

Tech
Law
&
The
Techlash

Daithí Mac Síthigh

Tech law and the techlash

'Tech' is not yet a four-letter word, but it could soon become one

*(‘The techlash against Amazon, Facebook and Google—and what they can do’,
The Economist, 20 January 2018)*

2017 is the year of the techlash: when people started to turn against Silicon Valley, and maybe even technological progress itself

*(Jamie Bartlett, ‘The backlash against big tech is in danger of going too far’,
Spectator, November 2017)*

Tech’s annus horribilis [2017] started with calls to #DeleteUber, but the way things are going it will end with calls to delete the entire internet.

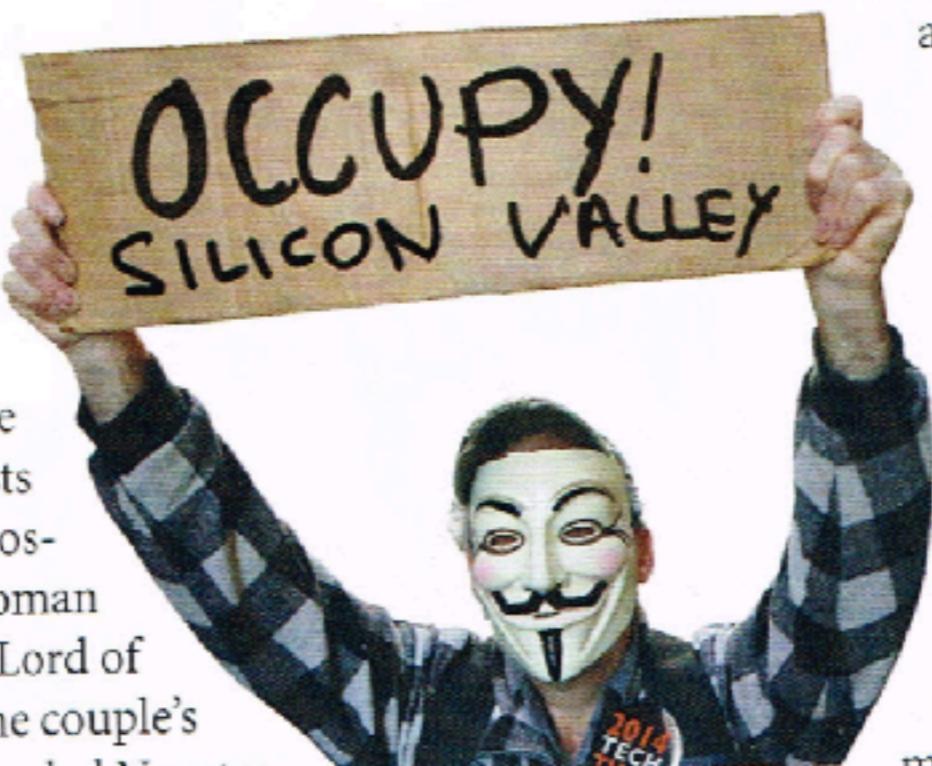
*(Olivia Solon, ‘Tech’s terrible year: how the world turned on Silicon Valley in 2017’, *The Observer*, 24 December 2017)*

Techlash

The coming tech-lash

The tech elite will join bankers and oilmen in public demonology, predicts **Adrian Wooldridge**

Everyone should be forgiven a certain amount of self-indulgence on their wedding day. But Sean Parker's multi-million-dollar wedding last June in a forest in California's Big Sur stretched the bounds of forgiveness. The 364 guests were dressed in Tolkein-inspired costumes (designed and fitted by the woman who created the costumes for "The Lord of the Rings"). Sting sang one of the couple's favourite songs. Mr Parker, who founded Napster and was Facebook's first president, gave every guest a leather-bound volume relating the "fairy tale" of the couple's romance.



ger than GM but employs only around a fifth as many workers. At the same time the tech tycoons have displayed a banker-like enthusiasm for hoovering up public subsidies and then avoiding taxes. The American government laid the foundations of the tech revolution by investing heavily in the creation of everything from the internet to digital personal assistants. But tech giants have structured their businesses so that they give as little back as possible.

They are increasingly renouncing their Spartan past and instead making a splash with their money. Extravagant parties are multiplying: one tech-bash featured a 600lb tiger in a cage and a monkey that posed for Instagram photographs. Google maintains a small fleet of private planes and helicopters at a local airport. The oligarchs sit on top of a huge money culture: Silicon Valley is not only minting billionaires and millionaires but also thousands of young people who pull in more than \$100,000 a year. The oligarchs are also spending money on sci-fi flavoured projects, including private rockets to send billionaires into orbit and medical ventures to

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Techlash and what we need to do to avoid it - Lord Wei of Shoreditch

