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Uber Collides with Controversy

INTRODUCTION

Uber Technologies Inc. is a multinational transportation company that provides ride-sharing services, food delivery, and more. Uber was founded in San Francisco in 2009 and has since expanded their operations to more than 900 cities in more than 70 countries around the world. The company is a key player in the sharing economy, an economic model in which independent contractors rent out their underutilized resources, such as vehicles or lodging, to other consumers. The company has experienced resounding success and is looking to expand both within the United States and internationally.

Due to their utilization of technology, Uber does not have as many constraints as taxi cab companies do. A major reason Uber is so popular is because their app allows users to request a ride from drivers in the near vicinity. Uber's business model, which is based on independent contractors instead of employees, takes advantage of smartphone technology by linking consumers with independent drivers as their cabs, but they do not employ drivers or own the vehicles. This business model has contributed to the rise of the sharing economy in which independent contractors, drivers in this case, can rent out underutilized resources to earn money. This case will explore difficulties Uber has faced with global expansion, threats to the company's business model and the sharing economy and ongoing controversies.

GLOBAL EXPANSION CHALLENGES

International expansion is a major part of Uber's marketing strategy. Adopting the motto "think local to expand global," Uber believes that consumers from other countries will appreciate their low cost, convenience, and freedom. As it expands into different countries, Uber is engaging in strategic partnerships with local companies. These alliances with local firms are especially important because they allow Uber to utilize the resources and knowledge of domestic firms familiar with the country's culture.

Despite Uber's international success, many countries have regulatory hurdles that have caused trouble for the company. Perhaps the biggest hurdle is Uber's failure to mandate that their drivers obtain the same license types as professional taxi drivers even though Uber drivers offer many of the same services as professionally licensed taxi drivers. Governments have responded by banning Uber—and the services provided via Uber—due to the company's nonenforcement of professional licenses for their drivers. For instance, in Spain, Uber was forced to shut down ride-sharing services after a judge ruled that Uber drivers were not legally authorized to transport passengers, claiming that Uber created unfair competition for professionally licensed taxi drivers. Because the taxi industry is important in many cities, governments like Spain's are not looking favorably at what they view as an unfair competitive advantage that could potentially bankrupt the industry. Uber returned to Spain in March 2018 with UberX, a tier of Uber service that uses professionally licensed drivers, placing it more on par with licensed taxi drivers. However, in 2019, Uber and its Spanish competitor Cabify announced that they were suspending services in Barcelona after a new law was passed requiring all vehicles to be booked with at least 15 minutes advance notice.

Uber faced similar problems in France. In 2011, Paris became the first city outside of the United States where Uber set up operations. However, local authorities attempted to ban one of Uber's services because drivers did not need to be professionally licensed. French police even raided Uber's Paris office. French law mandates that operating a service that connects passengers to nonprofessional drivers is punishable with fines of over $300,000 and up to two years in prison. Hundreds of Uber drivers in France were issued fines for operating illegally, which Uber paid. Uber challenged that law, claiming that it was unconstitutional because it hindered free enterprise. A French court decided against banning Uber's service and sent the case to a higher court. This generated strong criticism from taxicab officials in France as they maintained that they had to have professionally licensed drivers while Uber was free from this restriction. French courts later ruled against Uber, and the company is no longer allowed to use nonprofessional drivers in the country. However, their past use of nonprofessional drivers continues to haunt Uber. The European Union determined that France could file criminal charges against Uber for their UberPOP service as it had used nonprofessional drivers to operate an illegal taxi service. In another landmark ruling, French courts sided with an Uber driver who claimed he should be recognized as an employee, not an independent contractor. Though Uber challenged the ruling, France’s top civil court sided with the driver. The ruling does not automatically reclassify all Uber drivers in the country as employees, however. Individual drivers will have to go to court to seek reclassification. Regardless, this puts Uber’s business model at risk.

India is Uber’s second largest market after the United States. In New Delhi, a woman’s rape allegation led to a ban against app-based services without radio-taxi permits in the capital. In response to the alleged rape, Uber began updating their app to include panic button and tracking features. Uber also began offering their service in New Delhi without charging booking or service fees. The company came under fire for how they compensate Indian drivers. As Uber came closer to releasing its initial public offering (IPO), which was filed in May 2019, they began to reduce driver incentives to build up financial performance. As a result, reduced incentives and higher diesel prices negatively impacted Indian drivers’ financial earnings, causing growing discontent. Uber must tread carefully to seize upon opportunities in India without violating regulatory requirements or damaging relationships with their drivers. Uber now controls more than 50 percent of the ridesharing market in India.

