Commanding counter-accounts in the digital world: the case of the Heetch trial

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Résumé :

Les possibilités de résistance par des *counter-accounts* se trouvent modifiées dans la sphère digitale, nous invitant à repenser la place de l'entreprise dans la société. Les réseaux sociaux permettent de nouvelles relations d'accountability entre société civile et entreprises, mais sont régis par des algorithmes portant les impératifs commerciaux de leurs plateformes. A partir de la notion de commandement développée par Agamben, nous analysons le cas d'une plateforme sujette à des poursuites judiciaires qui mobilise ses utilisateurs en répliquant les codes de l'activisme digital. Nous montrons ainsi comme les dispositifs technologiques peuvent canaliser la résistance dans un espace contrôlé, diminuant les possibilités de *counter-accounts.*

Mots-clés : accountability, résistance, plateformes, démocratie

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INTRODUCTION

Possibilities for resistance and counter accounts in the digital world (Gallhofer et al. 2006) make us rethink the relationship between business and society. The internet appears as a space where new accountability relationships can unfold, especially in social media with the rise of Web 2.0 in which users can create and share content (Beer 2009). Linking individuals across time and space, social media enables non-dominant voices to unite and reverse accountability relationships, calling out larger organizations (Goncharenko 2021). Hashtag activism, as the "act of fighting for or supporting a cause with the use of hashtags as the primary channel to raise awareness of an issue and encourage debate via social media" (Tombleson et Wolf 2017, 15), qualifies such use of social media. Hashtag activism redefines what activism means (Milan 2015; Kavada 2015). Organizing on social media enables to federate larger group of people and increase the impact of protestations (Kavada 2015), but face-to-face interactions remain key for passing on online protesting to field actions. Even though online collectives can present a united front through common use of technological affordances, like hashtags (Etter et Albu 2021); online activism covers very different realities by making activism accessible in one click, what (Milan 2015) calls "cloud protesting". In addition, corporations can also seize this arena to extend the dialogue to additional stakeholders (Bellucci et Manetti 2017). Somewhat echoing these possibilities, digital platforms present certain democratic promises (Mellet et al. 2014; Beuscart et Mellet 2016). Thriving on user-generated content, the promise of offering a space where each voice can be equally heard in a community, against dominant expert voices, presents democratic possibilities.

These possibilities are however diminished by digital platforms' editing of user-generated content as well as the action of algorithms in classifying this content, following their own commercial logic (Etter et Albu 2021; Mellet et al. 2014). The opacity of such algorithms creates a vast asymmetry between digital platforms and users (Scott et Orlikowski 2012). Through Agamben's notion of commandment, we wish to delve into this duality of technological apparatuses of which users feel in control whereas they are following the

command inscribed in the apparatuses (Agamben 2013). To do so, we draw on the case study of a French transportation platform involved in a legal controversy to explore these tensions between online democratic possibilities and corporate dominations.

Heetch launched in France in 2013 as a "urban carsharing" platform and was legally sentenced in 2017 to stop its peer-to-peer activities. In 2022, it still exists in the form of a digitally managed transportation company with independent drivers, akin to Uber. In the lively context of taxi strikes at the time, the legal controversy surrounding the trial led to a wide media coverage which Heetch kept going. The company organized a media campaign appealing to its users which echoed the norms of hashtag activism. Using social media to foster public engagement, Heetch mobilized its community around themes of public interest like youth integration, social diversity or progress. The company urged users to publicly engage in its favor by organizing cloud protesting (Milan 2015) with three characteristics: publicly displayed; "one click" engagement; that can easily be turned into shareable metrics. Interestingly, both in the media campaign and during trial, Heetch appealed to executive and legislative power to influence the court, broadcasting their very own definition of the representation of public voices.

We wish to contribute to the literature on counter-accounting and online activism to show the possibilities for online protesting norms to be seized by private interests. Online activism constitutes a privileged arena to frame claims as public interest and give voices to dominated groups. In particular, ready-to-use material manufactured by a center facilitates online engagement and aggregation of different individuals into a single claim, a privatized public (Dean 2013). Controlling how the protest is framed, the platform here uses the specificities of online activism to propose a very different notion of democratic representation. Complementing Zuboff's idea that digital platforms count on individuals acting as consumers rather than citizens, we show here that digital platforms can manufacture a semblance of citizen engagement by playing the online activism game. This is particularly interesting in that Zuboff argues that citizen engagement taking the form of legal action is a key safeguard against platforms' extension of power (Zuboff 2019). The notion of commandment (Agamben 2013) is helpful in showing how integrating individuals into a technological apparatus of online engagement can channel resistance in a controlled space, diminishing the possibilities for counter accounts.

This study further contributes to studies of governmentality by showing both an extension of neoliberalism and a return of sovereignty. Foucault (2004) argued that neoliberalism emerged

from the idea to use the economy as a structuring principle for governmentality. This has led to a de-politization of government as conceptions of society informed by the notion of the sovereign were being replaced by conceptions of society as a set of enterprises in competition. But neoliberal governmentality, at least that theorized by Foucault, did not draw on the economy to ground and shape the juridical but only the governmental. As the Heetch case illustrates, the rise of online platforms extends this form of governmentality to include one where the economic is used to ground and shape the juridical, to produce the law through, first, the economy (economic actors producing their own law) and, second, the political (the emerging economy-law is used to try and influence the political). Confronted to such enterprises aiming at producing their own law through their economic activity, the sovereign does not always remain absent, and the Heetch case also illustrates how it can reject claims to articulate the law around the economy.

1. ACCOUNTABILITY AND COUNTER CONDUCTS IN THE DIGITAL WORLD

The digital world has been qualified as a potential space for non-dominant voices to express themselves and be heard. The internet appears as a space where counter-accounts can bloom, carrying democratic promises with less salient inequalities (Gallhofer et al. 2006). As such, the Internet and social media in particular participate in a democratic debate where non-dominant voices can increase accountability towards dominant ones (Neu et al. 2019; Goncharenko 2021). Social media enable stakeholders to participate in, if not trigger, accountability debates; creating mass effect through the use of hashtags that link together individuals across space and time (Goncharenko 2021; Trittin-Ulbrich et al. 2021). Social media implicate new forms of activism and citizen engagement, in what (Benkler 2011) has called a "networked fourth estate". According to some, social movements are not yet using the full potential for increased accountability (Xiong, Cho, et Boatwright 2019), in their possibilities to organize without organization (Della Porta et al. 2015).

Social media can create a dialogue between different stakeholders, external and internal to organizations (Bellucci et Manetti 2017). Requests for increased accountability can lead to more transparency and reflective actions from organizations: (Goncharenko 2021) illustrates how after being called out by an online campaign following accusations of sexual abuses towards beneficiaries, the NGO Oxfam implemented internal procedures to prevent such events to repeat. There is however a risk that organizations, whether for-profit or not, use

social media for legitimacy purposes rather than actual stakeholders dialogue: (Bellucci et Manetti 2017)'s study of top foundations in the USA highlights how their use of social media is much more about broadcasting their own activities rather than stimulating stakeholder engagement.

Online engagement has very specific characteristics that differ from real-life activism. The literature on social movements has debated whether it was possible to construct a common identity to mobilize a collective through online activism. The notion of connective action developed by (Bennett et Segerberg 2013) emphasizes the potential for social media to construct a collective identity. Through *connective* rather than *collective* action, diverse understandings can find common grounds and come together. Connective action translates into flexible and personalized action but still requires a broad collective identity (Gerbaudo et Treré 2015; Kavada 2015). Kavada's (2015) study on the Occupy movement demonstrates the role of social media in defining the porous boundaries of a collective movement. Through online messages, Facebook pages and livestream of real-life action, social media play a key role not only in increasing resonance of collective action but also building collective identity. Physical rituals however remain crucial to sustain long-term engagement of collective action (Kavada 2015). Differentiating from connective action, Milan's notion of *cloud protesting* (Milan 2015) insists on the importance of collective symbolic production as the aggregation of individual contributions. The visibility that social media enable encourages a "heroization" of each participant, connecting individual stories to a global collective. Cloud protesting comprehends a flexible sense of belongings, less accountable towards the collective. This results partly from the ability of participants to mobilize ready-to-use resources online to contribute, enabling flash participation with little engagement (Kavada 2015).

