



How Government Holds Back Technological Change

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New technology seems to bring out contradictory impulses in Australia. On one hand, Australians tend to be early adopters, ready to give new technology a chance. On the other, Australian governments have a long history of seeking to stifle innovation through regulation.

Often this regulation is ostensibly designed to protect consumers but, in practice, it is usually protecting an incumbent from the economic threat of doing things differently.

It is amazing how many things we now take for granted in our daily lives were once innovations being retarded by regulation. Take margarine, for example. Even today, not everyone would think that margarine was better than butter, but most people would think that determining which product should be spread on toast was a matter which could be safely left to individual choice. However, in post-Second World War Australia, when margarine was an innovative new product, there was a

quota placed on its production and regulations dictated that the colour of margarine could not be the same as butter.

To highlight the absurdity of these laws a local margarine producer, Marrackville Margarine, ran an advertising campaign in the mid-1960s featuring a housewife called Mrs. Jones. Large newspaper ads attacked the law which privileged the incumbent butter-producing dairy industry at the expense of the new farm producers of safflower oil, peanut oil and cotton oil, who wanted expanded production of margarine. Eventually, the law was changed.

HOLDING BACK BETTER MEDIA

Communications technologies have also constantly been delayed for Australians in the interests of incumbent power. As Robert Albon and Franco Papandrea wrote in the Institute of Public Affairs' 1998 book *Media Regulation in Australia and the Public Interest*, 'in the case of all new services based on new technologies (monochrome television, FM radio and pay-television in particular), introduction was unnecessarily delayed with consequent efficiency costs'. In each of these cases Australians enjoyed the benefit of new technology years later than people in many countries overseas did.

Television began regular services in the United States and Britain soon after the end of the Second World War, but did not become available to Australians until late 1956. If it had not been for the Melbourne Olympics, Australians may well have had to wait even longer. In the 1940s, the Chifley Government wanted to allow only government-owned television stations. The incoming Menzies Government in 1949 correctly rejected that model, but it procrastinated for several years about what it should do, worrying about the commercial viability of operators in the recession of the early 1950s. To ensure that no operator would need to be bailed out by taxpayers, the government decreed that only existing newspaper barons would be eligible to bid for licenses on the basis that they would have the resources to cross-subsidise the television operations from print.

Frequency modulation, or FM radio, took even longer to be allowed than television. It was developed in the United States in the 1930s and was first used on an experimental basis in Australia in 1947. However, it was then effectively banned until 1974. So certain was everyone that the frequency and number of radio stations was set in concrete that Baby Boomers grew up listening to radios where the names of stations were printed on the radios. If the possibility of new AM stations was so unlikely, then FM seemed a world away.

Eventually, FM was allowed to be used by community classical music stations in Sydney and Melbourne, followed by an ABC station and finally, in 1980, by commercial radio. So, for more than 30 years, Australian radio listeners had been denied the opportunity to listen to music sounding better than it did on the traditional AM band.

The same thing happened for TV viewers looking for something other than Channels 2, 7, 9, 10 and the new entrant SBS. The introduction of pay television was delayed for more than a decade from 1982 when the Australian Broadcasting Tribunal recommended its introduction 'as soon as

practicable'. There were several inquiries and a four year moratorium from 1986 to 1990 to allow further investigations and to ensure that the existing investments of free-to-air broadcasters were not threatened. In the end, Australians finally got pay television in 1995, years after viewers in many other countries.

HOLDING BACK CHEAPER TRANSPORT

Like communications, transport has always been an area which has attracted calls to protect incumbents. When railways were new they were opposed on all sorts of grounds; once they were established all sorts of regulations were introduced to protect them. By the twentieth century, rail was an incumbent that governments were particularly keen to protect because governments operated railway businesses themselves. Thus, they had a great incentive to protect their profits, or at least mitigate their losses, by mandating that certain items had to be transported by rail and rail alone.

