

# Business Competition in the Age of AI

MAIMONIDES MOOT COURT COMPETITION SOURCEBOOK

Spring 2023



MAIMONIDES FUND

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# What is the Maimonides Moot Court Competition?

The Maimonides Moot Court Competition is the premier program for students to engage with contemporary ethical questions using Jewish legal wisdom. Our competitions are structured around a detailed case alongside a sourcebook of traditional and modern Jewish texts. Students construct arguments from the curated texts to address the questions presented by the case. Cases in recent years have addressed timely issues including criminal justice, tainted money, and social media.

Maimonides Moot Court Competition is powered by the Hadar Institute, which builds egalitarian Jewish communities around Torah study, Jewish practice, and the values of kindness and compassion.

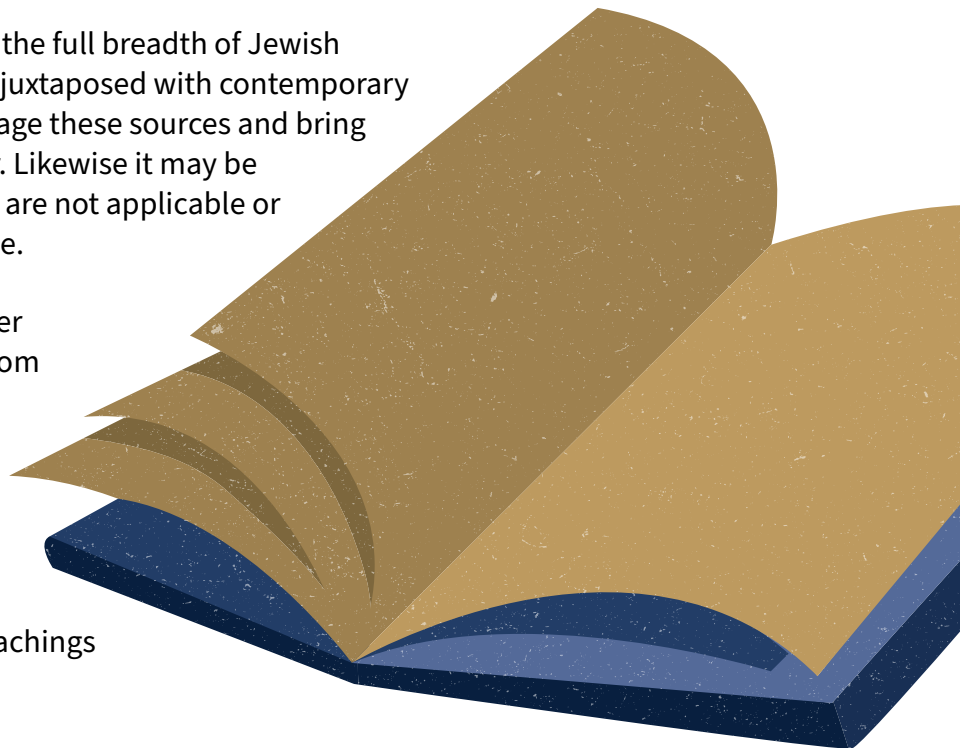
## What is a *Beit Din*?

A *beit din* is a Jewish court of law which makes rulings in accordance with *halakhah*, or the collective body of biblical and rabbinical law. The role of the *beit din* is to apply halakhic precedent to the particular circumstances of the case to reach a ruling.

In the Maimonides Moot Court Competition, your team represents a *beit din* and you will be presented with a specific case. You will study the provided texts in the sourcebook to explore how Jewish tradition has approached the legal and ethical issues presented by the case. The aim is to articulate a position rooted in the provided texts—there is no single “correct” answer. The Talmud embraces multiple perspectives and outcomes, describing the opinions of Beit Hillel and Beit Shammai as “the words of the living God” (Eruvin 13b)—even when these opinions conflict.

This sourcebook contains texts spanning the full breadth of Jewish tradition; ancient and medieval texts are juxtaposed with contemporary perspectives. A strong argument will engage these sources and bring them into conversation with one another. Likewise it may be important to explain why certain sources are not applicable or relevant in your understanding of the case.

There is a hierarchy of sources, with earlier sources carrying more weight. Sources from Tanakh, the Written Torah, are the most authoritative. Typically, later sources elucidate rather than dispute earlier resources. The power of later authorities stems from interpreting and applying earlier texts, much as your team will be doing. Collectively, these post-biblical teachings are known as the Oral Torah.



# Introduction to the Case

## Business Competition in the Age of AI

In the summer of 2020, the fast-food chain White Castle hired fry cooks unlike any others. These employees work 23 hours a day, almost every day of the year. They rarely make mistakes, don't need to take breaks, and are immune to most workplace accidents. If you don't think these sound like regular people, you would be right. These employees named "Flippy" are robots designed by Miso Robotics to support commercial kitchens.

Startups around the world are developing similar robots, such as Kitchen Robotics, an Israeli firm that specializes in developing "robotic kitchens." In fact, many industries are headed in a similar direction. The consulting firm McKinsey estimates that 50% of current work activities can be automated, and that in six out of ten current occupations, more than 30% of activities are technically automatable.<sup>1</sup> Likewise, the World Economic Forum projects that 85 million jobs will be displaced by artificial intelligence between 2020 and 2025.<sup>2</sup> Even professionals that require many years of schooling—including radiologists,<sup>3</sup> surgeons, and pilots—may be at risk of being replaced by artificial intelligence.

What does this mean for the future of work?

Estimates vary widely, but one thing seems certain: Countless jobs will disappear, and millions of new jobs that do not currently exist will be created as new technologies emerge. In some respects, this has already been the case for the past century. For example, a recent analysis of the American workforce found that 60% of the jobs performed in 2018 had not yet been "invented" in 1940.<sup>4</sup> However, some argue that the pace of job displacement as a result of artificial intelligence will be unprecedented.

Undoubtedly, people of all ages will be affected. Education will need to adapt, and millions of workers will need to be retrained for these "jobs of tomorrow." Yet, it raises the following questions: What are the advantages and disadvantages of this rapid expansion of artificial intelligence? Who will pay for the costs of this transition? Perhaps most importantly, if a human being can be replaced by an app, is there any reason to try preserving their job?

Set in the near future, our case imagines a controversy that emerges around these questions. The conflict—between local drivers and the investors behind a driverless taxi app—is not as far off into the future as one might think. Driverless taxis are already on the streets and being tested for real-life

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- 1 "Jobs lost, jobs gained: What the future of work will mean for jobs, skills, and wages." McKinsey & Company. November 28, 2017
  - 2 *The Future of Jobs Report 2020*. World Economic Forum.
  - 3 "Google AI Beats Doctors at Breast Cancer Detection—Sometimes." *The Wall Street Journal*. January 1, 2020
  - 4 "Jobs of Tomorrow: The Triple Returns of Social Jobs in the Economic Recovery." World Economic Forum. May 2022.

conditions, as are driverless trucks.<sup>5</sup> These technologies alone threaten millions of jobs—there are more than three million truck drivers just in the United States.