101 views



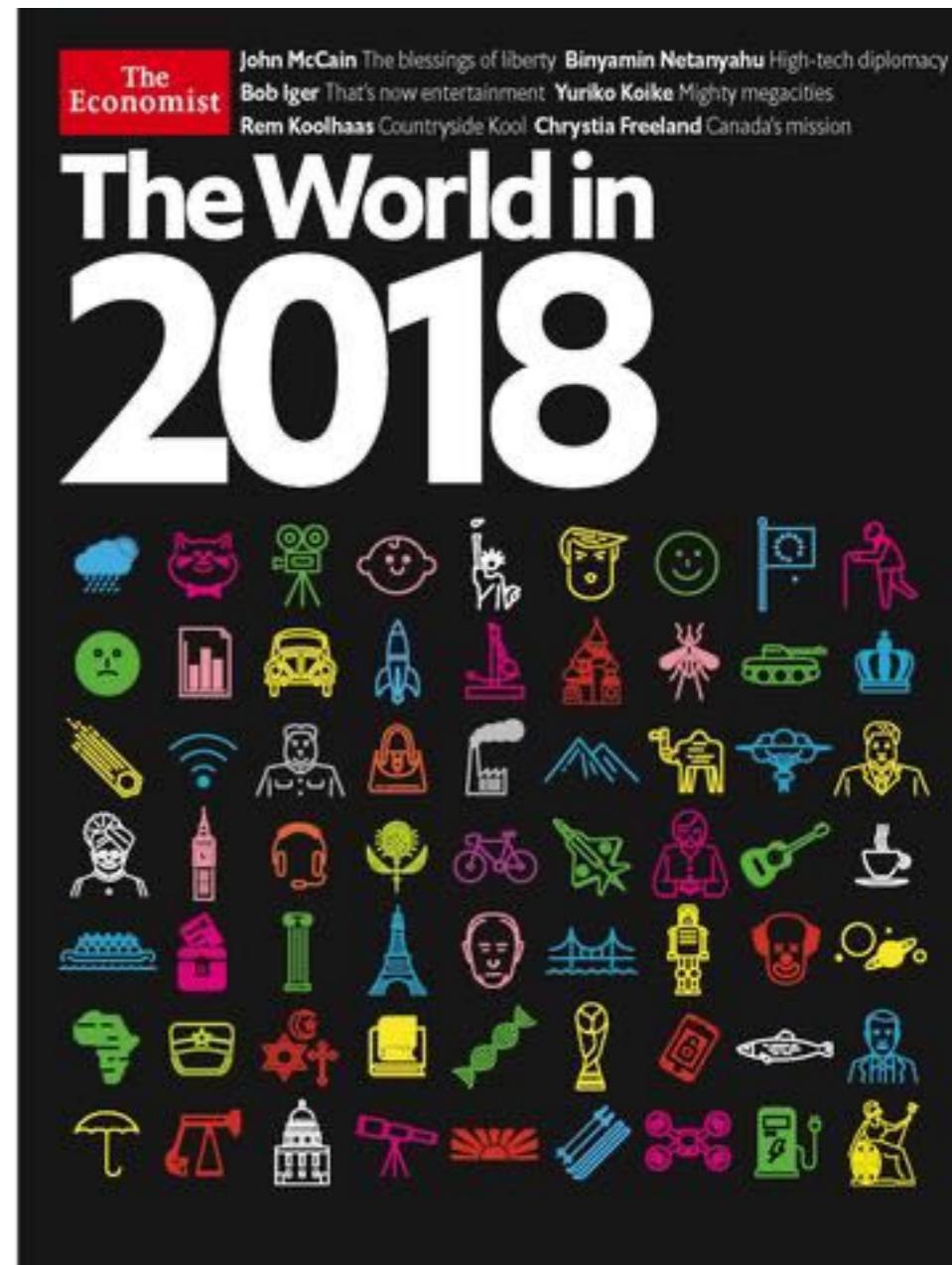
SHARE



The coming “techlash”

Politicians will turn on the technology giants - Facebook, Google and Amazon in particular - saddling them with fines, regulation and a tougher interpretation of competition rules, in a 21st-century equivalent of America's antitrust era.

There will be broader pressure for transparency about the origin and accuracy of online content. And the tech behemoths' acquisitions will come under greater scrutiny, as antitrust authorities take a harder line on attempts to squash would-be competitors by buying them.



New Scientist

WEEKLY 10 February 2018

SEVENTH SUNS

The ultimate family tree of stars

POLAR BEAR NECESSITIES

Why the Arctic's top predator isn't on thin ice

RICHES TO RAGS

It's official: we can't be wealthy without trashing the planet

A POP OF THE HARD STUFF Do energy drinks harm children's health?

DO NO EVIL?

How big tech made monkeys out of us – and how to make them good again



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EPILEPSY MIND CONTROL/GALACTIC PRIMORDIAL SOUP/ROCK ART MENAGERIE

Companies risk losing users amid rising techlash

BIG TECH had a great time last year. Earnings for major players like Apple, Amazon, Facebook and Alphabet were strong, and their stock prices rose significantly.

But 2017 was also the year in which the tech industry was plagued by trust issues.

Some of the problems that angered consumers included Facebook not dealing with Russian-backed adverts on its platform, YouTube showing ads next to inappropriate content, and Apple admitting to slowing down older iPhones.

On top of that, worries about increasing automation and job losses are continuing.

Big tech is on rocky ground and 2018 will be a year when the largest

**CNBC
COMMENT**

**Arjun
Kharpal**



companies in the world will have to tread carefully or risk losing users amid rising "techlash".

Billionaire investor, George Soros, has already dubbed technology firms a "menace", saying their days are numbered.

Facebook even saw a drop in the number of people in the US and Canada who checked the social network every day during 2017's

third and fourth quarters.

The signs are that big tech risks losing touch with the users that helped them grow to such a scale.

There are two possible paths from here. First, technology companies move quickly to address the trust issues, essentially self-regulating. Second, governments do it for them in the form of regulation.

Salesforce chief executive Marc Benioff recently said the latter outcome could be likely.

Benioff told CNBC that social media should be treated like a health issue, similar to tobacco and sugar, calling it "addictive".

He also suggests the government is going to have to be involved like any other industry. "There is some regulation, but there probably will

have to be more."

In one sense, Benioff is trying to get ahead of regulation.

By anticipating tighter control from authorities, his comments are in some way a warning to the tech industry that it needs to do more, because the last thing big tech really wants is regulation, similar to what the financial services industry has had, for example.

And that's why Facebook last month announced plans to make changes to its News Feed, with the aim of prioritising "meaningful social interactions" versus "relevant content". Chief executive Mark Zuckerberg has realised that keeping people on the platform will be key for long-term profit.

Apple, meanwhile, moved to offer

\$29 replacement batteries on its iPhone 6 smartphones, or more recent models, to stem any backlash against its software, which it admitted was designed to slow down older iPhone models to maintain performance.

So, there have been quick steps to address certain issues, and so far it sounds like big tech is listening, just as a rising number of governments talk of increased regulation on the industry.

But any complacency could worsen the techlash, incite closer scrutiny, and ultimately weigh on the business outlook for the technology giants this year.

Arjun Kharpal is a technology correspondent for CNBC in London.

