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Citation: Noto La Diega, Guido and Jacovella, Luce (2016) UBERTRUST: How Uber Represents Itself to Its Customers Through its Legal and Non-Legal Documents. Journal of Civil and Legal Sciences, 5 (4). p. 199. ISSN 2169-0170

Published by: OMICS

URL: <http://www.omicsgroup.org/journals/ubertrust-how-u...>
<<http://www.omicsgroup.org/journals/ubertrust-how-uber-represents-itself-to-its-customers-through-itslegal-and-nonlegal-documents-2169-0170-1000199.php?aid=77218>>

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UBERTRUST: How Uber Represents Itself to Its Customers Through its Legal and Non-Legal Documents

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Abstract

This paper examines some of the key factors that contribute to build or erode users' trust in a platform-based service such as the one provided by Uber Technologies Inc. As clarified by the European Commission, the future Internet cannot succeed without trust of online platforms' users. The paper explores Uber's web of relationships with different categories of users, i.e., 'driver-partners', 'riders', 'developers' and 'business users' through Uber's legal and non-legal representations. By analysing Uber 'legals' (terms of service, privacy policy, etc.) and the non-legal representations of these norms through the wider Uber community ecosystem (forums, blogs, etc.), it explores how transparency and collective awareness can play a role in sustaining trust. It concludes that the opacity of its 'legals' and of its corporate structure could create tensions within the market and undermine the users' trust. Therefore, the authors recommend that in order to foster trust and ensure fairness, Uber should ensure consistency between its legal and non-legal representation and adopt a more transparent and fair approach in its legals. This would, in turn, empower its users community to participate in the decision making and could provide an example for other platforms.

Keywords: Online platforms; Trust; Terms of service; Collective awareness; Private ordering; Transparency; Uber; Uberification; Sharing economy

Introduction

This paper explores the legal and non-legal representations of Uber (or 'the company'), one of the most important online platforms of the sharing economy¹, in the context of the European Digital Single Market².

The European Commission defines online platforms as 'undertakings that are capable of facilitating direct interactions between users via online systems and that capitalise on data-driven efficiencies enabled by network effects'³. As observed in a European report⁴, the first macro-economic factor driving the growth of the sharing economy is 'decreased consumer trust in the corporate world as a result of the financial and economic crisis'⁵.

One way in which trust and transparency⁵ are mediated in online platforms is through their legal and non-legal representations⁶. By

legal representation or 'legals', we mean the Terms of Service (ToS) and related policies. In turn, the non-legal representation is the communication which has a normative function. This is delivered through the company websites, and through non-official online venues (forums, blogs, etc.), that are part of Uber's ecosystem (though not affiliated to the company). They represent a structured communication with the purpose of establishing what the company is set to do and how and to clarify the relationships with users and third parties.

Uber is a service that has reached one billion rides and has recorded a sharp growth since 2008⁷, but it is facing lawsuits and protests all around the world [1-3]⁸. Taxi drivers argue that Uber's competition is unfair and that all the drivers should be bound to taxi regulations (see, e.g., the protests of Rio de Janeiro on 1 April 2016)⁹. The drivers' community, however, is far from compact and their instances vary. Some drivers, for example, would like to be treated as employees, rather than independent contractors. Others accuse Uber to 'starve' its drivers, with increasing commission fees¹⁰. Riders claim that the platform should be responsible for the drivers' behaviour. From all sides, trust in the company seems to be shaking. Another important issue is that Uber tries to escape the traditional dispute resolution

¹ Cf Graef 2015.

² European Commission, com. "A Digital Single Market Strategy for Europe" COM(2015) 192 final, especially para 3.3.. Adopted on 6 May 2015, the strategy includes three pillars and sixteen initiatives that ought to be delivered by the end of 2016. See also Commission Staff Working Document 'A Digital Single Market Strategy for Europe - Analysis and Evidence' Accompanying the document 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions A Digital Single Market Strategy for Europe' (especially para 4.5).

³ European Commission, communication 'Online Platforms and the Digital Single Market. Opportunities and Challenges for Europe', para 2, due to be officially released on 25 May 2016, but already available at <http://www.politico.eu/wp-content/uploads/2016/04/Platforms-Communication.pdf>. For some critical remarks see J. McNamee, 'Leaked EU Communication – Part 1: Privatised censorship and surveillance', available at <https://edri.org/leaked-eu-communication-privatised-censorship-and-surveillance/>. All the URLs of this paper have been accessed on 21 May 2016.

⁴ Derojeda et al 2013.

⁵ Transparency was one of the goals also of the eCommerce Directive 2000/31/EC, but it played a minor role. Indeed, it was limited to the need for transparent commercial communications (recitals 29 and 30). Even trust had a completely different meaning, as referred exclusively to the relations between Member States (recital 22).

⁶ Durkheim's social theory makes reference to the important of social normative structures to maintain trust and social cohesion.

⁷ <http://fortune.com/2015/12/30/uber-completes-1-billion-rides/>

⁸ See, for instance, Barratt and Morgan 2016; Brown 2015; Syed 2015; van der Luit-Drummond 2015; Heinemann and Shume 2015; Barnett and Tomlison 2014.