The issues at stake pose fundamental questions about our relationship with work, and the answers society chooses will shape the world we live in. In essential ways, Jewish tradition has been addressing related themes for many centuries. We invite you to engage in the challenge of applying these texts to the realities of the 21st century.

Sincerely yours,  
Yitzhak Bronstein  
*Director of Maimonides Moot Court Competition*



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5 “Driverless taxis are coming to the streets of San Francisco.” NPR, June 3, 2022.

# The Glendale Times

MARCH 5, 2030

## Conflict Brewing Between Local Taxi Drivers And Upstart iTaxi

A heated controversy in Glendale is raising important questions about the future of the city. It all began when iTaxi, a new taxi app that uses autonomous cars, advertised its plans to begin operating in Glendale.

Home to a university and international airport, and near a National Park, Glendale has a constant flow of visitors. For iTaxi, expanding into Glendale is a lucrative opportunity.

However, local rideshare and taxi drivers are urging city residents not to allow iTaxi to operate within the city limits. Currently, the city government operates a rideshare app called GlenRide that many local drivers and passengers use. Its prices and compensation are similar to those of the national and international rideshare companies. Glendale also has few private taxi companies. "I have been driving here for thirty years, and we've weathered all sorts of ups and downs," said longtime Glendale resident Alex Spiegel, who now drives for GlenRide. "But iTaxi is the first threat that can truly put every driver here out

of business. I don't see how we can compete with the fares that they are advertising."

Currently, a typical five-mile trip with GlenRide costs riders around twenty dollars. Based on iTaxi's projections, their service would charge around thirteen dollars for the same ride. "It's not like we are millionaires with the current rates," Spiegel added. "We have limited flexibility to lower prices before we would no longer earn a living wage." iTaxi can afford to charge lower rates since there are no drivers to pay. Although their cars are expensive, they are funded by investors who stand to make a profit over time.

For Michelle Silverstein, an iTaxi executive, the collateral damage to the city's drivers is not a compelling reason to prevent iTaxi from operating. "There are 200,000 residents in this city and maybe two percent of them work in the taxi industry. We should prioritize the needs of the overwhelming majority who will benefit from lower fares. Plus, iTaxi users will have a much easier time

ordering a ride late at night or early in the morning, when few drivers are working.”

But for city residents pushing back against the arrival of iTaxi, it’s not all about lower prices or added convenience. “These aren’t anonymous drivers who might lose their jobs, they are our friends and neighbors. Many of us would prefer to pay a few extra dollars knowing that the money was staying in the community, rather than going to the shareholders of a company headquartered hundreds of miles away.”

Some residents expressed concern about iTaxi’s business practices. In other cities where iTaxi has operated, the company offered initial low rates that forced small taxi companies to shut down, and left rideshare drivers without customers. However, once local competition was eliminated, iTaxi raised its prices.

Glendale city government organized a town hall meeting where residents could voice their opinions on the issue. One driver for GlenRide spoke passionately about their fear of losing their job and how challenging it would be for many drivers to be searching for new jobs at the same time. Others stressed the importance of setting a precedent for

the future. “Today, it’s drivers, but artificial intelligence will come for other jobs next. We need to take a firm position that we will do our best to protect local jobs.”

In response, one resident wondered if there could be a middle ground. “Perhaps we can allow iTaxi to operate, but have them sponsor a job retraining program that would teach drivers new skills. Or make sure that their prices are not too much lower than GlenRide’s rates.” But the iTaxi representative rejected this proposal: “Our service is safer, more convenient, and cheaper than the status quo. We should not be penalized in any way for having a better product.”

The process will soon come to a close. At the next town hall meeting, residents will deliberate and then vote about how to proceed. The current proposals include a range of options, such as banning self-driving taxi services from operating within the city, forcing iTaxi to charge rates similar to GlenRide, instituting a small fee for each iTaxi ride that would be directed towards a driver retraining program, or doing nothing at all and allowing the free market to play out.

## **The Role of the Beit Din**

The Glendale Beit Din has been invited to share its perspective at the upcoming town hall. Although the Beit Din does not have the power to make the law, its opinion is taken seriously by the residents of the city and can influence how the city votes. In particular, the Beit Din has been asked:

1. Whether the city is halakhically permitted to ban or regulate iTaxi as described in the article above, such as by instituting a fee that would help sponsor a job retraining program.
2. Whether this is the morally right course of action.

Additionally, the Beit Din may submit a proposal of its own for residents to vote on.

## UNIT 1

# Supporting the Financial Standing of Others

### ◦ Hazal

Hazal is an acronym for חכמינו זכרונם לברכה, “Our Sages, may their memory be blessed.” The term generally refers to the sages from the Talmudic period.

## I. THE IMPORTANCE OF SAFEGUARDING PEOPLES’ LIVELIHOODS

Before analyzing the particular circumstances of the case, we need to first consider a broader concern: the seriousness with which Hazal<sup>◦</sup> regarded the safeguarding of other people’s livelihoods. The Rabbis expressed concern about actions that would have a negative impact on other people’s businesses.

Below is one of the most radical formulations of this principle. The Gemara is discussing a verse from the Book of Samuel, where God explains why God sent a famine:

### SOURCE #1 ס

תלמוד בבלי יבמות עח:

“וַיֹּאמֶר ה' אֶל שָׁאוּל וְאֵל  
בֵּית הַדְּמִים עַל אֲשֶׁר  
הָמִית הַגִּבְעוֹנִים...”

Talmud Bavli, Yevamot 78b

“God said: It (the famine) is because of Saul, and the bloodguilt of his house, because he put to death the Gibeonites” (II Samuel 21:1).

(The Gemara asks:)

וְכִי הֵיכָן מָצִינוּ בְּשָׁאוּל  
שֶׁהָמִית הַגִּבְעוֹנִים? אֵלָּא  
מִתּוֹךְ שֶׁהָרַג נֹב עִיר  
הַכֹּהֲנִים שֶׁהָיוּ מְסַפִּיקִין  
לָהֶם מִים וּמִזֶּן, מַעַלָּה  
עָלָיו הַכָּתוּב בְּאֵילוֹ הָרָגָן.

...But where do we find that Saul put the Gibeonites to death? Rather, it’s because Saul killed the people of Nob, the city of priests, and they would provide the Gibeonites with water and food (in exchange for their services). So the verse ascribes it to Saul, as if he himself had killed them.

### Commandments

Rashi explains that although there are far more than eleven commandments, David felt that his generation was not able to observe all of them. Therefore, he reduced the 613 commandments to eleven fundamental commandments that would be realistic for the people to observe.

The Talmud makes a striking claim to explain why the verse says that Saul killed the Gibeonites. Because Saul killed the people who did business with the Gibeonites, and thereby destroyed the source of the Gibeonites' livelihood, it was as if he actually killed the Gibeonites.

1. How do you understand this metaphor comparing the loss of one's business to actual death?
2. Why do you think such extreme language is used—do you think it is warranted? Why or why not?