Unilever will not invest in online platforms that create division

12/02/2018

Palm Desert, California - Unilever CMO, Keith Weed, has called on the industry to collectively build trust back into our systems and society; and announced a new commitment to cut investment in platforms which breed division.

In his keynote speech at the IAB Annual Leadership Meeting in Palm Desert, Keith Weed demanded the industry work together to improve transparency and rebuild consumer trust in an era of fake news and toxic online content.

Extracts of the Speech

"For consumers 2017 was the year of mobile video and voice. However for the industry, if it was anything, it seemed to be the year of the digital supply chain... We have been talking about this for years.

"2018 is either the year of techlash, where the world turns on the tech giants – and we have seen some of this already – or the year of trust. The year where we collectively rebuild trust back in our systems and our society.

"Across the world, dramatic shifts are taking place in people's trust, particularly in media. We are seeing a critical separation of how people trust social media and more 'traditional' media. In the US only less than a third of people now trust social media (30%), whilst almost two thirds trust traditional media (58%).



Dawn of the techlash

Once seen as saviours of democracy, tech giants are now viewed as threats to truth. But how did our faith in all things digital turn into an erosion of trust, particularly in the arena of information and politics?



▲ Mark Zuckerberg: 'Facebook was built to accomplish a social mission - to make the world more open and connected.' Photograph: Nam Y. Huh/AP

Sharing





WHAT'S MINE IS YOURS

HOW COLLABORATIVE CONSUMPTION
IS CHANGING THE WAY WE LIVE

Rachel Botsman and Roo Rogers



'A VITAL GUIDE TO HOW WE CAN LIVE MORE
SUCCESSFULLY' CHARLES LEADBEATER

TIME

STRANGERS
CRASHED MY CAR,
ATE MY FOOD AND
WORE MY PANTS.
TALES FROM THE
SHARING ECONOMY

BY JOEL STEIN



Does Sharing Mean Caring? Regulating Innovation in the Sharing Economy

Sofia Ranchordás*

ABSTRACT

Sharing economy practices have become increasingly popular in recent years. From swapping systems to network transportation to private kitchens, sharing with strangers appears to be the new urban trend. Although Uber, Airbnb, and other online platforms have democratized access to a number of services and facilities, concerns have been raised as to public safety, health, and limited liability of these sharing economy practices. In addition, these innovative activities have been contested by professionals offering similar services who claim that the sharing economy is opening the door to unfair competition. Regulators are at a crossroads: on the one hand, innovation in the sharing economy should not be stifled by excessive and outdated regulation; on the other hand, there is a real need to protect the users of these services from fraud, liability, and unskilled service providers. This dilemma is far more complex than it seems, since regulators are confronted here with an array of challenging questions. First, can these sharing economy practices be qualified as “innovations” worth protecting and encouraging? Second, should the regulation of these practices serve the same goals as the existing rules for equivalent commercial services? Third, how can regulation keep up with the evolving nature of these innovative practices? All of

© 2015 Sofia Ranchordás

* Sofia Ranchordás, Ph.D., LL.M., Assistant Professor, Tilburg Law School, The Netherlands; Visiting Scholar, Summer 2014, George Washington University Law School. I would like to thank Paul Schiff Berman and the George Washington University Law School. I am very grateful to Michael Abramovitz and Pierre Larouche for their comments on earlier versions of this article. I would also like to thank Claudia Koerbler and, particularly, Jemi Laclé for our discussions on the sharing economy, and for the multiple “sharing and caring” moments. I also thank Alison Key and her staff for the wonderful editing work.

EU Competition Law in the Sharing Economy

Guy Louher and Sammy Kalmanowicz*

I. Introduction

The sharing economy has become a major phenomenon in recent years and is the result of increased business opportunities rooted in the internet and mobile technologies. It provides the opportunity for individuals to share their assets, time, and skills.

The European Commission, national competition authorities, and consumer protection regulators in Europe are currently in the process of formulating their regulatory approach to some idiosyncratic issues raised by the sharing economy.

The purpose of this article is to set out an analytical framework for the competitive assessment of key aspects of the sharing economy according to European Union (EU) competition laws. It seeks to serve competition practitioners and those involved with, or affected by, the sharing economy as a basis for their consideration of individual cases.

The first section of this article will provide the foundation of such discussion by outlining the wider context within which this analysis takes place. It will then define in detail the term ‘sharing economy’. To provide for the competition analysis, the third section delineates the nature of the undertakings concerned and the markets in which they operate. Whilst there is a wide spectrum of market players and competition laws that could be analysed in detail, this article will focus on potential concerns regarding market consolidation in light of the widely recognised economic dynamics of pure sharing economy platforms.¹ Therefore, the markets and competitive constraints will be discussed followed by a consideration of how a concentrated sharing economy platform market may be assessed in merger control proceedings and in the context of the laws that prohibit the abuse of dominance.

II. The context

Any discussion of EU competition laws and the sharing economy has to take place against the background of

Key Points

- This article provides an analytical framework for the competition law assessment of activities in the sharing economy.
- It is argued that sharing economy platforms are two-sided businesses active in intermediation.
- Sharing economy intermediation markets are likely to become concentrated and possibly dominated by a single market player.
- The activities of powerful sharing economy platforms, for which data use is key, are likely to be scrutinised in merger control proceedings and in the long term potentially also in the area of market abuse.
- This is an ongoing competition law analysis and needs to be re-evaluated in light of constantly developing market circumstances.

wider competition policy initiatives affecting the EU’s Digital Single Market and the focus of competition authorities worldwide on the inter-relationship between competition and consumer protection in the digital arena.

The Digital Single Market Strategy concentrates on the regulatory barriers preventing a pan-European digital economy. As part of this initiative, the Commission seeks to create a ‘*fit for purpose environment for platforms and intermediaries*’. It is undertaking ‘*a comprehensive analysis of the role of online platforms, including in the sharing economy, to evaluate if further action is required*’.²

It is widely recognised that competition laws and consumer protection legislation constitute key elements of such an assessment. In June 2015, the US Federal Trade Commission (FTC) hosted a workshop ‘*to examine competition, consumer protection and economic issues raised*

* Guy Louher is a Partner and Sammy Kalmanowicz is an Associate at Pinsent Masons LLP. Both are specialised in EU and competition law.

