

Uber Wars: Transport or Software Company?

Uber is a company that provides a technological platform to request on demand near real time-service from a platform. Unlike the taxi companies which contract drivers, Uber deals with building data entries, running real-time software services, facilitating payment and conducting research into economics of real time transportation automation. However, the services rendered have been subject to debate with the main concern being, whether Uber is a transport or a technological company. The determination of this question,

which is the subject of a case brought by the Association of Taxi Drivers in Barcelona before the European Court of Justice, will have an impact on the amount of taxes that are to be paid by the prestigious and relatively popular company.



Recently, an advocate general of the European Court of Justice by the name Maciej Szpuner, opined, while considering the merits of the case by the Association of Taxi Drivers in the ECJ, that Uber is indeed a transport firm which requires a license to operate. The Advocate said that although Uber was an innovation,

its operations fell with the realm of a transport company rather than information services. He further emphasized that Uber should thus be required to obtain licenses and authorizations pursuant to European laws. In this particular case, Uber argued that it is merely a software company which links independent drivers to their clients and insisted on not being a transport company.

Although Maciej's opinion is not binding, the same is persuasive before the ECJ. If by any chance, the European Court of Justice backs the decision by the Advocate, this will set a very important precedent for other common law states.

For instance, the adoption of this opinion by the ECJ and subsequently in the Kenyan

Jurisprudence, will overturn the initial decision made by the Kenya Revenue Authority in 2016, which shifted the burden of paying VAT from the Uber Company to the car owners on grounds that Uber is not a transport company as it does not offer services like other Taxi Companies. In rendering this decision, KRA claimed that VAT can only be charged by the supplier of services thus transferring the burden of payment of VAT to the

owners of the vehicles. This decision meant that the Uber Company is only liable to pay corporate tax and not VAT regardless of the fact they make profits through their online platform. This has created much debate especially on the unfair competition that is presented by the Uber Company. Therefore, if the European Court of Justice adopts the opinion by the Learned Advocate, this may have a great impact on the cost of the services

offered by Uber. With the coming of Uber Consumers have enjoyed relatively cheap taxi services because Uber has passed to consumers the savings it made from not having to pay for the licenses and permits that a regular taxi pays. If Uber is forced into making the payments that regular Taxi companies make then consumers will have to bid farewell to the cost savings that came with the Uber business model.



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