
Article

Framing disruption: how a regulatory capture frame legitimized the deregulation of Boston's ride-for-hire industry

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Abstract

The theory of regulatory capture has long been used to make the case for deregulation by questioning the legitimacy of government's regulatory function. How do government officials, who are tasked with regulating, embrace deregulation? This article explores that question in the context of Boston's debate over regulating transportation network companies (TNCs). Analyzing media coverage, I identify two types of frames that emerged as stakeholders attempted to influence TNC regulation: *issue frames* aimed to shape the interpretation of the ride-for-hire industry, while *meta-frames* shifted the focus of debate from TNCs to regulation itself. Specifically, a meta-frame invoking the theory of regulatory capture became central. Supplementing media coverage with in-depth interviews, I show that government officials did not refute the capture frame but rather used this frame to draw a distinction between legitimate and illegitimate regulation. I propose that these distinctions are central to legitimizing a deregulatory agenda, as officials condemn specific types of regulation in order to shore up the broader category of regulation. The case sheds light on how the idea of government as an impediment to innovation is embraced by government officials themselves, paving the way for new market configurations.

Key words: regulatory capture, transportation network companies, frames

JEL classification: K2

1. Introduction

By 2019, the taxi industry was in dramatic decline in cities across the USA, replaced by platform companies such as Uber and Lyft that connect drivers with riders. A mere 10 years after Uber was founded, taxis provided only one in 12 paid rides in San Francisco (Mojadad, 2019) and New York City taxi use had dropped by 35 percent (Kuntzman,

2019). As one Boston taxi driver explained to *The Boston Globe*, Uber spelled ‘the end for us. There’s nothing left. ... Most of us are thinking of quitting’ (Adams, 2017). In other countries, Uber’s arrival had different outcomes as a result of differing institutional configurations. In Germany, for instance, the issue moved quickly into ‘closed administrative and legal venues’ where ‘rule of law’ took precedence (Thelen, 2018, p. 941). But in the United States, Uber capitalized on inter-urban competition to turn regulatory debates into a political issue, playing out on a ‘rhetorical plane’ where Uber could ‘frame the debate’ to its advantage (Thelen, 2018, p. 944).

This article investigates the role of frames in the deregulation of the ride-for-hire industry in Boston, which regularized Uber and left the taxi industry in crisis, with a focus on how deregulation came to be seen as a legitimate course of action among government officials. Since the 1970s, scholars have investigated the trend toward deregulation, highlighting how frames shape perceptions of regulatory legitimacy (Avent-Holt, 2012). Particularly important is a frame referring to theories of ‘regulatory capture’ (Stigler, 1971), which calls into question the legitimacy of government’s regulatory function (Derthick and Quirk, 1985). Frames—or the cultural tools used to ‘assign meaning to and interpret. ... relevant events’—are effective when they ‘resonate’ with audiences (Snow and Benford, 1988, p. 198), with resonance often taken to result from congruence between the frame and the recipient’s worldview (Schudson, 1989). But these theories of framing reduce the field to active agents who mobilize frames in the effort to shape events (Pelzer *et al.*, 2019; Tzur, 2019) and passive recipients who accept or reject those frames as a function of their previous acculturation. This presents a puzzle: how do deregulatory frames invoking capture resonate with government officials—the people whose very job it is to regulate? This issue is central to understanding how deregulation of the ride-for-hire industry came to be seen as legitimate.

To explore these issues, I examine the development of transportation network company (TNC) regulation in Boston. This case is well suited to understanding the legitimation of deregulation for two reasons. First, Uber developed a strategy that involved entering new jurisdictions without prior approval, forcing authorities to respond. In contrast to cases of voluntary deregulation, which might be driven by the predispositions of government officials (Derthick and Quirk, 1985), the arrival of TNCs provides an opportunity to observe how they respond to an exogenous regulatory challenge. Second, Boston had a significant ride-for-hire industry governed by a medallion system—unlike other places that embraced Uber, like Washington, DC—constituting a meaningful regulatory system that would need to be revised to accommodate TNCs (Spicer *et al.*, 2019). I analyze TNC regulation in Boston through an in-depth case study based on all 815 articles in *The Boston Globe* that refer to Uber published between November 2011, when Uber arrived, and September 2016, when state-level TNC regulations were adopted. The media analysis is supplemented by 15 interviews with public officials and industry representatives.

At the heart of the deregulatory process, I find an influential frame invoking regulatory capture. When government officials and taxi incumbents highlighted TNCs’ lack of compliance with existing ride-for-hire laws, TNC advocates framed these claims as anti-competitive and protectionist, suggesting that government officials were captured by taxi interests. This framing strategy shifted attention away from the legitimacy of TNCs and toward the legitimacy of *regulation*. I refer to this as the emergence of meta-frames,

which frame the regulatory process rather than framing the substantive issue. Using data from the *Globe*, I show the emergence of the capture frame, which equated regulation of Uber with taxi protectionism, in the context of the broader contest over how to frame TNCs. I identify two contextual features that enabled this frame: a visible crisis in the Boston taxi industry and the political alignment of city and state officials.

I then explore the perspective of government officials involved in the regulatory process, using interviews and public statements to show how the capture frame resonated with the very people tasked with regulation. As government officials in a historically liberal jurisdiction, they were not predisposed to equate regulation and capture. Nonetheless, I find that they did not refute the capture frame, but instead embraced it. To explain this, I build on recent pragmatist theories of framing (McDonnell *et al.*, 2017), which propose that resonance is not the result of the match between a frame and a preexisting worldview, but rather that resonance emerges as recipients use a frame to solve problems they face. Specifically, I show that officials used the capture frame to distinguish legitimate regulatory interventions, which they advocated, from illegitimate ones, which they condemned. Using the capture frame to draw these distinctions, they could deregulate while shoring up the legitimacy of the regulatory process.

These findings contribute, first, to the empirical understanding of regulatory politics in the platform economy. Scholars have explained variation in TNC regulation across the USA, Europe and China as the product of institutional and market differences (Cohen, 2017; Collier *et al.*, 2018; Thelen, 2018; Li and Ma, 2019; Pelzer *et al.*, 2019; Rahman and Thelen, 2019; Spicer *et al.*, 2019; Tzur, 2019). I build on this work to examine the system of meaning used in the debate over TNC regulation, providing a detailed, longitudinal overview of the framing contest (Kaplan, 2008) in the Boston case. Specifically, I show that the debate involved both *issue frames*, pertaining to TNCs, and *meta-frames*, which addressed the legitimacy of the regulatory process. This finding has implications for the broader effort to regulate the platform economy. Market innovations create ‘loose coupling’ between organization, place, workforce and product (Kirchner and Schübler, 2020), undermining the efficacy of existing regulation. Scholars have labeled these ‘policy disruptions’: regulations are designed to address specific market configurations, so reconfiguring the market produces ‘a disjunction between the structure of the regulatory system and the industry that is being regulated’ (Biber *et al.*, 2017, p. 1565). If these ‘disjunctions’ can be reframed, not as a mismatch between regulation and evolving industry but as a flaw in the very nature of regulation, it will be difficult for government officials to legitimize regulatory proposals that put any limits on new platform firms.

Theoretically, the article enriches the understanding of deregulation by building on the pragmatist approach to frame resonance. Research on deregulation shows the central importance of interpretive frames (Derthick and Quirk, 1985; Avent-Holt, 2012), but this leaves open the question of how the specific frame invoking regulatory capture resonates with regulators themselves. The pragmatist theory of resonance offers one solution: the capture frame resonates with government officials as they use the frame to solve novel problems. I elaborate on this theoretical perspective by identifying one way in which frames solve problems. When an activity or group is called into question, actors can use frames to draw *legitimizing distinctions*—distinctions between legitimate and illegitimate cases—as means of shoring up the legitimacy of the broader category.