Below is another passage in the Talmud which speaks to the importance of protecting other peoples' livelihoods. The Talmud is explaining a chapter from Tehillim (Psalms), which is assumed to have been written by King David. The chapter lists positive qualities that bring a person closer to God. The Talmud explains each of these qualities; we'll focus on number five.

### SOURCE #2

#### תלמוד בבלי מכות כד.

בא דוד והעמידן על אחת  
עשרה דכתיב (תהלים  
טו:א): "מזמור לדוד [ה'] מי  
יגור באהלך מי ישכון בהר  
קדשך הולך תמים ופועל  
צדק ודובר אמת בלבבו  
לא רגל על לשונו לא עשה  
לרעהו רעה..."

"לא עשה לרעהו רעה" –  
שלא ירד לאומנות חבירו.

#### Talmud Bavli, Makkot 24a

King David came and synthesized (the Torah into) eleven commandments,<sup>o</sup> as it is written: "A Psalm of David. God, who shall live in Your Tent? Who shall dwell on Your sacred mountain? (1) One who walks wholeheartedly, and (2) works righteousness, and (3) speaks truth in their heart. (4) Who has no slander upon their tongue, (5) nor does evil to their neighbor..." (Psalms 15:1)


"Nor does evil to their neighbor" – this line is referring to one who does not infringe upon another's business.

1. How do you understand not infringing upon another's business? What types of actions do you think this includes?
2. How would you distinguish between negative infringement, and fair business competition?

### ○ Rambam

Rambam (Maimonides) is an acronym for Rabbi Moses ben Maimon, who lived in Spain and Egypt (1135-1204). His most significant work is the *Mishneh Torah*, a comprehensive codification of Jewish law from the Talmud. In addition, Rambam wrote a commentary on the Mishnah and philosophical works, such as *The Guide of the Perplexed*.

- Are you surprised by the inclusion of this *mitzvah* (commandment) on this list? Why might protecting someone's livelihood be considered one of the eleven essential *mitzvot*?

In general, Hazal understood poverty as a terrible misfortune. Echoing the language above in Yevamot 78b, the Talmud writes that “poverty is a type of death” (Nedarim 7b ). Seemingly, the harshness of poverty informed Hazal's emphasis on not harming another person's livelihood.

## II. THE HIGHEST FORM OF TZEDAKAH

In addition to speaking about the severity of **harming** someone else's livelihood, Hazal also emphasized the importance of **strengthening** other people's financial stability.

For example, Rambam<sup>○</sup> famously described eight levels of *tzedakah* (charity). The highest is giving in a way that the recipient would no longer be dependent on *tzedakah* in the future.

### SOURCE #3

משנה תורה, הלכות מתנות עניים יז:	Mishneh Torah, Gifts to the Poor 10:7
שְׁמוֹנָה מַעֲלוֹת יֵשׁ בְּצִדְקָה זֹאת לְמַעַל מִזֶּה. מַעַלְה גְּדוֹלָה שְׂאִין לְמַעַל מִמֶּנָּה זֶה הַמַּחְזִיק בְּיָד יִשְׂרָאֵל שְׂמֵךְ, וְנוֹתֵן לוֹ מִתְּנָה אוֹ הִלְוָאָה אוֹ עוֹשֶׂה עִמּוֹ שְׂתָפוֹת אוֹ מַמְצִיא לוֹ מְלָאכָה, כְּדִי לְחַזֵּק אֶת יָדוֹ עַד שֶׁלֹּא יִצְטָרֵךְ לְבָרִיּוֹת לְשָׂאֵל.	There are eight levels of <i>tzedakah</i> , each one greater than the other. The greatest level, higher than all the rest, is to fortify a fellow Jew and give them a gift, a loan, form with them a partnership, or find work for them, until they are strong enough and do not need to ask others for support.

- Of all the different forms of *tzedakah*, why do you think Rambam considers this to be the highest?
- Should Rambam inform how we go about doing our business? For example, should we go out of our way to do business with people who are most in need? Why or why not?

3. If the highest form of giving is to strengthen an individual's financial standing to the point that they can support themselves, what's the flipside? Can you extend this argument to evaluate the severity of harming someone's financial stability? Why or why not?

Clearly, the rabbis take seriously the notion that supporting—or harming—another person's business can have a major impact on their wellbeing. Keep this broad principle in mind as you read through the remaining four sections in the sourcebook, where we will see more specific teachings on how to preserve a fair marketplace.

Take a step back

1. Does this framing impact the way that you approach the case?
2. Based on the texts we've seen so far, does the community have an equal responsibility to protect both the businesses of established taxi and rideshare drivers, as well as iTaxi? Or is there a greater responsibility to one of them? Why?



## UNIT 2

# Who Sets Prices?

### ○ Price floor

A price floor is a minimum price for a product or service. It requires all businesses to charge at least that price. For example, the minimum wage is a type of price floor.

### ○ Compete

For two modern day examples of where this principle has been applied, see the following articles in the appendix: (I) “France moves against Amazon’s cheap book deliveries” and (II) “Germany Says Wal-Mart Must Raise Prices.” In both cases, the governments ruled that the prices charged by Amazon and Wal-Mart were too low, thereby causing harm to competing stores.

Who gets to determine the price of a product? Should businesses have the ability to charge whatever prices they determine to be most profitable? Or should there be boundaries to make sure the marketplace remains fair, and businesses can’t take advantage of people?

These questions are often posed about whether there should be a maximum price that businesses can charge for a product. For example, is it morally acceptable if a store sells an item for significantly more than it cost them to purchase? Regarding this, there is a concept in *halakhah* of **אֲוֹנָה** (*ona’ah*), which prohibits overcharging for certain products.

However, the discussion below will deal with the reverse question: Should there be a *minimum* price that businesses can charge? While it might seem odd to prohibit a business from selling an item too cheaply, such laws exist in many countries. Generally speaking, the purpose of these laws is to protect smaller businesses from being overwhelmed by larger businesses that can afford to sell products at lower prices. In this way, a price floor<sup>○</sup> can help small businesses compete.<sup>○</sup>

This question has immediate implications for our case, because iTaxi can afford to charge much lower prices than the established market rate. Should iTaxi be forced to charge higher rates? Should the Beit Din recommend this? The sources below introduce a debate regarding whether minimum prices are appropriate, and if we need to distinguish between different situations.

## **I. OFFERING DISCOUNTS AND INCENTIVES**

The mishnah below cites two debates between Rabbi Yehudah and the Sages. As you read this mishnah, reflect on what you think is at the heart of their disagreement.

### Plums

In other words, the shopkeeper can claim that competing stores can do exactly what he is doing to level the playing field.

### SOURCE #4 ס

#### משנה בבא מציעא ד:יב

רבי יהודה אומר, לא יחלק החנוני קליות ואגוזין לתינוקות, מפני שהוא מרגילן לבא אצלו. וחסמים מתירין.

ולא יפחת את השער. וחסמים אומרים, זכור לטוב.

#### Mishnah Bava Metzia 4:12

Rabbi Yehudah says: A shopkeeper may not hand out toasted seeds and nuts to children, since this accustoms them to come to their store [at the expense of competing shops]. The Sages permit this.

