A Gathering Revolution in Regulation

*Empowered consumers and data analytics are driving cities to re-think how they protect health and safety.*

BY: Stephen Goldsmith | August 19, 2015

In cities around the country, we're seeing the beginning of fundamental change in how governments discharge their regulatory responsibilities. In some cases, this is driven by technology as app-empowered consumers evolve from passive captives of regulated services into an active force for change. In other cases, the changes are originating from within governments as they look for more efficient ways to regulate health and safety.

In recent weeks, for example, Uber unleashed a digital consumer salvo, employing email, social media and TV ads attacking New York Mayor Bill de Blasio's proposed cap on the number of ride-sharing vehicles. It is one of those relatively rare times when consumers, rather than just protected industries, affect regulatory policy. Such an event could not have happened in a pre-social-networked world. Back in 1995, when as mayor of Indianapolis I took on the taxi cartel, only the Urban League, which wanted to enhance service in urban neighborhoods and improve opportunities for minority businesses, joined me in the battle. No consumers found a way to make their voices heard.

And in 2011 in New York City, when a crippling bus strike hurt the parts of the city not well served by subways, I found myself, as deputy mayor, once again looking for alternative transit options. Almost every innovative idea for helping workers living in the city's outer boroughs get to their jobs was deemed illegal; a web of vested incumbents pushed and pulled, not to represent their customers but to protect their market share. Eventually, with the help of the state legislature, the city was able to create a special class of street-hail cabs that would provide service to the outer boroughs.

These battles clearly represent that a regulatory maze that wraps itself in the flag of health and safety is more often about something else. In Indy, the taxi cartel argued that safety required caps on medallions -- the city-issued license to operate a cab -- when obviously just requiring certain vehicle and driver standards more directly served that goal.

More and more, cities are moving on their own toward a regulatory regime that, rather than striving to protect incumbents from competition, attempts to do a better job of protecting health and safety, and to do it at lower costs to taxpayers. Just last month, New York City announced a reduction in fines imposed on small businesses because too few citations actually had anything to do with health and safety. And Chicago's path-breaking project that analyzes data to identify bad actors and concentrate on them -- allowing food inspectors, for example, to prioritize on establishments in need of more scrutiny -- promises better service to businesses and consumers alike.

Social media and data analytics can fundamentally change the way we protect public safety, but there's more to the story than that. The cartels, by relying on political power rather innovation, have damaged their brands. Many taxi drivers lease their cabs on a daily basis from large fleet operators and pay plenty for the opportunity to do so. These drivers are often in the red as soon as they turn on the ignition, having already paid to lease the cab for the day and fill it with gas. It shouldn't be surprising to anyone that the search for profits derived from innovation unleashed by competition might drive them to defect to Uber.

I've rarely seen a positive outcome -- for business or the public -- when government uses its regulatory power over the market to hold back the power of innovation. One way or another, citizens will force themselves into the center of the regulatory debate. Cities would be better off recognizing this inflection point and changing in advance.

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