⁹ <http://www.telegraph.co.uk/news/2016/04/02/rio-de-janeiro-comes-to-a-standstill-as-taxi-drivers-protest-aga/>.

¹⁰ <http://uberdriverdiaries.com/whoa-huge-uber-now-taking-25-new-drivers/>.

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Received May 23, 2016; Accepted June 22, 2016; Published June 29, 2016

Citation: Diega GNL, Jacovella L (2016) UBERTRUST: How Uber Represents Itself to Its Customers Through its Legal and Non-Legal Documents. J Civil Legal Sci 5: 199. doi:10.4172/2169-0170.1000199

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public system and to prevent class actions, preferring arbitration and individual settlements¹¹. The US Terms and Conditions (T&C) clearly state: 'you acknowledge and agree that you and Uber are each waiving the right to a trial by jury or to participate as a plaintiff or class in any purported class action or representative proceedings'¹². The British version, in turn, mandates a two-step extrajudicial procedure, including international mediation, and then arbitration¹³. Whilst many companies are including arbitration clauses to resolve disputes, the fact the T&C are designed in such a fashion as to prevent and even deny access to public justice and class actions in particular, it is clearly an attempt to weaken the bargaining position of the users [4-7].

The paper partly builds on a qualitative study on a domotics environment¹⁴, where a complex ecosystem has been studied through the use case of a single company, representative of the relevant sector, by analysing its legals. As a starting point, the authors have undertaken to collect and analyse Uber's legals, in order to identify how the company represents its corporate framework and the relationships with its users [8]. The authors have started their research from the most obvious venues, such as the company's website. This has not been an easy task from the outset. In order to find the relevant legals, the authors have resourced to search them either by participating in official and unofficial forums, or by pretending to be potential users. Other information has been retrieved from the search engines of the UK Companies House and of the California Secretary of State¹⁵, or from literature.

The European Regulatory Framework for Online Platforms

Europe has a growing interest in the regulation of platforms to secure trust. For instance, in September 2015, the European Commission launched a consultation covering the social and economic role of online platforms¹⁶. The consultation highlighted the following issues: transparency; terms of use; ratings and reviews; the use of information by platforms; the relation between platforms and their suppliers; the role of online intermediaries¹⁷. The Commission's Communication 'Online Platforms and Digital Single Market' is expected at the end of May 2016¹⁸. On an internal draft we had the opportunity to read, the Commission points out that 'the future Internet cannot succeed without trust of users in online platforms'¹⁹. Hence, the Commission is committed to develop measures that foster trust, fairness, and awareness, especially regarding collection and use of data [9,10]. In particular, the areas that need additional transparency are: data collection, 'the display of sponsored search results, the identification of the actual supplier of services or products, and possible misleading practices including fake reviews'²⁰.

¹¹ For instance, under section 16 of the Terms and conditions – 13th May (<https://newsroom.uber.com/uk/terms-and-conditions-13th-may/>), 'any dispute, conflict or controversy, howsoever arising out of or broadly in connection with or relating to the Prize Draw or the Prize awarded shall be resolved individually, without resort to any form of class action, and shall be first mandatorily submitted to settlement proceedings under the International Chamber of Commerce Mediation Rules.'

¹² S. 6 'Dispute resolution', <https://www.uber.com/legal/terms/us/>.

¹³ S. 6 'Governing Law; Arbitration' <https://www.uber.com/legal/terms/gb/>.

¹⁴ Noto La Diega and Walden 2016.

¹⁵ The companies registrar of the Netherlands is only partly publicly available.

¹⁶ See the EU Commission Research Program on H2020 on Collective Awareness Platforms. Cf. McLean-Samavi 2015.

¹⁷ European Commission 2015. The deadline was on 30 December 2015.

¹⁸ European Commission (2), para 2.

¹⁹ European Commission (2), para 5(iii).

²⁰ Ibid.

Furthermore, the Commission calls for an improvement of business-to-business (B2B) relationships through fairer and faster *ex-ante* measures²¹. The areas that the Commission identifies for improvement are: ToS that are currently perceived as unfair, the refusing of unilaterally-modified market access conditions, the dual role of platforms as supplier and competitors of suppliers, unfair 'parity clauses' with detrimental effects for the consumer, and 'lack of transparency notably on platform tariffs, on use of data and on search results, which could result in harming suppliers' business activities'²². Finally, the findings²³ of the consultation, as recalled by the leaked communication, show 'that imbalanced terms and conditions imposed by platforms potentially have the most detrimental impact on business activities. It also shows the need for legal certainty about access to, and ownership of, data in order to stimulate investments and allow a more balanced contractual relationship between service providers and business users'²⁴.

Member States are as active as the Union. For example, the United Kingdom and Italy are collecting evidence to understand if online platforms should be more transparent²⁵. France, on the other hand, is about to require them to provide loyal, clear, transparent information about the terms of service (ToS)²⁶.

