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The Competition and Regulation Issues of the Sharing Economy – An Analysis Based on China's Ride-hailing Service Regulations

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INTRODUCTION

In 2016, China's Central Government released relevant administrative provisions to regulate online ride-hailing service, which provide that private cars registered with ride-hailing companies to provide online ride-hailing service are in their nature taxis, and thus require ride-hailing companies, drivers, as well as the cars to be licensed. In the course of promulgating detailed local implementation rules, a number of local governments imposed strict conditions upon ride-hailing companies, drivers and cars when granting the relevant licenses.

The provisions issued by the Central Government and those measures adopted by the local governments have triggered heated debates in China and overseas. A central issue is whether the requirements prescribed by the provisions and local implementation measures or rules (hereinafter referred to as “**local implementation rules**”) are over strict. There is even the voice to question whether the provisions and local implementation rules are reasonable and legitimate, pointing to the possibility that some local governments might have abused administrative power to implement local protectionism and/or, to artificially shield the taxi industry from ride-hailing companies' competition, which has the effect of eliminating or restricting market competition, impairing consumer interests and therefore could violate the Anti-monopoly Law (hereinafter referred to as “**AML**”).

This article starts with an overview of the regulatory challenges brought by the ride-hailing service, collates how China's ride-hailing regulatory measures react to these challenges, and discusses the possible anti-competitive impact of the constraints imposed by ride-hailing regulatory measures. On that basis, this article explores how the anti-competitive impact can be mitigated from the perspectives of the AML and China's fair competition review system. While clarifying whether ride-

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hailing is a form of the sharing economy, this article reveals from a macro level what competition and regulation problems the sharing economy has brought to us, and stimulate the thinking of proper governance of the sharing economy.

1. REGULATORY CHALLENGES BROUGHT BY RIDE-HAILING SERVICE

Ride-hailing service has been growing rapidly in China. On the one hand, the fast growth of ride-hailing service has benefited the society in ways of enhancing private cars' utility and bringing convenient mobility. On the other hand, it raises challenges for the traditional regulatory framework which was only designed for the taxi industry.

To start with, the current laws and regulations in China provide that taxi services shall be licensed by the government. Per the "Decisions of the State Council on the Licenses that Need to Be Maintained", taxi companies, cars and taxi drivers shall respectively obtain licenses from transportation regulatory agencies at the county level.⁴ To obtain the licenses, taxi companies, cars and drivers should meet certain criteria in relation to insurance, car repair, as well as take examinations, and these licenses shall be subject to the cities' transportation planning.

On the contrary, when ride-hailing companies enter the market with a complete new business model, they do not have to meet those requirements, even though the service they provide is largely the same with that provided by taxis. In other words, the significant barriers to entry that have long been existed in the taxi industry now seem to be inapplicable to ride-hailing companies. To provide riding services, what the ride-hailing companies needs is just a car, a driver and a smartphone. No Licenses need to be obtained. Consequently, ride-hailing service raises huge challenges for the current

⁴ For regulations on taxi licenses, see Article 10 of the Regulation of the People's Republic of China on Road Transport (2016 revision); Article 15 of the Administrative Provisions on Taxi Business Operation and Services (the 2014 version); for regulations on taxi registration certificate, see Article 15 of the Administrative Provisions on Taxi Business Operation and Services (the 2014 version); for regulations on taxi drivers' license, see Article 19 of the Administrative Provisions on Road Transport Employees (2016 revision) and Article 14 of the Administrative Provisions on Taxi Drivers Qualification (2011 version).

regulation. In fact, there is already the voice to question whether ride-hailing companies' operation and the private cars involved are legitimate.⁵

The fast growth of ride-hailing service also creates new legal problems. The traditional regulatory approach will not consider a taxi company as a platform. Between the taxi company and the driver there is the relationship of employer and employee, and thus the taxi company should bear carrier's liability. The position of ride-hailing companies under the law is difficult to ascertain.⁶ If a ride-hailing company does not own any cars, it is not the direct service provider. It thus comes to the question whether such a ride-hailing company only works as an intermediary and thus its responsibility should be limited.⁷ New legal issues are not just theoretical, but have manifested themselves in practice through the disputes of the users vis-à-vis online ride-hailing service platforms and drivers registered with the platforms.⁸ Consequently, the ride-hailing regulation attracts societal attention.