[Rabbi Yehudah says] nor may one sell below the market price. The Sages say: One who does should be remembered favorably.

1. What do you think Rabbi Yehudah and the Sages are arguing about? Are they having one argument or two arguments?
2. Which perspective do you think is more fair? How so?

Below, the Gemara interprets the reasoning behind the Sages' disagreement with Rabbi Yehudah.

### SOURCE #5 ס

#### תלמוד בבלי בבא מציעא ס.

מאי טעמייהו דרבנן? דאמר ליה אנא מפליגנא אמגוזי ואת פליג שיסקי.

ולא יפחות את השער וחסמים אומרים זכור לטוב וכו'.

מאי טעמא דרבנן? משום דקא מרווח לתרעא.

#### Talmud Bavli, Bava Metzia 60a

What is the reason of the Sages? It is because the shopkeeper can say to competing shopkeepers: I hand out nuts; and you can hand out plums.<sup>o</sup>

"Nor may one sell below the market price. The Sages say: One who does should be remembered favorably."

What is the reason of the Sages? Because this lowers the market rate.

### ○ Rashi

Rashi is an acronym for Rabbi Shlomo Yitzhaki (1040-1105, France), the most studied commentator of the Torah and Talmud.

### ○ Mishneh Torah

Mishneh Torah ("Repetition of the Torah"), authored by Maimonides, is a comprehensive codification of Jewish law from the Talmud, organized into 14 volumes. It remains one of the most authoritative collections of Jewish law.

## SOURCE #6 ס

רש"י על בבא מציעא ס' ב

משום דמרווח תרעא

ואוצרי פירות יראו שהוזלו  
וימכרו בזול:

Rashi<sup>○</sup> on Bava Metzia 60a

Because it lowers the market rate: Storehouses of produce would see that it had cheapened and then sell their produce for less.

The Gemara explains that the Sages don't have a problem with a shopkeeper handing out sweets to incentivize customers (or their children) to come to their shop, since other shopkeepers are welcome to do the same. Moreover, if shopkeepers sell goods below the market rate, this should be regarded positively since it reduces the price for buyers.

1. One way of understanding the debate between Rabbi Yehudah and the Sages is that they are each concerned about a different party in these transactions. Who is Rabbi Yehudah most concerned about? Who are the Sages most concerned about? How do you know?
2. What do you think Rabbi Yehudah would reply to the Sages' argument, that other shopkeepers can also hand out sweets to customers?
3. Can you apply this *mahloket* (debate) between Rabbi Yehudah and the Sages to the conflict in our case?
  - a. If yes, who would side with the taxi drivers and who would side with iTaxi?
  - b. If not, in what way(s) is our case different from the case in the mishnah above?

The major codes of *halakhah* all rule in accordance with the Sages. For example, this is how Rambam records this *halakhah* (see also Shulhan Arukh, Hoshen Mishpat 228:18 ס).

## SOURCE #7 ס

משנה תורה הלכות

מכירה יח:ד

ומתן לחנוני לחלק  
קליות ואגוזים לתינוקות

Mishneh Torah,<sup>○</sup>

Sales 18:4

It is permitted for a shopkeeper to distribute toasted seeds and nuts to children and

### ○ Arukh

#### HaShulhan

This is a work of *halakhah* authored by Rabbi Yechiel Michel Epstein (1829-1908), a leading rabbinic authority in Lithuania. Rabbi Epstein was known for his deep consideration of human needs when issuing halakhic rulings. Arukh HaShulhan is his most famous work.

וְלִשְׁפָחוֹת בְּדֵי לְהַרְגִּילָן  
לְבֹא אֶצְלוֹ. וּפּוֹחַת מִשְׁעָר  
שֶׁבִּשְׂוֹק בְּדֵי לְהַרְבּוֹת  
בְּמַקִּיפִין מִמֶּנּוּ. וְאִין בְּנֵי  
הַשּׁוּק יְכוּלִין לְעַבֵּב עָלָיו  
וְאִין בְּזָה גְּנֵבַת הַדָּעַת.

maidservants to accustom them to come to their store. A shopkeeper may discount the market price of an item to increase the volume of customers. The other shopkeepers in the marketplace may not prevent them from doing so, nor is this considered to be deceiving a customer.

1. Rambam specifies that lowering the price of a product is not considered deception. Why do you think someone may have considered it a deceptive practice?
2. Are there instances where offering an incentive or low price to customers *should* be considered deceptive?

## II. LIMITATIONS OF THIS HALAKHAH

Since the *halakhah* is decided in accordance with the Sages, this may seem like the end of the story. However, it's not so simple! The Arukh HaShulhan<sup>○</sup> argues that while in general there is no problem with selling an item below the market rate, even the Sages think there is a limit to this ruling.

According to the Arukh HaShulhan, selling below the market rate is only considered positive if it's done in a way that benefits buyers without causing financial harm to others. But, he says, the Sages would prohibit charging a low price that is so low that it destroys other businesses. Before we read the Arukh HaShulhan, let's first take a look at a Talmudic passage he will cite to support his claim.

The text is about crying out in prayer on Shabbat. Normally prayer about a personal hardship is not allowed on Shabbat. But it seems that a price drop might have been viewed as a communal hardship:

### Merchandise

Rashbam explains that the Sages are referring to shopkeepers crying out in prayer because of prices of merchandise being significantly reduced. He says that the Sages are talking about prices of generally expensive items that would be out of reach of the lower class in any case.

Rashi's commentary on Bava Batra ends after the third chapter; the rest of Bava Batra has the commentary of Rashbam--Rashi's grandson--instead.

### Babylonia and Eretz Yisrael

These products are essential to the economies of these places. The public outcry on shabbat is warranted, since the price of these items affects the entire community.

## SOURCE #8 ס

תלמוד בבלי  
בבא בתרא צא.

**Talmud Bavli,  
Bava Batra 91a**

תנו רבנן: מתריעין על  
פרקמטיא ואפילו בשבת.

The Sages taught: A community may cry out (in prayer) over merchandise,<sup>o</sup> and even on Shabbat.

אמר רבי יוחנן: כגון כלי  
פשתן בבבל ויין ושמן  
בארץ ישראל.

Rabbi Yohanan said: This is referring specifically to merchandise such as linen garments in Babylonia, and wine and oil in Eretz Yisrael.<sup>o</sup>

אמר רב יוסף: והוא דזל  
וקם עשרה בשיתא.

Rav Yosef said: This is when an item that sold for ten is now sold for six.

We see from this passage that when the price of merchandise critical to the economy is severely reduced—at least a 40% reduction according to Rav Yosef—then this warrants a public outcry. It's no longer just a personal issue for certain shopkeepers.

Take a look at how the Arukh HaShulhan uses this passage:

## SOURCE #9 ס

ערוך השולחן,  
חושן משפט רכח:יד

**Arukh HaShulhan,  
Hoshen Mishpat 228:14**

"מותר לחנוני לחלק  
קליות ואגוזים לתינוקות  
כדי להרגילם שיקנו ממנו  
ואין שארי חנונים יכולים  
למחות בו..."