The Platform and its Relationship with the Users

Uber is a user-to-user service mediated by an online platform. Even though low-cost, real-time ridesharing startups such as Lyft and Sidecar are spreading, Uber is still the main player at a global level. The economic and social transformation that has followed, has taken the name of 'Uberification' or 'Uberisation'²⁷.

The platform's ToS configure the relationships between Uber and the users (drivers-partners, riders, business users, developers), as well as the relationship between the users [11]. The latter is particularly relevant for determining how trust is built and sustained. The relationship is entirely mediated by the platform through legal and non-legal representations of norms.

Uber Legals

To give an account of the complexity of the ecosystem, it is useful to look at the legals. Limiting the list to the legals applicable to users in

²¹ Ibid.

²² Ibid.

²³ "First brief results of the public consultation on the regulatory environment for platforms, online intermediaries, data and cloud computing and the collaborative economy", 26 January 2016, <https://ec.europa.eu/digital-single-market/en/news/first-brief-results-public-consultation-regulatory-environment-platforms-online-intermediaries>. However, the leaked communications seems to build on the final report, which is not publicly available as of yet.

²⁴ European Commission (2), para 5(iii).

²⁵ House of Lords EU Internal Market Sub-Committee, 17 September 2015, <http://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-internal-market-subcommittee/news-parliament-2015/online-platforms-inquiry-launch/> and Agenzia per le Garanzie nelle Comunicazioni, 11 November 2015, <http://www.agcom.it/documents/10179/2185185/Delibera+357-15-CONS/9de98850-5624-404d-ba47-2c8ca6533556?version=1.0>.

²⁶ See article 19 of the draft statute on a digital Republic on "Loyalty principle of online platforms (<https://www.republique-numerique.fr/media/default/0001/02/f4ad150bf1007c55d62cc4b2c971a5d0ef1b539d.pdf>).

²⁷ On 24-Feb-2015, the term has entered the French Wiktionary, which now defines it as the adoption of a commerce model where one provides resources to the clients via their smartphones on demand and real-time. However, the wording 'uberisation' is more common in France. For some legal issues related to the 'uberification' see Syed 2016.

the United Kingdom²⁸ and listed in the ad-hoc section of Uber.com²⁹, the legals are:

- a) the Terms and Conditions (T&C) bipartite into Booking Service Terms and Terms of Use³⁰;
- a) the User Privacy Statement³¹;
- b) the Driver Privacy Statement (non-US)³²;
- c) the Cookie Statement (Global)³³;
- d) the Uber Copyright Policy³⁴;
- e) the Zero Tolerance Policy³⁵;
- f) the Non-Discrimination Policy³⁶;
- g) the Firearms Prohibition Policy³⁷;
- h) the Guidelines for Law Enforcement Authorities³⁸;
- i) the Guidelines for Third Party Data Request and Service of Legal Documents³⁹;
- j) the Promotion Terms and Conditions⁴⁰;
- k) the Promotion Agreement Cover Sheet⁴¹;

²⁸ One is targeted only at users in China, that is 'Fraudulent activity' (<https://www.uber.com/legal/other/china-fraud/>). One could hardly understand why Uber recalls the importance of the relationship of trust between the platform and the users only in a document reserved to the said country (and with no translation from Mandarin). It is interesting also that there is "Russia jobs" that states "Due to recent changes in data privacy laws in Russia, we are unable to accept online applications from candidates in your country through our careers page. However, we would still love for you to apply! Please email russia-recruiting@uber.com." (<https://www.uber.com/legal/other/russia-jobs/>). Some legals are specific to the US, e.g. the Driver Deactivation Policy (<https://www.uber.com/legal/other/driver-deactivation-us-english/>); California TNC (<https://www.uber.com/legal/other/ca-tnc/>) and Chicago TNP (<https://www.uber.com/legal/other/chi-tnp/>).

²⁹ The list of legals available if one accesses the service from the app (which is the actual only way to book a ride) is by far shorter. Launched the app, one has to spot 'About' (in grey and smaller than the other functions) and then go to 'Legal', where they will find 'Copyright', 'Terms & Conditions', 'Privacy policy', and 'Software Licences'.

³⁰ Last updated on 11 January 2016, the T&C are available at <https://www.uber.com/legal/terms/gb/>. It is noteworthy that the previous version was of 4 December 2015: the good practice of leaving the previous versions of the legals available would have enabled us to understand the need to change after such a short time. The US version has been updated on 2 January 2016, whereas the previous version, not available any longer, was of 8 April 2015 (<https://www.uber.com/legal/terms/us/>).

³¹ Last updated on 15 July 2015, see <https://www.uber.com/legal/privacy/users/en>.

³² Effective as of 15 July 2015, see <https://www.uber.com/legal/privacy/drivers-non-us/en>.

³³ Effective as of 15 July 2015, <https://www.uber.com/legal/privacy/cookies/en/>.

³⁴ <https://www.uber.com/legal/copyright/global/>. There are three versions: global, US, and Germany.

³⁵ <https://www.uber.com/legal/other/zero-tolerance-policy/>.

³⁶ <https://www.uber.com/legal/other/non-discrimination-policy/>.

³⁷ <https://www.uber.com/legal/other/firearms-prohibition-policy/>.