2. THE REGULATORY APPROACH ADOPTED BY THE CHINESE GOVERNMENT AND THE RESTRICTIONS IMPOSED BY LOCAL IMPLEMENTATION RULES

2.1 The current regulatory approach

In July 2016, the General Office of the State Council (GOSC) issued the Opinion on Deepening the Reform to Promote the Healthy Development of the Taxi Industry (hereinafter referred to as “**GOSC Opinion**”), which sets forth the basic principle of ride-hailing regulation. First, it legalizes the ride-

⁵ Prior to the release of ride-hailing regulations, there had been many administrative sanction cases in which the competent authorities fined ride-hailing drivers for operating taxi service without licenses. Many fined drivers also filed administrative litigations against relevant authorities. Generally, the people's courts tend to consider that the ride-hailing service as being illegal, see e.g. (2017) Yue 20 Xing Zhong No.47. However, some courts also showed sympathy to ride-hailing service, and distinguished ride-hailing service from the traditional unlicensed taxi operations, see e.g. (2017) Lu 01 Xing Zhong No.103.

⁶ For the difficulties in ascertaining the position of ride-hailing companies, see e.g. Redfearn III, Robert L “Sharing Economy Misclassification: Employees and Independent Contractors in Transportation Network Companies”.

⁷ See Katz, Vanessa “Regulating the Sharing Economy”, 30 (4) Berkeley Tech. L. J. 1067 (2015).

⁸ A typical example of the disputes is the case decided by the Haidian District Court in December 2016; for an introduction of the case, see “The First Transportation Case Concerning Ride-hailing Service: Platform and User Each Bear 50% Liability of Compensation”, reported by 21st Century Business Herald, December 6, 2016, online available at http://d.youth.cn/sk/201612/t20161206_8919601.htm.

hailing service sector, and positions the private cars registered with the ride-hailing companies as taxis.⁹ Second, it clarifies that the role of ride-hailing companies is the service provider.¹⁰ Third, it explicitly points out that the municipal governments are burdened with the responsibility to reform the taxi industry.¹¹ However, the GOSC Opinion does not touch upon the issue whether ride-hailing companies need to obtain relevant licenses to provide service.

In November 2016, the Transportation Department of the State Council and the other six departments at the central level jointly promulgated the Interim Measure on the Ride-hailing Regulation (hereinafter referred to as “**Joint Interim Measure**”) to further clarify that ride-hailing companies, cars registered with ride-hailing companies and drivers shall obtain relevant licenses to provide service to public. In the meantime, the Joint Interim Measure set forth relatively detailed requirements for the licenses concerned.¹² However, the Joint Interim Measure also reserved broad discretion for local governments, particularly regarding the power to impose restrictions on cars and drivers that registered with ride-hailing companies.¹³

2.2 Restrictions reflected by some local ride-hailing measures

2.2.1 Overview

Per the requirement of the Joint Interim Measure, ride-hailing companies, cars registered with ride-hailing companies and drivers shall obtain relevant licenses. Local governments will make their own local rules to regulate ride-hailing service and specify the conditions must be met for obtaining the relevant licenses. Local governments indeed made and implemented local implementation ride-

⁹ See subsection (III) of Section II of the GOSC Opinion.

¹⁰ See Subsection (VIII) of Section IV of the GOSC Opinion.

¹¹ See Subsection (XV) of Section V of the GOSC Opinion.

¹² See Article 8 of the “Joint Interim Measure” for the regulation on ride-hailing business permit; Article 13 of the “Joint Interim Measure” for the regulation on ride-hailing transport certificate; and Article 15 for the regulation on ride-hailing driver license.