This notion of cloud protesting as creating a collective through the aggregation of individual contributions online potentially challenge our conception of "the 'rather obscure' but 'essential' aspect of political life: that of the public, and of publicity or public-ness" (Dean 2013). Drawing on both Foucault and Agamben, Dean (2013, p.194) introduces the "key questions of 'who decides?' and 'who judges?' Who, for example, decides when public order is in danger? Who decides what constitutes public opinion?" According to Dean, quantified data such as opinion polls or website traffics correspond to the manufacture of a public opinion based on the aggregation of private individual opinions, becoming a "privatized

public" (Dean 2013, 222). The public is formed through "the constituent power of acclamation". The role of opinion polls is well known, and platforms can now offer new metrics where usage replaces polls. They even start forming the basis of online social movements. More fundamentally, they are reshaping not only our conception of the 'public' but the very notion of 'public-ness'.

Regarding cloud protesting, technological signs like hashtags enable the aggregation of individual opinions into a global collective. As discussed, social media enable this aggregated collective to trigger new possibilities for accountability by giving it a place to be heard and potentially reverse relationships of accountability (Neu et al. 2019; Gallhofer et al. 2006; Goncharenko 2021). However, social media affordances, as we will see, require a certain centralization of power even in protest movements. For example, segregation of rights on Facebook makes it difficult for a collective to jointly manage a Facebook page (Kavada 2015), requiring the existence of a core center of members. Similarly, creating hashtags on Twitter that will be picked up by potential participants continues to be controlled by the center of a mobilization (Etter et Albu 2021). Creating a collective, even in reversed accountability relationships, remains a question of manufacturing a somewhat consistent group from disparate individual opinions, a potentially privatized public.

Finally, collective identification in online engagement depends on technical affordances of social media (Gerbaudo et Treré 2015). Sharing resources online constitutes the key to constructing a collective identity (Milan 2015; Kavada 2015). Cloud protesting emphasizes the role of social media technologies in online protesting (Milan 2015). In particular, corporations that own social media regulate possibilities for expression through rules like length limitations (Neu et al. 2019) or segregation of rights on public pages (Etter et Albu 2021). Technical possibilities can also provide participants with new affordances, like hashtags on Twitter enable users to populate new territories and link users across time and space (Neu et al. 2019). Norms of expression on social media, often favoring emotional reactions over reasoned discussion, also constitute a central part of how information and mobilization travel online (Goncharenko 2021; Neu et al. 2019; Trittin-Ulbrich et al. 2021). More importantly, the commercial nature of social media like Facebook or Twitter results in algorithms that can compromise or at least alter the mobilization of participants (Etter et Albu 2021), with users not necessarily being aware of how algorithms act (Beer 2009). Participants

can engage in strategies to anticipate algorithms' effects, further influencing their action (Milan 2015; Etter et Albu 2021). However, the technological opacity of algorithms prevents participants from engaging in adequate actions, which can either succeed and help participants broaden their scope of actions, fail or even backfire (Etter et Albu 2021).

Highly decentralized, widely used, offering alternative forms of conduct, new conceptions of what constitutes a collective and how to act politically, online platforms offer a new conception of the constitution of a 'privatized public' and redefine 'public-ness' through 'public acclaim' (Dean, 2013). In other words, they offer an alternative form of accountability and a new form of conduct offering the promise of a reconstitution of the democratic. However, they also produce a new form of surveillance (Zuboff, 2019) and command (Agamben, 2013), which we detail below.

2. ONLINE DEMOCRACY

Digital platforms organize and mediate a distributed activity with switch-role users between producers and consumers (Kornberger, Pflueger, et Mouritsen 2017, p.79). Maintaining a strong center, digital platforms rely on control decentralized onto users that perform the evaluation of transactions. Depending on the activity they organize, digital platforms can also more or less feed on spontaneous reviewing contributions from users, like TripAdvisor in the hotel business (Orlikowski et Scott 2013) or book reviews on Amazon (Pinch et Kesler 2011). The contribution system, be it about reviewing each other or a third party like a hotel or a book, builds upon a presumption of democracy (Beuscart et Mellet 2016; Mellet et al. 2014): all users can vote, have an impact, and the aggregation of these individual opinions will result in a collective "wisdom" (Surowiecki 2005). Digital platforms therefore have encouraged the development of lay expertise against professional expertise (Jeacle 2017), using a more approachable and diverse vocabulary (Cardon 2014). This democratization of online markets benefits both users as consumers, as everyone can participate and access the information from reviews, but also extends a certain visibility to more third parties. Looking into the platform TripAdvisor, Mellet et al. (2014) underline this double process of democratization *as inclusion*, more rated restaurants; and democratization *as participation*, by more consumers. Digital platforms aggregate individual opinions through algorithms that objectify the process and produce a new "truth" about the rated parties. For this reason, Jeacle et Carter (2011) highlight the expertise of abstract systems rather than lay users.

These promises of democracy however face several limitations. Several scholars have emphasized the key role of platforms in producing a certain truth, particularly in giving unequal visibility to users, depending on undisclosed or varying criteria. Pinch et Kesler (2011) show how contributions from casual book reviewers on Amazon are marginalized compared to more frequent contributors. Questioning the reversed accountability process between hotels and their customers on TripAdvisor, Scott et Orlikowski (2012) highlight the crucial role of the platform in producing this aggregation of reviews with little or no accountability to neither reviewers nor reviewees in the matter. Mellet et al. (2014) question the editing of user reviews by platforms. Early on, Van Dijck (2009) had raised the alarm about how editing capabilities of platforms diminished their democratic potential. Once posted, users lose control over the content they create and hand it over to platforms. There is a vast asymmetry of both power and knowledge between platforms and users in what happens in the opacity of algorithms (Zuboff 2019; Scott et Orlikowski 2012). This opacity limits platforms' claim for democracy. It can also harm the legitimacy of their aggregated truths towards evaluated parties by limiting how they can react to these classifications (Cardon 2014; Scott et Orlikowski 2012). Finally, Murillo, Buckland, et Val (2017) question how platforms' claim for democracy through flat organizing can resist the reality of profit distribution between platforms and users.

Interestingly, digital platforms have grown in a legal grey area. Following libertarian principles, digital platforms usually take a strong positioning against government regulations (Zuboff 2019; Murillo et al. 2017). Looking into digital organizations like Google, Zuboff (2019) puts forward a pattern through which they free themselves from the burden of legislation: facing legal critique, they superficially modify their service and count on users getting habituated for governmental action to become harder to implement. Digital platforms in this pattern therefore count on individuals acting more as consumers than citizens. Moreover, digital organizations develop a discourse of an inevitability of digital expansion. In this discourse, digital platforms represent "the future", fast and innovative, whereas legal regulation represents a slow and passé institution (Zuboff 2019; Martin 2016). Gig economy and peer-to-peer platforms indeed thrive on "romantic accounts" (Lobel 2017) of entrepreneurship and independence. Scholars have put forward however the precarity of such a form of work (Wood et al. 2019), individualizing action (Friedman 2014) for low pay

(Fleming 2017). What is interesting in the case of these specific digital platforms is the coexistence of consumer-users and producer-users. In the platform Uber for example, producer-users act as drivers on the platform and get payment whereas consumer-users order drives and pay a fare. There therefore are two audiences for platforms: consumers that the platform needs to habituate to their service, and producers whose activity can be the target of legal regulation. Uber drivers constitute an iconic case in the matter, with legal actions in several countries like Canada or United Kingdom to characterize drivers as employees and not independent entrepreneurs (Cherry et Aloisi 2017).