In 2015, a German court banned Uber services if they used nonprofessional drivers. Uber argued that the company itself is only an agent to connect driver and rider. Rules that apply to taxi services do not apply, and all services are deemed to be legal, according to Uber. The court ruled that Uber's business model clearly infringes the Personal Transportation Law, because drivers transport riders without a personal transportation license. The injunction includes a fine of more than $260,000 per ride for non-compliance. After the ruling Uber switched to working exclusively with professional and licensed private-hire vehicle companies. However, in 2019, a German court banned Uber from sending ride requests to rental car companies, effectively outlawing Uber’s revised business mode. Uber will have to adapt once again to remain viable in Germany.

In 2017, London transportation authorities revoked Uber's license for a variety of reasons, including poor oversight of drivers. After appealing, Uber was granted a 15-month license but had to agree to additional government oversight and policy changes. After this period, authorities chose not to renew Uber's operating license in 2019 due to consistent safety problems. Uber has not been completely roadblocked though, as the company is able to operate throughout the appeals process. The company will need to prioritize passenger safety and address vulnerabilities in its app that allowed unauthorized drivers to transport passengers.

Uber faces many regulatory and legal issues outside of the United States. The company attempted to take a global approach to expansion by applying the same practices in other countries as they do in the United States. However, they are quickly realizing that they must take a more customized approach. Laws differ from country to country. Although Uber defines themselves as an "agent" of their "individual contractors," many courts do not view their services in the same way. They are forcing Uber to comply with licensing laws or stop business in certain areas.

THREATS TO THE SHARING ECONOMY

There is an ongoing threat to the sharing economy in which Uber operates: worker classification. Under current U.S. law, a worker either depends on an organization as an employee or is self-employed as an independent contractor. The rise of Uber and other digital matching apps has called worker classification into question. This has been a widespread concern because employees receive workplace protections such as minimum wage and overtime pay that independent contractors do not.

Some consider the independent relationships between Uber and their drivers to be beneficial because of the flexibility and personal control for the drivers. However, lawmakers fear companies are evading U.S. labor laws to the detriment of the contractors. California legislators passed Assembly Bill 5 in 2019 which classifies contract workers for companies such as Uber as employees. The bill expands the 2018 California Supreme Court decision known as Dynamex. Together, they established a three-point test, often referred to as the ABC test, to determine if a worker is an employee: (1) the company controls the employee's work; (2) the employee's work is a core part of the company's business; (3) the workers don't typically engage in providing their service to other companies. This poses a major threat to Uber who relies on low-cost, flexible labor. Not only will labor costs increase, but long-term Uber is concerned they may have to limit the number of drivers or schedule drivers in advance, eliminating the ability for drivers to work as often or as little as they desire. When Uber failed to comply, California sued Uber for keeping drivers as independent contractors in 2020.

This landmark California bill has the potential to influence legislation in other states. Labor groups in states such as New York support similar legislation. Uber has lobbied to be exempt from the bill in exchange for establishing minimum pay rates for drivers, paid time off, and an association to protect the interests of drivers. Uber, Lyft and DoorDash have continued to fight the bill by pledging $90 million to support lobbying efforts to support exemption. It is estimated by officials in the industry that switching to an employee model could increase costs 20 to 30 percent, which would have a significant impact on Uber's bottom line.

CONTROVERSY

While the company continues to be widely successful, the year 2017 was a hard one for Uber. Multiple controversies cast a negative light on the organization. To start off the year, Uber had to pay over $20 million in a settlement for misleading drivers on how much they would earn. In February, a former Uber female engineer published a blog post alleging that there was widespread sexual harassment and gender discrimination at the company, which prompted an investigation into Uber's corporate culture. This investigation later resulted in 20 employees being fired for various sexual harassment and discrimination violations. In March, five executives left the company, including the senior vice president of engineering.

In April, Uber faced controversy with Apple, Inc. Uber had been secretly identifying and tagging iPhones even after the app and its data had been deleted from the iPhones. Uber tagged these phones to see if users were using the same phone to download the app and then repeatedly wiping it so they could use promo codes multiple times. Although Uber was trying to detect fraud and prevent customer abuse, this action violated Apple's privacy policy. Tim Cook confronted the chief executive of Uber, threatening to remove the app from Apple's app store if Uber did not stop breaking the policy. The impact would have caused millions of iPhone consumers to lose access to the Uber app. The CEO at the time, Travis Kalanick, had developed a reputation for bending or sometimes breaking the rules in order to drive the company toward desired goals. Since its founding in 2009, Uber has gained a negative reputation for challenging the rules and causing disruption.

In May, the U.S. Department of Justice launched a criminal investigation for the company's use of "Greyball," a secret software that identified users who were violating the terms of services and denied ride requests to them. The users simply never got paired with a driver on the app. This software even targeted government officials who were using the app to investigate Uber and their drivers. There was controversy over the use of this software as to whether it was in violation of the Foreign Corrupt Practices Act, which bans the use of bribes to foreign officials to get or keep business. In June, Uber fired top executive Eric Alexander for obtaining medical records of an Uber passenger who was raped by her driver for the purpose of casting doubt upon her case. Uber held an all-staff meeting to discuss reforming company culture, which was immediately followed by CEO Travis Kalanick taking a leave of absence. This ultimately led to Dara Khosrowshahi becoming his successor as CEO in August.