"It is permitted for a shopkeeper to distribute toasted seeds and nuts to children and maidservants to accustom them to come to their store. The other shopkeepers in the marketplace may not prevent them from doing so."

אמנם נראה לי דזהו

...It seems to me that this applies only to grain,

### Profit

For example, see  
Shut Gur Aryeh  
Yehuda, Hoshen  
Mishpat 22.

רק בתבואה מפני שעל ידי  
זה שימכור בזול גם האחרים  
ימכרו בזול ומתוך זה ימכרו  
בעלי האוצרות בזול [רש"י  
שם]. אבל לזלזל במכירת  
סחורה איסור גמור הוא  
ומתוך כך מקולקל דרך  
המסחר ומאבדין מעות אחרים  
[וראיה מבבא בתרא צ"א]...  
ואינו מותר לעשות רק דבר  
שגם האחר יכול לעשות כן.

where if one sells cheaply all others  
will sell cheaply, thus, the owners of  
large supplies will sell cheaply (as  
Rashi comments on Bava Metziah 60a).  
But drastically lowering the price of  
merchandise is completely forbidden,  
for this destroys commerce and causes  
loss to others (a proof of this is Bava  
Batra 91a)... **It is permitted to do only  
what others are also capable of doing.**

According to the Arukh HaShulhan, the Sages' positive regard for somebody who sells an item below the current market value only applies in a situation where the competing sellers would also be able to charge that price.

It's important to note that not everyone understands the Sages' opinion in the way the Arukh HaShulhan does. Others suggest that the Sages permit lowering prices in all cases without limit, since the Sages are more concerned with benefiting buyers (through lower prices) than they are with the ability of sellers to make a profit. <sup>o</sup>

However, the Arukh HaShulhan is deeply concerned about the effects that excessively low prices can have on the rest of the economy. Here's another place that he expresses this.

### SOURCE #10 ס

ערוך השולחן, חושן  
משפט רל"א:כ'

ועתה במדינתנו יש  
לצעוק להיפך על

**Arukh HaShulhan,  
Hoshen Mishpat 231:20**

Now in our country, we must reprimand the  
shopkeepers who sell products at excessively

### One-sixth

This is a reference to *ona'ah* (אֲנָאָה), which prohibits sellers from profiting more than one-sixth of what they paid for certain products.

החנונים המזלזלים במקחים  
בכל מיני סחורות, ועל ידי  
זה רבה הקלקול מהמסחר  
והעניות. והרי חז"ל התירו  
להרויח שתות אף באוכל נפש  
וכל שכן בשארי מיני סחורות  
שצריכים להרויח הרבה יותר.  
ועתה מזלזלים במקחים בלא  
דעת ובלא תבונה.

low prices, and as a result cause great harm to the market, and poverty. The Sages permitted businesses to earn a profit of one-sixth<sup>o</sup> even when it comes to selling products essential to life, and certainly when it comes to other products one can profit much more. But now people are lowering prices thoughtlessly and without reason.

1. What reasons might the Arukh HaShulhan have to explain why he interprets the Sages in the way that he does?
2. How would you apply the Arukh HaShulhan's guideline that a seller can only reduce the price of an item to a point that "others are also capable of doing"?
  - a. What if other sellers would still stay in business, but would earn significantly less profit—would that be considered something that "others are also capable of doing"?
  - b. Consider how this principle of the Arukh HaShulhan would apply to two contemporary cases cited in the sourcebook Appendix— "France moves against Amazon's cheap book deliveries" and "Germany Says Wal-Mart Must Raise Prices."
3. Can this principle of the Arukh HaShulhan be applied to our case? If so, how? Are there any shortcomings of this application?

### Take a step back

1. What might the Sages have to say about iTaxi? Should they be allowed to charge fares that are significantly lower than existing rideshare companies, even if it means that drivers may no longer be able to earn a living wage?
2. When it comes to low prices, should we be more concerned with the ability of competing businesses to make a profit, or with the way that low prices benefit buyers?

## UNIT 3

# The Legitimacy of Regulations

### ○ Tosefta

The Tosefta is a compilation of *halakhah* from the time period of the Mishnah. In many ways these teachings resemble those in the Mishnah.

In the previous section, we discussed whether a business should have the right to sell an item for significantly less than the market price. Or as it relates to the case, the question was whether iTaxi had the right to offer taxi rides at a significantly lower price than the established competition.

This section will address related questions from the reverse perspective: What power do GlenRide, local drivers, or city residents have to prevent iTaxi from launching in Glendale? What are the rights of the established drivers and the city residents to influence the market in their city? Do they have authority to establish a price floor?

## I. THE RIGHTS OF TOWNSPEOPLE

### SOURCE #11 □

#### תוספתא

#### בבא מציעא יא:יב

כופין בני העיר זה את זה  
לבנות להן בית הכנסת,  
לקנות להן ספר תורה  
ונביאים. ורשאין בני העיר  
להתנות על השערים ועל  
המדות ועל שכר הפועלים,  
רשאין לעשות קיצת...

ורשאין הצמרין והצבעין  
לומר כל מקח שיבא לעיר  
נהא כולנו שותפין בו.

#### Tosefta<sup>○</sup>

#### Bava Metzia 11:12

Townspeople may compel each other to build a synagogue and to purchase a Torah scroll and the books of the Prophets.

Townspeople may stipulate prices, measures, and the wages of workers. They are permitted to impose fines [to enforce these stipulations]...

Wool workers and dyers are permitted to say, "we will all be partners in any business that comes to the city." Bakers

### Regulations

In a commentary to Bava Batra 9a, Rosh explains that members of a trade are able to make stipulations amongst themselves, since they are considered as “the townspeople” with regard to their work issues.

### Two

Some versions of this text do not have the word “two.” This might be because the tosefta implies that members of a particular trade must make the stipulations as a collective group in order for them to be valid, and not just two members amongst themselves.

רשאינ הנחתומין לעשות  
רגועה ביניהן. רשאינ החמרין  
לומר כל מי שימות לו חמור  
לעמוד לו חמור אחר.

are permitted to establish work shifts amongst themselves. Donkey drivers are permitted to say, “we will provide another donkey for anyone whose donkey dies.”

This teaching from the Tosefta gives significant authority to city residents, including the ability to enforce their own stipulations with fines. Additionally, members of a particular trade also have the right to create their own regulations.<sup>o</sup> Let’s focus on these rights—and their potential limitations. Before moving on to the texts below, consider the following questions.

1. What do you think it means that the townspeople have these rights? Who exactly has this authority, and why are they allowed to force other individuals to follow these rules?
2. Does the text suggest that businesses can only make stipulations that affect themselves? Should they also have the right to make stipulations that affect the town as a whole? What’s your reasoning?

The following passage explores some of these questions through a disagreement that occurred between two butchers. These two butchers had formed a business agreement that they would not work on the same days. This might have been a good arrangement because of the limited ability to preserve meat in ancient times. For whatever reason, they made this deal, and then one of the butchers violated it.

### SOURCE #12 ס

תלמוד בבלי  
בבא בתרא ט.

