Retraction

Retraction: Research on the role of “Internet+” based on Computer Technology in the Administrative Regulation of Online Car-hailing (J. Phys.: Conf. Ser. 1744 042047)

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This article has been retracted by IOP Publishing following an allegation that raises concerns this article may have been created, manipulated, and/or sold by a commercial entity. In addition, IOP Publishing has seen no evidence that reliable peer review was conducted on this article, despite the clear standards expected of and communicated to conference organisers.

The authors of the article have been given opportunity to present evidence that they were the original and genuine creators of the work, however at the time of publication of this notice, IOP Publishing has not received any response. IOP Publishing has analysed the article and agrees there are enough indicators to cause serious doubts over the legitimacy of the work and agree this article should be retracted. The authors are encouraged to contact IOP Publishing Limited if they have any comments on this retraction.

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Research on the role of "Internet+" based on Computer Technology in the Administrative Regulation of Online Car-hailing

Xu Xin¹*
¹Kunming University of Science and Technology, Yun Nan, China
*Corresponding author e-mail: xuxin@kmust.edu.cn

Abstract. China is in an "internet + " era characterized by sharing economy, big data and cloud computing. As one of the products of Internet and sharing economy, Internet reservation taxi, its appearance has raised the utilization rate of the social idle resources, provided the people with more safe and convenient service, alleviated the pressure of the urban traffic objectively, but also caused a series of social problems and contradictions. From 2016 until now, the central ministries and local governments have made initial progress in the administrative regulations on ride-hailing, but many problems have been exposed in practice

Keywords: Online Ride-hailing, Administrative Law, Regulation, Computer Technology, "internet + "

1. The status quo of administrative regulations on ride-hailing service

1.1. The status quo of administrative regulations and regulations on ride-hailing through the internet of the central ministries

1.1.1. Guidance document
In July 2016, the State Administration of China (No. 58,2016) issued the State Council General Office of Deepening Reform and Promoting the Healthy Development of the Taxi Industry. The guiding opinions are divided into five parts and have 15 articles. This is the first time since the economic phenomenon of online car-hailing appeared in China in 2012 that the state has responded to questions about its nature and status, and the state also put forward the reform of the whole taxi industry, including ride-hailing service

1.1.2. Interim measures
On July 28th,2016, the Ministry of Transport of the People's Republic of China promulgated the "Interim Measures on the administration of Internet Reservation Taxi" (hereinafter referred to as the interim measures). The landing of the new regulations on ride-hailing marks the policy level's recognition of ride-hailing as a direction of the "internet + " sharing economic model, thus making a conclusion for whether the online car-hailing is legal or illegal.
1.1.3. Departmental regulations
On February 26th, 2018, the Ministry of Transport issued the measures for the operation and management of the taxi, effective for three years from March 1st, 2018. The measures are clear that the online storage period of the operational information data received by the online car-hailing Regulatory Information Interactive Platform shall not be less than 6 months [9-10].

1.2. The status quo of local government administrative regulations on online car-hailing

1.2.1. Beijing mode
On December 21st, 2016, the Beijing Municipal Administrative Department issued "the Implementation Rules for the Management and Administration of the Taxi" and "the Guiding Opinions on the Joint Travel of Private Passenger Cars in Beijing", which makes clear rules on the Beijing city net ride-hailing drivers and vehicles.

1.2.2. Chengdu mode
On October 14th, 2016, Chengdu Municipal Traffic Commission issued the "Implementation Opinions on Deepening Reform and Promoting the Healthy Development of Taxi Industry" and the "Implementation Rules of Chengdu Taxi". The general content is as follows: First, from the aspect of drivers, one that has the Chengdu City Census Register or "the Chengdu City Resident Card" can have the qualification to ask for a car driver of car-hailing. Second, from the aspect of vehicles, compared with Beijing and Shanghai, Chengdu allows smaller cars to apply for online dating, vehicle emissions not less than 1.6 L or 1.4 T, encouraging the use of new energy vehicles.

1.2.3. Kunming mode
On January 4th, 2018, the Kunming Bureau of Transport published on its official website the "Temporary Measures on the Administration of Network Reservation Taxi Operation Services". The general contents are as follows: first, vehicles, the vehicles engaged in the operation and service of ride-hailing service shall be passenger vehicles with seven seats or less, with a wheelbase of at least 2600 mm or more, and the vehicles engaged in ride-hailing service shall be equipped with positioning devices. Second, as for drivers, they must be registered permanent residents of Kunming or have a residence permit in Kunming.