2. Regulatory politics in the platform economy

The last 10 years have seen the rise of disruptive companies in the platform economy—companies like Uber that use new technologies to connect supply and demand for goods and services (Frenken and Schor, 2017; Schor, 2020). Platforms constitute a new way of organizing economic activity, integrating aspects of markets, hierarchies and networks (Powell, 1990) but deviating from each in significant ways (Vallas and Schor, 2020). Enabled by technological advancement, venture capital and labor deregulation, platforms have quickly become some of the most important organizations in the economy (Kenney and Zysman, 2016; Kenney *et al.*, 2020), with scholars like Davis (2016) proposing that ‘Uberization’ represents a new stage of development in capitalism. Researchers have especially focused on key characteristics that distinguish platforms as employers, including reliance on independent contractors (Koutsimpogiorgos *et al.*, 2020), limited opportunities for employee ‘voice’ (Gegenhuber *et al.*, 2020), and workers’ perceptions of economic insecurity, although these vary by national context (Krzywdzinski and Gerber, 2020).

Insofar as markets rely on socially structured institutions to provide stability (Fligstein, 1996), the emergence of the platform economy offers an opportunity to observe how the rules of the market are revised. Research has explored how platforms attempt to reshape their institutional environment through both market and non-market strategies to gain a competitive advantage or increase their legitimacy (Uzunca *et al.*, 2018). Because they touch on diverse social issues, platforms can be ‘framed within [different] policy sectors’, leading to divergent outcomes across locations (Aguilera *et al.*, 2019). To explain variation, political scientists have argued that interest groups and political institutions shape regulatory debates. Rahman and Thelen (2019) argued that the USA is at the forefront of contestation over platform regulation not because it is home to especially innovative companies but because its legal system favors the interests of consumers; because it is decentralized, allowing companies to exploit regulatory variation to build a consumer base; and because financialization provides ready capital for fast-growing start-ups. On the first issue, Cohen (2017) provided a detailed analysis of how platforms have benefited from the USA legal system’s allocation of privileges, powers and immunities. On the second issue, Culpepper and Thelen (2020) argued that platform companies secured the deference of policymakers—at least in their first years of operation—not through direct influence but by earning the support of consumers, whose allegiance created ‘platform power’. Although regulation in the USA has since become more assertive, the popularity of platforms with consumers continues to influence policymakers (Busemeyer and Thelen, 2020).

This institutional approach has yielded important insights into the regulation of TNCs in particular, on which this article builds. Prominently, Thelen (2018) used a comparison of TNC regulation across the USA, Germany and Sweden to theorize platform regulation: although in each context TNCs touched on the same domains—competition, safety, taxes, labor and social policy—each state’s institutions made different issues salient, producing distinct configurations of interest group coalitions that drove divergent regulations. Other scholars have examined specific national cases. In the Netherlands, Uber’s efforts at ‘institutional entrepreneurship’ failed because state institutions were not amenable to the company’s strategies (Pelzer *et al.*, 2019). Exploring variation across cities in the United States, Spicer *et al.* (2019) argued that divergent responses were explained by the interaction between Uber’s government relations strategy and existing transportation markets. Tzur

(2019), by contrast, found almost uniform outcomes across the USA favoring the TNCs, attributing Uber's success to 'technological regulatory entrepreneurs', who mobilized new technologies to overcome collective action problems. Perhaps most comprehensively, Collier *et al.* (2018, p. 920) theorize a process of 'disrupted regulation', in which the 'existing regulatory regime... was not deregulated but disregarded by the challenger' and, subsequently, an elite-dominated regulatory process favored the TNCs.

These studies explain how institutions and interest groups drove variation in TNC regulation. However, new market configurations cannot simply be imposed, they must also be broadly viewed as legitimate (Fligstein, 1996; Fourcade and Healy, 2007). Legitimacy, defined by Suchman (1995, p. 574) as 'a generalized perception... that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions', is essential to creating stability, enabling intersubjective agreement about the terms of interaction. I take culture to be central to the cultivation of legitimacy, where culture is defined as a system meanings and practices (Sewell, 1999). Culture provides the background against which arrangements are deemed legitimate and serves as the basis for what Suchman calls 'cognitive legitimacy'—the acceptance of certain arrangement as reasonable and, eventually, taken-for-granted. I build on prior research on TNC regulation by asking: how was the deregulation of the ride-for-hire industry legitimized? To answer this question, I investigate one cultural dimension of deregulation—how the theory of regulatory capture acts as a frame.

3. Deregulation and the capture frame

Regulation has always been contested. Because it creates both opportunities and constraints, organizations try to influence new regulations to favor their interests (Burstein, 1991). More fundamentally, however, the legitimacy of the state's regulatory role has been called into question, with 'regulatory capture' serving as a powerful conceptual tool for critiquing government's role in markets. In the mid-20th century, studies of regulatory agencies found that industry groups exerted power over the regulators tasked with oversight (Huntington, 1952). These studies became the foundation for claims that industry influence was not an occasional 'bug' but a central 'feature' of the regulatory process: regulation, it was argued, is 'captured' by special interests and therefore antithetical to competition (Stigler, 1971). This argument became central to the neoliberal agenda (Mudge, 2008) and was taken up by libertarian organizations, including the American Legislative Exchange Council and the Reason Foundation, which have specifically targeted public transit and taxis for deregulation (e.g. Rubin and Moore, 1997).

Recent scholarship has addressed the insufficiency of regulatory capture theory. Carpenter and Moss (2013) argued that capture is overdiagnosed and, where it exists, capture does not always fit the traditional model. Sometimes capture is cultural, when regulators identify with industry (Kwak, 2013), or it can take the form of reliance on industry expertise (McCarty, 2013). Despite these empirical qualifications, the specter of regulatory capture has been a central tool in the campaign for deregulation since the 1970s. As Derthick and Quirk (1985) demonstrated, the deregulation of airlines, trucking and telecommunications was justified not only by citing ineffective regulation—policies aimed at protecting the public that ossified into inefficiencies—but also in terms of capture theory. Fields

from banking (Baker, 2010) to fossil fuels (Glicksman, 2010) have seen actors use the idea of capture to delegitimize proposed regulation.

Capture has clearly moved from the realm of economic theory to the cultural realm of ideas, where it is used to frame policy debates. Scholars have long emphasized the role of ideas in the policy-making process (Campbell, 2002), where the cultural realm intersects with the world of interests and institutions. Recent research has theorized multiple pathways through which ideas influence policy outcomes (Carstensen and Schmidt, 2016). Ideas are essential for conceptualizing an issue as a problem amenable to policy interventions and ideas shape the perceived legitimacy of proposed solutions (Stone, 1989). Ideas also act as ‘discursive weapons’ that stakeholders use to shape debate (Béland, 2009, p. 701). In making strategic use of these ‘weapons’, actors are attuned to the match between ideas and the political ‘venue’ in which the issue is adjudicated, strategically seeking out venues that are likely to be receptive to their framing of the issue (Baumgartner and Jones, 1993).

I focus on the use of ideas to persuade the public and decision-makers. This process is theorized in political sociology in terms of framing. Frames are defined as ‘normative [or] cognitive ideas that are located in the foreground of policy debates’, used ‘strategically... to legitimize [preferred] policies’ (Campbell, 2002, pp. 26–27). The concept of framing was first developed by Goffman (1974), who conceptualized frames as intersubjectively shared meanings that guide interpretation. Social movement theorists adopted the idea to explain how movement actors use cultural meanings to mobilize adherents (Snow and Benford, 1988), specifying that a frame is not simply a concept or slogan but an ‘interpretive package’ organized around a key idea (Gamson and Modigliani, 1989). Since the 1980s, scholarship on the cultural ‘meaning work’ of framing has proliferated (Benford and Snow, 2000, p. 613). These cultural activities become particularly salient in moments of instability, when actors engage in ‘framing contests’, trying to shape the direction of debate (Kaplan, 2008; Boin *et al.*, 2009).

4. Frame resonance and legitimizing distinctions

Although the study of ideas has gained traction in public policy scholarship (Béland *et al.*, 2016), this research tends to focus on how people *deploy* ideas in the political process, rather than how these ideas are received. A more complete understanding of how interests, institutions and ideas intersect requires understanding how people interpret and embrace ideas that arise in political debate.