Talmud Bavli,  
Bava Batra 9a

הָנָהוּ בִּי תְּרֵי טַבְּחֵי דְּעֵבְדֵּי  
עֲנִינָא בְּהָדֵי הָדָדִי דְּכָל  
מֵאן דְּעֵבִיד בְּיוֹמָא דְּחֻבְרִיָּה  
נִקְרְעוּהָ לְמִשְׁבִּיָּה. אֲזַל  
חַד מִנֵּיהוּ, עֵבֵד בְּיוֹמָא  
דְּחֻבְרִיָּה. קִרְעוּ לְמִשְׁבִּיָּה.

There were two<sup>o</sup> butchers who made an agreement with each other that if one of them slaughtered an animal on the day assigned to the other (according to their agreement), that animal would be torn up. One of them worked on the other’s day. So

### ○ Ramban

Rabbi Moshe ben Nahman (1194-1270), also known as Nahmanides, lived in Spain and Israel. He wrote influential commentaries on the Torah and Talmud. Ramban also defended the Jewish people during the Disputation of Barcelona.

אָתוּ לְקַמִּיָּה דְרָבָא,  
חֵיבִינָהּ רָבָא לְשְׁלוּמֵי.

they tore up that animal. They came before Rava for a judgment. Rava obligated (the one who tore up the animal) to pay for it.

אִיתִיבִיהּ רַב יִימָר בַּר  
שְׁלָמְיָא לְרָבָא: וּלְהִסִּיעַ  
עַל קִיצָתָם!

Rav Yeimar bar Shelamya raised an objection to Rava: [But we know from elsewhere that townspeople have the power] to fine people for violating their stipulations!

לֹא אָהֲדַר לִיהּ רָבָא.

Rava did not respond to him.

אָמַר רַב פָּפָא: שְׁפִיר עֲבֹד  
דְּלֹא אָהֲדַר לִיהּ מִיָּדִי.  
הֲנִי מִלִּי הֵיכָא דְלִיכָא  
אָדָם חָשׁוּב, אֲבָל הֵיכָא  
דְּאִיכָא אָדָם חָשׁוּב –  
לֹא כָּל כְּמִינֵיהּ דְּמִתְּנֹו.

Rav Pappa said: Rava was right not to respond, as this matter applies only where there is no *אָדָם חָשׁוּב* (*adam hashuv*, distinguished person) in the city. But where there is an *adam hashuv*, people do not have the authority to make stipulations on their own.

Rava ruled that the butcher did not have the right to enforce the business agreement. Rav Pappa explains that this is because in a city with an *adam hashuv*, that individual must give approval to any business stipulations before they are enforced. The butchers hadn't first run it by the *adam hashuv*.

1. Are you more sympathetic to one of the butchers in this situation?
2. How do you understand the role of the *adam hashuv*? Why might their approval be needed before a stipulation can take effect?

Here are some sources about the role of the *adam hashuv*.

### SOURCE #13 ס

חִידוּשֵׁי רַמְבַּ"ן עַל בָּבָא בִּתְרָא ט.

Ramban<sup>o</sup> on Bava Batra 9a

נִרְאָה מִשּׁוּם דִּילְמָא אִיכָא פְּסִידָא  
לְלִקְוֹחוֹת דְּמוֹקְרֵי זְבִינִי, הֲלֹכְךָ לֹא

Since there could be a loss to buyers when the prices of goods are increased,

### ○ Rosh

Rabbi Asher ben Yehiel (1259–1327), also known as Rabbeinu Asher, was a significant halakhic authority in Germany and Spain. His rulings influenced the positions of the Shulchan Arukh.

### ○ Rabbi Moshe Feinstein

Rabbi Moshe Feinstein (1895–1986) was a preeminent halakhic authority of the 20<sup>th</sup> century. His most famous work is a collection of responsa called Iggerot Moshe. Born in Belarus, he moved to New York City in 1937 and led a yeshiva.

תנאה הוא עד דשקלי  
רשות מיניה.

the stipulation does not take effect until they  
receive the approval [of the *adam hashuv*].

Ramban says the *adam hashuv* is there to protect the interests of the townspeople.

1. Do you think a parallel to this role of *adam hashuv* exists today?
2. If so, who or what would qualify as a “distinguished person” to protect the interests of a community against unfair stipulations between businesses?

In the commentary below, the Rosh clarifies that an *adam hashuv* is a person who is both a Torah scholar and a leader of the community.

### SOURCE #14

פסקי הרא"ש על בבא בתרא ט.

ואדם חשוב היינו דוקא כגון רבא  
שהיה ראש ומנהיג בעיר.

Rosh<sup>○</sup> on Bava Batra 9a

An *adam hashuv* is specifically  
someone like [the sage] Rava, who was  
also the head and leader of the city.

Writing about modern cities in the United States, Rabbi Moshe Feinstein<sup>○</sup> states that this position no longer exists; there aren't Torah scholars who are also political leaders. So nobody can be considered to be an *adam hashuv* in this sense (Iggerot Moshe Hoshen Mishpat 59).

## II. DO CITY RESIDENTS NEED TO BE CONSULTED?

From the conclusion of Bava Batra 9a, it appears that businesses can form agreements among themselves, so long as they get approval from an *adam hashuv* (or if it's a situation where there is no *adam hashuv*, as Rabbi Moshe Feinstein explained). However, according to some commentaries, this power is limited. See the opinion of the Meiri:

### Meiri

Rabbi Menahem ben Solomon Meiri (1249-1315) was a leading rabbinic figure in Catalonia, and published the Beit HaBehira commentary on the Talmud.

### Mabit

Known by the acronym "Mabit," Rabbi Moshe ben Yosef di Trani (1505-1585) was a rabbi in Tzfat, who authored many works including this collection of responsa.

## SOURCE #15

מאירי  
על בבא בתרא ט.

יראה לי שאין בני אומנות אחת  
רשאים לעשות קיצת שער בעניני  
אמנותם בלא רשות בני העיר,  
שהרי מפסידין בני העיר בכך  
שלא כדין.

Rabbi Menahem HaMeiri,<sup>o</sup>  
Bava Batra 9a

It appears to me that the members of a particular trade are not permitted to set prices for their work without permission of the townspeople, since the townspeople would otherwise be forced to take an unjust loss.

- » Can you apply this principle to the facts of our case? Do GlenRide, or local drivers, have the right to prevent iTaxi from operating, or to force iTaxi to raise its prices? How about the people of Glendale? What authority might they have?

Here's an opinion different from the Meiri's!

## SOURCE #16

שו"ת מבי"ט  
חלק א סימן רלז

דכיון שהתקנה היא על עצמם  
ואינם יכולים להכריח את  
אחרים, אם ימשך היזק לבני  
העיר גם הם יתקנו שלא יקנו  
מהם, או יעמידו ויביאו להם  
אומנים אחרים.

Mabit<sup>o</sup> ( Rabbi Moshe ben Yosef di Trani)  
I:237

The enactment binds only themselves (the tradespeople who made the agreement), and they cannot compel others to observe it. If it brings damage to the townspeople, they (the townspeople) can pass their own enactment not to buy from these tradespeople, or they can decide to bring in other tradespeople.