2. The problems existing in the administrative regulation of ride-hailing service

2.1. The problems of administrative regulations and regulations on car-hailing through the Internet of the central ministries

2.1.1. The guidance lacks rigidity
The regulatory documents issued by the State Council in relation to the regulation of the ride-hailing industry and its three administrative licenses have roughly two origins. One is the Guiding Opinions, which was issued almost at the same time as the Interim Measures, the other is Order 412 of the State Council. First of all, for the "Guidance" analysis, there are two problems, which can’t not be regarded as a direct basis for the local legislation of ride-hailing. First, the "Guidance" mentions less about the online car-hailing, and the content is also more general and principled. Second, the "Guiding Opinions" belong to soft law and do not have the protection of the state's compulsory force.

2.1.2. Departmental rules are too low-level
The specifications set out in the Interim Measures, such as the Network Booking Taxi Operation License, the Network Booking Taxi Transportation License, etc., set the specific conditions for the operation of the network car-hailing service, derogating from the rights of citizens, legal persons and other organizations. The online taxi booking service is related to the daily life of the public. Without
the basis of the superior law, the regulations of the department have no right to add obligations or
derogue from rights and interests to the relative person of the administration, which violates the
provisions of the Legislative Law.

2.1.3. The administrative permission standard lacks the basis
It’s no doubt that ride-hailing is a part of transportation, and it is a special industry directly related to
the vital interests of citizens and the allocation of public resources. Administrative permission should
be set according to the provisions of the Administrative Permission Law, however, the administrative
license law does not stipulate that the administrative license items stipulated in Article 12 of the
Administrative License Law can be established by departmental regulations. However, the
establishment of the taxi in the Interim Measures is in contradiction with the Administrative
Licensing Law and obviously lacks legal basis.

2.1.4. Absence of administrative law and norm
At present, the "Interim Measures" and "Administrative Measures" and other regulatory documents
on ride-hailing and its administrative license are mostly departmental regulations and lack of relevant
administrative regulations. Not only for the taxi industry, in the entire taxi field is in the extremely
lack of administrative regulations. Only one "Road Transportation Regulations" is far from enough to
regulate the service. Therefore, it is urgent to formulate administrative regulations of ride-hailing
service. Only by formulating unified administrative regulations of ride-hailing service and forming a
perfect administrative system of ride-hailing service can we truly guarantee the vigorous development
of ride-hailing service.

2.2. The problems existing in the administrative regulations of the local government's online
car-hailing service

2.2.1. The application basis of administrative punishment and administrative coercive measures is
improper
In accordance with the Provisions of Article 29 of the Taxi, those who have not obtained a business
license or otherwise illegally engage in the operation of online car hailing, the municipal and district
traffic law enforcement agencies shall, in accordance with the Relevant Provisions of the Measures
for the Investigation and Punishment of Unlicensed Business Operations and the Interim Measures for
the Administration of Network Reservation Taxi Business Services, impose corresponding
administrative penalties. At the same time, the "Measures for Investigating and Banning Unlicensed
Business Operations" also provides for administrative penalties such as punishment, orders for
suspension of production and business operations, confiscation of illegal income, as well as
administrative enforcement measures such as seizure and seizure of property. Similar rules appear in
the Bylaws of other cities, not just in Beijing.

2.2.2. The administrative permission regulation lacks the basis
The Administrative Licensing Law clearly stipulates that no administrative license shall be added to
the specific provisions made in the laws and regulations for the implementation of the administrative
license established by the superior law, and that the specific provisions made on the conditions of the
administrative license shall not be added, and no other conditions contrary to the superior law may be
added. The Detailed Rules issued by local governments are mostly made by local transportation
committees and are normative documents under the regulations. The Administrative License Law
does not authorize the following normative documents to add administrative license conditions.
Obviously, the related administrative permission conditions added in the rules lack of legal basis.

2.2.3. The central and local administrative laws and regulations are not unified
Since November 1st, 2016, when the "Interim Measures on the Administration of Taxi by Internet
Booking” came into effect, the Ministry of Transport of the People's Republic of China has gradually pushed forward the implementation of the taxi reform policy, and the Detailed Rules have been promulgated in succession, but there are kinds of differences. Compared with the Interim Measures, the Detailed Rules in some areas have added new administrative licensing conditions for platform companies, drivers, online car hailing and so on, such as household registration, local driving license, vehicle license plate type, vehicle emission standard wheelbase and terminal equipment. For example, there are no household registration restrictions in the Interim Measures on the qualifications of drivers, but most local rules stipulate that drivers should have a local household registration or a local residence permit, while Interim Measures hasn’t made area restrictions. Local rules are clear that license plates must belong to the city.