A particular frame is believed to succeed insofar as it resonates with an audience. Resonance was proposed to explain the ‘the influence [that]... particular symbols have on what people think and how they act’ (Schudson, 1989, p. 153). This concept has become immensely important across fields, including media and public policy (Wolfe *et al.*, 2013). Yet scholars have pointed to a weakness in the common conceptualization of resonance. Insofar as resonance indicates the alignment of a frame with an audience’s worldview, it implies a passive and static recipient, whose receptivity to the frame—or lack thereof—is the product of prior socialization. McDonnell *et al.* (2017, p. 2) instead draw on American pragmatist philosophy to propose that frames resonate according to their ability ‘to help actors solve puzzles’. With this perspective, we can revisit the theory of ideas in policy making to reconceptualize government decision-makers. Rather than passive ‘venues’ (Baumgartner and Jones, 1993), with static and preexisting dispositions toward particular ideas, policymakers

experience resonance—especially in times of upheaval or crisis—insofar as the frame helps them make sense of a problem and develop solutions.

What problems are government officials trying to solve that allow the capture frame to resonate? While scholars have examined processes of deregulation in a number of fields since the 1970s (Derthick and Quirk, 1985; Prasad, 2006; Suárez and Kolodny, 2011), less understood is how government officials embrace deregulation without undermining the legitimacy of the regulatory enterprise. I propose that, when confronted with widespread questions about the legitimacy of regulation—in the form of a frame invoking regulatory capture—government officials use the idea of capture to make *legitimizing distinctions*, or distinction between legitimate and illegitimate regulatory actions. Rather than rejecting accusations of capture, government officials accept the critique but apply it to some, but not other, types of regulation. This process is analogous to what Knight (2018) calls ‘moral bifurcation’. In the 19th century, corporations were broadly viewed as illegitimate ‘creatures of the state’, but became legitimized through a gradual discursive bifurcation, which involved ‘morally cleaving the good corporations from the bad’ to legitimate ‘the *institution* by delegitimizing bad *actors*’ (Knight, 2018, p. 12). Where the process Knight describes is collective and historical, I suggest that legitimizing distinctions are a strategy that actors can employ to legitimate a discredited group or activity—directing skepticism toward specific instances as a way of shoring up the broader category. In the case of TNCs, public officials use the capture frame to distinguish between legitimate and illegitimate regulations, allowing them to uphold the legitimacy of the regulatory process while embracing deregulation.

5. Data and method

To understand how government officials legitimize deregulation in response to the arrival of TNCs, I use a case study method (Yin, 2017). I draw on media coverage from *The Boston Globe* and interviews with stakeholders to provide an in-depth analysis of the policy debate in Boston, MA. The case study method is especially effective for analyzing novel social phenomena in depth (Small, 2009). This method has been widely used in the emerging literature on the platform economy (Uzunca *et al.*, 2018; Aguilera *et al.*, 2019; Pelzer *et al.*, 2019; Dieuaide and Azais, 2020; Krzywdzinski and Gerber, 2020; Lesteven and Godillon, 2020), both because the approach is suited to new phenomena and also because platforms touch on diverse and interconnected policy issues, making large-scale analyses less feasible. I take advantage of this approach not to explain the outcome of the regulatory process—which would require a comparative method and has been pursued elsewhere (e.g. Thelen, 2018; Li and Ma, 2019; Spicer *et al.*, 2019; Tzur, 2019)—but rather to investigate the cultural meaning attached to deregulation and the process of sense-making through which government officials legitimize deregulatory action.

The case offers several advantages. First, TNCs are strategic for understanding the politics of deregulation. Uber entered new markets without prior approval, engaging in ‘permissionless innovation’ (Thierer, 2016; Frenken and Schor, 2017) that forced government officials to formulate a response. Among platform firms, Uber is known for being the most aggressive, entering new markets despite threats from governments and leveraging its popularity to demand favorable terms (Culpepper and Thelen, 2020). As many articles on the platform economy therefore note, Uber not only disrupted the market, but also disrupted the existing policy regime (Cortez, 2014; Biber *et al.*, 2017; Kirchner and Schüßler, 2020).

While deregulation in other cases might be the product of regulators' preexisting ideological commitments, in the case of Uber, city governments were forced to make a decision and most deregulated. The case thus provides an opportunity to examine how deregulation becomes legitimized.

Boston also offered advantages as a site for understanding the legitimization of deregulation. As a progressive city with a large technology sector, regulatory debates were less predictable and more subject to political contestation than in conservative Sunbelt cities that were less likely to regulate (Collier *et al.*, 2018). Boston was also representative of a 'compromise' approach to regulating TNCs (Armstrong, 2016) that ultimately became common across the USA: although some cities and states started out either more permissive or more resistant to TNCs, the majority converged on outcomes similar to Boston (Tzur, 2019). This permits an analysis of framing at the heart of the regulatory debate, rather than at the fringes.

Most importantly, Boston is home to a substantial taxi industry. When Uber arrived, the city had 1825 taxi medallions used by some 2700 drivers, who together provided anywhere from 29 000 to 47 000 trips per day, including around 5000 trips to and from Logan airport and 1400 dispatch requests (Nelson Nygaard, and Taxi Research Partners, 2013). The system was governed by a complex regulatory structure addressing medallion owners, drivers and radio dispatchers, including rules regarding vehicle standards, leasing, rates and requirements to serve specific neighborhoods and groups, such as the elderly. As a result, embracing TNCs in Boston was no simple matter—it involved rethinking a well-developed regulatory infrastructure.

I use two complementary data sources to trace the emergence of frames related to TNC regulation and the resonance of those frames with government decision-makers. I compiled and analyzed 815 articles published in *The Boston Globe*—all the articles that mentioned Uber from November 2011 through September 2016, the period in which Uber arrived in Boston and regulatory options were debated and decided. This time frame is useful for tracing the development of debates over how to regulate TNCs and the emergence of a new policy response. But it largely omits the critical issue of labor. The labor issue was glaringly excluded from both city and state debates, as I describe in the analysis. Labor has since become the key issue, most prominently as California court cases and ballot initiatives raised the question of whether Uber drivers should be classified as employees rather than independent contractors. Even after California's 2020 ballot initiative, legal contests over the employment status of Uber drivers continue (Smith and Moelis, 2021). My focus is on transportation regulation rather than labor regulation—a partial view of the platform issue but one with implications for ongoing debates that I explore in the discussion.

The use of data from the media has the benefit of capturing prominent voices that are likely to influence policymakers and the public. The *Globe* is Boston's largest newspaper, with a circulation of roughly 135 000. Data from the media are often used to analyze policy debates (Gamson and Modigliani, 1989; Baumgartner *et al.*, 2010; Lesteven and Godillon, 2020). These data do not reflect all dimensions of policy development: we cannot presume a correlation between media coverage and public opinion; at the same time, media accounts often lack access to the closed-door conversations among policymakers and with lobbyists. But media is an advantageous site for understanding efforts to frame public debate. As Ferree (2003, p. 318) put it, speakers in the media have 'achieved some degree of *mainstream* status' and evidently have the goal of 'shaping public perception or influencing

policymakers'. Therefore, Gamson and Modigliani (1989, pp. 2–3) explain, 'if one is interested in *predicting* policy outcomes, [media] are not necessarily the most important forums. But... media discourse dominates [in terms of] the larger issue of culture, both reflecting it and contributing to its creation'.

The analytical strategy involved coding each passage pertaining to the debate over TNCs. Following Ferree (2003), I coded each single passage or quotation in which someone described the TNC phenomenon in relation to government oversight, identifying the core concern represented by the passage or quotation. Beginning with an inductive coding scheme, I iteratively refined the codes to arrive at a final set of 16 frames: 12 issue frames representing multiple ways of viewing TNCs and the ride-for-hire industry, including as innovative and contributing to economic growth or as a threat to public safety and fair competition; and four meta-frames specifically addressing the legitimacy of regulation. These data are used to trace the emergence and spread of frames, situating the capture frame in relation to competing interpretations.

I then turn to 15 interviews with key actors to examine how government officials engaged with the capture frame. These interviews are valuable because they provide direct evidence of how policymakers think about these issues—how they receive frames and use them. I interviewed 10 government officials and industry stakeholders, several of them multiple times, over the course of the TNC debate. (To protect their anonymity, respondents are indicated by the jurisdiction for which they work, Boston or Massachusetts; a random letter indicating the unique respondent; and a number indicating whether it was the first, second or third interview with that person.) These included Boston city officials, Massachusetts state officials and representatives of taxi and ridesharing organizations. The analytical process was inductive (Glaser and Strauss, 1999), analyzing transcripts of open-ended interviews to identify novel insights, which informed subsequent interviews. In analyzing the interviews, I take the demonstration of legitimacy to be an implicit goal of participants, who aim to justify their position in an unstable and evolving field. These interviews were conducted prior to the media analysis: it was upon observing the use of the capture frame by public officials that I turned to the *Globe* data to situate the capture frame in the broader context of the framing contest.