³⁸ <https://www.uber.com/legal/other/guidelines-for-law-enforcement/>.

³⁹ <https://www.uber.com/legal/other/service-of-legal-documents/>. In the version read on 10 December 2015, there was no reference to the service of legal documents.

⁴⁰ Last updated on 14 February 2016, <https://www.uber.com/legal/commercial/promotion-tnc-non-us-english/2016-02-04/>. This document did not exist during the study conducted on 10 December 2015. One gets the impression that every promotions has its own T&C. See, for instance, 'G10G15 Terms and conditions' of 9 May 2016, available at <https://newsroom.uber.com/uk/g10g15-terms-and-conditions/>, which does not refer to the general ToS. See also 'Terms and conditions – 13th May', supra note 8. Alongside the Promotion Terms and Conditions, the US users should take into account also UberEATS General Terms and Conditions, <https://www.uber.com/legal/commercial/uberEATS-tnc-us/eats-tnc-2016-02-24/>.

⁴¹ The Promotion Terms and Conditions open by saying "These Promotion Terms and Conditions ("Promotion Terms") are expressly incorporated into and made a part of the Promotion Agreement Cover Sheet ("Cover Sheet")." The Cover Sheet, however, is not publicly available.

- l) the Accessibility Certification⁴²;
- m) the Android App Permissions⁴³;
- n) the iOS App Permissions⁴⁴;
- o) Bug Bounty Program Terms⁴⁵.

Until at least 10 December 2015⁴⁶, there were also the Unsolicited Idea Submission Policy⁴⁷ and the security policy. The latter has been recently outsourced to a platform managed by security experts from Facebook, Microsoft and Google⁴⁸.

Drivers

It is not clear if the drivers-partners (as Uber calls the users who drive) have their own T&C, since the User T&C does not refer expressly to them, but to the 'Transportation providers'. By searching for 'Uber drivers terms', a potential driver from the UK finds UberMarketplace T&C⁴⁹, which is a different service, operated by Uber B.V., the subsidiary of Uber in the Netherlands. This service is designed to help partner-drivers rent and purchase vehicles, as well as get deals on insurance.

Pretending to be potential drivers, we have contacted the customer support and asked for clarification on the driver-company legal position. After an extensive exchange of e-mails, the customer service clarified that 'Uber UK does not itself provide transportation services, and it is not a Transportation Provider. Uber UK acts as an intermediary between you and the Transportation Provider. You acknowledge and agree that the provision to you of transportation services by the Transportation Provider is pursuant to the Transportation Contract and that Uber UK accepts your booking as agent for the Transportation Provider, but is not a party to that contract'⁵⁰. After several attempts, the relevant legal⁵¹ was finally found from an unofficial forum⁵².

To further complicate matters, every city has its own rules for licensing. For instance, in London licensing rules vary in accordance to the size and model of the car, and the experience of the driver⁵³.

Riders

Reading the 'legals', the user-rider does not understand what is its

⁴² Last updated on 2 February 2016, <https://www.uber.com/legal/other/accessibility-statement/>. In the list of "other documents" the name is "Accessibility Statement". This document did not exist during the study conducted on 10 December 2015.

⁴³ <https://www.uber.com/legal/other/android-permissions/>. This document did not exist during the study conducted on 10 December 2015.

⁴⁴ <https://www.uber.com/legal/other/ios-permissions/>. This document did not exist during the study conducted on 10 December 2015.

⁴⁵ Last updated on 8 April 2016, <https://www.uber.com/legal/other/bug-bounty-program-terms/>. This document did not exist during the study conducted on 10 December 2015.

⁴⁶ The document reviewed in this research have been studied a first time on 10 December 2015 and a second time on 13 May 2016.

⁴⁷ <https://www.uber.com/legal/unsolicited-idea-submission-policy/>. The page is no longer available.

⁴⁸ Until 10 December 2015, the Security Policy/Responsible Disclosure Policy was available at <https://www.uber.com/security/>. If one visits this URL on 28 April 2016, they get redirected to <https://hackerone.com/uber>, where Uber invites hackers to expose vulnerabilities. It is interesting that only today three bug reports have been resolved, which means that cybersecurity is a real issue.

⁴⁹ <https://drive.uber.com/ukmarketplace/terms-and-conditions/>.

⁵⁰ The test is from an email sent from the Uber customer service.

⁵¹ Uber B.V. Services agreement, https://s3.amazonaws.com/uber-regulatory-documents/country/united_kingdom/Uber+BV+Driver+Terms+-+UK+Preview.pdf and Driver Addendum, https://s3.amazonaws.com/uber-regulatory-documents/country/united_kingdom/Uber+BV+Driver+Addendum+-+UK+Preview.pdf (both of 20 October 2015).

⁵² Uberpeople.net.

⁵³ <http://www.driveuberuki.com/our-cities/london/#1446505645212-909d428a-7b15>.

relationship to the driver and, most importantly, the one between the latter and the company.

Some services are available to riders, e.g. the fares calculator, but from a website which is not operated by Uber and comes with its own privacy policy⁵⁴.

