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European Court Deals New Blow To Uber, Ruling It's a Cab Service

By LIZ ALDERMAN

The European Union's highest court on Wednesday declared that Uber was a transportation business, not just a technology platform, another blow to a company already grappling with scandals and regulatory setbacks.

Uber had positioned itself as digital marketplace that connected drivers with riders, which tend to face a lighter regulatory burden. The ruling will now force Uber to comply with the bloc's rules for taxis and other transport companies, meaning the company could face stricter licensing and other requirements.

The ruling applies only to the European Union, but it is likely to be scrutinized by regulators looking more broadly at the gig economy. Policymakers worldwide have been struggling with how to frame rules for this growing part of the work force, in which people operate as freelancers or on short-term contracts as opposed to holding permanent jobs.

Legislation in many countries has not kept up with the atypical work arrangements that companies use to cut costs. Regulations for decades have been formulated around traditional 9-to-5 jobs.

The uncertainty has fueled a wave of litigation, leaving the courts to create a patchwork of regulations and rules.

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From First Business Page

"It's normal that authorities don't know what to do — they can't just issue regulations anytime somebody claims to operate a new business model," said Valerio De Stefano, a law professor at the University of Leuven in Belgium. "The litigation will lead authorities to better understand what is the reality of the work in the platform economy."

The Uber case before the European Court of Justice centered on a complaint brought by a taxi group based in Barcelona, Spain. The group argued that it was unfair that Uber did not have to adhere to the same rules in the city. Uber ran a peer-to-peer service there called UberPop, which linked nonprofessional drivers with riders.

The service has since been disbanded in Spain and several other countries. And Uber said it now used only professional drivers in the vast majority of the European Union.

In the decision, the court determined that Uber, which connects drivers with riders through a smartphone app for payments, "must be regarded as being inherently linked to a transport service." The 28 member countries in the European bloc will have to regulate "the conditions under which such services are to be provided," the court added.

The ruling comes at a crucial

time for Uber. The company's new chief executive, Dara Khosrowshahi, has said he wants to take the company public as early as 2019. But he must remake a corporate culture marked by internal strife, accusations of sexual harassment in the workplace and the brash style of his predecessor, Travis Kalanick.

Mr. Khosrowshahi also faces a raft of legal and regulatory challenges. London recently stripped Uber of its operating license, citing safety and security concerns, while a British tribunal ruled it could not treat drivers as self-employed contractors. Just last week, court documents showed that federal authorities in the United States were pursuing at least one criminal investigation into the company.

In a statement on the Wednesday ruling, Uber said that it was already operating under the transportation law of most European countries in which it did business, and that the ruling would have little impact. It added that it would continue a dialogue with cities across Europe for its services.

Elite Taxi, the group that brought the case, said in a Twitter post, "Today, taxi drivers have beaten Goliath."

The Barcelona-based law firm representing Elite Taxi praised the decision and said in a statement that it could be "extrapolated to other businesses that keep trying to avoid legal responsibilities in the services that they provide."

The case may provide a benchmark for countries seeking to regulate independent workers, who make up as much as 30 percent of the working-age population in the United States and Europe, according to the McKinsey Global Institute. Some worry, though, that such a group could soon become an underclass.

Mohaam Biswas, 24, a student working toward a master's degree in information technology in London, suffered a broken foot this year after a car knocked him from his motorcycle while he was carrying food for Deliveroo, the online start-up.

A decision that comes amid broader scrutiny of gig economy rules.

He had no paid sick leave while recovering, and his insurance refused to cover the cost of repairs to the scooter. To earn cash, he started riding for Deliveroo again, this time on a bike, and driving part time with Uber. But he had to work long hours to make ends meet.

"You end up trapped in this kind of cycle," Mr. Biswas said. The biggest shock, he added, was to "feel you're in the hands of other people who ultimately just don't care:

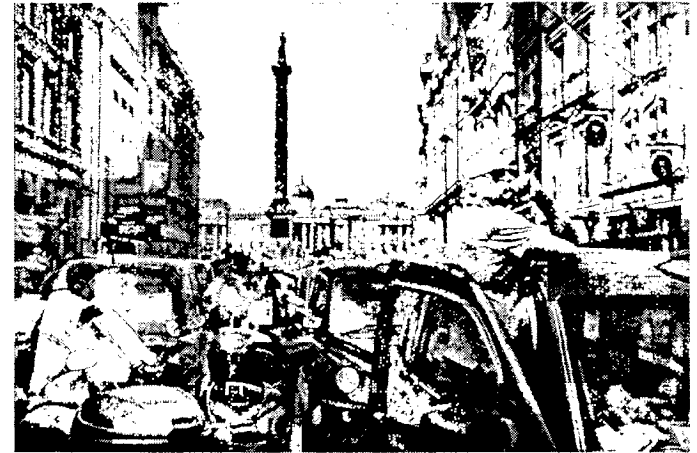
They don't care until you come back in as a cog."

For policymakers, the challenge is to strike a balance between imposing labor protections and heeding warnings that tighter regulation will increase costs and thwart innovation. Revenue from sharing businesses in the region reached an estimated 28 billion euros, or \$33 billion, in 2015, the European Commission, the executive arm of the European Union, reported.

But such numbers may mask the precarious side of atypical work. In Spain, for example, the government reported that 18 million temporary contracts were handed out last year, compared with 1.7 million long-term jobs.

"The financial crisis took away a lot of permanent stable employment and skewed statistics to say we have record high employment," said Jeremy Coy, a partner and labor law specialist at the law firm Russell-Cooke, which is based in London. "People may be forced to get that work because it's the only work out there."

Efforts are underway to modernize the rules. A British review of "modern working practices" urges changes such as reclassifying gig-economy workers as "dependent contractors" who would be entitled to employee benefits and social security. The European Commission is also backing proposals to combat declining standards for those with ultra-flexible working hours and no regular salaries.



ANDREW TESTA FOR THE NEW YORK TIMES

Cabdrivers blocked streets in central London in June 2014 as part of a protest against Uber in major cities across Europe.

Some companies are leading the change. In Sweden, an Uber competitor called Bzzt, an app-based transportation service, employs drivers on regular contracts with social security, health insurance and other benefits.

"We don't need to exploit our staff to be profitable," said Sven Wolf, Bzzt's chief executive.

In the absence of clearer rules, those in the freewheeling world of gig work are also turning to unions to help wrest concessions from companies that have grown into juggernauts on the back of flexible labor.

Riders for Foodora, a food-delivery service with operations in Europe, Asia and elsewhere, set up a works council this year in Austria. Crowdsourcing platforms in Germany recently co-signed a code of conduct with IG

Metall, the country's largest trade union.

Mags Dewhurst, a former architecture student in London, said she felt compelled to join a union after she became a self-employed courier at CitySprint, a British delivery network.

When the company did not grant her holiday pay, she took CitySprint to a labor tribunal and won back pay of 200 pounds, or \$270. But the battle cost more than it was worth: Trying to pursue a claim while bicycling 50 miles a day to earn her basic wage was exhausting.

"If governments are confused, they could literally get a job at a courier company for a week as a van driver or on a bike," Ms. Dewhurst said.

Then, she added, "they'll realize exactly what they need to do."