6. The capture frame in Boston's debate over TNCs

How did Boston officials legitimize deregulation of the ride-for-hire industry? In response to the arrival of the TNCs, two distinct types of frames emerged in public debate: a first set of *issue frames* that aimed to shape the interpretation of TNCs and the ride-for-hire industry, associated with arguments for or against regulation; and a second set of *meta-frames* that offered interpretations of the legitimacy of government intervention, rather than addressing the substantive issue. The emergence of the capture frame, which equated TNC regulation with taxi protectionism, made it difficult for officials to propose that TNCs should be regulated like taxis and conferred legitimacy on the option of deregulating the industry. Despite the prevalence of the capture frame, however, government officials were able to uphold the legitimacy of the regulatory function. They did so not by rejecting the capture frame, but by embracing it, using it to draw legitimizing distinctions—distinctions between legitimate and illegitimate types of regulatory interventions—that allowed them to condemn certain types of regulation while shoring the legitimacy of the broader category of regulation.

In the following sections, I begin by introducing the issue frames that emerged in the debate, as stakeholders fought to shape the conversation with competing interpretations of TNCs. I then turn to the meta-frames that shifted the object of debate from TNCs to *regulation*. I next show how the capture frame—enabled by the prominent failure of the taxi system and the political alignment of the city and state governments—made the idea of imposing taxi regulation on TNCs increasing implausible and directed the debate toward deregulation. Finally, I show how government officials made use of the capture frame to draw legitimizing distinctions.

6.1 Issue frames: the contest to frame TNCs

Uber arrived in Boston in 2011 to the acclaim of *The Boston Globe*'s technology columnist, who noted that it was 'more spacious', 'better maintained' and provided 'better information about when you will be picked up' than traditional taxis (Kirsner, 2011). But Uber's arrival also prompted immediate reactions from regulators and complaints from the taxi industry, which both argued that the company was operating illegally, failing to comply with Boston's ride-for-hire laws. Over the course of the next 5 years, leading up to the passage of state-level TNC regulation, multiple frames would emerge as stakeholders attempted to define TNCs as a policy issue and steer regulatory responses. These frames included issue frames (Table 1) that offered different ways of understanding TNCs, which were associated with arguments either for or against regulation. Table 1 provides an example of the frame, indicating the number of times the frame was used, who used it first and in what year, and who used it most and how many times. In this section, I give an overview of the clusters of competing issue frames—first discussing the pro-regulation frames and then the anti-regulation frames—and describe how they evolved over the course of the debate.

Upon Uber's arrival in Boston, government officials immediately made the case for curtailing Uber, citing noncompliance. The *Globe* covered the response from the Massachusetts Division of Standards, which 'ordered Uber to shut down... saying officials had not approved its system for calculating fares', at the same time noting that Cambridge had issued fines 'for operating an unlicensed livery service' (Farrell, 2012b). Taxi advocates soon picked up the governments' line of argumentation, 'contend[ing that] the start-up is running an unlicensed car service and ignoring virtually all of the government rules that have been in place for years' (Farrell, 2013a). Noncompliance was a dominant frame used by TNC critics to argue for regulation early on, but over time it was mostly abandoned, supplanted by pro-regulation frames invoking consumer protection, fair competition and labor (Figure 1).

Within the first year, TNC critics began to focus on the need for stronger consumer protections. Under the umbrella of consumer protection, critics raised concerns about both public safety and Uber's opaque algorithmic pricing system. Taxis argued that Uber is 'a real cute idea until one of these unregulated vehicles harms a client' (Farrell, 2013b). Concerns about pricing became acute after Hurricane Sandy, when Uber's pricing algorithm led to astronomical charges for riders in New York City, prompting accusations of price gouging and leading regulators to call Uber 'rogue' and 'destructive' (Chen, 2012). Uber's CEO, Travis Kalanick, dismissed pricing concerns as fleeting, arguing that 'because this is so new... it's going to take some time for folks to accept it' (Chen, 2012), and he seems to have been right: over the course of the next 5 years, concerns about consumer protection would focus less on pricing and more on safety for riders, especially as high-profile cases emerged

Table 1 Overview of most common issue frames

Frame	Freq.	First used by	First used	Group most used by	Times used by group	Examples
Accessibility	21	Columnist	2011	Reporter	7	Uber styles itself as 'Everyone's Private Driver'.
Consumer choice	27	Columnist	2011	Uber/Columnist	5	Emerging transportation options such as Uber and Lyft present a real opportunity for our evolving transportation ecosystem to more efficiently service residents... We have a responsibility to step up to ensure consumer choice and public safety prevail.
Innovation	82	Columnist	2011	Columnist	17	It's time to stop protecting an industry that hasn't worked well for years, and make room for innovation.
Consumer protection	111	Expert	2012	Taxis	26	Uber exploited a loophole in the law... Taxicabs everywhere are heavily, heavily regulated for public safety.
Fair competition	77	Govern-ment official	2012	Taxis	48	[In several cities Uber is] drawing complaints from rival taxi services who say it has an unfair advantage because it is not as regulated as cabs.
Noncompliance	53	Regulator	2012	Taxis	18	The traditional cabbies contend the start-up is running an unlicensed car service and ignoring virtually all of the government rules that have been in place for years.
Popularity	42	Politician	2012	Reporter	12	These are very popular services... and so the directive from out community was, 'Don't get in the way.'
Labor	44	Editorial board	2013	Reporter	20	Uber is being sued by its drivers, who say it is stealing their tips.
Discrimination	10	Uber	2015	Uber/Politician	3	Uber[s] chief executive pushed back... at proposals... to conduct background checks on his drivers using fingerprint records, arguing it would discriminate against those who were never convicted.
Growth	24	Drivers	2015	Uber	13	The newer transportation firms have argued that imposing new regulations on them would discourage the growth of the area's tech economy.
Inaccessible	22	Advocate	2015	Reporter	13	A campaign to increase the accessibility of Uber... may be getting traction, after criticism by advocates who say [it is] defying the law by not serving passengers who use wheelchairs.

continued

Table 1 *Continued*

Frame	Freq.	First used by	First used	Group most used by	Times used by group	Examples
Transportation	10	Uber	2015	Uber	3	The administration has taken another big step in vouching for ride-hailing companies: Transportation Secretary Stephanie Pollack is part of a campaign that encourages commuters to take Lyft to public transit stations.

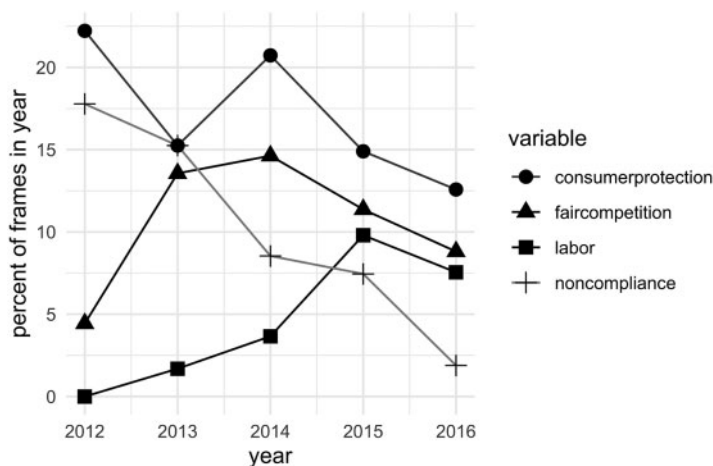


Figure 1 Prevalence of pro-regulation issue frames from 2012–2016.

in 2014, 2015 and 2016 in which Boston-area drivers were accused of assaulting passengers.