¹ Note that mature sharing platforms sometimes also attract some sophisticated commercial suppliers of assets and services. This article focusses, however, on the ‘pure’ sharing economy in which such commercial suppliers do not play an active role. Note that the European Commission provisionally defined online platforms as ‘*software-based facilities offering two- or even multisided markets where providers and users*

of content, goods and services can meet’, see European Commission, ‘*digital single market strategy for Europe—analysis and evidence*’, COM(2015) 192, p. 52.

² European Commission, ‘*Questions and answers—digital single market strategy*’ (MEMO/15/4920); see also European Commission, ‘*Digital single market strategy: European Commission agrees areas for action*’ (IP/15/4653).

Peer-to-Peer Rental Markets in the Sharing Economy*

By SAMUEL FRAIBERGER AND ARUN SUNDARARAJAN

To investigate whether peer-to-peer rental markets for durable goods are welfare-improving, we develop a new dynamic model of such markets in which users with heterogeneous utilization rates may also trade in secondary markets. We calibrate our model with US automobile industry data and transaction-level data from Getaround, a large peer-to-peer car rental marketplace. Counterfactual analyses illustrate significant shifts away from asset ownership as marketplace access grows. Used-good prices fall and replacement rates rise, while gains in consumer surplus range from 0.8% to 6.6%. The changes in consumption mix and the surplus increases are significantly more pronounced for below-median income consumers.

JEL: D4, L1, L81

* Fraiberger: Department of Economics, New York University (email: spf248@nyu.edu). Sundararajan: Leonard N. Stern School of Business, New York University (email: digitalarun@nyu.edu). We thank the executive team at Getaround (and especially Padden Murphy, Jessica Scorpio, Sam Zaid and Ranjit Chacko) for numerous helpful conversations and for providing access to their anonymized data. We thank Anmol Bandhari, Erik Brynjolfsson, Andrew Caplin, Natalie Foster, Andrey Fradkin, Lisa Gansky, Shane Greenstein, Anindya Ghose, John Horton, John Lazarev, Alessandro Lizzeri, Romain Ranciere, Justin Rao, David Rothschild, Shachar Reichman, Scott Stern, Marshall Van Alstyne, Joel Waldfogel, and seminar participants at Carnegie-Mellon University, the Federal Reserve Bank, New York University, the MIT/BU Platform Strategy Research Symposium, the NBER Digitization Workshop and the ZEW Center for European Economic Research for helpful discussions on preliminary versions of this work. Fraiberger gratefully acknowledges support from the NET Institute. Sundararajan gratefully acknowledges support from Google and the Ewing Marion Kauffman Foundation. Fraiberger and Sundararajan have no current or prior commercial relationship with Getaround. Available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2574337.

The Sharing Economy: Why People Participate in Collaborative Consumption

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Information and communications technologies (ICTs) have enabled the rise of so-called “Collaborative Consumption” (CC): *the peer-to-peer-based activity of obtaining, giving, or sharing the access to goods and services, coordinated through community-based online services*. CC has been expected to alleviate societal problems such as hyper-consumption, pollution, and poverty by lowering the cost of economic coordination within communities. However, beyond anecdotal evidence, there is a dearth of understanding why people participate in CC. Therefore, in this article we investigate people’s motivations to participate in CC. The study employs survey data ($N = 168$) gathered from people registered onto a CC site. The results show that participation in CC is motivated by many factors such as its sustainability, enjoyment of the activity as well as economic gains. An interesting detail in the result is that sustainability is not directly associated with participation unless it is at the same time also associated with positive attitudes towards CC. This suggests that sustainability might only be an important factor for those people for whom ecological consumption is important. Furthermore, the results suggest that in CC an attitude-behavior gap might exist; people perceive the activity positively and say good things about it, but this good attitude does not necessarily translate into action.

Received April 17, 2014; revised March 6, 2015; accepted March 20, 2015

© 2015 ASIS&T • Published online 2 June 2015 in Wiley Online Library (wileyonlinelibrary.com). DOI: 10.1002/asi.23552

Introduction

Attitudes towards consumption have shifted in recent years and brought increasing concern over ecological, societal, and developmental impact. A growing concern about climate change and a yearning for social embeddedness by localness and communal consumption (Albinsson & Perera, 2012; Belk, 2010; Botsman & Rogers, 2010) have made the “collaborative consumption”/“sharing economy” (*The peer-to-peer-based activity of obtaining, giving, or sharing the access to goods and services, coordinated through community-based online services*) an appealing alternative for consumers. Past literature shows that people are turned away from ethical consumption because of economical and institutional reasons (Bray, Johns, & Kilburn, 2011; Eckhardt, Belk, & Devinney, 2010), yet with the development of new ways of consumption through the sharing economy, such as collaborative consumption (CC), these issues are addressed and potentially overcome. The sharing economy is an emerging economic-technological phenomenon that is fuelled by developments in information and communications technology (ICT), growing consumer awareness, proliferation of collaborative web communities as well as social commerce/sharing (Botsman & Rogers, 2010; Kaplan & Haenlein, 2010; Wang & Zhang, 2012). We consider the sharing economy as an umbrella concept that encompasses several ICT developments and technologies, among others CC, which endorses sharing the consumption

Unlocking the sharing economy

An independent review

by Debbie Wosskow

November 2014



Exploratory study of consumer issues in online peer-to-peer platform markets

Final Report

Authors

VVA: Pierre Hausemer, Julia Rzepecka, Marius Dragulin, Simone Vitiello, Lison Rabuel, Madalina Nunu, Adriana Rodriguez Diaz
Milieu: Emma Psaila, Sara Fiorentini
GfK: Sara Gysen, Tim Meeusen, Simon Quaschning, Allison Dunne
Vadim Grinevich with Franz Huber and Linda Baines