The relationship between platforms as organizing a digital space and individuals contributing to this space is therefore interesting in relation to democratic promises of platforms. To Agamben, individuals that use technological apparatuses feel like there are in control. It seems to users that they "command" as they materially interact with the apparatus, by clicking for example (Agamben 2013). However, the characteristic of technological apparatuses is precisely that even though the subject feels commanding, s/he actually is only following the commandment inscribed inside the apparatus (Agamben 2013, p.49-50). To Agamben, the ontology of commandment is imperative but takes the aspect of inviting or advising, "complying with a command takes the form of a cooperation and, often, a self-command" (Agamben 2013, p.49). This duality between a digital space inviting users to contribute as a democratic promise and technological apparatuses as an illusion of self-command is particularly interesting in the case of online activism. We have underlined the existing tensions between possibilities for counter-accounts opened by digital spaces (Neu et al. 2019; Gallhofer et al. 2006), overcoming time and space to create a global collective (Goncharenko 2021; Kavada 2015) and the difficulties to manage this collective to have an impact (Etter et Albu 2021; Milan 2015) and effectively reverse accountability relationships. Moreover, the duality between the possibility to overcome space in time to create a global collective and the difficulties to manage this collective to have an impact opens questions about the conditions of online resistance. We focus here on the question of the possibility of a democratic space in the digital world and on the conditions of online resistance

3. METHODOLOGY

3.1. DATA COLLECTION AND ANALYSIS

In order to address this tension, we focus on the case of a transportation platform in France that organized a protestation movement in the digital space when facing legal charges menacing its continuity. The French company Heetch is a transportation platform that started as a peer-to-peer service and now still exists as professional transportation service. We present details of the context and charges in the following section. We collected several sets of data relating to this controversy. First, we collected the legal document transcribing the verdict rendered by the court. After a first police custody in early 2016, the trial opened in December 2016 and closed on March 2nd 2017. The Heetch case was adjudicated by a single jurisdiction, the Correctional Court of Paris. Defendants Heetch and its founders initially appealed the sentence but renounced it in January 2019[1]. We therefore used the initial ruling of the court of March 2nd 2017. The document starts by presenting the defendants and the plaintiffs as well as the charges faced by defendants. It also contains a summary of all arguments presented by the defendants and by prosecution, detailing the inquiry led by prosecutors. Moreover, the document then presents the court's answers to these arguments one by one to motivate its verdict, transcribes the verdict and relating sentences. This document is therefore of crucial help to understand the juridical matters at hand as well as the articulation of the defendants' argumentation. It also details the different witnesses they put forward.

Following Laguecir et Leca (2019), we collected as well additional documents to better understand the context and gathered all press articles in newspapers from the first police custody of January 2016 to the end of the peer-to-peer service of the platform in end of 2017, in French and English. To do so, we used the database Factiva. These newspapers article helped us retrace the proceedings of the controverse. We also could spot how the company's founders communicated in the press and their elements of language.

Finally, we focused on how the platform Heetch and its founders communicated with their users and the general public. We first collected the blogposts written by the founder in charge of communication, Mr. Pellerin, on the social media Medium[2]. These posts resonated with the newspapers articles in understanding the arguments of the company as well as their target

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[1] https://www.europe1.fr/economie/lourdement-condamnee-en-2017-la-start-up-heetch-se-desiste-de-son-appel-3835553 {January 2022}
[2] https://medium.com/@teddypellerin {July 2021}

audience. Second, as part of a previous and broader research, we had subscribed at the time to their platform and received their emails to users as early as January 2016. We had also subscribed at the time to their Facebook page. These emails are key in understanding how the platform appealed to its users for support. As we will discuss later, the platform Heetch launched a communication campaign before and after its trial. Several other materials relating to this campaign corresponding to social media communication were included in emails to users, like links to Twitter, Facebook events or YouTube videos. We extended our analysis to these materials. Finally, we completed our data set with the remaining elements of the campaign communicated by Heetch on its Twitter account, dedicated website (now down) and YouTube videos.

We first inductively coded the court decision of March 2nd 2017 to understand what was at stake in the trial. Our codes first followed the charges in the trial: service illegality, misleading commercial practice and organization of an illegal service, as well as a code on descriptive information including information about the company, sentences and plaintiffs description. We inductively added codes relating to arguments appealing to youth, suburbanites, innovation and public service. Finally, because the nature of the witness put forward by the company triggered an interest to how the company related to different democratic powers, we added a code about the link to the legislative and executive powers.

At the same time, we read the press articles to familiarize ourselves with the elements of language of the company and its founders. We also wanted to understand the extent to which their communication campaign had been picked up in the media and whether it was praised or ridiculed.

Finally, we compared the themes of the platform's argumentation in court with themes tackled in the online campaign. We found similarities and therefore duplicated codes regarding youth, suburbanites, innovation, public service as well as relationship to democratic powers.

3.2. CASE BACKGROUND

3.2.1. The company

Heetch is a French company founded in 2013 in Paris by two entrepreneurs, Teddy Pellerin (President) and Mathieu Jacob (Managing Director). The company consists of a digital platform linking drivers with passengers. It started in three major French cities: Paris, Lyon

and Lille. When it launched in 2013, Heetch positioned itself as an "urban carsharing" platform with non-professional drivers. The difference between a professional and a non-professional driver is central: in France, the transportation sector is highly regulated. A professional driver is either a taxi driver or a chauffeur. Taxi drivers must pass an exam and buy a license; they have the monopoly on "cruising" meaning they can have non-prebooked passengers. Chauffeurs also need to pass an exam and register as chauffeurs but can only have prebooked passengers. They do not need to buy a license, but their car needs to have certain characteristics maintaining a high standard (for example always be less than 6 years old). To the contrary, on Heetch, private drivers use their private car and are only allowed to perform carsharing transportation, in the context of their own private use. The name of the company "Heetch", referring to hitchhiking, represents this will to be associated with carsharing. As a matter of fact, the company is not registered as a transportation company but as a software editor (ruling of March 2nd 2017, p.29). Following Kornberger et al.'s (2017, p.79) definition, we will refer to the company as a platform, as on Heetch "producers (sellers) and consumers (buyers) [interact] with each other, digitally mediated by a third party, the platform owner". Contrary to other platforms, users do not switch role often on Heetch, although nothing prohibits drivers to act as passengers.

One specificity of the platform is its pricing features: after each ride, the app suggests a price to the passenger that can match it or adapt it up or down. This is called "suggested donation" and not a price. Passengers can therefore pay whatever they want, in cash or credit card. The suggested donation is based on historical statistics, comparing fares paid by Heetch passengers for past and comparable drives (on time of the day, distance and duration)(ruling of March 2nd 2017, p.37). The platform caps drivers at a yearly revenue of 6,000€, corresponding to the company's calculation for the annual cost of a car. Heetch says they base their calculation on the French Agency for Ecologic Transition's (ADEME) data. Another specificity of the platform is Heetch's target clientele. In terms of marketing differentiation, Heetch has broadcasted a party-oriented theme from the beginning, being open only at night (8pm-6am). Doing so, they target younger passengers, stating they were providing them with a solution to get home after parties in a context of a default of public transportation offer in large cities in France, as the founders repeated in numerous interviews. Although available for other itineraries, it specialized in suburbs to city center and back trips, concerning 40% of total drives in 2013 and reaching almost 70% in 2016 (see figure 3 further below).

The company raised 500,000€ in seed funding in 2015 from several French venture capital (VC) investment funds (notably Kima Capital, Via ID, Alven)[3]. In 2018, the company raised another 20 million euros in Series A round led by an additional investor, the English VC investment funds Felix Capital, and historical investors. In 2019, Heetch raised 38 million euros in Series B round led by two additional investors, the Franco-Chinese VC investment fund Cathay Capital and the French VC investment fund TotalEnergie Capital, from the French energy group TotalEnergie[4]. In 2016, the company disclosed a turnover of 6,575,800€ for a net loss of 644,300€[5]. At the moment of the trial, Heetch reported 90,000 rides a week for 30,000 drivers with an average yearly revenue of 1,100€ per driver (ruling of March 2nd 2017, p.30).