In other words, Mabit says it's not a problem if tradespeople make an agreement that leads to raised prices. After all, townspeople have power too. They can stop doing business with these tradespeople until they lower their prices.

### ○ Rabbi Haim Palachi

Rabbi Haim Palachi (1788-1868) was the chief rabbi of Izmir, Turkey. He published more than 70 works on a wide range of subjects in Salonica, Istanbul, Jerusalem, and Izmir.

### ○ Devarim 6:18

This phrase is used by Hazal to support going above and beyond the letter of the law in a given situation (לפנים משורת הדין).

### ○ Sedom

The Talmud applies מידת סדום (*middat Sedom*, behavior characteristic of Sedom) to a situation where Person A prevents Person B from benefiting in a situation, even though it would not have harmed Person A at all. For example, see Bava Batra 12b.

1. How would you explain the difference in orientation between the Meiri and Mabit?
2. Can you apply each of their positions to the circumstances of our case? Who should have the most power to set prices for rides—iTaxi, the current rideshare drivers, or the people of Glendale? Why?

## III. CAN BUSINESSES BE EXCLUDED?

The *halakhah* is that members of a trade are allowed to make binding agreements among themselves in a situation where there is no *adam hashuv* (Mishneh Torah *Mehirah* 14:10-11 [ד]; Shulhan Arukh, *Hoshen Mishpat* 231:28 [ד]).

But here's a source that tests the limits of this ability.

The context is 19<sup>th</sup> century Turkey. The case is a person previously employed by another, who wishes to become an independent manufacturer in that industry. The other manufacturers, however, refuse to include the newcomer in their cooperative purchasing of raw materials. Since the aspiring manufacturer is unable to purchase the entire amount alone, this person is effectively restrained from entering the field.

The case came before Rabbi Haim Palachi,<sup>○</sup> the chief Rabbi of Izmir. He was asked: Could the manufacturers be coerced into allowing this individual to purchase materials cooperatively with them?

## SOURCE #17

ספר רוח חיים  
חושן משפט, רלא:ב

נראה דאין לכופ אותם  
לבעלי האומניות לתת  
לזה חלקו...

משום "ועשית הישר  
והטוב", וכופין על מדת  
סדום, "וחי אחיך עמך"  
– ראוי לכופ אותם  
שיתנו לו. וגלגל הוא

Ruah Hayyim,  
*Hoshen Mishpat* 231:2

It appears that from a strict legal perspective, the tradespeople shouldn't be forced to give this individual a portion [of their cooperative purchase]...

But from the verse "And you shall do that which is right and good in the eyes of God" (Devarim 6:18<sup>○</sup>); and from the principle that we coerce people to refrain from behavior characteristic of Sedom;<sup>○</sup> and from the verse

### ○ Wheel that Turns

One who is wealthy today may be poor tomorrow. And vice versa.

שחזור בעולם ו"אל  
יתהלל עשיר בעושרו".

“and your brother may live with you” (Vayikra 25:36); it is proper to compel them [to allocate a share to the newcomer]. And life is like a wheel that turns,<sup>○</sup> and “Let not the rich person glory in their riches” (Jeremiah 9:22).

Rabbi Palachi explains that from a strictly legal perspective, these businesses have the right to prevent the newcomer from operating. However, he quotes a number of ethical teachings from the Talmud, which lead him to rule that the *proper* thing to do is to allow the newcomer to operate a business. For this reason, he concludes that the other businesses can be compelled to include this person in their collective purchasing.

1. How is this newcomer similar to iTaxi? How are they different?
2. Does it make sense to apply the idea of מידת סדום (middat Sedom, behavior characteristic of Sedom) to iTaxi? Keep in mind that in the Talmud this principle is applied to situations where one person stands to benefit, while it would have a neutral effect on the other person. (In such situations, it would be needlessly cruel to prevent the other person from benefiting.) Is this a good analogy for iTaxi? What are the differences? Can you imagine how R. Palachi might approach our case?

### ○ Take a step back ○

1. Based on these texts, who in Glendale—if anyone—has the authority to prevent iTaxi from operating, or to compel them to raise their prices?
2. Even if there is someone who does have this authority, *should* they use this authority to regulate iTaxi? Why or why not?

## UNIT 4

# Machine Matzah: A Case Study

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The first halakhic debates about machines replacing jobs occurred in the decades following the Industrial Revolution.

In this section, we will dive into one of the most controversial halakhic debates of the 19<sup>th</sup> century: What is the status of matzah produced by machines? We will especially focus on one aspect of this *mahloket* (debate), which were the underlying economic considerations. In particular, how should halakhic authorities relate to the fact that machines would displace the jobs of countless matzah bakers?

### I. HISTORICAL BACKGROUND

Machine matzah can be traced back to a French inventor named Isaac Singer, who developed a machine that rolled and flattened dough. In 1838, he presented the machine to a group of rabbis and received their approval. Soon thereafter, this machine spread to other Jewish communities in Germany, Poland, and throughout Europe.

However, controversy erupted in the late 1850s around the cities of Lvov, Cracow, and Brody. In 1859, Rabbi Shlomo Kluger (1785-1869), the rabbi of Brody, helped publish a pamphlet called “A Warning to the Jewish People.” This document compiled various rabbinic arguments against using machine matzah. The same year, Rabbi Yosef Shaul Nathanson (1808–1875), a leading rabbinic authority in Lvov, published a pamphlet in response called “Nullifying the Warning.” In that work, Rabbi Nathanson and other rabbis harshly criticized the argument in the former pamphlet.

Some of the arguments cited for and against machine matzah dealt with halakhic details related to matzah in particular. For example, matzah is supposed to be baked *לשמח* (*lishmah*, with dedicated intention)—can a machine have this special level of intent? Other arguments related to the intricacies of the machine, and whether machine matzah would be more or less likely to contain *hametz* (leaven) than handmade matzah.

However, other arguments in this debate were grounded in social and economic understandings of how machine matzah would impact the broader community. These arguments relate most directly to the circumstances of our case.

○ **Matanot l'evyonim**

One of the key *mitzvot* performed on Purim is the distribution of money to people in need. This *mitzvah* is called “*matanot l'evyonim*.”

## II. “STEALING FROM THE POOR”

The first argument that Rabbi Kluger cites against the use of machine matzah relates to the impact it would have on poor laborers whose jobs would be replaced by the matzah machines. His argument is based on the following passage from the Talmud, pertaining to the reading of Megillat Esther (the Book of Esther) on the holiday of Purim.

### SOURCE #18

תלמוד בבלי מגילה ד:

דכולי עולם מיהא מגילה  
בשבת לא קרינן. מאי טעמא?

... רב יוסף אומר: מפני  
שעיניהן של עניים נשואות  
במקרא מגילה.

**Talmud Bavli, Megillah 4b**

Everyone agrees that we do not read Megillat Esther on Shabbat [when Purim falls on Shabbat]. What's the reason?

...Rav Yosef said: this is because the eyes of the poor are raised at the reading of the Megillah.