Contract 2015 86 02; Project 2017.4058
May 2017

Justice and
Consumers



Case Nos: 2202550/2015
& Others

EMPLOYMENT TRIBUNALS

BETWEEN

Claimants

and

Respondents

(1) Mr Y Aslam
(2) Mr J Farrar
& Others

(1) Uber B.V.
(2) Uber London Ltd
(3) Uber Britannia Ltd

REASONS FOR THE RESERVED JUDGMENT ON
PRELIMINARY HEARING SENT TO THE PARTIES
ON 28 OCTOBER 2016

Case No: CO/1449/2015

Neutral Citation Number: [2015] EWHC 2918 (Admin)
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 16/10/2015

Before :

MR JUSTICE OUSELEY

Between :

TRANSPORT FOR LONDON

Claimant

- and -

UBER LONDON LIMITED

First

Defendant

Second

Defendant

Third

Defendant

LICENSED TAXI DRIVERS ASSOCIATION

LICENSED PRIVATE HIRE CAR ASSOCIATION

Martin Chamberlain Q.C. and Tim Johnston (instructed by **Transport for London**) for the
Claimant

Monica Carss-Frisk Q.C. (instructed by **Hogan Lovells International LLP**) for the **First**
Defendant

Martin Westgate Q.C. (instructed by **Michael Demidecki & Co**) for the **Second Defendant**

Pushpinder Saini Q.C. (instructed by **Latham and Watkins (London) LLP**) for the **Third**
Defendant

Hearing date: 5th October

Judgment



Reports of Cases

JUDGMENT OF THE COURT (Grand Chamber)

20 December 2017*

(Reference for a preliminary ruling — Article 56 TFEU — Article 58(1) TFEU — Services in the field of transport — Directive 2006/123/EC — Services in the internal market — Directive 2000/31/EC — Directive 98/34/EC — Information society services — Intermediation service to connect, by means of a smartphone application and for remuneration, non-professional drivers using their own vehicle with persons who wish to make urban journeys — Requirement for authorisation)

In Case C-434/15,

REQUEST for a preliminary ruling under Article 267 TFEU from the Juzgado de lo Mercantil No 3 de Barcelona (Commercial Court No 3, Barcelona, Spain), made by decision of 16 July 2015, received at the Court on 7 August 2015, in the proceedings

Asociación Profesional Élite Taxi

v

Uber Systems Spain SL,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, A. Tizzano, Vice-President, R. Silva de Lapuerta, M. Ilešić, J.L. da Cruz Vilaça, J. Malenovský and E. Levits, Presidents of Chambers, E. Juhász, A. Borg Barthet, D. Šváby (Rapporteur), C. Lycourgos, M. Vilaras and E. Regan, Judges,

Advocate General: M. Szpunar,

Registrar: M. Ferreira, Principal Administrator,

having regard to the written procedure and further to the hearing on 29 November 2016,

after considering the observations submitted on behalf of:

- Asociación Profesional Elite Taxi, by M. Balagué Farré and D. Salmerón Porras, abogados, and J.A. López-Jurado González, procurador,
- Uber Systems Spain SL, by B. Le Bret and D. Calciu, avocats, R. Allendesalazar Corcho, J.J. Montero Pascual, C. Fernández Vicién and I. Moreno-Tapia Rivas, abogados,
- the Spanish Government, by M.A. Sampol Pucurull and A. Rubio González, acting as Agents,
- the Estonian Government, by N. Grünberg, acting as Agent,

* Language of the case: Spanish.

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The tech revolution must be shaped for the benefit of everyone

12 March 2018

The Mayor of London, Sadiq Khan, will use a major keynote speech to call on cities and governments around the world to do much more to harness the great opportunities of the current tech revolution as well as to mitigate against the growing and significant risks.

Sadiq will make the wide-ranging speech - covering social media, the shared economy and the consequences of increased automation - at the South by Southwest (SXSW) Interactive Conference in Texas on Monday 12 March.

He will say that politicians and governments have been too passive – ‘sitting on their hands’ - while the tech revolution has happened around them.

He will argue that more must be done not only to ensure we use new technology and innovation to the benefit of everyone in society, but how we prevent employment rights being by-passed,

Other press releases



[Mayor appoints new Chair of the London Food Board](#)

Date: 20 March 2018

The Mayor of London, Sadiq Khan, has appointed Claire Pritchard as the new Chair of the London Food Board.

[Mayor pledges further support for small businesses](#)

Date: 15 March 2018

Local businesses left struggling in the wake of the Grenfell Tower fire will benefit from a

Platforms

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**Online Platforms and the Digital Single Market
Opportunities and Challenges for Europe**

ii) Ensuring that online platforms act responsibly

One in three internet users is a child.²⁵ Compared with 2010, children aged 11-16 are now up to 20% more likely to be exposed to hate messages. Children are also more easily exposed to adult material online, often with unrestricted access (23 of the top 25 adult websites visited by UK internet users provide instant, free and unrestricted access to hardcore pornographic videos).²⁶

In 2015 alone, the UK Internet Watch Foundation identified 68,092 unique URLs containing child sexual abuse content, hosted anywhere in the world.²⁷

Around three quarters of all respondents to the public consultation, including a majority of consumers, citizens and businesses, called for greater transparency on platform content policy. More than two thirds considered that different categories of illegal content require different policy approaches in respect of notice-and-action procedures.

As of July 2015, more than 400 hours of video content was uploaded to YouTube every minute.²⁸ In their replies to the public consultation, rights holders across several content sectors (music, images, press publishing and broadcasting) claimed that their content is used by some online platforms without authorisation or through licensing agreements that, in their view, contain unfair terms.

In respect of access to information and content for many parts of society, platforms are increasingly taking centre stage. This role, necessarily, brings with it a wider responsibility.