3.2.2. The taxi feud in France: 2015-2017

In February 2014, the company Uber launched in Paris a service called Uber Pop, enabling private individuals to occasionally act as chauffeurs on the platform using their own car. The service was active 24/7. Taxi drivers in Paris understood this service as an illegal competitor and resolved to major protests blocking the city center and airport road accesses in 2015. After a first custody in June 2015, Uber Pop and its two executives were accused of complicit and illegal practice of taxi; misleading commercial practice; and illegal collect, conservation and saving of personal data[6]. The app was suspended after the custody. Uber Pop was judged as an illegal practice of the taxi profession by the Correctional Court of Justice of Paris on September 22nd 2015 and henceforward suppressed. Two Uber executives were charged and judged of the same motives in February 2016. Uber's spokesman for France pointed the finger at other platforms like Heetch, claiming they were double standards for not suing French companies[7]. After several appeals, Uber and the two executives were deemed guilty of all charges in June 2016. Uber was sanctioned to a 800,000€ fine (of which half suspended). The two executives were sanctioned to a 30,000€ fine (of which half suspended) for the Western Europe CEO and a 20,000€ fine (of which half suspended) for the France CEO.

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[3] Ruling of March 2nd 2017, p.29. Alven is a French VC fund specialized in digital companies, Via ID a French VC fund specialized in mobility and Kima Capital is Xavier Niel's investment fund, a French entrepreneur.
[4] https://alven.co/portfolio/?investment=present#heetch {July 2021}
[5] https://www.societe.com/bilan/heetch-794693960201712311.html {July 2021}
[6] https://www.lesechos.fr/2016/06/proces-uberpop-uber-condamne-a-400000-euros-damende-208360 {July 2021}
[7] https://www.capital.fr/entreprises-marches/taxis-uber-police-tous-veulent-la-peau-de-heetch-1139436 {July 2021}

3.2.3. The Heetch juridical controversy

Contrary to Uber's understanding of the situation, the two Heetch founders were held in custody as soon as January 19th 2016. They faced charges for illegal practice of taxi; complicity and organization of illegal practice of taxi; and misleading commercial practice. The trial was to begin in June 2016 but claiming the number of taxi drivers constituting themselves as plaintiffs was unexpectedly high, the trial was pushed back to December 2016. In total, the trial included 1,465 plaintiffs.

The trial opens at the Correctional Court of Paris on December 8th 2016 and closes on March 2nd 2017. Both the company and the two founders are sued, facing the same charges. The exact charges are:

- "Illegal organization of a system connection clients with individuals operating in road transportation subject to payment with vehicles of less than ten seats (…)
- Complicity of illegal exercise of the activity of taxi operator: absence of permit for stationing on the road open to public circulation waiting for clients (…)
- Misleading commercial practice" (ruling of March 2nd 2017, p.25-26)

The prosecution presented the results of its investigation at the trial. The investigation included joining private social media groups of Heetch drivers (ibid, p.29 and p.32), looking for advertisement for the platform including recruitment advertisements (ibid, p.29 and p.40) and auditioning drivers (ibid, p.33). During these auditions, they familiarize themselves with the driver interface of the platform through auditioned drivers' profiles (ibid, p.33). The prosecutors also analyzed the platform's video tutorials for drivers (ibid, p.29).

At the heart of the legal charges against Heetch and its founders is the question of whether Heetch organizes a carsharing service or a professional chauffeurs service. Indeed, would the service qualify as carsharing, then the charge for illegal practice of taxi would fall and so would the one for complicity and organization of illegal practice of taxi. The last charge for misleading commercial practice is relative to advertisements posted on a famous French website addressing higher education matters (*L'Etudiant* – "The Student") aiming at recruiting students as drivers on the platform. The platform had also approached several students' association to recruit and promote the platform (ruling of March 2nd 2017, p.38). If the service is deemed illegal, its advertisement is a misleading commercial practice, but if the

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service is qualified as carsharing then it is legal, and this charge is also dismissed. According to French regulation, to qualify for carsharing, a ride must meet three conditions[8]. First, the ride must occur at the initiative of the driver. Second, it must be non-profitable, the fee charged to passengers being only about sharing costs and not a price. Third, the driver must bear a share of these costs. The costs in question are regulated by the law, following a kilometric scale differentiated according to engine power. This scale takes into account depreciation, repair and maintenance costs, fuel and insurance costs[9]. Revenues from carsharing rides are not subject to income tax. In this trial, the stakes for Heetch were therefore to either qualify for carsharing or differentiate itself from the taxi profession. At the heart of the first solution is an accounting problem: does Heetch's pricing algorithm and its capping at yearly 6,000€ qualify as sharing costs? At the heart of the second is a possibility of using the trial to create a new category of transportation services based on the Heetch model.

In the end, the verdict deemed defendants guilty of all charges. On the first charge of illegal organization of the system, the court underlined the for-profit aspect of the drives and rejected the carsharing designation based on the lack of both intentionality of the driver and cost sharing (ruling of March 2nd 2017, p.38). On the second charge of complicity of illegal exercise of the activity of taxi, the court leaned on the active role of the platform in teaching and advising drivers on how to behave on the platform and how to avoid police controls (ibid, p.40). Finally, on the third charge of misleading commercial practice, the court ruled that as the service was deemed illegal, so was its advertisement and recruitment (ibid, p.41). The court sentenced Heetch to a €250,000 fine (of which €150,000 suspended) and each founder to a €10,000 fine (of which half suspended) and publication of the verdict in the economic press. The court sentenced Heetch to a 441,000€ compensation to plaintiff drivers (about 300€ per plaintiff) in addition to a 91,000€ compensation of legal fees to plaintiff drivers. Not two weeks after the verdict, the platform reopened with two services: one of professional drivers, and one highly regulated carsharing service, based on the legal requirements of driver intentionality and cost sharing. This so-called carsharing service lasted for 6 months before Heetch gave up and maintained only the classic transportation service opened 24/7 with professional drivers.

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[8] https://www.service-public.fr/particuliers/vosdroits/F33879 {July 2021}
[9] https://www.impots.gouv.fr/portail/particulier/frais-de-transport {July 2021}

3.2.4. The Heetch mobilization

Before the trial was supposed to begin in June 2016, Heetch launched a media campaign in late May 2016 that ended shortly before the trial begun in December 2016 (December 5th). The campaign was relaunched at the verdict in March 2017.

The first part of the campaign included Twitter posts with the launch of two hashtags by the platform: #StayawayfrommyHeetch (#TouchepasàmonHeetch) and #generationHeetch. The campaign gained a lot of media coverage, triggering many interventions of the communicating founder, Mr. Teddy Pellerin. Especially, Mr. Pellerin hold a blog on the social media Medium to pass on its opinion and key messages online[10]. The campaign stopped a few days before the trial opened (on December 5th for an opening on December 8th 2016) on the account that Heetch was "not trying to pressure justice"[11]. Right after the verdict, Heetch relaunched its campaign of protest on social media. In addition, it organized a "virtual protest" meant as a protest in digital streets that we will further analyze below.

4. REPERTOIRES OF ARGUMENT

4.1. ADDRESSING THE JUSTICE

We will first examine the arguments put forward by Heetch during its trial. Like we explained, because charges are related, the pleas mainly relate to whether Heetch constituted a new category of transportation services (neither carsharing nor professional taxis), was in fact carsharing or was illegal.