¹³ See Articles 12 and 14 of the “Joint Interim Measure”.

hailing rules thereafter, yet some conditions imposed are said to be quite strict, e.g. to require drivers to have local Hukou (the resident status of a city) and cars to be registered at the city where the service will be provided. Some conditions even target car standards such as wheelbase and displacement. Those conditions have been criticized because they are stricter than those being imposed upon taxis.

2.2 Many local implementation rules require local Hukou and cars being locally registered

First-tire cities like Beijing and Shanghai require drivers to have local Hukou to provide services. Article 8 of the Beijing Rules for the Implementation of the Ride-hailing Regulation (hereinafter referred to as “**Beijing Implementation Rules**”) provide that drivers who apply for the license to provide ride-hailing service should have Beijing Hukou.¹⁴ Article 9 of the Rules of Shanghai Concerning the Management of the Operation of Ride-hailing Service (hereinafter referred to as “**Shanghai Implementation Rules**”) also stipulates Shanghai Hukou as a requirement for drivers to provide ride-hailing service.¹⁵ It is well known that Hukou of Beijing City or Shanghai City is difficult to obtain. The Hukou requirements thus prevent non-local drivers from entering Beijing or Shanghai market, despite that Beijing and Shanghai are the exact places where the non-local drivers make living. Drivers who have Hukou in the cities are therefore protected from the competition pressure imposed by non-local drivers.

In addition to Hukou restriction, many cities require the cars of ride-hailing service to be locally registered. These cities include Beijing, Shanghai, Shenzhen, Guangzhou, Hangzhou, etc.¹⁶ However, it is difficult to obtain license plates from these cities, given that they have strictly controlled the total

¹⁴ Article 8 of the “Beijing Implementation Rules”.

¹⁵ Article 9 of the “Shanghai Implementation Rules”.

¹⁶ Article 9 of the “Beijing implementation Rules”, Article 8 of the “Shanghai Implementation Rules”, Article 14 of the “Shenzhen Municipal Administrative Measures on Ride-Hailing Service”, Article 8 of the “Guangzhou Municipal Administrative Measures on Ride-Hailing Service”, and subsection (VIII) of Section III of “Hangzhou Municipal Administrative Measures on Ride-Hailing Service”.

number of license plates issued. Therefore, drivers must face many administrative hurdles to register cars in these cities.

Take Beijing as an example. A Beijing license plate will not be assigned unless the drivers have Beijing Hukou, or pay social security or tax consecutively for five years. Apart from that, Beijing adopts a lottery system to assign the license plate number (Yaohao), which is famous for its low lot winning rate (783:1 as reported in 2016 when Beijing Yaohao for the last time). Thus, the requirement regarding local license plate has further strengthened the protection of drivers who have Hukou. Non-local drivers are placed at artificially created competition disadvantage, or even do not have fair opportunity to compete in the local markets.

2.3 Many local implementation rules incorporate requirements concerning car standards stricter than those being imposed upon taxis

Per the GOSC Opinion, China will “make efforts to establish a transportation service system of diversity and differentiation”. The GOSC also provides a general principle to regulate taxi service and ride-hailing service, that is, taxi companies and ride-hailing companies shall operate and develop differently, and shall provide quality and diversified riding service to the public. Article 3 of the Joint Interim Measure provides that ride-hailing service shall be orderly developed in accordance with the principal of “providing high quality service and operate with differentiation”.

However, neither the GOSC Opinion nor the Joint Interim Measures provide explanations on the meaning or connotation of “quality riding service”, “high quality service” and “operation with differentiation”. When China’s local governments make implementation rules, they nevertheless tend to interpret the concepts as strict requirements over standards of ride-hailing cars, and usually prescribe a minimum price and/or certain price criteria, indicating that the ride-hailing cars shall be high-end. Based on such a mechanical and partial interpretation, many local implementation rules

set forth the following requirements concerning car standards:

- a. Car Age: to provide ride-hailing service, cars registered with ride-hailing companies shall not be used for more than two or three years;¹⁷
- b. Wheelbase, Displacement and Power: to provide ride-hailing service, cars registered with ride-hailing companies shall meet standards concerning wheelbase, displacement and power. In extreme cases, some local implementation rules set forth detailed requirements regarding the height, length and width of the cars;¹⁸
- c. Car Purchasing Price: to provide ride-hailing service, some local implementation rules require that the cars should be purchased at a certain price level, e.g. not less than RMB 150,000 yuan and 50% more than the price of the main taxis on the market.¹⁹

Requirements regarding car types, wheelbase, power and car purchasing price directly increase the costs of ride-hailing service. The costs for a car that fulfills the requirements will be more than RMB 150,000 yuan. In contrast, most taxis in China have been purchased around RMB 100,000 yuan. Consequently, the costs borne by ride-hailing service are relatively higher.

¹⁷ For instance, the Qingdao Rules on Ride-hailing Service requires the car age to be less than one year, calculating from the date of obtaining vehicle license; the Shenzhen Ride-hailing Rules require the car age to be less than two years; and the Quanzhou Ride-hailing Rules require that the car age shall be no more than three years; for more details, see Qingdao Municipal Administrative Measures on Ride-Hailing Service, Shenzhen Municipal Administrative Measures on Ride-Hailing Service, and Quanzhou Municipal Administrative Measures on Ride-Hailing Service.

¹⁸ For instance, the Beijing Implementation Rules require that: for five-seater, the wheelbase shall be no less than 2650 mm (including new energy cars), and the displacement shall be no less than 108L; for 7-seater, the displacement shall be no less than 200L, and the wheelbase shall be no less than 3000mm. The Qingdao Implementation Rules requires that the length of ride-hailing cars shall be no less than 4800mm, the width shall be no less than 1800mm, and the height shall be no less than 1450mm.

¹⁹ For instances, the Quanzhou Implementation Rules set the requirements that the suggested retail prices for ride-hailing cars shall be no less than CNY150,000, and shall be 50% higher than the average market price of cruising taxis.

3. COMPETITION CONCERNS INCURRED BY THE RESTRICTIONS IMPOSED BY LOCAL IMPLEMENTATION RULES

3.1 Overview

The restrictions imposed by the various local governments have caused societal attention and debate. Particularly there is the voice questioning whether some local governments have abused administrative power to restrict or eliminate competition. The central issues of the debate are summarized as follows: a. whether the restriction imposed upon Hukou and license plate could be regarded as measures to implement local protectionism; b. whether the car standard requirements could be driven by a purpose of protecting the traditional taxis from competition; and c. whether the restrictions in general would impair consumer interests.

3.2 Whether the restrictions imposed on Hukou and license plate may constitute measures to implement local protectionism

Competition laws associate local protectionism with abuse of administrative power. Local protectionism refers to the situation that administrative agencies and the other relevant entrusted organizations overstep their authorities to segment or block markets, thereby prohibiting non-local commodities from entering the local markets or restricting local commodities from entering non-local markets.²⁰ The key features of local protectionism are that a. administrative power accord discriminatory treatments to local and non-local commodities; and b. the smooth circulation of commodities inside the national market is adversely affected. At least superficially, the restrictions prescribed by the local implementation rules which impose restrictions on Hukou and license plate do not appear to treat local and non-local service providers equally. Therefore, the restrictions have been always suspected of implementing local protectionism.

²⁰ See e.g. Wang, Fujing "A Preliminary Analysis of Monopolies and Antimonopoly Law" 3 China Political Education Reference (2001).

However, there is also the voice pointing to the fact that per the GOSC Opinion, ride-hailing companies are service providers and assume carriers' liability. That indicates drivers registered with ride-hailing companies are not service providers and hence, the restrictions imposed upon Hukou and license plate cannot be understood as local protectionism. On the contrary, the restrictions are made based on fair considerations of easing population pressure and resolving traffic jams.²¹

To determine if the restriction constitutes local protectionism, not only it is necessary to explore if the restriction is imposed per the requirement of laws positioned at a higher level or if the restriction serves a legitimate purpose, but also one must analyze whether imposing that restriction will do minimum harm to market competition. If there are other ways to fulfill that legitimate purpose without having to do harms to market competition, the restriction should not be considered as the appropriate policy choice.