One entrepreneur who fought against these controls was the businessman and political activist Gordon Barton. While still a university student in his early twenties, Barton acquired some trucks and found a market by bringing onions from South Australia where they were cheap, to Sydney where they were expensive. However, NSW law prohibited onions being carried by truck. It took the Privy Council's 1954 ruling in the Hughes and Vale case to dismantle the government's attempts to protect rail by prohibiting the interstate operation of trucks.

Of course, the intrastate restrictions still applied, forcing Barton into ruses such as routing all freight from Melbourne, bound for country Victoria, across the Murray to Moama in New South Wales so that it became interstate freight. It was not until the 1970s that the states in fairly quick succession removed prohibitions on intrastate truck movements. A 1983 Bureau of Transport Economics report commented that 'this marked the end of an era which began in the 1930s and throughout which the policy of all State governments was to promote long distance transport by rail, and prohibit or restrict competition from road transport'. In other words, for forty years governments were stuck defending less efficient rail technology because, by its past policy decision of nationalising railways, it felt committed to this.

Like railways, motorised taxis began as the dynamic outsider challenging an incumbent. Motorised cabs were a particular threat to the horse-drawn hackney variety. In the early twentieth century, incumbent horse-drawn hackney cab operators in Australian cities first opposed the motorised ones entirely on the grounds that the noise would scare the horses. Their next strategy was to get enforced a system where the two types of cab would share a rank and the customer would not be able to choose their preferred mode, just having to take the next cab off the rank.

Within a couple of decades, motorised taxis were the new incumbents and the industry progressively became structured to protect their interests. As restrictive licencing prevented new entrants, licence values rose, ending up above \$500,000 in several Australian cities.

Logically, growth in taxi numbers should have exceeded population growth as prosperity has increased and more people should be able to afford taxis. Yet, numbers of taxis stagnated. For

instance, Perth did not see an increase in taxi numbers at all for 14 years between 1989 and 2003.

The high taxi license values have meant that like loss-making railways, state governments have a residual policy problem bequeathed them by previous poor decisions. To its credit, the current Victorian Government decided to do something about this ludicrous situation. It established an inquiry headed by Allan Fels, who made over one hundred recommendations about how to make the industry more customer-focused. The government accepted Fels' most important recommendation: as-of-right licensing established the crucial principle that customer-demand, not industry incumbents, should decide how many new entrants there are. Disappointingly, the government set the annual fee for a license higher than Fels had recommended and made it subject to indexation, but it was at least a significant step in the right direction. The value of a Melbourne taxi license has fallen from over \$500,000 to below \$300,000, still far from perfect, but a significant improvement and one which other states should emulate.

THE BATTLE FOR UBER

However, technology is providing an even more exciting opportunity for those sick of the generally poor service provided by Australian taxis. A number of mobile phone apps threaten the biggest shake-up to taxis since cars replaced horses over one hundred years ago.

The best-known app connecting drivers with passengers is Uber. Uber connects passengers with private drivers directly, bypassing the regulated and top-heavy local taxi monopoly.

It began operating in San Francisco in June 2010 and, by June this year, was operating in 128 cities in 37 countries. The global takeoff of Uber demonstrated just how potential demand was failing to be met by incumbent taxi industries in cities around the world. Uber has proven so popular in some cities that a few people have sold their own cars and now rely solely on Uber for their driving needs. And drivers are flocking to join too. Little wonder, given that recent US media reports have estimated that at a typical Uber driver is earning more than double the income of the average taxi driver.

Uber commenced its Australian operations in Sydney in December 2012, started in Melbourne in March 2013, and more recently entered the Brisbane market. Their initial product was Uber Black which allows passengers to book a hire car using the Uber app. However, it then expanded to UberX, a product which provides a low-cost ride in a normal car. Uber has a range of quality controls for both UberX drivers and vehicles and a feedback system, which requires passengers and drivers to rate each other after every trip, allowing the company to ditch drivers with consistently poor ratings from their ranks.