At the same time, TNC critics—mostly taxis drivers, medallion owners and their advocates—began to make the case for government’s obligation to ensure fair competition. The taxi industry argued it was unfair that Uber was free from the regulations that increased operating costs for traditional cabs. One taxi owner explained that ‘Uber exploited a loophole in the law’ to evade the regulatory burdens of the taxi industry, noting in contrast that ‘taxi-cabs everywhere are heavily, heavily regulated’ (Farrell, 2012b). As a result, taxis argued, Uber ‘nibbles away at our business base and diminishes the value of what we do... [But] if we are on the same playing field, [Uber would be] fine’ (Farrell, 2013b). In a lawsuit, the taxi industry argued that ‘the start-up is... ignoring virtually all of the government rules that have been in place for years’, which increased operating costs, such as the prohibition on ‘refus[ing] to take fares based on age, disability, and location’ (Farrell, 2013a). By operating in this ‘gray area’, taxi advocates argued, ‘Uber is attempting to avoid the major costs of running a transportation company’ (Farrell, 2014b). This gave Uber an ‘unfair advantage’ (Herman, 2013).

By 2015, an issue orthogonal to the interests of taxis constituted a growing share of the pro-regulation frames: the question of whether TNC drivers should be classified as employees rather than independent contractors. Taxi drivers had themselves tried and failed to make the case for reclassification as employees in Massachusetts. When four taxi drivers challenged the independent contractor model, the Supreme Judicial Court rejected their claim, citing the fact that drivers had control over their working conditions: ‘The drivers choose the shifts they work and are free to transport as many or as few passengers as they wish during those shifts’ (Saltzman, 2015). Taxi drivers’ failure to win reclassification made it more difficult for the taxi industry to argue against Uber’s employment model. Uber drivers themselves were initially happy with the service, but soon faced off with Uber over the question of tipping (Newsham, 2015b).

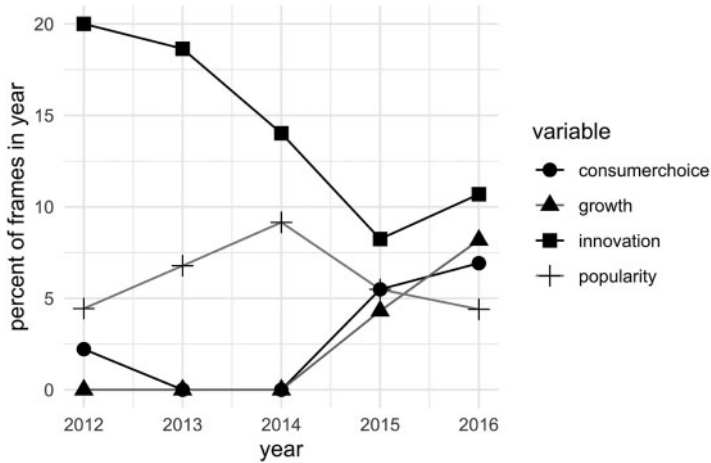


Figure 2 Prevalence of anti-regulation issue frames from 2012–2016.

Yet despite the centrality of labor, city and state policymakers avoided the issue. City officials resisted addressing labor, arguing that it was out of their purview: ‘We don’t really regulate the [employment] relationship. . . We purposely removed ourselves from that discussion’ (Boston, E3). For state legislators, the labor issue was ‘considered too touchy’: ‘If [Uber drivers are] employees then that’s a whole bigger conversation about compensation, benefits, right to unionize. We didn’t touch that’ (Massachusetts, M). The fact that taxi drivers were already classified as independent contractors meant that, for city regulators, ‘the considerations around labor under the TNC model are not considered problematic’ (Boston, E3). Despite resistance among policymakers, labor became an increasingly prominent frame, as the case against Uber was increasingly made by Uber drivers, labor activists and politicians—focusing on working conditions and the classification of drivers as independent contractors—rather than taxi competitors.

While taxis and regulators were developing the case for curbing TNCs, Uber, Lyft and TNC supporters—among them the *Globe’s* columnists and Editorial Board—began to argue for the benefits of TNCs and, by extension, the need for caution when imposing regulation. The four primary frames used to make this case against regulation were innovation, popularity, economic growth and consumer choice (Figure 2).

Early articles lauded Uber for being innovative, arguing that ‘Boston-area taxi riders know that the region’s taxicab industry needs more innovation’ (Editorial Board, 2012) and reframing Uber’s noncompliance as an instance of high-tech challengers ‘outmaneuver[ing] old rules’ (Chen, 2012). Taxi advocates were compared with Luddites and travel agents, resisting the technological changes of their times (Keane, 2014b; Disare, 2015; Ramos, 2015; Farragher, 2016). One columnist elaborated: ‘If only the owners of horses and buggies had been more organized, they likely could have thwarted the introduction of the automobile. If the slide rule industry had ponied up for more campaign contributions, it might have stopped the handheld calculator dead in its tracks. . . Disruptive technologies are rough on the old guard’ (Keane, 2013c). By contrast, ‘smartphone apps such as Uber. . . are

innovative end-runs around a broken system, perfect examples of the creativity that can be unleashed when we let free markets work' (Keane, 2013a).

As Uber attracted more riders with convenience and low fares, its growing popularity and economic impact were used to make a case against regulation. Articles often emphasized Uber's popularity with consumers, describing the service as 'generally adored by customers' (Chen, 2012) 'with a fervor once reserved only for artisanal cheeses' (Wirzbicki, 2014). At the same time, the growing roster of Uber drivers served as evidence that Uber would drive economic growth, both directly and indirectly: Uber asserted that its platform 'creates... thousands of jobs' (Dungca, 2015b) and argued that 'imposing new regulations... would discourage the growth of the area's tech economy' (O'Sullivan, 2016a).

As the regulatory process got underway at the state level, these themes of popularity and growth were overshadowed by the more formal idea of consumer choice, which became an increasingly prominent frame used by TNC proponents. Among these was the *Globe's* Editorial Board, which made frequent arguments against TNC regulation. As a proposed bill for state regulation emerged from the Massachusetts House, the Editorial Board condemned it as 'a mishmash of backward thinking that would restrict consumer choice' (Editorial Board, 2016). Uber also increasingly used the consumer choice frame, arguing against the proposed House bill on the grounds that it 'limits consumer choice... and doesn't serve the best interests of Massachusetts' (Dungca, 2016).

6.2 Meta-frames: from framing the issue to framing the response

While pro- and anti-regulation groups mobilized frames that interpreted TNCs, a third cluster of frames emerged that addressed the legitimacy of regulation itself (Table 2). Among these frames was the capture frame, which suggested that regulation would be anti-competitive and would only serve to protect a failing industry. As the debate continued, deregulating taxis became a popular alternative to regulating TNCs as a means of leveling the playing field. In 2014, the idea of 'reasonable regulation' for TNCs emerged, referring to regulation that was substantially less stringent than taxi regulation but would put some safety measures in place. Finally, in 2015, a fourth frame emerged, as the taxi industry started to voice dissatisfaction with Boston's lack of action on—or even discussion of—TNC regulation (Figure 3).

In 2012, while taxis and regulators tried to frame *Uber*, alleging noncompliance or demanding fair competition, Uber began to frame *regulation*, using the idea of capture to both preemptively and reactively discredit proposed government intervention. This frame took two forms: a broader anti-competitive version, which suggested that regulation would prevent Uber from engaging in legitimate competition to improve efficiency and better serve customers; and a narrower protectionist version, which suggested the fundamental purpose of regulation was to protect the taxi industry, equating TNC regulation with taxi protectionism.

The broader anti-competitive version, first introduced by Kalanick, dismissed the complaints of the taxi industry as efforts to shield themselves from competition: 'I'm in the technology industry... Was Yahoo upset when Google came out? Of course'. But, he went on, unlike in the technology industry, 'in the cab industry, they try to curtail competition' (Farrell, 2012a). This version of the frame suggested that regulation would 'limit competition, stifle innovation, and increase prices', therefore hurting consumers (Keane, 2013b). As the debate wore on, Uber would emphasize its intention to 'vigorously defend the rights of

Table 2 Overview of meta-frames

Frame	Freq.	First used by	First used	Group most often used by	Times used by group	Examples
<i>Capture</i>	73				23	
General capture: anti-competitive	23	Kalanick	2012	Uber	5	Local regulators should strive to promote competition and innovation, rather than defending the status quo.
Specific capture: protectionism	50	Kalanick	2012	Columnist	18	Although some enlightened officials in Boston have welcomed new entrants such as Uber... the industry (not surprisingly) doesn't want competition, and collaborates with its own regulators to stifle it.
Deregulation	38	Letter	2013	Columnist	15	The <i>Globe's</i> searing series on the ugly side of taxis in Boston reminds us that excessive regulation can turn entire industries into shadowy, corrupt spheres.
Regulator inaction	8	Taxis	2015	Taxis	3	[Ride-hailing companies are] hammering away at the taxi industry because government regulators have done nothing to curb UberX's operations on the roads.
Reasonable regulation	13	Politician	2014	Politician	6	'Somewhere in the middle should be reasonable regulation.'