First, arguing for a new categorization for its transportation services, Heetch differentiates its services from carsharing and professional taxis. To dissociate the service from existing carsharing criteria, they plea for a "short-distance carsharing" categorization, maintaining that existing carsharing criteria were only suited for long-distance drives (ruling of March 2nd 2017, p.34). To dissociate the service from professional taxis, they argue that they address a clientele different from taxis' and therefore are not direct competitors. Their clientele supposedly differs from taxis' in three aspects: younger people, living in the suburbs, operating in a party context as they only worked at night. They thus argue that their clientele

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[10] https://medium.com/@teddypellerin {July 2021}
[11] https://start.lesechos.fr/innovations-startups/tech-futur/a-la-veille-de-son-proces-heetch-compte-sur-sa-communaute-1179195 {July 2021}

would not have otherwise used the service of taxis and that they therefore provided a service different from taxis. They bring forward the ex-vice president of the regional transportation direction for Paris:

> M.{Name}, who had held the role of vice-president of the STIF (Public transportation service of the Parisian region) for over four years, explained that after having observed that there was a shortage of transportation during evenings and nights; that the arrival of Heetch had been quite welcomed because it was serving the suburbs, and that taxis were only responsible for 3 to 4% of these type of trips; that over a million trips occurred every night; that, to him, "Heetch filled a mission that no one really did before" and "taxis and Heetch are not working on the same segment" (Defendants' witnesses, summary of the facts, ruling of March 2nd 2017, p.31)

Acting as witness for the defense, this head of an administrative institution highlights the lack of public service transportation towards the suburbs and supports the idea of Heetch's service is not overlapping with taxis'. In doing so, Heetch argues it is filling a gap in public transportation and that its clients are young and have no other affordable solution: "[they assure that the application] matched a real need of young people that wanted to go out at night and could not find a transportation mean that could get them back home, especially in the suburbs" (ibid, p.30, same witness). As we will see, the specificities of Heetch's clientele were already the cornerstone of the online lobbying campaign to defend their service. The argument for a new category between taxis and carsharing supports the idea that Heetch's service is so innovative it does not fit in existing legal criteria. They put forward as another witness an executive for a digital company who argues that regarding online mobility "the rules are enacted as uses developed" and that France was "an over-legislated country" (ibid, p.31). The witness argues that one should "first let things mature and then only legislate" (ibid, p.31). The platform here therefore argues that regulation should follow innovation and not prevent it. The innovation argument is yet even more salient in the online lobbying campaign than in the trial.

Second, even if Heetch is pleading for a new categorization, they also make the case to be considered as a regular carsharing service. Addressing the cost sharing criterion, Heetch and its founders argue that because they cap revenue for drivers at the annual estimated cost of a

car then drivers cannot make a profit using the platform and that the fee is indeed not a fare but a "participation to costs" (ruling of March 2nd 2017, p.34). The service provided should then be considered as non-profit (ibid, p.34). The ruling states that Heetch provided the court with a 16-pages document in this regard (ibid, p.30). Addressing the intentionality criterion, Heetch puts forward the data that 40% of drivers complete less than two daily rides, matching their probable transportation needs of reaching city center and then back. It is notable then that it means that for 60% of drivers, it is not the case. To Heetch, in all carsharing cases, "entirely common itineraries are extremely rare, it is frequent that the driver would make a detour to pick up or drop off passengers" (ibid, p.34). To further support their points, they bring forward as a witness a member of Parliament (MP) in charge of adapting the transportation regulation for newcomers to support that they are akin to BlaBlaCar, a French carsharing platform (ibid, p.31). In terms of public policy, it means a lot because BlaBlaCar was for a long time the only French "unicorn"[12] and therefore was the paragon for digital innovation.

In the trial, Heetch therefore both makes the case for a new categorization and plays the game of existing regulation. By echoing the idea of a regulation "in the making", supporting and not helping private innovation, they support a neoliberal understanding of regulation. They also abide by existing regulation in arguing they are indeed a carsharing platforms. It is worthy to underline that to support their arguments, Heetch brings forward witnesses linked to the government: a MP and the head of a large administrative institution. In doing, we may wonder whether the legitimacy of the juridical power is not measured against other forms of powers.

4.2. ADDRESSING CIVIL SOCIETY

Following the first police custody of the founders, Heetch launches a media plan with the help of a consulting firm[13] that enables them to frame the controversy around two key arguments. First, they develop a line of argument according to which the platform provides a service to a specific clientele that has been left out from public policies. Second, they ridicule legislation as killing innovation and leaving the country "behind". The following quote on Mr. Pellerin's blog (communicating founder) sums up these two themes:

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[12] A unicorn, in business, is a private company valued at over a billion dollars.
[13] https://buzzman.eu/fr/campagnes/touche-pas-a-mon-heetch {January 2022}

"Listening to the youth is an emergency; opening up our suburbs an imperious necessity; thinking of new uses without being struck dumb with corporatism is the key to our country's competitiveness, if we even mean to count for something tomorrow" (Mr. Pellerin's blog, March 3rd 2017)

The quote displays Heetch as providing a public service for a specific demographic (young people in suburbs) and representing innovative economic behavior ("the key to our country's competitiveness") against the old rigid structure of "corporatism". These two lines of arguments are largely picked up in (social and not) media reactions, whether to criticize them or not.

4.2.1. Benefiting underprivileged youth

Since the beginning of their activity, Heetch clearly targets a specific clientele segment: young people living in the suburbs and getting home at night. Before the conviction, the company operates only at night (8pm-6am) and communicates largely around the fact they are bringing party people home. The young age of Heetch users is underlined in the platform's communication from the beginning of their campaign, as evident a series a Tweet by the company showing French politicians at a younger age:
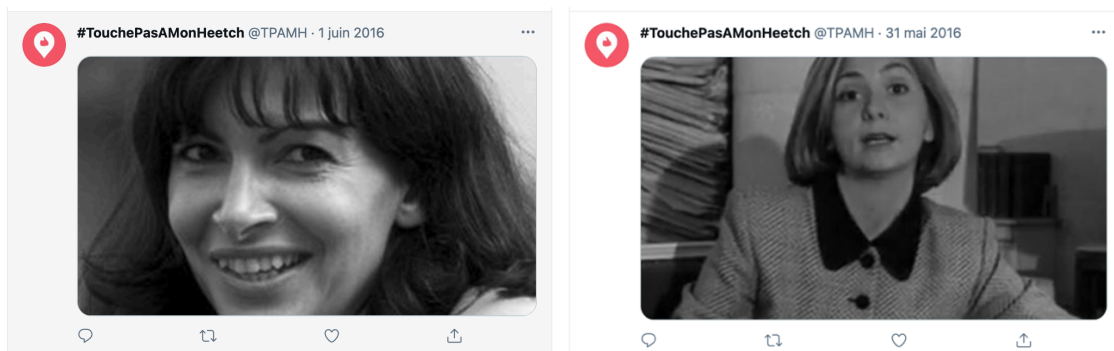
Figure 1 Tweets from Heetch protest account - both 31/05/2016 - Anne Hidalgo, mayor of Paris (left) and Valérie Pécresse, Head of Parisian region (right), shown in their youth

These tweets are in line with the "fun" communication of the company, reinforcing its will to address the young. Underlining the youth of its users is a way for Heetch to parallel the legal charges they are facing with a direct attack on youth: the second hashtag on Twitter created by the company is #generationHeetch. Many media echo the denomination by communicating
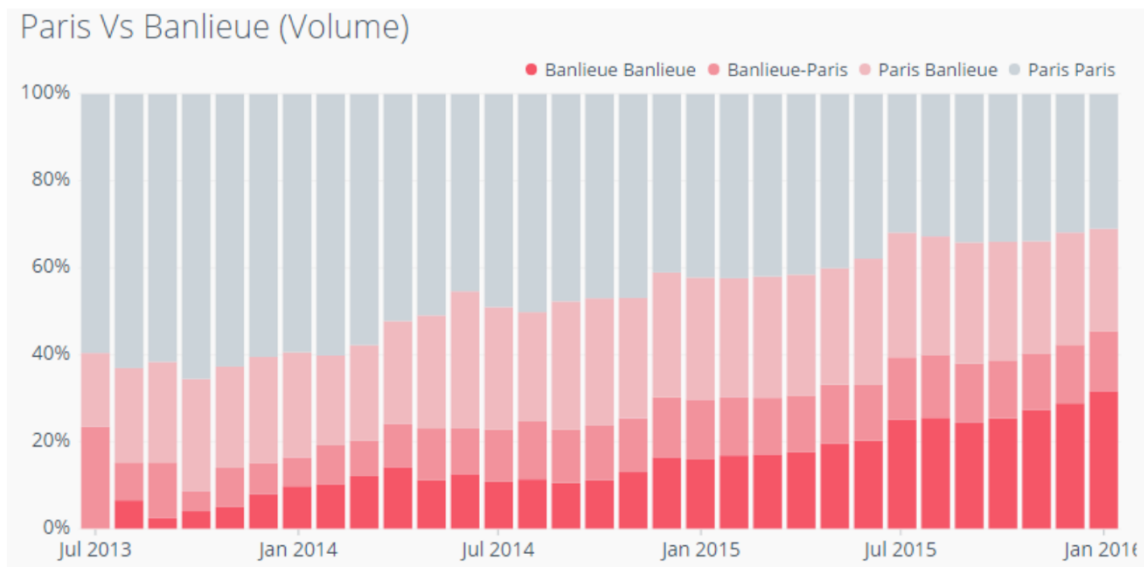
founder Mr. Pellerin to call their trial the "trial of youth"[14]. In the video compiled by Heetch and displayed on social media urging people to participate in the virtual protest, this framing is clear in the slogan "Be young and stay home":