To add to the complexity, when users download the app, they are bound by the legals of the app stores; e.g. if they are using Android they are subject to Google's Play policies⁵⁵. In this case, they are also transacting with Google Payments and agreeing to their ToS⁵⁶ and Privacy Notice⁵⁷.

When downloading the Uber's app, a user could hardly expect to trigger a cascade of at least twenty-seven legals⁵⁸ (some publicly available other not) and twenty-five permissions. Indeed, the app downloaders must give their permissions to let Uber control their data and their smartphone (against the average, which is five)⁵⁹. Moreover, the legals of the mobile versions are different from the desktop version above reported. The mobile legals include only the Copyright Policy, User T&C, Privacy Policy, and Software Licences. Finally, the software licences⁶⁰ are included only in the mobile version and not in the desktop one.

Developers

Furthermore, one would expect to find the Developers Terms of Use (ToU) alongside the other legals. This is not the case. One has to visit a separate website to find the Developer ToU⁶¹ and the Earn with Uber ToU⁶².

Business-to-business ToS were not publicly available when we started this research. One had to register first as a business user to obtain the International (non-U.S.) Terms and Conditions of Service (Business T&C), which referred to a code of conduct whose page could not be found⁶³. These are now available⁶⁴, but no reference is made to the code of conduct⁶⁵, which, in turn, can be found in the miscellaneous list of 'other documents'⁶⁶. Before, the code of conduct was limited only to business clients and there was no link to it in the User T&C⁶⁷.

Non-legal Representations

The company's website, its official pages on social media such as Facebook, Twitter, Instagram and LinkedIn, and the company's official

blogs and official forums are all venues where trust is modulated and expressed via non-legal means⁶⁸. They are usually easier to access than long legal texts and more importantly, they are interactive [12]. They create a medium to raise s, describe service requirements, raise concerns, display important features of the service and advertise drivers' achievements (e.g. driver's rating or passing a test), as well as events or partnerships with other businesses. For example, @Uber_Support on Twitter⁶⁹ helps users in case of Uber app's technical malfunctions. When items are left behind on driver's cars, another website offers advice on how to retrieve the lost item from the driver and offers to step in in case the first contact with the driver is not successful⁷⁰. The help page, on the company's main website offers a list of 'popular topics' differentiating between users and business users⁷¹. The pages are well-designed and offer practical solutions for various types of problems from incorrect charges to promotions or other specific services such as UberTAXI, UberX and UberBlack. Some of the information provided has a normative content. For example, the section 'Employees' under 'Business travel' contains specifications on privacy policies regarding the information shared by Uber with business users regarding the employees' journeys⁷².

From reading its official webpages, Uber gives the impression that the user is part of a big and thriving community. Uber, in fact, has been very effective in mobilising its user community and leveraging the network effect for its own ends. For example, Uber's community has been pivotal in campaigning against restrictive laws⁷³. On this regard, on its media news Uber claims for itself the role of protector of users' personal information versus regulators and law enforcement agencies, claiming a role in trying to contain their requests for disclosure. Uber hopes that its 'Transparency Report' will lead to a public debate about the types and amounts of personal information regulated services should be required to provide to their regulators, and under what circumstances⁷⁴. The emphasis on data protection is meant to gain users' trust vis-a-vis requests from national authorities and law enforcement [13].

The non-legal representation is not always consistent with the legals. For instance, the iTunes description of the mobile app refers to Uber Technologies, Inc., whereas the real provider of the app is Uber B.V⁷⁵.

In addition to the company's official online venues, there is a plethora of non-official blogs for Uber's drivers⁷⁶, Uber's customers⁷⁷, websites that describe the terms of the service (e.g. Wikipedia), and media releases that highlight controversial issues. These websites are not under the responsibility of the company, but they often have a pivotal role in explaining service conditions in non-legal terms for both drivers and riders. Thus, they contribute in building a feeling of accessibility and transparency that are essential to build trust. They also highlight

⁵⁴ <http://uberestimate.com/privacy.php>.

⁵⁵ https://play.google.com/intl/ALL_uk/about/play-terms.html.

⁵⁶ The Terms of Service – Buyer are effective as of 5 August 2013, https://payments.google.com/termsOfService?hl=en_GB.

⁵⁷ The Google Payments Privacy Notice, last modified 29 June 2015, is available at https://payments.google.com/legaldocument?family=0.privacynotice&hl=en_GB.

⁵⁸ It is impossible to indicate an exact number of legals, for at least two reasons. Firstly, because of the difficulty of retrieving or finding legals as highlighted by the paper. Secondly, because every new promotion and service triggers new legals.

⁵⁹ Olmstead and Atkinson 2015.

⁶⁰ Software licenses regard Evox Images, Libphonenumber, TITokenField, RRFPSBar, and Google Maps SDK for iOS.

⁶¹ Updated on 12 January 2016, <https://developer.uber.com/docs/terms-of-use> (the version studied on 10 December 2015 had been updated on 17 March 2015).

⁶² <https://developer.uber.com/docs/affiliate-terms-of-service>. These ToU regulate the Affiliate Program whose purpose is to allow participants to make referrals from their apps to the Uber platform for requesting on-demand transportation and logistics services.