3.3 Whether the car standard requirements could be driven by a purpose of protecting the traditional taxi industry

As introduced, the local implementation rules which set forth requirements concerning car standards will increase the operation costs of ride-hailing service. It is highly possible that an increase in operation costs leads service price to soar. Price is the important factor that consumer will consider when choosing to take a taxi or to order ride-hailing service online. When the service price sours to a certain extent, the ride-hailing service will not have any advantage in terms of price competition. Consequently, consumers are likely to choose taxis and abandon ride-hailing service.

In fact, the fast development of ride-hailing service in China can be largely attributable to the economic service prices that ride-hailing service has offered. During the National People's Congress

²¹ For the reasons to impose constrains, see e.g. "The Outcome of Disclosing Government Information Regarding the Fair Competition Review of Beijing Ride-hailing Service Regulations – Responding to Questions Whether Constrains on Hukou and License Plates Limit Competition", reported by *Legal Daily*, January 13, 2016, online available at http://www.legaldaily.com.cn/index/content/2017-01/13/content_6955611.htm?node=20908.

and the Chinese People's Political Consultative Conference of 2017, representatives expressed the opinion to the public that ride-hailing services offer convenient mobility with economic prices and good service attitudes.²² In other words, economic price and quality service have increased consumer welfare and hence, ride-hailing service is welcomed by society. A reasonable expectation is therefore that ride-hailing service may become no longer or far less attractive to consumers if there was a significant increase in service price.

In sum, the requirements concerning car standards have the effect of restricting the ability of ride-hailing companies to compete with taxi companies at the same or similar price level. Whereas there has been the complaint regarding the great impact imposed by ride-hailing service upon the taxi industry, an easy conclusion appears to be that the restrictions might be driven by the desire of the local governments to shield taxis from the competition of ride-hailing service.

3.4 Whether the restrictions in general would impair consumer interests

Cheaper price, more choices and higher quality are the most often cited dimensions of consumer interests. Post the promulgation of the local implementation rules, no longer do consumers pay ride-hailing service the same price as that of before, because the increase in costs have led service price to sour. Whereas the local implementation rules require local Hukou and local license plate to issue relevant licenses, there is a sharp decrease in the number of drivers and cars registered with ride-hailing companies, and thus, the choices available to consumers are significantly reduced. Furthermore, since ride-hailing service is not of any advantage in terms of price competition, consumers will only have few choices for riding services provided at a certain price level. The consequence is that even though consumers are willing to pay higher prices, they cannot find ride-

²² See e.g. the opinions of Mr. Li Xiaodong, the committee member of Shanxi Political Consultative Conference, reported by youth.cn on March 8, 2017, online available at http://news.youth.cn/gn/201703/t20170308_9249919.htm.

hailing cars to meet their riding needs.

The consequence is not just theoretical. Post the promulgation of the local implementation rules, a prevalent complaint of consumers is that they must pay high fees for ride-hailing service on the one hand, and wait for a long time to be served on the other. Consumer welfare protection agency in Kunming and the other 17 consumer welfare protection agencies jointly issued the report post the Lunar New Year of 2016 – The CCSI Report Regarding Ride-hailing Service – and pointed out that:

“An important reason for the reduction of ride-hailing service provider is that the local implementation rules have been promulgated and relevant agencies of the local government initiated strict enforcement actions to promote compliance with the Rules...The joint effect of many factors has led consumers to complain that they have to pay expensive price for ride-hailing services yet face reduced number of service providers”.²³

4. MITIGATING THE IMPACT CAUSED BY UNDUE RESTRICTIONS: THE COMPETITION LAW RECOURSE

4.1 Overview

Undue government interventions into the economy could adversely impact market competition, impair the legitimate rights and interests of various market entities including consumers. It is the principle of the AML that administrative agencies and the relevant entrusted organizations shall not abuse administrative power to eliminate or restrict competition.²⁴ Apart from that, specific types of abusive conducts are emphasized: designated deals forced by administrative power,²⁵ local protectionism²⁶ and making regulatory rules that contain contents to restrict or eliminate

²³ See “18 Consumer Welfare Protection Agencies Jointly Issue the CCSI Report Regarding Ride-hailing Service” online available at <http://www.kmaic.gov.cn/KmaicOut/website/ShowDocument.aspx?id=52150>.