Figure 2 Video linked on Heetch social media starting March 2nd 2017 (verdict day)

In addition, it is not any youth that Heetch is addressing, but youngsters living in the suburbs. The company provides at numerous occasion quantified proof that their service is mainly used for rides going from suburban areas into downtowns (mainly Paris, but also other cities like Lyon or Lille) and vice-versa (see following figure).

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[14] https://lexpansion.lexpress.fr/entreprises/c-est-le-proces-de-heetch-ou-celui-de-la-jeunesse_1857706.html {July 2021}

Paris Vs Banlieue (Volume)

Evolution de la répartition des trajets sur Heetch entre Paris et sa banlieue

Figure 3 Medium blog of Mr. Pellerin, posted October 16th 2015 (Screenshot 3/06/2021)

This figure, provided by the communicating founder on his personal blog and largely passed on in his media interviews, shows the evolution of rides geographical repartition in time. Focusing on Paris, the main city for Heetch, it broadcasts the idea that intracity rides are decreasing whereas suburbs to suburbs rides are largely increasing in time. Interestingly, we can see that "suburbs to Paris" rides are stable across time and less frequent than "Paris to suburbs" rides. This reinforces Heetch's point that their users use public transportation when possible (suburbs-to-Paris) and Heetch to get home late at night (Paris-to-suburbs) when public transportation are down.

Highlighting that they offer a service going to the suburbs supports two points in Heech's discourse. First, the company uses this geographical segmentation in order to frame their service as a public service. They highlight that there is a lack of public service on the segment of public transportation at night, especially in city centers to suburbs connections. In their Twitter campaign after the trial, they for example display what is supposed to represent a user of the platform:

Figure 4 Tweet from the protestation Heetch account on 2/03/2017 (verdict day)(Screenshot 6/05/202)

The image reads "You're not coming to parties anymore? I can't, I live in the suburbs", anticipating what would happen if the service was shut down (tweet on verdict day). Because their activity operates mainly in suburban areas where there is no public service transportation alternative at night, Heetch and its founders can frame their activity as filling in for the State and therefore providing a public service. It is very much apparent in the emails they sent to their users: in an email sent a few days before the trial begun entitled "how do we do without Heetch" congratulating users for their online support, they refer to their service as "of public interest":

Figure 5 Email from Heetch to its users 29/11/2916

Translation: "Heetch is **public interest service** that creates transportation possibilities at night and favor social diversity, security, as well as flourishing and opening up of the young. Heetch targets a different audience that existing transportation supply and is not competing with them"

As we can see in this email, in addition to being a "public service", Heetch also supposedly favors "social diversity". Like in many Western countries, in France, "suburbs" used without context refers to underprivileged towns in city peripheries, and so does out of context references to "suburban youth". This means that by positioning their service as useful to suburbanites and mainly suburban youth, they frame their activity as having a social value by contributing to link these isolated geographical areas to city centers:

> "At night, social barriers fade, people meet, the youth opens up, flourishes and takes shape. We are in love with the night and consider that a convivial night contributes to a country's cohesion, as one rare true moment of social diversity. (…) To make night more accessible, we are developing a social transportation service (…). In doing so, Heetch contributes to social integration of young suburbanites, improving their geographical mobility at night and reducing transportation costs" (Mr. Pellerin's blog, November 6th 2016)

Heetch describes its service as more than just a transportation service but as providing "rare moments of social diversity". Similarly to how they paralleled their users' youth with the trial being an attack on youth, Heetch frames the potential prohibition of their service as an attack on suburbanites. Since in these underprivileged areas, racialized individuals are overrepresented (Fassin et Fassin 2006), the social mix they refer to is also racial. This argument is reinforced in two ways: first, by the first hashtag launched by the platform, "stayawayfrommyHeetch". The hashtag adapts a very famous slogan of an anti-racism NGO in the 1980s which could translate as "stay away from my buddy"[15]. Second, by the underlying idea that there could be racism in the juridical fight against the platform, as this play on word shows:

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[15] https://blogs.mediapart.fr/revue-frustration/blog/071216/touchepasamonheetch-la-communication-cynique-d-une-entreprise-uberisee {January 2022}

"So how did we come to that, Mister President? Unfortunately, it is simple: your government has been afraid! Afraid of Uber, Mister President, even of {the Arab}(*play on word sounding like butter*), the suburban one, not really the one on your bread…"
(Mr. Pellerin's blog, March 3rd 2017)

The play on word consists on playing with the similar sonority of "Uber", the controversial competitor, "du Beur" which is a slang word to designate people originating from northern Africa and "du beurre" referring to "butter in spinach", an idiom meaning "to put butter on your bread". On the aftermath of the trial's verdict, the founder here takes the argument paralleling the trial with an attack on Heetch's users as underprivileged young people to an extreme level, not so implicitly accusing the President of racism. Interestingly, Heetch's founder here appeals to the executive power and not the legislative (for regulation) or judiciary ones.

4.2.2. Regulation against innovation

The second line of argument through which Heetch is directly addressing the government is by denouncing regulation as suffocating innovation and progress. Interestingly, this argument is not very developed in how Heetch is addressing its community of users, to the exception of this tweet on verdict day:

Figure 5 Tweet from the contestation Heetch account, 2/03/2017 (Screenshot 6/05/2021) - "In 2017, do we move forward or backwards?"

Implicitly, the tweet assimilates the regulation that has just convicted the company to "going backwards". This argument is also presented by the communicating founder Mr. Pellerin on his blog before the trial, comparing the French regulation to "a strategy of being the last little village in all of Gaul" (Mr. Pellerin's blog, November 22nd 2016): using a comic book reference of the village resisting to roman invasion in *Asterix and Obélix* opposes the French position to another supposedly international movement that France is missing out on. Like he mentions just before in his blog post, beginning on the French market for Heetch has had a negative impact on the international development of the company, stating "the French context in which we started has slowed us down" (Medium, November 22nd 2016). Regulation and the trial is paralleled with an attack on progress.

When addressing civil society through the President, users or the general public, Heetch's representatives present their arguments in a similar pattern. They first determine that Heetch stands for one thing, be it youth, underprivileged suburbanites or innovation. They then extrapolate that putting Heetch on trial is putting this thing they stand for on trial. The three concepts Heetch supposedly stands for are very hard to contradict: youth, social diversity and

progress. Heetch addresses a large audience through these arguments, but directly appeals to the executive power, once again mobilized.

5. REPERTOIRES OF ACTION

Like we mentioned above, these arguments are orchestrated in a campaign developed by a communication agency, Buzzman. It unwound in two phases, before and after the trial. Before the trial, and as soon as the first warnings of justice begun in January 2016, an online appeal to users of the platform began. In January 2016, the company urged its users to regroup and protest the first legal troubles by publicizing an event on Facebook:

Figure 6 Facebook event for January 30th 2016 "Let's party, not strike - #StayawayfrommyHeetch" - Screenshot 30/10/2021

The initial description of the event states that "Heetch is clearly threatened" and calls for support of its users: "We are not going to strike like taxis to protest, we never took taxis. But apparently, no one is listening to us, so we are going to do what we do best: a big party! The more people there will be, the more noise, the most we will be heard. WE ARE COUNTING ON YOU ☺ #Stayawayfrommyheetch". As early as this event, the notion of voice is present in Heetch's communication, problematizing their legal troubles as a lack of "hearing" from the government. The event was massively marked as "attending" on Facebook, leading Heetch to update the information:

Hello !