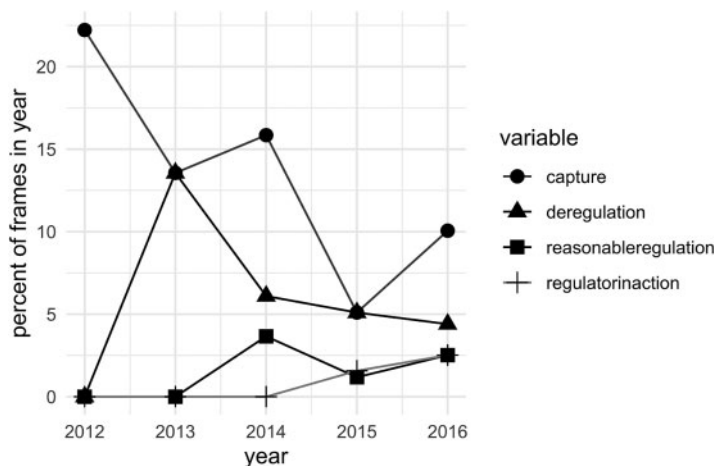


Figure 3 Prevalence of meta-frames from 2012–2016.

rider to enjoy competition’ (Farrell, 2014c) and letters to the editor suggested that the solution, rather than regulation, was for taxi drivers to ‘stop complaining... and spend their time learning how to... compete for consumers who are fed up with the past’ (Editorial Board, 2014d).

The narrower version of the capture frame more directly discredited regulation by suggesting that its sole purpose was to protect underperforming incumbents. The frame was first introduced by Kalanick, who, an article explained:

Frames it as David vs. Goliath, a start-up revolutionizing a creaky business. He once referred to Cambridge... as “home to Harvard, MIT, and some of the most anticompetitive, corrupt transportation laws in the country.” To him, regulators are trying to stifle innovation. He says they are more interested in protecting the taxi and limousine businesses than in helping consumers. (Chen, 2012)

Other commentators quickly picked up the idea that regulation served to protect industry (Figure 4). Columnists argued that taxis had ‘secure[d] the favor of legislators and regulators... protected by rules that keep competitors out and slow the pace of change’, while regulators were accused of ‘using the power of state to beat back new entrants’ (Keane, 2013c).

The capture frame was most popular among commentators in the pages of the *Globe*, who called Boston’s taxi regulations ‘among [its] most outdated systems’ (Ross, 2013) and described it as ‘regulatory regime that resists change... [as] the industry... collaborates with its own regulators to stifle’ innovation (Keane, 2013b). Columnists criticized the politicians who were ‘standing in the way of vigorous competition’ (Sununu, 2014); ‘defend[ing] the taxicab industry [and] load[ing] the newcomers with stifling regulations’ (Keane, 2014b); and disappointing constituents by ‘interpret[ing] their duty as applying new red tape to protect the existing cab industry, instead of supporting a service that many [consumers] obviously prefer’ (Editorial Board, 2014c). The *Globe* urged that ‘local regulators should strive

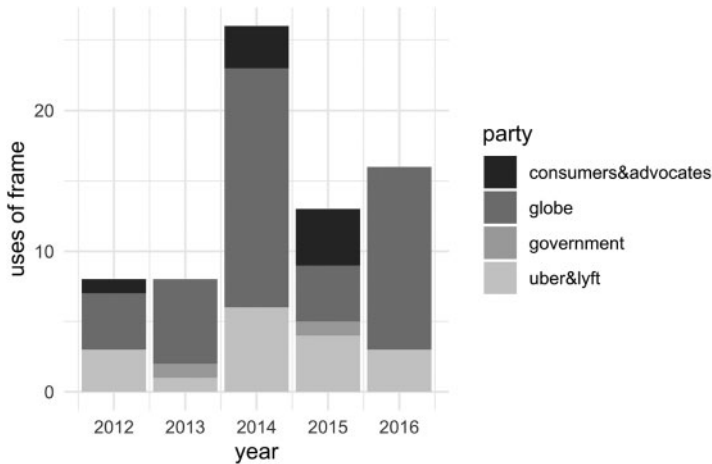


Figure 4 Who uses the capture frame.

to promote competition and innovation, rather than defending the status quo' (Editorial Board, 2014a).

In mobilizing this frame, ridesharing advocates effectively shifted the object of debate: instead of arguing over the nature and legitimacy of the TNCs, participants debated the nature and legitimacy of regulation itself. TNCs and their supporters framed regulation as protectionism, arguing that any attempt to limit TNC businesses was simply an effort to resist change and prop up the struggling taxi industry.

6.3 Enabling the capture frame: a taxi crisis and alignment with the state

In Boston, the capture frame was significantly enabled by two factors: a highly publicized crisis in the taxi industry and the political alignment between the city and the state. These developments gave credence to the capture frame and provided Boston with alternatives to imposing taxi regulations on TNCs. Instead, the city could defer to state-level decision-makers on TNCs, with a promise to later deregulate municipals taxis. In this section, I describe how these two factors enabled the capture frame and helped direct the discourse toward deregulation.

In March 2013, the pressure on Boston officials to do something about the ride-for-hire industry increased dramatically, when the *Globe* published a three-part exposé of exploitation and corruption in the taxi industry. The series, titled 'Driven to the Edge', revealed that, in order to access a car, taxi drivers were forced to pay bribes to taxi owners and buy gas from their overpriced private pumps—in addition to the regular daily fees of over \$100. As a result, drivers worked 12-hour shifts to barely make ends meet while the owners of medallions, which conferred the right to operate a vehicle-for-hire, grew rich on their labor (Globe Spotlight Team, 2013). As the exposé delegitimized the taxi industry, it gave further fuel to capture frame. One commentator argued that 'the *Globe*'s searing series on the ugly side of taxis in Boston reminds us that excessive regulation can turn entire industries into shadowy, corrupt spheres' (Glaeser, 2013). Yet despite public outcry, Boston was slow to respond.

After months of silence, Boston city officials announced in July 2013 that they would conduct a review of the industry, but no immediate action was taken.

As a result of the taxi crisis, the idea of imposing taxi-style regulation on Uber became increasingly illegitimate. Rather than regulating Uber, observers argued that the current debates ‘should inspire legislators to take a hard look at the wasteful mess of ancient taxi regulations on the books’ (Sununu, 2014). Even within government, this interpretation became common. One state lawmaker explained: ‘It’s not healthy to say the taxi regulations are really messed up so now we have to make the ridesharing regulations messed up as well [laughs]’ (Massachusetts, N). A Boston policy leader, sympathetic to taxis, echoed: ‘Boston created this problem... by regulating the taxi industry the way that it has... So the playing field is not level, and that is of the city’s creation’ (Boston, D).

The capture frame was simultaneously enabled by the political alignment of city and state officials. Specifically, Boston faced a formal obligation to enforce vehicle-for-hire laws that were already in place, especially after a judge sided with taxi complainants in a lawsuit, deciding that the city was responsible for establishing a level playing field between taxis and TNCs (O’Sullivan, 2016c). The state, however, was under no similar obligation to enforce equal treatment because the state had no rules governing taxis. Moreover, states like California were pioneering a solution, through the creation of a new category—transportation network companies—that could be regulated with a new and less burdensome regime. This solution was appealing to Boston because of the alignment between the city and Massachusetts, premised on a special relationship—the product of Boston being the state’s capital. This alignment increased the efficacy of the capture frame, as efforts to delegitimize Boston’s regulatory authority over TNCs did not threaten to produce outcomes distasteful to Boston’s political leadership.