⁶³ Much peculiarly, the hyperlink did not work, since it sent the user to <https://www.uber.com/www.uber.com/safety/code-of-conduct>.

⁶⁴ International Terms and Conditions of Service, last updated on 11 December 2015, available at <https://www.uber.com/legal/business/international/en/>.

⁶⁵ <https://www.uber.com/legal/other/code-of-conduct/>.

⁶⁶ <https://www.uber.com/legal/other/>.

⁶⁷ Updated on 8 April 2014, <http://2q72xc49mze8bkcog2f01nlh.wpengine.netdna-cdn.com/wp-content/uploads/sites/14/2015/05/UberRUSH-Terms-4-8-141.pdf>.

⁶⁸ *Mutatis mutandis*, a similar approach is followed by Oei and Ring 2016. They find *inter alia* that while the forums contained a surprising degree of sophisticated and accurate tax and legal advice, they also contained many examples of inaccurate or confusing information.

⁶⁹ https://twitter.com/Uber_Support. Uber's official support handle, here to help! Lost something? <http://t.uber.com/lost>

⁷⁰ <https://help.uber.com/h/53539bde-f6f4-4909-85de-fa0b99f82be0>.

⁷¹ <https://help.uber.com/>.

⁷² What information will my company see. <https://help.uber.com/h/fdc56129-404b-4cf8-bbeb-94104fb3d28c>.

⁷³ http://www.nytimes.com/2015/08/07/opinion/the-uber-ization-of-activism.html?_r=0.

⁷⁴ <https://newsroom.uber.com/transparency-report-2015/>.

⁷⁵ <https://itunes.apple.com/gb/app/uber/id368677368?mt=8&ign-mpt=uo%3D2>.

⁷⁶ <http://therideshareguy.com/uber-guarantees-dissected/>; <http://uberpeople.net/>.

⁷⁷ <http://www.uberdrivers.eu/forum/6-uber-drivers-forum-uk/>.

⁷⁷ <http://www.uberforum.com/>.

the importance of the users' community in supporting the business strategy. One of the forums, Uberdrivers.eu, hosts chats, including a dedicated UK drivers forum, news, advice on several issues organised by topic, and surveys. Another forum, IDrive with Uber⁷⁸ claims to be an independent forum that aggregates relevant information for the sharing economy. Its forum posts a mix of positive experiences and complaints from which emerge high competition among Uber drivers, as well as meagre earnings. Uberforum like the other forums, presents itself as 'an independent and unbiased resource'⁷⁹. Uberforum has separate forums for customers and drivers. It carries out polls on issues of interest for the drivers such as why drivers choose to drive for Uber and how much time they spend driving on a daily basis⁸⁰. Although the polls results are not official, they give an idea of why some drivers are pressing to become employees, while others want to keep the status of independent contractors.

The social network Uberpeople.net makes clear its non-affiliation to Uber⁸¹. It provides a venue for complaining drivers, but also offers relevant documents, advice and news. For example, it makes available guidelines on the working of the drivers rating system. Among its highlights, we found updates on important law cases such as *O'Connor et al. v. Uber Technologies Inc*⁸². The forum's interest in this case indicates the difficult relationship between the parent company, Uber, and its drivers whether they are envisaged as employees, independent partners, or app users. Despite Uber's claim of good earnings and flexible working hours, the complaints emerging from non-official forums highlight a more complex and fluid reality. Uberlawcases.com reports news of a lawsuit brought by Uber drivers to recover the tips they should have received and reimbursement for expenses. It is not only the drivers who are concerned, though. There are other cases which might undermine users' trust. For example, 'Who's driving you?' reports a list of accidents involving Uber and Lyft drivers⁸³. Even Wikipedia gives a detailed account of the Uber legal situation in most countries of the world⁸⁴. It claims that Uber is involved in at least 173 lawsuits and 'it is mostly illegal in most jurisdictions'⁸⁵.

Reddit has a section for Uber drivers⁸⁶ which reports complaints similar to other drivers' forums mentioned above. As for the limitations inherent in the assessment of a continuously developing ecosystem of official and non-official online venues, non-official forums have shown a degree of effectiveness in converging claims from a variety of users, primary drivers, in counterbalancing the evident imbalance of contractual power between them and the company [14]. These claims have been facilitated in those countries which have legislation on collective redress⁸⁷. Claims, which Uber has been trying to prevent by including restrictive dispute resolution mechanisms in the T&C. In the EU, claims have been brought in the Netherlands (court order)⁸⁸, Denmark (a complaint is under investigation)⁸⁹, France (deceptive

commercial practices)⁹⁰, Italy (court order for unfair competition practices)⁹¹, Romania (banned by Act of Parliament)⁹², and Spain (court order)⁹³.

The Complexity of the Corporate Structure

The intricacy of online platforms depends also on the complexity of the corporate structure⁹⁴, since Uber Technologies, Inc.⁹⁵ has sixty subsidiaries in the US and seventy-five or more around the world⁹⁶.