Tout d'abord, nous tenons à vous remercier INFINIMENT pour votre formidable soutien. Nous avons reçu des milliers de mails, SMS, appels de soutien et nous sommes convaincus que votre mobilisation a permis de montrer au gouvernement l'importance de notre modèle lors de vos sorties !

Le premier ministre a nommé un médiateur qui, dans les prochaines semaines, aura pour mission d'organiser une concertation sur le secteur de la mobilité courte distance afin de trouver un équilibre entre les acteurs historiques et les nouvelles solutions numériques.

Heetch a déjà formulé plusieurs propositions pour accompagner les taxis et la transition numérique du secteur, et nous espérons pouvoir les présenter au nouveau médiateur. (Vous pouvez les retrouver ici : http://bit.ly/1QKrXaw)

Dans un souci d'apaisement et de conciliation, nous avons donc pris la décision d'ANNULER notre rassemblement de samedi après-midi. Nous aurions adoré rencontrer nos 25.000 soutiens, mais il nous semble important de prôner le dialogue et d'entrer de plein pied dans cette période de concertation.

Votre mobilisation sera CAPITALE lors des prochaines semaines pour expliquer l'importance de Heetch dans vos vies et sorties !

Nous organiserons un nouvel événement d'ici quelques semaines pour que vous puissiez vous aussi vous exprimer et nous espérons que nous serons encore plus nombreux : 50.000 ? 100.000 ?

PS : Nous avions prévu un petit after pour ceux qui n'avaient pas pris de place pour la Peacock. La salle étant déjà réservée, nous invitons les plus motivés au Trabendo pour la première soirée ALL YOU NEED organisée par les copains de Heeboo.
Lien vers l'event : http://on.fb.me/1OU5Ufk

Figure 7 Facebook event description for January 30th 2016 "Let's party, not strike - #StayawayfrommyHeetch" - Screenshot 30/10/2021

The information highlights the high number of supports received, especially through the number of people planning to attend with the number of 25.000 people highlighted and a call for even more support. This is only the first attempt at engaging their users in a visible yet not demanding support. Visible, because users or supporters of Heetch publicly show their support by electronically clicking "attending" to the event. This is however a support that does not require active engagement from them as it only takes a click on the Internet and does not commit them to attend.

Later on, in March 2016, Heetch launches a campaign on Twitter with the hashtag #stayawayfrommyHeetch with a focus on youth, as seen in the previously shown tweets displaying young politicians. As the trial approaches, they directly ask for users' support via email. Like in the Facebook event's description, the email quantifies the support already

received by saying "in 2016, you have been **more than 45.000 to support us** on Twitter" (email to users, November 29th 2016, original emphasis). The email includes a link to a video made to support the platform and urges users to share the video on Twitter. A "Tweet the video" link ends the email, with a redirection to users' individual Twitter account and a pre-written Tweet that calls out to the Prime minister at the time, Mr. Manuel Valls, and asks "How do we do without Heetch?":

Figure 6 Tweet automatically generated from email to users of November 29th 2016 - Screenshot 30/10/2021

The suggested tweet to users includes a link to another tweet from Heetch's official account including the video mentioned in the email. Once again, the engagement asked of users is visible (using their personal Twitter account) but low demanding since the Tweet is pre-written (two clicks are enough).

This video is particularly interesting: entitled "The voice of the young", the video[16] consists in a selection of tweets made by private individuals using the hashtag initiated by Heetch #stayawayfrommyHeetch and supporting the company. The video displays what we can assume are actors, all young and acting as Heetch users, reading out loud the tweets while they appear in the background. These tweets focus on the young suburbanites argument, like in this example:

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[16] https://www.youtube.com/watch?v=2ca_pWycRMA {Outube 2021}

Figure 7 Screenshot from Heetch video – Posted on YouTube 29/11/2016 (Screenshot 30/10/2021) – Translation: "Before #Heetch when I went out, there was 1 out of 4 probability for a taxi to agree to bring me back to the suburbs #stayawayfrommyheetch"

The tweet here appears between two shots with an actress saying the content of the tweet. Using actors to read the tweets very literally gives a voice to Heetch's users. We find the same idea here than in the Facebook event in which it was all a matter of being loud enough in order to be heard. The campaign stops a few days before the trial and starts again on the day of the verdict with an additional hashtag further highlighting the argument of youth, #generationHeetch.

Finally, Heetch organizes a few days after trial verdict a "virtual protest" on March 4th 2017. The idea is that individuals can sign up, create an avatar and appear in the online protest organized by Heetch:
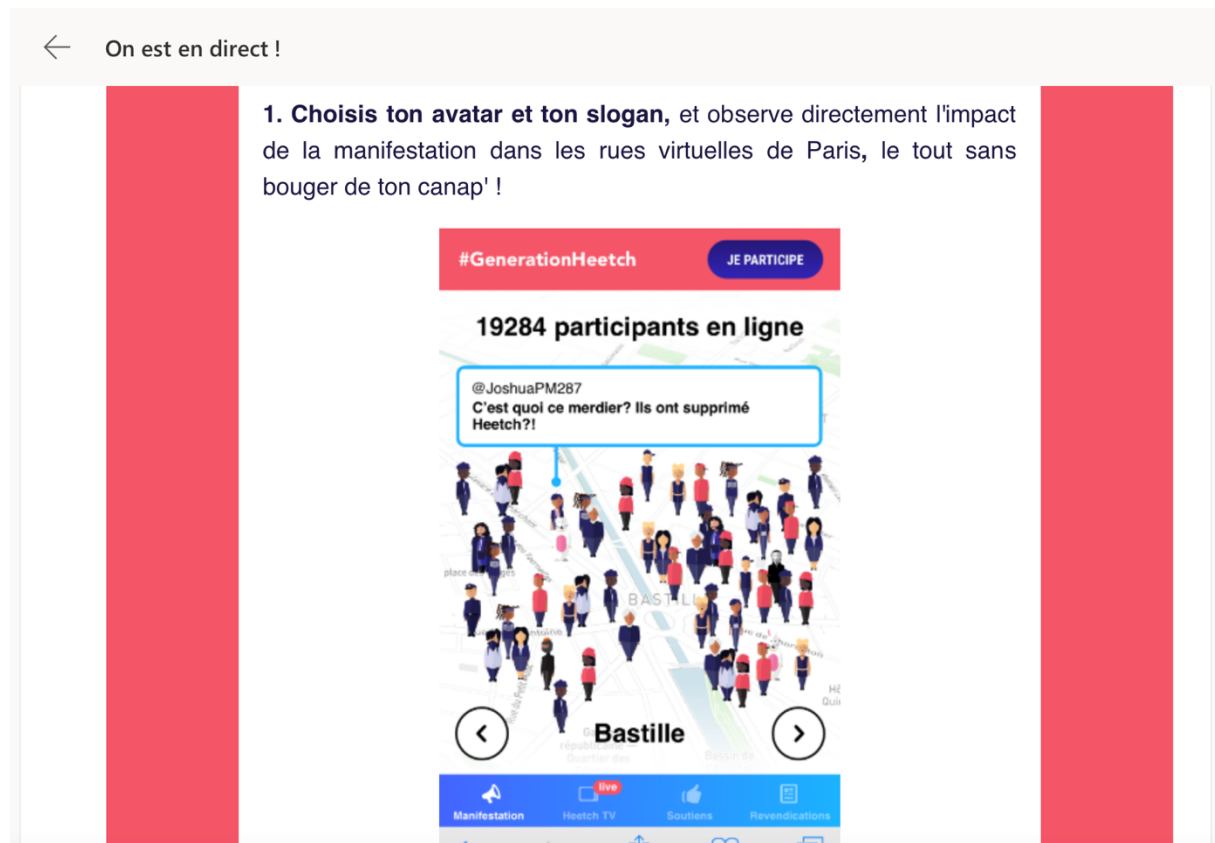
1. **Choisis ton avatar et ton slogan,** et observe directement l'impact de la manifestation dans les rues virtuelles de Paris, le tout sans bouger de ton canap'!