Informed by these two factors, Boston officials demonstrated disinterest in regulating TNCs. This was evidenced, first, by the prolonged period of inaction following Uber’s arrival. As one July 2013 article described:

The city... has remained on the sidelines while the taxi industry has sought to block Uber with lawsuits. After being silent on the controversy for months, Mayor Menino’s administration said it will include a review of ride-sharing services in the ongoing investigation it has of the city’s oversight of taxis, following the *Globe* series. (Farrell, 2013b)

It took still months more for the ‘investigation’ to get underway, with Menino’s successor, Walsh, finally appointing a 24-member taxi advisory committee in October 2014. Shortly thereafter, however, the venue for the debate shifted to the state, when the Massachusetts Department of Transportation proposed TNC rules on January 3, 2015. The rules largely upheld the status quo, affirming the legitimacy of the TNCs without imposing costly requirements. The incoming governor, Charlie Baker, signaled support for TNCs (Dungca, 2015a). The issue was pursued in the state legislature where, in 2016, the House and Senate considered competing proposals. This became ‘one of the most heavily—and expensively—lobbied proposals of the legislative season’, with lobbying expenditures totaling \$1.4 million including more than \$300 000 from Uber and \$58 000 from a single taxi medallion owner (O’Sullivan, 2016b). The shift in venue from the city to the state was representative of a broader strategy of ‘preemption’, or state interference, pursued by the TNC industry. The strategy, pioneered by the tobacco and gun lobbies and advocated by the conservative policy

network American Legislative Exchange Council, involved lobbying for state-level regulation that preempted local rules (Borkholder *et al.*, 2018).

But the city showed little dissatisfaction. Far from attempting to reassert local control, when the state took up the issue, city officials began working behind the scenes to support state-level action. One Boston city official justified this collaboration by noting that the state was especially receptive to Boston's concerns:

Being the economic engine of the state... we have our very specific needs... So whatever policy gets enacted on the state level, they want to make sure it works for Boston, which is great. And we've been very collaborative with the state. (Boston, E1)

As the process went on, the state shared draft legislation with Boston's Taxi Advisory Committee and solicited their feedback. Overall, the Boston official explained, 'we work very well with the state, whether it's on the legislative side or the executive side... A lot of collaboration has to happen... We have to work very closely' (Boston, E2). The legislative effort, he said, would therefore be conducted 'in consultation' with the city, 'so [we are] not necessarily writing the rules, but certainly influencing them' (Boston, E2). And even this influence was not entirely necessary as, he explained, 'I don't think our priorities are misaligned' (Boston, E2).

In August 2016, after 4 years of contestation, TNCs were formally approved with the passage of state legislation. With the new law in place, TNCs could continue operating on favorable terms, established by the state, while taxis remained subject to onerous city-level regulations. This was a relief for Boston officials. When a judge ruled in favor of taxis, in March 2016, he put 'Walsh in the unenviable position of arbiter of a zero-sum contest between the traditional taxi... industries and the newer, app-based firms' (O'Sullivan, 2016c). But in light of the state's new TNC law, that judge absolved the mayor of this responsibility, determining that Boston was no longer required to implement TNC regulation or create a level playing field. This resolution ensured broad transformation in the ride-for-hire industry. Taxis would find it difficult to regain their market viability as long as TNCs continued to operate without similarly costly overhead.

6.4 How the capture frame resonates with government officials

Through the use of the capture frame, political options for responding to TNCs came to be seen as regulation *or* competition. The capture frame equated Uber with competition and posited regulation itself as anti-competitive. While this frame is directly antagonistic to government's oversight role, I found that government officials did not reject the frame. Instead, they adopted it, using the capture frame to draw distinctions between legitimate and illegitimate policy issues in a way that shored up their own legitimacy.

It was difficult for city officials to deny that TNC regulation fell within their purview. They acknowledge that TNC services were functionally indistinguishable from taxis services, lending credence to the taxi industry's accusations of noncompliance. A Boston official explained that 'at this point in time, there really is no difference' between an Uber and an unlicensed cab (Boston, E1). A state legislator similarly acknowledged that 'they accomplish the same thing, bringing people from point A to point B' (Massachusetts, N). As a result, government officials were forced to acknowledge that their regulatory function should,

theoretically, extend to TNCs: ‘We have a city. . . vehicle-for-hire ordinances [that] basically says no person shall operate a vehicle for hire without being licensed by the city’ (Boston, E1).

Government officials found themselves with a problem, facing strong pressure to allow TNCs, while being formally bound to enforce existing regulations. To resolve this problem, they embraced the capture frame. One state-level official used the frame to explain Boston’s ‘situation’: ‘a very popular service that is getting a lot of attention. . . is a direct threat to an incumbent industry that’s formerly held a lot of authority over the political process’ (Massachusetts, N). According to the city, however, the solution was not to impose existing laws on TNCs:

The instinct of ‘anything that is not explicitly allowed is illegal’, is I actually think a very unhealthy instinct for government. . . It’s fundamentally anti-innovation to say that before you can do anything, the law needs to. . . reflect the thing you want to do. (Boston, B2)

This Boston official went on argue: ‘My personal belief [is] that government should not be in the business of creating rent-seeking monopolies’ (Boston, B2). Another city official concurred that the taxi industry problems were the product of overly protective regulation: ‘There’s been all these internal issues within the taxi industry long before TNC showed up. And I think probably one of the reasons why TNCs are so prevalent. . . has to do with a lot of these regulatory systems’ that created inefficiencies (Boston, E3).

To legitimize their regulatory role, government officials drew on the capture frame to differentiate their regulatory intentions from protectionism. They did this by stressing a careful distinction between ‘legitimate’ and ‘illegitimate’ policy issues. One lawmaker emphasized the need to ‘separate out what’s just protecting turf and what are the legitimate public policy issues’ (Massachusetts, N). A city official took time to elucidate the distinction, explaining that there are ‘legitimate public policy objectives in any situation’, giving the example of the ‘use of a public resources’ like streets, but there are also ‘some illegitimate things like creat[ing] monopolies’. The goal for government, he went on, should be ‘unpacking what are the legitimate public policy aims [that] are relevant in today’s environment’ (Boston, B1). In a second interview, he elaborated:

The framework that I like to use for thinking about the right way to approach regulation. . . is to. . . not ask the question, “is this legal” or “what process does this company need to go through to comply?” But rather to use the existence of a disruptive technology to revisit the fundamental public policy aims of regulation in the first place. . . Our default response should be to go back and say: “Wait a second, why did we regulate cabs in the first place?” Make that list, check it against our reality. . . and decide if and how we. . . regulate [the] new thing. (Boston, B2)

While there might be legitimate regulatory concerns, he concluded, ‘I will tell you what I believe is not a legitimate public policy, which is to create a source of valuable property that can be traded in the open market’, referring to the medallion system for regulating taxis (Boston, B2). Even the official tasked with coordinating the Taxi Advisory Committee, who was closely aligned with the police department that oversaw taxi regulation, took pains to explain that only some issues were legitimate objects of regulation:

We have to be able to balance the level of involvement that regulators have in all of this. My ultimate goal at the beginning of the whole project was really purely about public safety and consumer protection and then allowing people to make their own choices on what type of service they want. . . We shouldn't really get involved in dictating what you can and can't do as far as your own choice. So we've got to balance all of that together. (Boston, E3)

The capture frame helped public officials uphold the legitimacy of regulatory intervention by separating the legitimate policy issues from illegitimate industry protectionism.

In public, officials drew the distinction as well. Mayor Walsh explained that 'We cannot turn a blind eye to public safety concerns. . . but we also cannot condemn a popular, effective service like Uber. . . There's a balance' (Farrell, 2014a). This was labeled an 'even-handed approach' (Powers, 2014). Similarly, Governor Patrick's administration explained that they aimed to find a standard that 'both supports innovation and consumer choice and ensures public safety' (Dungca and Levenson, 2014). The distinction was echoed in the press. The challenge, one commentator put it, is 'to differentiate between laws to protect public safety and prevent fraud, and those that protect incumbent interests' (Newsham, 2015a). The *Globe's* editors argued: 'If legitimate problems arise, then regulators should address them. But Uber shouldn't be subjected to unnecessary regulations just to give a competing type of service a lifeline. Rules exist to protect the public, not the industry' (Editorial Board, 2014c).