Accepting the User T&C, one is contracting with four companies, Uber London⁹⁷, Uber Britannia⁹⁸, Uber B.V.⁹⁹, and Uber NIR¹⁰⁰. They are controlled by Uber Technologies, Inc., which does not appear in the contract. Most of the T&C, however, refers to a non-existent¹⁰¹ company called Uber UK, which 'shall mean each of Uber London, Uber Britannia, and Uber NIR.' In a lawsuit, who would be the defendant?¹⁰². Are they genuinely separate companies, since the director is the same?¹⁰³. British companies are not the direct subsidiary of the US parent. Users who read the T&C, then, may think that Uber B.V. plays a role only as the provider of the app. UberMarket website, however, specifies that the Dutch subsidiary operates it¹⁰⁴. The Registrar of Companies for England and Wales shows that Uber London is owned by a Netherlands private partnership called Uber International Holdings B.V.¹⁰⁵. What is this Uber International B.V.? It is owned by a type of Dutch partnership known as a *Commanditaire*

⁹⁰ <https://www.theguardian.com/technology/2016/jan/27/uber-ordered-pay-france-national-union-taxis-paris-court>.

⁹¹ <https://www.rt.com/news/262217-italy-bans-uber-competition/>.

⁹² <http://news.softpedia.com/news/When-Uber-Launches-in-Romania-It-May-Be-Already-Outlawed-461759.shtml>.

⁹³ <http://www.ft.com/cms/s/0/02e83fde-2ee6-11e5-8873-775ba7c2ea3d.html#axzz48pfBL1fa>.

⁹⁴ We are not referring now to the three categories of users, neither to all the actors providing complementary services (cloud storage, redundancy, etc.), nor to all the actors related to the apps that interoperate with Uber.

⁹⁵ As one can read searching this company in the registry held by the California Secretary of State, the company filed the application on 9 August 2010, is not registered under no. C3318029, and falls under the Delaware jurisdiction (the search engine is available at <http://kepler.sos.ca.gov/>).

⁹⁶ <http://fortune.com/2015/10/22/uber-tax-shell/>. It is impossible to have a precise number of subsidiaries, affiliates, etc. For instance, according to other sources the US parent has incorporated more than thirty different foreign subsidiaries since 2012 (<http://www.scribd.com/doc/232316744/Uber-Ireland-2-of-4>).

⁹⁷ In respect of the Private Hire Vehicles (London) Act 1998, Uber London is the holder of the relevant private hire vehicle (PHV) operator's licence.

⁹⁸ In respect of the Local Government (Miscellaneous Provisions) Act 1976, Uber Britannia is the holder of the relevant PHV operator's licence in each of the district councils (other than the Metropolitan Police District and the City of London) in which it operates. In respect of the Civic Government (Scotland) Act 1982, Uber Britannia is the holder of the relevant booking office licences.

⁹⁹ Uber B.V. provides the software application and related services.

¹⁰⁰ In respect of the Taxis Act (Northern Ireland) 2008, Uber NIR is the holder of the relevant operator's licence.

¹⁰¹ By using the search engine of the UK Companies House, one finds Uber UK Limited, which has no relation to the company here analysed. More information on the former can be found at <http://www.uber-uk.com/aboutus/>.

¹⁰² It may seem that the main defendant should be Uber Technologies, Inc. (<http://blogs.wsj.com/law/2014/10/17/uber-technologies-fights-french-court-ruling/>).

¹⁰³ <http://www.licensedtransportuncovered.com/uber-manchester-and-the-global-paper-trail/>.

¹⁰⁴ UberMarketplace.co.uk (the 'Marketplace') is operated by Uber B.V. ('Uber'), a company registered in the Netherlands under number 56317441 with a registered address of Vijzelstraat 68, 1017 HL Amsterdam. Use of the Marketplace will constitute acceptance of these Terms and Conditions ...The Marketplace enables Uber partner-drivers, who are independent contractors using the Uber Platform in the United Kingdom, as well as new drivers not yet on the Uber platform but that intend to join the Uber platform ('Drivers') to be eligible to receive certain products, services and/or discounts provided by third parties when using the Marketplace as set on this Uber Marketplace website, being: www.UberMarketplace.co.uk.

¹⁰⁵ http://www.scribd.com/doc/232316543/Uber-London-Limited-Annual-Return-2013?in_collection=4596500.

⁷⁸ <http://www.idrivewithuber.com/>.

⁷⁹ <http://www.uberforum.com/>.

⁸⁰ <http://www.uberforum.com/threads/poll-why-do-you-drive-for-uber.2608/>.

⁸¹ UberPeople.NET is in no way affiliated with Uber (Raiser LLC). <http://uberpeople.net/members/>.

⁸² C.A. No. 13-03826-EMC (N.D. Cal.), <http://www.uberlitigation.com/>. The dispute has been settled on 21 April 2016. See Growing and growing up, available at <https://newsroom.uber.com/growing-and-growing-up/>

⁸³ <http://www.whosdrivingyou.org/rideshare-incidents>.

⁸⁴ https://en.wikipedia.org/wiki/Legal_status_of_Uber%27s_service.

⁸⁵ https://en.wikipedia.org/wiki/Legal_status_of_Uber%27s_service.

