

UBER vs AIRBNB

UBER POP – a carrier (C- 434/15)

- ▶ information society service?
- ▶ transport service?
- ▶ combination of both these services?
- ▶ the obligation to have a license according to Ley 19/2003 del Taxi
- ▶ service using a mobile application creating an offer of urban journeys including booking a transport by a vehicle owner who is not a professional driver is an information society service
- ▶ then transporting passengers with a transport service
- ▶ **transport service** (need to implement a common transport policy)

AIRBNB - not a real estate agent (C- 390/18)

- ▶ information society service?
- ▶ short-term rental service?
- ▶ combination of both these services?
- ▶ the obligation to have a real estate agent license according to the Hoguet Act
- ▶ brokerage service including the information society service
- ▶ then the real estate transaction
- ▶ **information society service**

Control makes the difference

- ▶ Uber: control over the implementation of the basic service
- ▶ Airbnb: no interference in the basic service
- ▶ without Airbnb you can still rent an apartment
- ▶ without Uber a driver without a license cannot carry passengers for profit

EU Court of Justice - the perspective of consumer protection and the common market

- ▶ the interpretation of the definition of the information society may not lead to the creation of a legal state contrary to art. 47 and legalization of services not allowed in a given country