Figure 10 Figure 9 Email to users for the virtual protest, March 4th 2017

The email urges users to participate in the virtual protest "while not having to move from {their} couch". The second way to participate, mentioned further in the email, is to "express yourself" via a tweet using #generationheetch, here again with a link to a pre-written tweet. The three characteristics of engagement according to Heetch are again apparent here. First, supporting the platform is a public engagement, framed as having one's voice heard. Second, engagement required from participants is quite low: in contrast with a protest required to make time to march in the streets, it is possible to virtually protest in a few clicks. Finally, like in a street protest, Heetch quantifies the mobilization to broadcast the extent of its support, as visible in this image from Heetch's website:

Figure 8 Virtual protest metrics - Heetch website - April 2017 (Screenshot 17/04/2017)

It is not clear whether these metrics take into account the critics of the platform that are bound to exist in the tweets. Heetch also broadcasts a video[17] about the virtual protest in April 2017. Here again, the video starts with a reference to the executive power with the communicating partner Mr. Pellerin saying "We think that politicians' job is to make French people's lives better. It really is time we remind them this". The video shows highlights of the protest, showing footage of trucks driving in Parisian streets with screens displaying tweets of supporters. It also includes interviews: from politicians (three elected representatives); and from young people saying they live in the suburbs. A young woman states "what about freedom if tomorrow I cannot go out anymore because I cannot afford to live in Paris?" (1:34). A voice-over also states that "we are tarnishing the image of collaborative consumption" (1:51), questioning the impact of regulation on innovation. The video therefore sums up every theme mobilized by Heetch: defending young people, opening up suburban

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[17] https://www.youtube.com/watch?v=4M1YDGx6aC0 {April 2017}

areas and the relationship between innovation and regulation. It also appeals to representatives to make their argument.

6. DISCUSSION

The mobilization organized by the platform Heetch replicates the norms of online activism in several ways. First, it uses hashtags to facilitates affiliation to its protestations, linking individuals across time and space (Kavada 2015). Playing the game of social media platforms like Twitter facilitates virality of the movement and seeks to increase visibility on this social media (Etter et Albu 2021). The phrasing of these hashtags carries powerful ideas linking the mobilization for Heetch's continuity to broader social issues such as integrating youth (#generationHeetch) and promoting social diversity (#stayawayfrommyHeetch). They enable Heetch to frame the controversy beyond a simple legal matter on whether the platform is or is not carsharing. By extending the stakes of their trial to youth, social diversity and underprivileged territories inclusion, the platform changes the focus on the legal matter at hand. Like we mentioned, the engagement Heetch offers to its users has three characteristics: first, it is public and personal. Supporters of the protestation are to publicly engage for the platform on social media like Facebook or Twitter, using their personal profiles. This echoes the idea of "heroization" of online activism put forward by (Milan 2015). The platform also frequently refers to the notion of voice by mentioning that they need to be "heard". This idea of voice is important in online activism, which has developed through grassroots movements by precisely giving an arena for non-dominant individuals to have a voice (Goncharenko 2021). As we have shown, Heetch uses very literally the idea of voice by developing a video of actors reading supporting tweets out loud: incarnating supporters, the video gives life the notion of voice. Replicating the norms of online activism enables Heetch to frame its trial as a trial against dominated voices.

In highlighting how a platform can seize the norms of online activism to orchestrate a protestation movement targeting government, we wish to contribute to the literature on counter-accounts by showing how these accounts can be hijacked to defend private interests. Extending (Bellucci et Manetti 2017)'s study about how private foundations use social media not for increased accountability but for legitimacy purposes, we further mitigate the idea that stakeholders can benefit from corporations' use of social media by being included into accountability debates. Moreover, we want to put forward the notion of a privatized public

(Dean 2013) in the case of online activism. (Milan 2015) underlines in her notion of cloud protesting how online activism is often characterized by the aggregation of individual engagements through a single click, potentially using ready-to-share materials. In this case, the second characteristic of Heetch supporters' engagement as defined by the platform is the ease and lack of personal implication required. Heetch appeals to its users by enabling two-clicks engagement with ready-to-share materials, as evident in the email sent to users with a link to a prepared tweet containing both the official hashtags of the protest and the "voice" video. This standardization of engagement is in contrast with the personal attachment required from users to support Heetch with their personal profiles. Cloud protesting here possesses the characteristic of being extremely easy to quantify, the third characteristic of Heetch's supporters engagement according to the platform. For example, the virtual protest organized by the platform can provide an objectified account of the number of participants. Contrasting with the usual disputes between police forces and unions over the number of demonstrators in the streets during a protest, here the platform is in control of the only source of information regarding the protest. It can therefore provide a "true" account of the number of participants supporting its standardized claims. In doing so, the platform constructs a privatized public in Dean's sense. The platform indeed manufactures a public opinion based on individual interventions that it can present as true through self-produced numbers. It is interesting to underline that the numbers shared by the platform regarding the number of tweets using their hashtags do not detail whether these tweets support their claims or in contrast criticize them. Supporters or not, technological affordances such as hashtags improve the visibility and virality of the movement and can be incorporated in the privatized public.

Interestingly, here the platform appeals to individuals not as consumers but as citizens, stimulating their engagement. Zuboff (2019) analyses a pattern on how digital platforms colonize new areas of private life by counting on individuals becoming accustomed to using their services before any regulation happens. Appealing to individuals as consumers enables to reduce the risk of mobilization and of legal action. This is not the case here: controlling the problematization of its legal controverse through the organized protest enables the platform to frame its support not as a service worth defending because it is handy or enjoyable, but because it is a matter of public interest. Cloud protesting with ready to use material and the aggregation of very disparate individuals recreate the characteristics of civil engagement at the individual level. All the same, this civil engagement reproduces Agamben's idea of

commandment (Agamben 2013). The commitment that civil engagement usually requires is mimicked by the public statement made by supporters, but the claims follow the platform's command. In control of clicking or not on the provided link and sharing or not the pre-written tweets of support, potential supporters nonetheless reproduce the framing of public interest decided by the platform. Civil resistance is here organized in favor of private interests, organizing a pseudo-democratic space that citizens can consume.

Finally, Zuboff (2019) highlights the connections between platforms and executive powers in the USA, the porosity of both worlds partly explaining the lack of regulation platform face. This resonates with how the platform Heetch appeals to the executive and legislative powers in very different ways than it does to the juridical power. The platform assures that it does not wish to influence the juridical power and mostly focuses on legal matters at hand during the trial. However, the platform still refers to its service as public interest, putting forward witnesses from the public administration and members of Parliament to support their point at trial. In addition, during the protestation campaign, Heetch appeals several times to the executive power, asking for a change in regulation, and includes MPs supporting them in their virtual protest video. The staging or attempt at getting close to other democratic powers here fails at impressing the juridical power, as the court convicts the platform for all charges. Nonetheless, its conjunct effort of manufacturing a privatized public while appealing to executive and legislative power still demonstrate the platform's neoliberal attempt at promoting a form of democracy where market and regulation interplay. As Zuboff (2019) reminds us, citizen-led legal actions can be a fortress against corporations' influence on regulation, insisting on the role of plaintiffs in making the law "live" (Zuboff 2019; Nader 2002). Citizen action in the form of taxi drivers as plaintiffs here enables the accounting argument of the absence of cost sharing to prevail. It is interesting to underline in this protestation the absence of a key audience of the platform: drivers. We can wonder whether this reflects the economic domination of the platform on drivers, as we know gig economy workers struggle to live from their activities (Fleming 2017).

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