uber's complimentary assessment of the ACT Government as demonstrating “global leadership” and urge other jurisdictions to view these reforms as a potential template. The lessons are also instructive for other companies in the sharing economy, as they provide examples of how to engage government and offer palatable solutions for both consumers and providers.