

Your News, Your Way.

# Tyler Morning Telegraph

## No business has a constitutional right to a monopoly

October 15, 2016

The city of Tyler has settled upon a workable set of rules to allow ridebooking apps like Uber and Lyft to operate here, but other cities are still struggling. There's a court case in Chicago that bears watching, because it could have a big effect on such apps - and the entrepreneurs and rider who use them.

“On Friday, the U.S. Court of Appeals for the Seventh Circuit handed down a pair of rulings rejecting the argument that taxi companies somehow have a protected property right in their monopolies,” the Cato Institute reports. “The opinions - both penned by Judge Richard Posner - are perhaps the courts’ strongest rebuke yet of taxi cartels’ desperate attempts to stay relevant in an Uber world, with Posner describing their claims as having ‘no merit’ and ‘border[ing] on the absurd.’ It’s nice to know that - in the Seventh Circuit at least - losing your monopolistic cartel due to technological disruption is not considered to be a constitutional violation.”

Essentially, the taxi companies claimed to have a constitutional right to be protected from competition.

“In one case, Illinois Transportation Trade Association v. City of Chicago, incumbent taxi companies sued Chicago for allowing app-based ridesharing companies such as Uber and Lyft to operate, asserting that the city’s decision to allow such companies to enter the market without being subject to the same regulations covering traditional taxis constituted an unconstitutional taking of their property without just compensation (and also somehow violated the Fourteenth Amendment’s Equal Protection Clause),” Cato explained.

In the other case, taxi companies sued over the city lifting the cap on the number of taxi medallions (licenses to operate). Again, the companies said the free market is an unconstitutional infringement of their rights.

Cato write, “In both cases, the plaintiffs’ arguments more-or-less boiled down to: ‘We made a deal with the city years ago where we were promised monopoly control over this market. The government’s failure to protect that monopoly constitutes an eminent domain-style taking. This is, of course, as the court described, an absurd argument.’”

The court ruled, “‘Property’ does not include a right to be free from competition. A license to operate a coffee shop doesn’t authorize the licensee to enjoin a tea shop from opening.” No one is entitled to a government grant of monopoly power.”

It's true that these new apps - and similar "disruptive" technologies and business models, like AirBnB - could have a negative effect on existing businesses. But it has always been so.

"When new technologies, or new business methods, appear, a common result is the decline or even disappearance of the old," Judge Posner wrote in his opinion. "Were the old deemed to have a constitutional right to preclude the entry of the new into the markets of the old, economic progress might grind to a halt. Instead of taxis we might have horse and buggies; instead of the telephone, the telegraph; instead of computers, slide rules. Obsolescence would equal entitlement."

The danger is a higher court reversing these rulings. There's no constitutional right to a monopoly.