²⁴ Article 8 of the AML.

²⁵ Article 32 of the AML.

²⁶ Articles 33, 34, 35 of the AML.

competition.²⁷ Thus, when regulatory measures constitute abuses of administrative power to eliminate or restrict competition, the AML does provide specific provisions to rectify. In addition to that, China established the fair competition review system on June 14, 2016. Per the fair competition review system, government and the relevant entrusted organizations shall conduct a fair competition review when they draft provisions, regulatory documents or other policies (collectively “policies”), if the policies would involve the economic activities of market entities.

4.2 The fair competition review system: preventing undue restrictions *ex ante* the promulgation of local implementation rules

The regulation of ride-hailing service necessarily involves the economic activities of market entities. Per the Opinion on Establishing the Fair Competition Review System, administrative agencies and the other relevant entrusted organizations shall assess, from the perspectives of market entry, the smooth circulation of productive factors, the influence of operation costs, and the influence of operation activities, whether the policies could adversely affect China’s internal market and fair competition in that market.

Judging from the restrictions imposed by the local implementation rules, requirements concerning Hukou and license plate will prevent non-local services from entering the local market. Furthermore, the existence of differential treatment between ride-hailing cars and taxis means that ride-hailing cars are discriminated by administrative power. While the Opinion on Establishing the Fair Competition Review System stipulates that policies shall not affect the smooth circulation of productive factors, and shall not set forth market entry and exit conditions that are discriminatory, at least superficially, the restrictions imposed by the local implementation rules are not consistent with the review standards established by the fair competition review system.

²⁷ Article 37 of the AML.

Initial preferences of policies are important in that they could guide the policies' future development. It thus is important that the inconsistencies between the local implementation rules vis-à-vis the standards of fair competition review system are seriously considered and profoundly rethought. Based on that, an assessment of whether the restrictions are truly reasonable can be made carefully. This will contribute to an improved regulation by facilitating administrative agencies and the relevant entrusted organizations to respect market competition.

4.3 The timely assessment in accordance with the AML: the *ex post* remedy of the anti-competitive effects caused by the undue restrictions

It is true that the regulation of ride-hailing services would involve many complicated issues and needs cooperation amongst various governmental departments. However, the AML enforcement agencies' central task is to protect competition. Thus, when ride-hailing service regulations are doubted to have violated the AML, and the fair competition review system failed to prevent the emergence of the regulations in question, the AML enforcement agencies should listen to the concerns expressed by the public, and scientifically evaluate the effect of the relevant restrictions in accordance with the AML. That will urge administrative agencies and the other entrusted organizations to comply with the Law, promoting the establishment of sound regulatory regimes for ride-hailing services.

5. THE INSPIRATIONS THAT RIDE-HAILING SERVICE REGULATIONS BRING TO THE REGULATION OF THE SHARING ECONOMY

5.1 The nature of ride-hailing service: sharing economy or not

The State Information Center of the National Development and Reform Commission (hereinafter referred to as "NDRC") issued the 2016 Report of the Development of China's Sharing Economy. The Report defines the sharing economy as "a sum of economic activities which utilize modern

information technologies to integrate and share the under-used resources.”²⁸ At the beginning of 2017, the NDRC drafted the Guidelines for the Development of the Sharing Economy and understood the sharing economy as “a new form of economy that utilizes the information technologies to optimize the allocation of scattered resources through internet platforms.”²⁹

The definitions of the sharing economy proposed by the NDRC emphasize the utilization of information technologies and optimizing resource allocation. The highlights appear consistent with the mainstream opinions at the international level which consider the main features of the sharing economy as: a. the sharing economy would reduce transaction costs,³⁰ and b. the sharing economy would optimize resource allocation.³¹ Generally, the sharing economy operates through establishing information platforms to facilitate transactions between peers (P2P transactions).

