
How Politics, Regulations Affect Startups

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“Today, I follow the rules. Tomorrow, I will work to change them,” a serial entrepreneur recently told me. This statement reflects the increasing recognition of the importance of, and the nexus between, the growth of technology and the political, legislative, and regulatory arena in which startups now operate.

While regulators are becoming more familiar with the nature and capability of startups to change aged industries rapidly, the idea that a company can act now, break the rules, and then seek forgiveness, is less likely to work. Politicians are coming down heavily when it appears that there is any effort to circumvent the existing system. Yet, in many cases, we have an old system of rules that do not always make sense for some of the emerging technologies.



It is certainly no secret that this election cycle has brought a keen focus on privacy and cybersecurity. Laws governing data privacy and collection and cyber security are getting passed throughout the country in a rush to address privacy concerns. Short-term home rentals raise a host of policy issues, from changing the makeup of local housing, permitting, regulating the number of nights available, tax collection, discrimination against users, and the list goes on.

There is intense political pressure to promulgate regulations relating to these companies providing or facilitating these services through the use of technology.

In the sharing economy, the tax consequences can also be significant. We need to determine how to classify workers as employees or independent contractors, how companies are taxed, and even, whether independent contractors have to have business licenses in multiple districts. Politics comes into play in all these matters. What labor laws apply? Are tax laws being

followed? We may implement laws that look good but end up failing to address the need for a new framework that works for emerging technologies. The debate that has been going on over how best the Transportation Network Companies (TNCs) can screen potential drivers shows that the path is not easy, and demonstrates that a strategic effort to provide analysis, data, and education for regulators will at least allow for a robust review of the best paths forward.

Larger technology companies have created deep and strong policy and regulatory teams. They recognize that to be successful, they need to navigate these arenas. Startups must navigate between moving quickly, and nimbly, yet not run afoul of laws and regulations. Politics can have an enormous impact on how these new technologies can either thrive and grow or get mired in legal and legislative battles. Technology companies are now embracing the idea that being a participant in public policy is a smart strategy, as the legislative and regulatory environment impact the entire emerging technology landscape.

However, the system is not set up to be nimble when it comes to addressing the increasingly complex public policy issues around emerging tech, nor is it able to move at the fast pace required of some of the new technologies.

We have been offering guidance on how to navigate the legislative and regulatory arena for “driverless vehicles”- from automobiles to robots- on public streets; TNCs, pilot project permit applications, big data, Artificial Intelligence (AI) and the list goes on. Privacy laws and cyber security are at the top of mind of every tech company with whom we interact, and AI is exploding. A misstep in any area can slow or even stop growth. Those of us that serve as the bridge (*i.e.*, translators) between the emerging technologies and government regulation recognize that the parties come from vastly different places and understanding. Positioning and describing emerging technologies to legislators, some of whom did not even understand the internet until recently, poses challenges. Finding common ground enables the parties to see the benefits of these emerging technologies, and the concerns of the regulators, with a goal of ensuring that the startups can thrive and grow, but not without some balance from the political arena. For example, without the government stepping up to expand permitting and installation of electric chargers, the needed network of charging stations would not proliferate as rapidly, having an impact on electric vehicle growth. Knowing the right points to press, to help figure out what regulations can be amended or applied even, in some cases, where new ones are required, becomes essential for emerging tech companies.

Drone regulation offers a glimpse at how to find this balance. We all recognize the harm in having unfettered access to the air (never mind the possible privacy issues) but how should those concerns be balanced with all that drones can potentially offer? That is the challenge facing not only the government but those of us helping to guide our technology clients through the process. New rules may be needed, and educating all involved becomes crucial, so that any future policy will allow for the growth and the benefits, but not create harm – a delicate balance.

Some politicians keenly understand the nuances that are needed. Governor Brown of California recently navigated this minefield thoughtfully. He recognized that there cannot just be a “patchwork” of regulations from jurisdiction to jurisdiction, but that there must be a thoughtful approach. In his recent veto of several bills relating to regulating drones, he stated that there

would have been “significant regulatory confusion” and that a comprehensive approach is required, that “piecemeal is not the way to go.” No doubt, a lot of time was spent ensuring that the Governor was versed on drones, educated about the concerns of all sides, and made aware that a long-term strategic approach was needed.

To return to the sage entrepreneur, knowing the current playing field is wise, and perhaps even wiser, figuring out the delicate balance that will allow for changes in policy that meet the needs of the communities, governmental representatives, and the emerging technologies.



Leslie R. Katz of Greenberg Traurig LLP focuses her practice on a variety of areas involving government law and policy, including energy, telecommunications, healthcare, clean technology, land use, construction, information technology, infrastructure, development and Public-Private partnerships. Her ability to provide strategic counsel, for startups to Fortune 500 companies and public entities, comes from her diverse experiences in the public and private sectors.