In September, the FBI investigated Uber's software for allegedly illegally interfering with competitors. The internal program, known by Uber as "Hell," could track drivers working for the competitor Lyft. The investigation revealed that Uber created fake Lyft customer accounts to "request" rides around different cities in order to see how many Lyft drivers were nearby and what prices they were being offered for various routes around the cities. The program was also able to identify drivers who worked for both Lyft and Uber in order to give these drivers incentives to leave Lyft. The program was presumably used from 2014 to 2016. The ability to recruit and maintain drivers is a critical component of how these ride-share companies operate. Every major city has users who engage with both apps to determine the most cost-effective option for their trips. Having inside knowledge of the competition and being able to dominate the market in this way was invaluable toward gaining more customers on a more consistent basis. On the other hand, these activities can also violate laws on fair competition.

In September, Uber lost its license to operate in London due to a lack of corporate responsibility as discussed earlier. In November, it was revealed that Uber faced a data breach in 2016. During the breach, email addresses, names, and phone numbers of 50 million global Uber riders were stolen. The personal information of drivers was also compromised, including driver's license numbers. Uber had an obligation to report hacking incidents to regulators and drivers whose information was taken. However, at the time Uber kept the data breach quiet by paying the hackers to delete the data. They were in the process of negotiating with the Federal Trade Commission about the proper handling of consumer data. Uber reported that they believed none of the data was used by the hackers and offered free identity theft protection and monitoring to victims of the hacking. The data breach was not made public until almost a year after it occurred. As a result of this incident, the chief security officer and the legal director of security and law enforcement were fired.

Uber's troubles did not stop there. Uber also faced difficulties with accidents and tragedies outside the inner-company operations. In 2018, a self-driving Uber car struck and killed a pedestrian in one of the first video recorded accidents involving the death of a pedestrian. It was found that the vehicle feature that carries out emergency brakes for dangerous situations was disabled by Uber to prevent erratic vehicle behavior. Uber settled a civil case with the pedestrian's family, and Arizona prosecutors decided not to criminally charge Uber. It seemed unclear whether the car or the victim was at fault. Uber responded by suspending their self-driving program for a few months and resuming the program after changing their approach to self-driving vehicles.

Another tragedy brought Uber attention in 2019 when University of South Carolina student Samantha Josephson was murdered after getting into a car she mistook for an Uber. Following her death Uber promoted awareness, reminding riders to verify their drivers through notifications and ads. The university encouraged students and riders everywhere to ask their driver "What is my name?" to confirm they were in the correct vehicle. Uber stated they had been working with college campuses since 2017 to educate students on detecting fake ride-share drivers and will continue to do so to help prevent future incidents. Additionally, the South Carolina House of Representatives passed a bill requiring ride-sharing drivers to display illuminated company signs in their vehicle to further prove their validity to riders.

Controversy struck again after Uber sold its electric bike and scooter rental business, Uber Jump, to Lime in 2020. Shortly after the sale, photos circulated showing thousands of Uber bikes and scooters on trucks waiting to be scrapped. Of the 20,000–30,000 Jump vehicles on the market, Lime only acquired the newest bikes, and Uber confirmed tens of thousands of units would be recycled. Many believed Uber's Jump business had a positive impact, reducing the number of people riding in cars, so both consumers and Uber employees were disappointed to see Uber dumping its bikes rather than donating them. According to an Uber statement, donation was not an option because of "maintenance, liability, safety concerns, and a lack of consumer-grade charging equipment." The company assured the public it was recycling the units responsibly. However, other bikeshare companies, such as Spin and Ofo, have successfully donated e-bikes in the past.

A GLOBAL PANDEMIC

In March 2020, Uber announced that it would temporarily suspend its carpool services in light of the COVID-19 (coronavirus) pandemic. The week before the announcement, Americans spent 21 percent less on Uber rides compared to the previous week. Uber shares fell sharply due to investors' concerns regarding long-term effects of the virus on the economy. Though Uber Eats revenue was up as more people dined at home, it was not enough to protect the company. As a result, Uber laid off 3,700 full-time employees. Uber provided compensation with up to two weeks of missed pay to those drivers whose doctors advised self-isolation. However, drivers weren't satisfied. Drivers in Boston asked a federal judge to require Uber to start immediately treating them as employees so that they could receive sick leave, though this reclassification was never made. Overall, Uber's response time when it came to protecting riders and drivers was slow. It wasn't until mid-May that the company outlined a plan to adapt its business, which included limiting rides to three passengers, restricting passengers to the back seat only, and requiring both drivers and riders to wear face masks. Due to the uncertainty of the pandemic, Uber braced for a long-term slowdown for its ridesharing business.