China’s ride-sharing companies can be categorized into two types based on whether the ride-sharing companies own the cars. Those ride-sharing companies own the cars are asset-oriented whereas those do not are asset-disoriented. The typical example of the former is CAR Inc. Under the asset-oriented format, ride-sharing companies purchase cars for the services and is the employer of drivers. In other words, the platform directly provide service to consumers. The typical example of the latter is Didi and Uber. For those platforms, they do not own cars but providing services through drivers’ cars. The platforms gather ride-hailing service providers and integrate the needs of consumers. With the support of information technologies, these platforms match the needs of the both sides, that is, the private car drivers and the users of the platforms. The platforms make profits through taking a percentage of the fees paid to private car drivers. By their very nature, the service provided by these

²⁸ See the 2016 Report of the Development of China’s Sharing Economy, online available at <http://www.sic.gov.cn/News/250/6010.htm>.

²⁹ See the Guidelines for the Development of the Sharing Economy, online available at http://gjss.ndrc.gov.cn/ghzc/201702/t20170228_839601.html.

³⁰ See Katz, Vanessa “Regulating the Sharing Economy”, 30 (4) Berkeley Tech. L. J. 1067 (2015).

³¹ *Id.*

asset-disoriented car-sharing companies is quite similar to intermediaries.

As explained, the Chinese government emphasizes the optimization of resource allocation by utilizing information technologies when defining the sharing economy. As private car owners increased the utility of their cars through registered with ride-sharing companies, we understand that at least ride-sharing companies that are not asset-oriented are examples of the sharing economy, because the features of their ride-hailing service match the features of the sharing economy. Indeed, in July 2015, the State Council issued the Guiding Opinions on Actively Promoting the Internet Plus Campaign. In that Guiding Opinions, ride-hailing services are clearly defined as the sharing economy, for the statement provides that the Country will “develop the sharing economy and regulate ride-hailing services.”³²

5.2 The inspirations brought by the regulation of ride-hailing services

The ride-hailing services will not cause traffic accidents essentially different from that caused by taxis. This is just an example illustrating that the sharing economy is new not because it creates new risks for the society. The sharing economy is new rather because its business model is different from the traditional ones. For instance, more parties are involved in transactions under the sharing economy rather than a simple buyer and seller relationship, and transactions are more convenient compared with that of before thanks to the utilization of information technologies. However, the transactions under the sharing economy are also more complicated given the more parties involved. Hence, when the government regulates the sharing economy, it has to take into account more factors and balance the interests of more parties. It is in that sense that we argue that the government’s regulations face challenges.

³² The Guiding Opinions on Actively Promoting the Internet Plus Campaign, online available at http://www.gov.cn/zhengce/content/2015-07/04/content_10002.htm.

However, it cannot be the conclusion that the government does not need to evaluate the regulation's impact on market competition given that there are already too many challenges. Balancing the interests of different parties of the transactions cannot sacrifice market competition completely. When the administrative power's undue interventions do harms to the competition mechanism, the market force will not be able to correct the distortions. Consequently, type II errors will emerge.

6. CONCLUSION REMARKS

This article introduced the regulatory challenges raised by China's ride-hailing services and analyzed the problems, particularly the competition problems that the current regulatory approach has caused. On that basis, this article enlightened the thinking with respect to the proper regulation of the sharing economy which has features so different from the traditional economies. This article argues that although the regulation of the sharing economy must face challenges from various aspects, proper and reasonable regulation cannot abandon the protection of competition. Therefore, administrative agencies and the relevant entrusted organizations to conduct fair competition review when drafting the regulations, and to comply their conducts with the AML are important, for doing so, the innovation initiatives of undertakings in the economy will be maintained and the Chinese economy will be on the right track of sustained and healthy development.