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

Tackling Illegal Content Online

Towards an enhanced responsibility of online platforms

Those online platforms which mediate access to content for most internet users carry a significant societal responsibility in terms of protecting users and society at large and preventing criminals and other persons involved in infringing activities online from exploiting their services. The open digital spaces they provide must not become breeding grounds for, for instance, terror, illegal hate speech, child abuse or trafficking of human beings, or spaces that escape the rule of law. Clearly, the spreading of illegal content online can undermine citizens' trust and confidence in the digital environment, but it could also threaten the further economic development of platform ecosystems and the Digital Single Market. Online platforms should decisively step up their actions to address this problem, as part of the responsibility which flows from their central role in society.



BUILDING A COUNTRY THAT WORKS FOR EVERYONE

But it is not just Government who has a role here. In the aftermath of the Westminster Bridge attack, I called the internet companies together. Companies like Facebook, Google, Twitter and Microsoft. I asked them what they could do, to go further and faster.

They answered by forming an international forum to counter terrorism. This is good progress, and I attended their inaugural meeting in the West Coast.

These companies have transformed our lives in recent years with advances in technology.

Now I address them directly. I call on you with urgency, to bring forward technology solutions to rid your platforms of this vile terrorist material that plays such a key role in radicalisation.

Act now. Honour your moral obligations.



House of Commons
Home Affairs Committee

36. Here in the UK we have easily found repeated examples of social media companies failing to remove illegal content when asked to do so—including dangerous terrorist recruitment material, promotion of sexual abuse of children and incitement to racial hatred. The biggest companies have been repeatedly urged by Governments, police forces, community leaders and the public, to clean up their act, and to respond quickly and proactively to identify and remove illegal content. They have repeatedly failed to do so. That should not be accepted any longer. Social media is too important to everyone—to communities, individuals, the economy and public life—to continue with such a lax approach to dangerous content that can wreck lives. And the major social media companies are big enough, rich enough and clever enough to sort this problem out—as they have proved they can do in relation to advertising or copyright. It is shameful that they have failed to use the same ingenuity to protect public safety and abide by the law as they have to protect their own income.