OTHER BUSINESS SEGMENTS

Rather than a ride-sharing company, Uber views itself as a technology and transportation company. Uber has greatly expanded their offerings by exploring food delivery, business transportation solutions, and more.

Food Delivery

In 2014, Uber launched Uber Eats. The app gives users the ability to order food from participating local restaurants. Now, Uber has partnered with more than 100,000 restaurants around the globe. While Uber Eats does not hold the highest market share in the industry, falling behind DoorDash, it still provides Uber with a large revenue source and holds 30 percent of the market for on-demand food delivery services. Uber has also invested at least $2 billion to research autonomous vehicles and test different fleets of these vehicles. With people stuck at home during the COVID-19 pandemic, Uber Eats saw 52 percent growth in bookings, attracting many new first-time customers. However, despite experiencing record growth, the service recorded $313 million in losses due to the cost of promotions and the expense of additional safety equipment. At the same time, pressure increased for the companies to reduce commissions in light of the crisis. In response, Uber Eats waived its delivery fees in the United States and Canada. Despite the struggle, Uber has remained committed to making Uber Eats a successful platform.

Freight

In 2017, Uber launched Uber Freight, a service that connects shipping companies with drivers. The service, which operates similarly to Uber's core ride-sharing app, has seen triple-digit revenue growth, expanding both nationally and internationally. Freight transportation represents a huge opportunity for Uber, especially as the United States faces a shortage of truck drivers. Now that Uber has established themselves as a pillar of the sharing economy, Uber stands to be a big player in this segment. However, during the COVID-19 pandemic, Uber faced steep losses with some experts suggesting the company had been winning new business by selling its service below cost. Though revenue was growing, Uber Freight struggled to turn a profit. Uber Freight will have to find its way to profitability to truly be considered a success.

Other Bets

Uber has smaller business segments that even combined make up less than one percent of Uber's business. This segment of their business is a catch-all category for Uber's early development-stage projects. One example is Uber Health. Uber Health is a service where healthcare professionals can schedule rides for patients and caregivers going to and from the care they need. This service is a perfect complement to its core business.

The Future

As Uber looks to the future, they are investing in advanced transportation technology to stay ahead of the curve. Uber and Volvo partnered to create a driverless car through a $300 million alliance. Uber and Volvo revealed their first production vehicle, the XC90 SUV, in 2019. Even in the face of safety concerns, Uber believes self-driving vehicles to be safer and more sustainable than traditional vehicles. Additionally, Uber has a team called Uber Elevate that is working to develop aerial ridesharing by 2023 in Dallas, Los Angeles, and Melbourne. Uber will face many regulation challenges and ethical concerns with this uncharted territory. They will need to work closely with local and national governments to establish safety standards for urban aviation.

UBER BECOMES A PUBLIC COMPANY

Uber filed for an initial public offering in 2019 soon after competitor Lyft was listed on NASDAQ in March 2019. The Uber IPO was one of the biggest of all time with a value of $82.2 billion, just behind Facebook at a valuation of $115 billion and Alibaba at $179 billion at the date of their IPOs. All 180 million shares of Uber stock were sold out within three days of the IPO. Uber's initial stock price was $45 a share, raising a total of $8.1 billion at a valuation of $82.2 billion in total.

Uber took a conservative pricing approach for their stock after observing that their competitor Lyft experienced a 20 percent decrease in stock prices in the weeks following the Lyft IPO. Although there was demand for the shares at higher prices, Uber put them in the hands of as many institutional investors as possible, aiming for more long-term-oriented investments rather than hedge-fund and retail investors. Though the stock price at the time of this writing was down to $31 per share, Uber believes they hold a promising future and that their business will become increasingly necessary as people around the world move toward hiring self-driving vehicles.

CONCLUSION

Despite Uber's challenges, the company has become widely popular among consumers and independent contractors. Supporters claim that Uber is revolutionizing the transportation service industry. Investors clearly believe Uber is going to be strong in the market in the long run. One lesson that Uber will hopefully take to heart is the need to ensure that independent contractors using their app obey relevant country laws. The company also must revamp their corporate culture to prevent more legal repercussions.

Uber has to address these issues to uphold the trust of customers and achieve long-term market success in different countries.

QUESTIONS

1. What are the ethical challenges that Uber faces in using app-based peer-to-peer sharing technology?

2. Since Uber is using a disruptive business model and marketing strategy, what are the risks that the company will have to overcome to be successful?

3. Because Uber is so popular and the business model is being expanded to other industries, should there be regulation to develop compliance with standards to protect competitors and consumers?

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