Across government and in the press, concerns about capture attuned participants in the regulatory debate to the line between 'legitimate' consumer-oriented rules and 'illegitimate' policies shaping competition between taxis and TNCs. Using the capture frame, government officials were able to condemn some types of regulation as illegitimate, contrasting those with other areas where government played a legitimate role. Through the use of such legitimizing distinctions, officials were able to respond to the problems they faced—a popular but formally illegal new services and a taxi system in crisis—to embrace deregulation without undermining the regulatory enterprise more broadly.

7. Discussion and conclusion

This article builds on recent work on the regulatory politics of the platform economy with an analysis of the contest over how to frame TNCs in the Boston case, where the idea of regulatory capture became central to the process of legitimizing deregulation. Past work on the regulation of TNCs has primarily emphasized the effect of institutional factors including political arrangements, legal configurations and labor market institutions (Collier *et al.*, 2018; Thelen, 2018; Rahman and Thelen, 2019) or the role of interest groups including institutional entrepreneurs (Pelzer *et al.*, 2019; Tzur, 2019), the incumbent taxi operators (Li and Ma, 2019; Spicer *et al.*, 2019), and consumers (Culpepper and Thelen, 2020). While these factors shaped outcomes in Boston, as in other localities, they leave open the question of how deregulation of the ride-for-hire industry came to be seen as legitimate. This article contributes to the understanding of the platform economy by explaining how deregulation was discursively legitimized through the use of a frame invoking regulatory capture.

The findings speak to the broader literature on the political use of the idea of regulatory capture and the role of framing in deregulation. The case of Uber in Boston shows how contemporary technology 'disruptors' who circumvent or ignore the law can fend off allegations of noncompliance by recasting the existing regulatory system as inherently protectionist.

Relative to [Derthick and Quirk \(1985\)](#), whose account focuses on the growing popularity of deregulatory policies, this case highlights the active role of challengers in redirecting public concern, away from the industry and toward regulation itself. Expanding on [Avent-Holt's \(2012\)](#) account, in which parties deploy frames in the context of crisis, the case of Uber shows how the challenger's own legal noncompliance helps to create the crisis ([Borkholder et al., 2018](#)), necessitating the use of frames to suggest that root of the problem was in regulation rather than in the challenger's decision to ignore it.

Finally, this case advances theories of deregulation by examining frame resonance. Specifically, it shows how the capture frame works by resonating not only with consumers and commentators, but also with the officials responsible for regulation—the very people who should be captured, according to the capture frame. The question of how capture resonated with regulatory authorities presents a puzzle if we assume that resonance is the product of a match between the frame and a preexisting worldview ([Schudson, 1989](#); [Benford and Snow, 2000](#)). But we can resolve this puzzle by adopting a pragmatist approach to frame resonance, in which frames resonate when they help people solve novel problems ([McDonnell et al., 2017](#)). Specifically, if actors can use a frame to make sense of a crisis, that frame can take on resonance even where it was initially dissonant. This approach enriches the study of ideas in public policy ([Carstensen and Schmidt, 2016](#)) by highlighting the role of the people who are on the receiving end of ideas—people who test the idea's value in addressing challenges, therefore contributing to its influence.

In showing how government officials use the capture frame to make sense of deregulation, without compromising the regulatory system itself, I identify a specific but portable way in which such frames can be used—that is to draw *legitimizing distinctions*. American pragmatism posits that problems arise when habits are disrupted and the taken-for-granted situation is called into question ([Dewey, 1930](#)). The Uber case suggests that regulators, confronting a legitimacy crisis, draw boundaries that divide regulation into legitimate and illegitimate cases, condemning certain instances as a way of shoring up the broader category. This phenomenon aligns with the Durkheimian idea of boundary-making, where boundaries uphold the social order by maintaining the purity of the sacred through separation from the profane ([Durkheim, 2001\[1912\]](#)). But in this case, the boundaries are used internally, within a contested category, to condemn certain instances as a means of legitimizing the broader group.

While this case study is useful for developing new theoretical insights, more research is needed to examine variation in the efficacy of the capture frame and the use of legitimizing distinctions. Discourse analysis using computation methods can systematically document the emergence, diffusion and prevalence of the capture frame, while comparative analysis can gauge the correlation between this frame and regulatory outcomes for TNCs or other new market entrants. In addition, the pragmatist approach to frame resonance has the potential to enrich our understanding of political processes, but this will require research that goes beyond documenting policy outcomes to systematically analyze the interpretive worlds of government officials. Finally, the concept of legitimizing distinctions can shed new light on diverse phenomena, such as how the idea that the government should reduce sentences for 'non-violent offenders' upholds the legitimacy of criminal justice system more broadly. Across domains, the concept can shed light on how distinguishing between legitimate and illegitimate cases helps uphold the legitimacy of the broader category.

7.1 Implications for platform economy regulation

This article uses the case of TNC regulation in Boston to examine how deregulation becomes legitimized in debates over appropriate responses to the platform economy, highlighting the central role of the capture frame. To understand how this case advances the understanding of the platform economy more broadly, I emphasize how local conditions enabled and constrained the capture frame. At the broadest level, the case is bounded by its national context: the USA originated capture theory and is unusual among Western countries in its emphasis on free-market solutions. Outside the this context, the capture frame is likely to have a less prominent role in public debate.

More specifically, I emphasize two factors that shape the use of the capture frame: the perceived efficacy of the existing regulatory system and the political alignment of levels of government. In the Boston case, publicized corruption of the taxi industry was framed as the product of failed regulation, adding fuel to allegations of capture. Because Boston's regulation was blamed for creating problematic incentives—for instance, through the medallion system—and for failing to protect drivers from exploitation, the city was more vulnerable to meta-frames that shifted the focus of debate from the TNCs to the regulatory system itself. The capture frame is likely to have less of a role in legitimizing deregulation in places where the taxi industry appears to function effectively, as in New York City; where the taxi system is not tightly regulated by local government, as in Washington, DC; or where there is no substantial taxi system at all, as in Austin.

At the same time, the capture frame was enabled by the political alignment of Boston and Massachusetts. While this frame called into question Boston's regulatory authority, it was less effective against the state, which had never regulated taxis. Insofar as Boston officials expected state legislation to align with their own policy preferences, the city was willing to cede authority for TNC regulation to another level of government, less restricted by the demands of the taxi industry for fair treatment. This harmonious transfer of authority might not be expected in places where city and state have a more contentious relationship, as is the case of Austin, which favored tighter TNC regulation than Texas.

Since the adoption of TNC regulation in Massachusetts in 2016, attention in the USA has shifted to labor. In California, court battles were followed by state-level legislation mandating the classification of TNC drivers as employees, which was followed by a ballot initiative—backed by millions of TNC dollars—that invalidated the legislation. What does the increasing prominence of the labor issue mean for the capture frame and platform regulation? In the USA, the labor issue has largely been pursued through the courts, where framing is less explored although theoretically applicable. But the capture frame is most effective where decision-makers have authority over incumbents and are susceptible to political pressure, such that the capture frame will likely be decreasingly relevant as the debate over TNCs moves into legal venues. More broadly, the shift in focus to labor presages the broader, more structural debates over platforms that lie ahead. Rather than viewing platform firms as primarily competitors in traditional markets—markets such as ride-for-hire and short-term rentals—companies like Uber, along with Facebook and Amazon, are increasingly seen in terms of their structural position as market makers with disproportionate power over price- and wage-setting ([House Committee on the Judiciary, 2020](#)). Once removed from the shared playing field with traditional industries, the claim that governments are captured in ways that bias them against the technology industry becomes less convincing.

Beyond the TNC case, however, the capture frame is likely to be used when new market entrants argue for market reconfiguration via deregulation. In the early years of the Internet, the concepts of innovation and competition were frequently intertwined. The recent emergence of yesterday's upstart disruptors as today's corporate monopolists has destabilized that equivalence. But the link between innovation and competition has taken on new life as a cultural association, used in debates over how and whether government should regulate new industries and start-ups. Insofar as platform economy debates on the horizon involve struggling incumbents and popular new technologies that adopt an antagonistic stance toward government oversight, they are likely to use the strategy of delegitimizing regulation by alleging capture.

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