Hate crime: abuse, hate and extremism online

Fourteenth Report of Session 2016–17

Report, together with formal minutes relating to the report

*Ordered by the House of Commons to be printed
25 April 2017*

HC 609

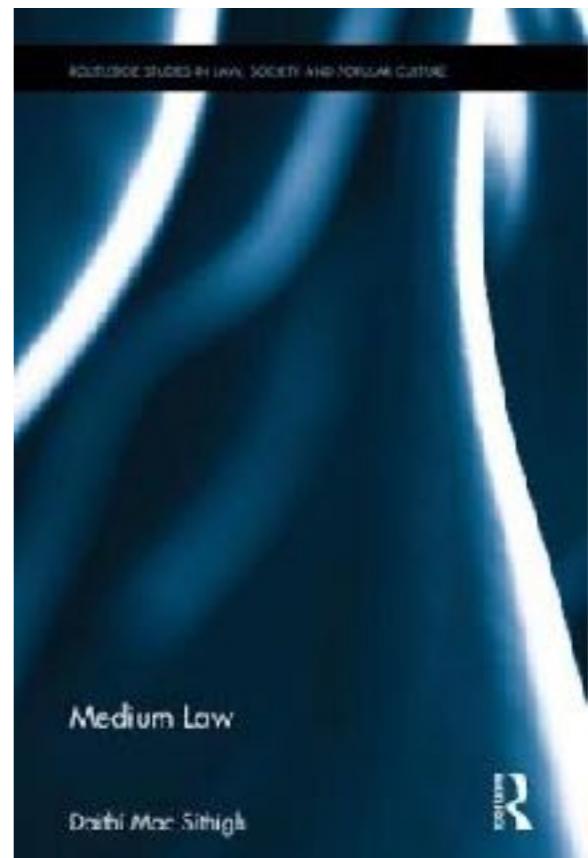
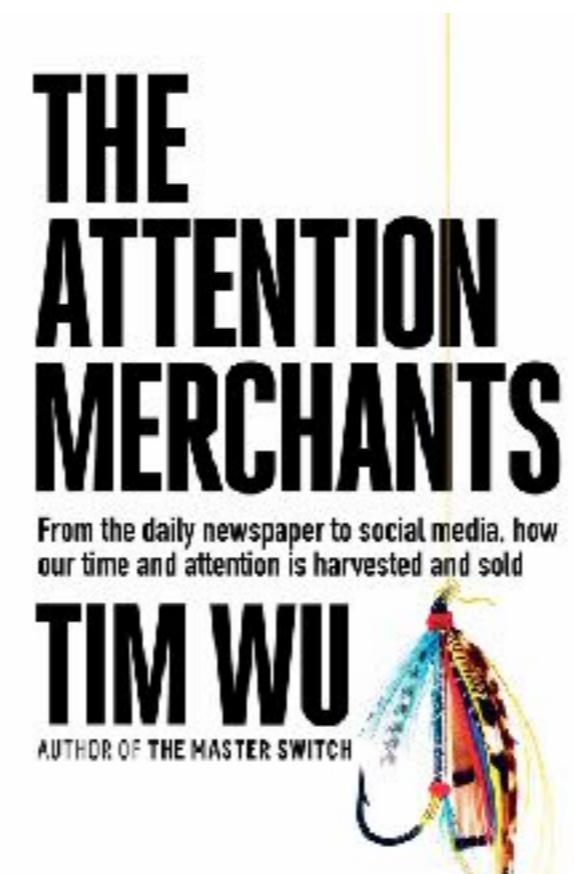
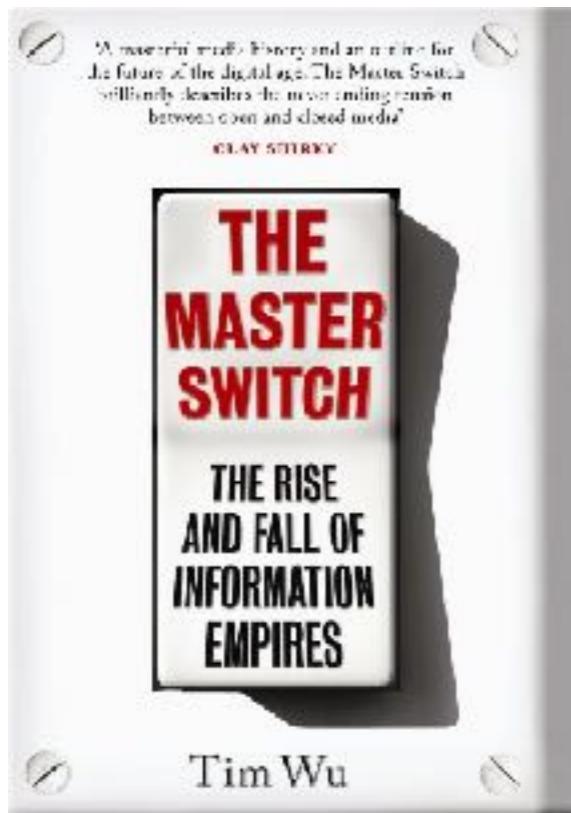
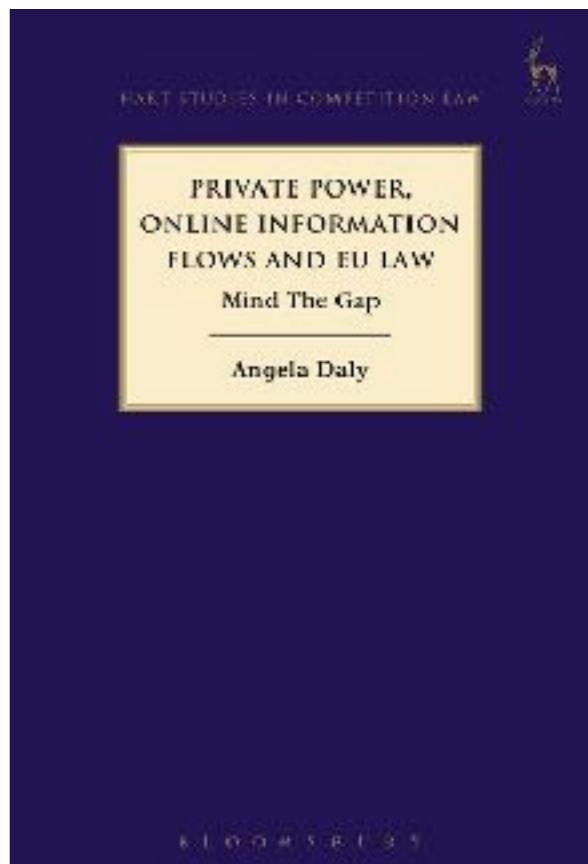
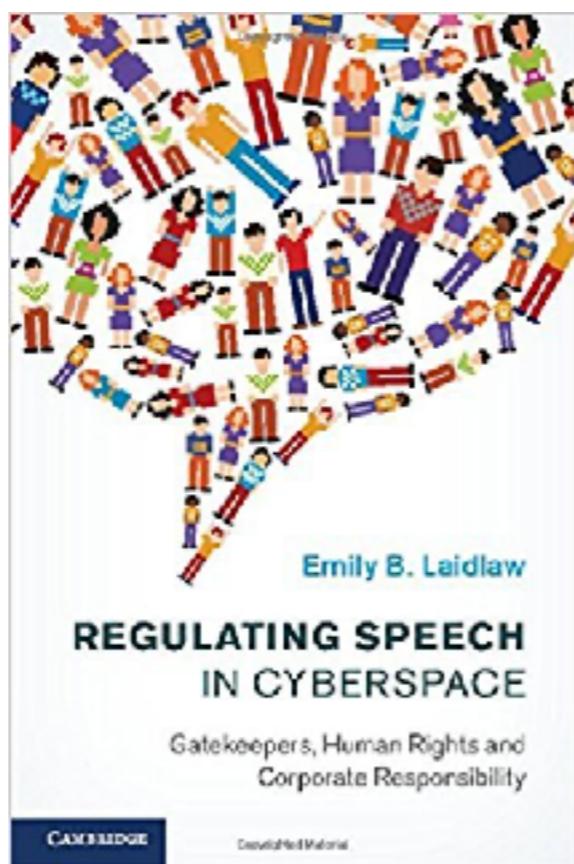
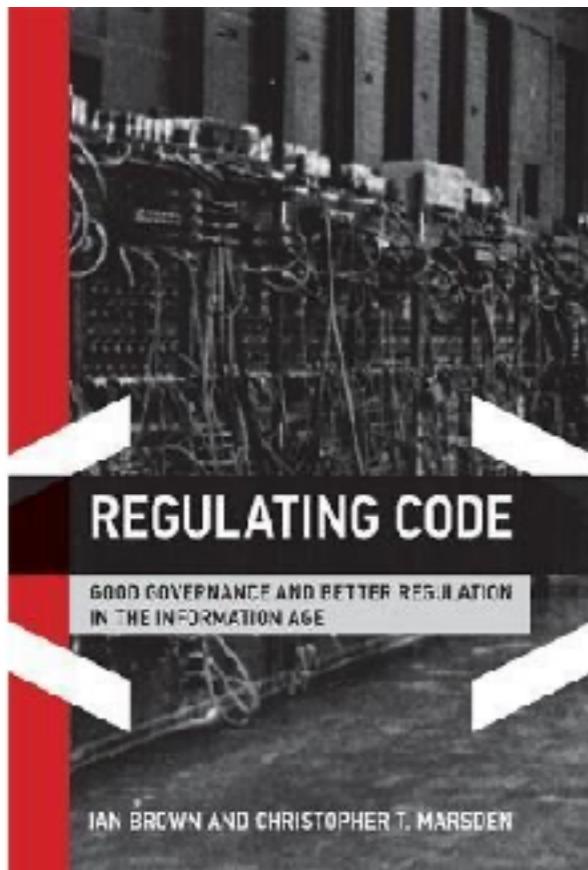
Published on 1 May 2017
by authority of the House of Commons

Matt Hancock: Yes. That is right. There are things that can be done. My point on Brexit is that outside of the EU we could attempt, as this country is quite good at in lots of different areas, to write forward looking legislation that supports the innovation and the freedom that these social media platforms bring, but also ensure that they mitigate better against the harms. That is an option. We have not committed to doing that but we are actively open about discussing that. In this debate it is very easy to focus on the harms—I spend most of my time, when thinking about social media, thinking about the harms, but we also should not throw out the baby with the bath water. Social media has a great powerful force for

Q978 **Rebecca Pow:** The point is you seem to be justifying the fact that they do not take account of what is published on there and yet we expect newspapers to. We take them to court if they publish things that are incorrect. Surely we need a whole new framework and I believe you mentioned this in a recent speech at the Oxford Media Convention. When might you think such a framework might come forward?