⁸⁶ <https://www.reddit.com/r/uberdrivers/>.

⁸⁷ <http://fortune.com/2016/05/02/uber-driver-lasuits-florida-illinois/>.

⁸⁸ <http://phys.org/news/2015-11-uberpop-driven-netherlands.html>.

⁸⁹ <http://cphpost.dk/news/uber-drivers-charged-with-breaking-danish-taxi-laws.html>.

Vennootschap. Uber International B.V has no establishment in Europe and its headquarters are in Bermuda¹⁰⁶.

Findings and Conclusion

Trust is an essential feature for the development of online platforms. Indeed, there can be no trust without awareness and transparency and this requires a fit-for-purpose regulation¹⁰⁷.

On the surface, the Uber websites present the service in very simple and straightforward terms. However, scratching under this surface, the system appears opaque. For a user, it is impossible to get clarity on who is ultimately responsible for the service. The responsibilities are hidden behind a contractual quagmire and a very intricate corporate structure. There is no transparency about the allocation of the responsibilities between each sub-category of users and between them and the platform owner. This creates an unbalanced relationship.

Conversely, the unofficial communication through users' forums shows a high degree of interest, which the company could harvest to improve its own communication towards the users. At the same time, these forums channel a considerable degree of frustration among users, especially drivers. The same frustration that is resulting in collective actions, particularly in the US. This is an alarming sign that should prompt the company to review its relationship with its users, national regulators and law enforcement agencies. In particular, our research has highlighted an alarming trend towards a restriction to access to justice orchestrated through the non-negotiable wording of the legals. Therefore, as a policy recommendation, the company should be bound to maintain the resolution of disputes within the public justice system.

Uber could really fulfil its ambition of driving a reform of the platform services by beginning to ensure consistency between its legal and non-legal representations. Moreover, it should acknowledge the instances brought by users and open to negotiation. The phenomenon of uberification is not inevitable. It is not inevitable that in order to have a cheap service, users have to give up on security, fairness, legality, etc. Uber has indeed contributed to move the private transport sector that was stagnating and offered an alternative to consumers. It is also true that it was able to spread so phenomenally quickly because of the

¹⁰⁶ <http://www.licensedtransportuncovered.com/uber-manchester-and-the-global-paper-trail/>

¹⁰⁷ Oxford Internet Institute and SCF Associates Ltd 2010.

demands of the market both from potential drivers and riders and poor or inexistent regulations. It has the merit to highlight both the potentials and the pitfalls of the sharing economy. In conclusion, Uber is neither evil nor angel. It is a contextual phenomenon and it is very vulnerable to shift in the demand and trust from the very users that so far seem to receive so little attention from the company.

Acknowledgment

The authors are thankful to Professor Alain Strowel, Ms Dimitra Kamarinou, and the researchers of the Microsoft Cloud Computing Research Centre for the stimulating discussions on some of the topics covered by this paper. Thanks to the users of the unofficial Uber forums and to the customer support for the useful interactions. Views herein, however, are solely the authors'.

References

1. Barnett V, Tomlison L (2014) The Uber app: the legal background to the outrage. ECL & P 16: 8.
2. Barratt S, Morgan J (2016) Uber and above. JLSS 61: 26-27.
3. Brown N (2015) Uber: TfL and the Taxonomy of Taximeters. Comps & Law 25: 23-26.
4. Dervodeja K, Verzijl D, Nagtegaal F, Lengton M, Rouwmaat E, et al. (2013) The sharing economy accessibility based business models for peer-to-peer markets. European Commission Business Innovation Observatory.
5. Graef I (2015) Market definition and market power in data: the case of online platforms. World Competition: Law and Economics Review 38: 473-505.
6. Heinemann F, Shume M (2015) Uber, Airbnb, Netflix-Australia's steps to tax the sharing and digital economies. TPIIT 13: 13-15.
7. McLean S, Samavi M (2015) EC's consultation on online platforms proves controversial. ECL & P 17: 6-8.
8. Noto La Diega G, Walden I (2016) Contracting for the 'Internet of Things': looking into the nest. Queen Mary School of Law Legal Studies Research Paper.
9. Oei SY, Ring DM (2016) The tax lives of uber drivers: evidence from internet discussion forums. Tulane Public Law Research Paper 16: 4.
10. Olmstead K, Atkinson M (2015) Apps permissions in the google play store.
11. Oxford Internet Institute, SCF Associates Ltd (2010) Towards a future Internet: Interrelations between technological, social and economic trends. Final Report for DG Information Society and Media.
12. Syed N (2016) Regulating uberification. CTRLR 22: 14-25.
13. Syed N (2015) The rise of uberification: getting the go-ahead in London.
14. Van der Luit-Drummond J (2015) Defining a driver as an employee or a "partner". SJ 159: 8.

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Citation: Diega GNL, Jacovella L (2016) UBERTRUST: How Uber Represents Itself to Its Customers Through its Legal and Non-Legal Documents. J Civil Legal Sci 5: 199. doi:[10.4172/2169-0170.1000199](https://doi.org/10.4172/2169-0170.1000199)