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Competition Assessment of Technology Application in Transportation Service

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COMPETITION ASSESSMENT OF TECHNOLOGY APPLICATION IN TRANSPORTATION SERVICE

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Context of transportation service with technology application

- ❖ Transportation service has segments based on mode of transport and characteristics of transport routes: fixed-route and selective routes...
- ❖ Each segment creates a distinctive competitive market. It can even create a monopolistic model:
 - ❑ Monopoly in providing fixed-route buses
 - ❑ Competition in long-distance transport
 - ❑ Inter-provincial transport...

Context of transportation service with technology application

- ❖ Application of technology mainly applies to contractual passenger transportation (a form of passenger transport that is neither fixed-route nor taxi - if understood in the original form when this model is born)
- ❖ Application of technology in contractual passenger transportation has fundamentally changed the competition model of the unfixed route passenger transport market, specifically:

Context of transportation service with technology application

- ❖ The fundamental changes in competition model of unfixed route passenger transportation are:
 - Contractual passenger transportation changed in nature when the app is used;
 - Contractual passenger transportation became the competitor of taxi transportation;
 - The transportation went through changes in competition structure.

The context of transportation service with technology application

- ❖ Taxi firms have changed their means of connection and management model in line with the changing competitive environment
- ❖ The State's management mechanism has not changed (the laws have not changed, management practice is heavily administrative and has not been based on competition model)

Legal basis

- ❖ Law on Road Traffic;
- ❖ Decree 86/2014/ND-CP
- ❖ Decision 24/QD-BGTVT in 2016

Legal basis

- ❖ Regulatory documents have not been updated with new developments although the technology application has been introduced into Vietnam for quite a long time.
- ❖ Decision 24 mainly regulated basic principles for the pilot implementation and has not created a legal framework for arising problems.
- ❖ Inadequate and slow anticipation of evolving market competition in transportation service, resulting in the lack of legal framework.

Competition issue

- ❖ **First issue: How should we understand the technology application to transportation service? Is it transportation service or technology service?**
- Business registration by business line of enterprises
- Based on the legal basis which enterprises providing technology app are operating upon.
- Based on the definition of transportation under current law?
- View of the State's agencies

Competition issue

- ❖ Transport business operated by automotive vehicles is the use of automobiles to transport goods, passengers on road for profit purpose; including direct and indirect freight collection (Decree 86)

Competition issue

- ❖ Transport business operated by automotive vehicles is the conduct of one or all main stages of transportation activities to transport goods, passengers on road for profit purpose. The main stages include: direct vehicle operation; vehicle driving to transport passengers, goods; determination of freight rates (including the implementation of these stages via software) (Draft version of amended Decree 86)

Competition issue

- ❖ *Enterprises providing software app like Uber, Grab are transportation service provider (opinion of MOIT – Document No.9299/BCT-PC)*
- ❖ *This is contractual transportation business for vehicles under 9 seats (using electronic contract instead of paper contract) in accordance with Decision 24/QD-BGTVT by the Ministry of Transport*

Competition issue

- ❖ Intermediary services are being considered for the purpose of connecting, through smartphone application for charging fees. Unprofessional drivers using their vehicles to transport people who want to commute in urban areas. They must be considered integral parts of the transportation service and accordingly to be classified as 'a service in the transportation sector' (European Court of Justice - Judgment of 20.12.2017-case C -434/15)

Competition issue

- ❖ This is a special service: connection service for transportation by automotive vehicles under 9 seats – to transport passengers;
- ❖ This service is not separated from transportation service;
- ❖ This service is formed from the connection of unfixed route transportation service (similar to telephone exchange)
- ❖ The difference between telephone exchange and this connection service is the cost of service and service charge

Competition issue

- ❖ Second issue: Which market do these enterprises operate in? Who are their competitor?
- ❖ Third issue: the specific traits of a two-sided market – a challenge for the law

A few comments

- ❖ Specialized laws and competition laws are outdated and have a huge gap with the real-world practice.
- ❖ Controversies over the nature of this type of service are still on-going. State's agencies, including the courts are unsure.
- ❖ The change in competition structure leads to consequences and controversies over the role contribution of these enterprises to market development.

A few comments

- ❖ Taxi firms have had a wake up call when facing competition pressure and are trying to revive;
- ❖ Competition court and justice.



THANK YOU!