3. Improvement of administrative rules and regulations for ride-hailing service

3.1. Basic principles of administrative regulations on ride-hailing

The principle of administrative legitimacy is the basis and foundation of administrative behavior. To find an effective way to regulate the administrative law of ride-hailing, we must stick to the basic value of administrative law under the guidance of the basic principles of administrative law. In particular, the establishment, exercise and use of administrative power must be in accordance with the law, in line with the requirements of the law, and can’t conflict with the law. Administrative subjects must strictly abide by the norms of administrative law and shall not enjoy privileges other than those prescribed by administrative law. Any administrative subject should take the existence of the administrative authority as the premise when carrying out the administrative act. Therefore, the road of administrative regulation must be guided by the principle of administrative legality, which is not only the inherent requirement to protect the rights of citizens, but also an important guarantee to achieve the administrative purposes.

3.2. Suggestions on the improvement of administrative regulation of ride-hailing service

3.2.1. To formulate national uniform administrative regulations on ride-hailing services

There are some problems in the Interim Measures and the Administrative Measures, such as lack of basis for administrative license, doubt about the power source of administrative license, etc. In fact, it is far from enough that there’s only Road Transport Ordinance. The State Council should formulate a unified national administrative regulation on ride-hailing and raise the level of legislation for the operation and service of ride-hailing, to solve the problem of the absence of the superior law in the Interim Measures and the Administrative Measures, which also can provide the authoritative basis of the superior law for the administrative regulation of ride-hailing service, and ensure the legitimacy and effectiveness of the administrative regulation of ride-hailing service.

3.2.2. To form a unified administrative and regulatory system for ride-hailing services

The Interim Measures of the central ministries and the local rules differ on specific provisions such as drivers, vehicles and household registration, although the central government has granted greater local autonomy on some issues, however, local governments have some misunderstandings on some issues, which may make the implementation effect of the Interim Measures be discounted at the local level, and actually deviate from the established orbit of the central government as well as the relaxed spirit of the central government. Therefore, it is necessary to ensure, as far as possible, the unity of the central and local authorities, not only in the Interim Measures, the Administrative Measures and the local rules, but also in the local rules and the relevant superior laws, which can form a unified administrative law system for ride-hailing and realize a unified administrative law system for ride-hailing.

4. Regulate the local legislation of online car-hailing
Although 234 cities (including 4 municipalities directly under the central government and 230 prefecture-level cities) have issued detailed rules for online car-hailing as of December 30th, 2018, after the implementation of the Interim Measures in 2016, however, in many areas, the implementing regulations have violated the Superior Law to varying degrees, as follows: for example, some local regulations conflict with the relevant provisions of the Administrative Licensing Law and the Administrative Punishment Law. In some local rules, there are situations that conflict with the relevant provisions of the Interim Measures. In short, from the central to the local, perfection of the legal system for car-hailing needs comprehensive consideration of various factors, only in this way can we formulate a reasonable security mechanism.

5. Innovation on administrative regulation of online car-hailing

In summary, “Internet+” plays a very important role in the administrative regulation of online car-hailing. For the planning of online car-hailing, we can learn from the practice of the United States and create a new type of regulatory model. Most of the regulatory power will be given to the market. The compatible model of "market-oriented, government-aided" will be adopted, and the platform for online car-hailing will be supervised by the government; the ride-hailing platform supervises the drivers and actual operation of the ride-hailing service, because in the operation of the ride-hailing service, the government can only play the role of indirect supervision, and the ride-hailing service is the first direct part to be supervised. In the specific operation of a ride-hailing service, once there are any problem or major situations, the ride-hailing service platform is the first to take the responsibility. So the ride-hailing service platform will supervise the specific operation of a ride-hailing service in the market, which will not only play an effective regulatory role, and save the government's regulatory resources. While the government is responsible for supervising the online ride-hailing platform, based on the macroeconomic regulation and control, the state has drawn up some relevant implementation rules for the actual operation of the online ride-hailing platform for reference and implementation. The government supervises the performance of the online ride-hailing platform. Each department is responsible for its own administration and each department is responsible for its own responsibility, making joint supervision of the network car-hailing operation ensure the benign development of the market for the network car-hailing service.

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