Matt Hancock: A couple of things in response to that. The first is that currently the e-commerce directive of the European Union says that they are a mere conduit. We are going to leave the European Union and so this may be an opportunity to write a set of laws that are absolutely right for the modern times, which allow for the innovation and the use of social media but get this balance right at the same time. At the moment, without changing the e-commerce directive, you cannot do that. So there is an opportunity for Brexit, in terms of timing.

Agenda



'Too many laws, too few examples'

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A Journal of Law, Technology and Society



2013 Volume 10 Issue 3

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Figure 1 : Political speech and Web 2.0

- Liberal advocacy group MoveOn.org compiled a dossier of deletions, in particular of content critical of or parodying Rupert Murdoch (owner of MySpace parent News International)²²
- Flickr was accused of censoring comments critical of itself and other companies (subsequently apologising and citing concerns about the legality of the posted content)²³
- Flickr restricted access to photographs for German users despite some doubt over exactly what the legal requirements requiring such were²⁴
- Canadian labour organiser Derek Blackadder²⁵ saw his Facebook account closed for adding 'friends' too quickly²⁶, leading to a huge campaign among trade unions that led to reinstatement²⁷; political campaigners for candidates for US President have been accused of 'spamming' Facebook users (based on algorithm-based monitoring)²⁸
- Irish bloggers alleged that Bebo removed (for a period of time) a controversial student political campaign against Coca-Cola²⁹
- The 'Atheist' group on MySpace has complained about unfair treatment and profile deletions³⁰
- Facebook disabled (but later restored) a group, 'End the illegal occupation of Palestine'.³¹
- Seemingly organised use of 'report this post' features have led to restrictions of access to uncontroversial material³²
- Systems of censorship in jurisdictions with restrictive policies on political expression have begun to target social networking and web 2.0 site hosts on a regular basis³³
- Political comments by Pearl Jam in a concert webcast by AT&T (not acting as an ISP) were blanked out – which turned out to be more than an occasional habit of AT&T.³⁴

²² 'MoveOn Openly Battling MySpace Censorship' (18 May 2007), <http://mashable.com/2007/05/18/moveon-myspace/>. See also J Bosman, 'Lesson for Murdoch: Keep the Bloggers Happy' (*New York Times* 2 January 2006) and C Harold, *Ourspace : resisting the corporate control of culture* (Minneapolis: U of Minnesota Press, 2007) xv.

²³ 'Yahoo "censored" Flickr comments' (*BBC News* 18 May 2007), <http://news.bbc.co.uk/1/hi/technology/6665723.stm>.

²⁴ J Libbenga, 'German Flickr censorship causes web outcry' (*The Register* 18 June 2007), http://www.theregister.co.uk/2007/06/18/outcry_against_flickr_censorship/.

²⁵ Proving perhaps that Blackadder was indeed present at all important moments in history? http://en.wikipedia.org/wiki/Edmund_Blackadder.

²⁶ L Beyerstein, 'Facebook Bans Union Organizer for Making Too Many Friends' (*Alternet* 24 January 2008), <http://www.alternet.org/blogs/peek/74855>.

²⁷ T Connell, 'Banned Union Organizer Back on Facebook' (*AFL-CIO Blog* 25 January 2008), <http://blog.aflcio.org/2008/01/25/banned-union-organizer-back-on-facebook/>.

²⁸ 'Tech Notebook' (*San Jose Mercury News* 23 February 2008), http://www.mercurynews.com/ci_8344164.

²⁹ See for example the discussion by Gareth Stack and Simon McGarr: G Stack, 'Bebogate?' (15 March 2007), <http://www.dbspin.com/social-networks/bebogate/> and 'Webcamp – social networks' (10 March 2007), <http://www.dbspin.com/web/webcamp-social-networks/>. A range of Irish political campaigns, including the left-wing Killer Coke activist network and republican political party Sinn Féin's youth wing, have alleged that Bebo has censored/deleted user profiles.

³⁰ See e.g. B Pesta, 'MySpace: No place for Atheists?', <http://www.secularstudents.org/node/1933>, 'MySpace Atheist and Agnostic Group Restored (sort of)', <http://www.secularstudents.org/node/1942>, 'Banned: MySpace deletes world's largest atheist group', <http://blog.newhumanist.org.uk/2008/01/banned-myspace-deletes-largest-atheist.html>.

³¹ 'Protest Facebook's deletion of pro-Palestinian group' (*Absent Cause* 9 February 2008), <http://absent-cause.blogspot.com/2008/02/protest-facebookss-deletion-of-pro.html>.

³² J Pena-Bickley, 'My Facebook Fiasco' (*ON: Digital + Marketing* 13 February 2008), <http://joannapenabickley.typepad.com/on/2008/02/on-my-facebook.html>.

³³ Significant work on this topic has been carried out by Ethan Zuckerman: see for example R Singel, 'Seeking Tighter Censorship, Repressive States Target Web 2.0 Apps' (*Wired Blogs : Epicenter* 4 March 2008) <http://blog.wired.com/business/2008/03/etech-what-happ.html>.

³⁴ G Kaufman, 'AT&T Admits It Edited Webcasts Before Pearl Jam's' (*MTV News* 13 August 2007), http://www.mtv.com/news/articles/1566946/20070813/pearl_jam.shtml.

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