As with many of their counterparts overseas, the affected Australian governments have been a bit unsure how to respond to Uber. In a radio interview, New South Wales Transport Minister Gladys Berejiklian said there was no issue with Uber unless it called itself a 'taxi service', adding that 'you don't want to limit people's choice because, at the end of the day, it does come down to choice'. However, before Uber customers could get too excited the NSW Transport Department issued a statement saying that 'The law is clear and has not changed: if a NSW driver is taking paying



members of the public as passengers, the driver and the vehicle must operate in accordance with the *Passenger Transport Act*.' The statement made it clear that those who operated a public passenger service, such as UberX, in breach of the Passenger Transport Act faced prosecution and fines of up to \$110,000.

A similar thing happened in Queensland. Premier Campbell Newman seemed ready to tolerate Uber's presence, while expressing the view that he would not want his own daughters using the company's services. Unfortunately, his Transport Minister then pointed out that the Government had already taken a decision to crack down on them. The Victorian Government maybe felt that it had exhausted its appetite for taxi reform when Uber came along. Taxi Services Commissioner, Graeme Samuel has made it clear that Uber drivers will be taken to court for breaking the law.

Other taxi-related apps such as goCatch and Ingogo, while not as radical as Uber, have also helped to break down some aspects of the existing taxi structure by providing alternative payment mechanisms and, in some cases, the ability for customers to rate drivers.

Of course these apps can also be misused as in the recently reported case of a Melbourne woman who booked a cab for a work colleague using goCatch. Thinking the taxi had not shown up, she hailed another one. The driver who had taken the original booking responded with a series of text messages abusing her for wasting his time.

The Australian Taxi Industry Association claimed it was a flaw in the system that goCatch requires a mobile phone number. If that is a flaw, then every other business that asks for your number when you make a booking (restaurant, motel etc.) is also flawed. And that is before one considers the more obvious— although obviously incredibly small— security risk of being in a cab one has hailed anonymously from a rank and which takes you to your home. Fortunately, in this instance, Graeme Samuel commented that 'it's a matter of choice for customers if they want to provide their phone numbers ... I don't think it's a question of regulators stepping in'. The goCatch episode merely demonstrates the rhetorical lengths that protected industries will go to maintain their protection.

The transport apps like Uber are part of a trend towards a 'share economy' where people can make voluntary economic exchanges for mutual benefit. Tesla is an American start-up which allows the direct sale of cars without going through a dealer. Similarly, a growing part of the travel market is the ability to stay in someone else's home or apartment. For some time, people have been able to make a house available through website such as Stayz.com, but more recently the likes of Airbnb and Roomarama have provided further options for people looking to rent out their home and someone else wanting to stay there. Another new concept is the idea of going to a stranger's house for dinner cooked by the host. As Miguel says on the EatWith website, 'there is no better way to meet new and interesting people than to invite people into your home and cook them a meal'.

Of course, whether it is incumbent taxi operators, accommodation providers, or restaurants, there is one legitimate point that incumbents make when confronted by innovative start-ups. Why should they have to comply with onerous vehicle safety, building or food-handling regulations from which



their new competitors would like to be exempt? Their answer is to make the new entrants comply with the existing regulations. A much better answer would be to try the really innovative policy approach of cutting the red tape and letting consumers decide in which vehicle they will travel, where they will stay, and what they will eat.

Entrepreneurs with new ideas are the disruptive force that not only stimulates economic growth, but also makes for a more interesting and dynamic society for citizens. Incumbents who cannot adapt to meet the challenge of the new entrants should lose market share rather than be propped up by spurious claims that the innovators are a threat to consumers. As the Marrickville Margarine ad said in the 1960s:

The right of the housewife to use margarine in preference to butter seems a small issue when measured against some of the loftier aspirations of democracy.

But if Mrs. Jones and tens of thousands of Australian housewives are denied this basic freedom of choice, then they are being denied the very essence of freedom.