### SOURCE #19

רש"י על תלמוד בבלי  
מגילה ד:

נשואות למקרא מגילה -  
לקבל מתנות האביונים ואי  
אפשר בשבת.

**Rashi on Talmud Bavli,  
Megillah 4b**

Eyes of the poor are raised: to receive מתנות (Matanot l'evyonim,<sup>o</sup> gifts for the poor), and this is not possible on Shabbat (due to the prohibition of using money on Shabbat).

The Talmud rules that Megillat Esther should not be read on Shabbat; instead it should be pushed off and read on a different day if Purim falls on Shabbat. Rav Yosef explains that this is because the *matanot l'evyonim* could not be distributed on Shabbat.

Rabbi Shlomo Kluger points to this text as an example of concern for the poor overriding other responsibilities, in this case even a religious obligation. He

○ **Maot hittim**

*Maot hittim*  
("wheat money")  
are funds  
traditionally  
given to the  
needy before  
Pesah to ensure  
everyone has  
the necessary  
provisions for the  
holiday.

applies this principle to the realities of machine matzah, where he expresses concern for vulnerable bakery workers.

### SOURCE #20

#### מודעא לבית ישראל, רבי שלמה קלוגר

והנה טעם האיסור בזה נראה  
כי ראשון שבראשון אין זה  
מגדר הישר והמוסר להיות  
גזול עניים אשר עיניהם  
נשואות על זה, כי מן העזר  
הזה שהם עוזרים במצות  
יש להם סעד גדול להוצאות  
הפסח המרובים לבני עמנו.

והרי אמרו בפרק קמא  
דמגילה דלכך אין קורין  
מגילה בשבת רב יוסף אמר:  
מפני שעניניהן של עניים  
נשואות במקרא מגילה...

דעניניהם של עניים נשואות  
לזה להשתכר על פסח, וגם  
כמה בעלי בתים הבינוניים  
אינם נותנים מעות חיטין  
הנהוג בישראל ושורשו  
מדברי הראשונים ז"ל. ולכך  
הם מקיימים בזה דעל כל  
פנים נותנים להם להשתכר  
בעזרם במצות, לא כן אם  
גם זה יבטלו הוי כמבטלים  
מצוות צדקה ומעות חיטים  
לפסח.

#### "A Warning to the Jewish People," Rabbi Shlomo Kluger (1859)

The reason for the prohibition [of machine matzah] appears to be, first and foremost, that it is not within the bounds of decency and ethical behavior to steal from the poor, who look to this (opportunity). They help with matzah baking and this (the money that they earn) gives them great assistance with the numerous expenses of Pesah.

As it is written in the first chapter of Tractate Megillah, that for this reason we do not read Megillat Esther on Shabbat. As Rav Yosef taught, the eyes of the poor are raised at the reading of the Megillah...

The poor look to this, to earn wages for Pesah. Moreover, many ordinary households do not give *maot hittim*,<sup>○</sup> as is customary in Israel, and which originated with earlier rabbinic leaders, of blessed memory. They [the poor] therefore subsist from what, at any rate, they are enabled to earn by their work with the *matzot*. This would not be the case if this too, were to be canceled; it would be like rescinding the obligation of charity and *maot hittim* for Pesah.

○ **“Thousands of hands”**

Hamelitz 30:55  
(March 7, 1890)  
as cited by Meir  
Hildesheimer  
and Yehoshua  
Liebermann.  
“The Controversy  
Surrounding  
Machine-made  
Matzot: Halakhic,  
Social and  
Economic  
Repercussions.”  
Hebrew Union  
College Press  
(2004)

The primary argument that Rabbi Kluger cites to prohibit machine matzah has nothing to do with the kashruth of the matzah per se. Instead, Rabbi Kluger is most concerned with the economic impact that the matzah machines would have on workers who would be displaced.

Rabbi Kluger was not making up this concern. A newspaper account from the time bemoaned how steam mills had caused an economic collapse in a community due to soaring unemployment rates: Machines had replaced “thousands of hands.”<sup>○</sup>

1. Do you think Rabbi Kluger is making a valid inference from the passage in Megillah 4b?
2. How do you understand Rabbi Kluger’s use of the phrase “stealing from the poor” to describe the impact of machine matzah? Do you agree with his claim— why or why not?

## IN DEFENSE OF MACHINE MATZAH

Interestingly, in Rabbi Nathanson’s defense of machine matzah, he does not deny Rabbi Kluger’s claim that the machines might replace the jobs of matzah bakers. However, he claims this is not a primary factor that needs to be considered.

### SOURCE #21

#### ביטול מודעה, רבי יוסף שאול נאטאנזאהן

והנה מה שכתוב בנדפס טעם  
ראש וראשון שלו כמו שאין  
קורין מגילה בשבת אך שהוא  
חובה מפני שעניניהן של  
עניים נשואות במקרא מגילה  
גם כאן יבטלו המאשינע מפני  
עניניהם של עניים כי מי זה  
יש להם מעות חישין...אמנם  
הבל נדף הוא.

וצחוק הביא לנו, דשם כיוון  
שקורים המגילה והמגילה

#### “Nullifying the Warning,” Rabbi Yosef Shaul Nathanson (1859)

Now, what was written in the printed pamphlet, his first and foremost reason, that just as the Megillah is not read on Shabbat, even though this is obligatory, because the eyes of the poor are raised at the reading of the Megillah, here, too, they would negate the machine because of the eyes of the poor, for from this they have *maot hittim*... This is hot air.

This brought us to laughter, for there, since they are reading the Megillah, and the

○ **Jewish Chronicle**

Cited by Hildesheimer and Liebermann, "The Controversy Surrounding Machine-made Matzot," p. 60. This argument also appears in "Nullifying the Warning."

עיקרה להזכיר ליתן מתנות  
לאביונים אינו בדין שיקראו  
אותה ולא יקיימו מה שכתוב  
בה...

main purpose of the Megillah is to remind people to give gifts to the poor, it is not proper that they read it (on Shabbat) but not observe what is written in it. [...]

אבל כאן עיקר העניין לאפית  
מצות לצאת בהם ידי חובת  
מצה. מה עניני לעניינים?  
ואם יהיה בני ביתו מרובים  
אשו אסור לאפות בלי עניים  
עוזרים לזה?

Here, however, the main thing is to bake *matzot* in order to fulfill the obligation of [eating] matzah, and how does this pertain to the poor? And if one's household is numerous, does it become forbidden for a person to bake *matzot* without hiring the poor to help?

Rabbi Nathanson mocks Rabbi Kluger's inference from the Talmud. He argues that the *mitzvah* of helping the poor is an essential component of reading Megillat Esther, but the *mitzvah* of matzah is simply to eat matzah. One does not need to go out of their way to involve poor people in the process, even if they would benefit from the wages.

1. Do you think this is a satisfactory response to Rabbi Kluger's argument?
2. Whose reading of Megillah 4b do you find more compelling? Why?

Another response to Rabbi Kluger's claim acknowledged that the harm caused to matzah workers was unfortunate, but the benefits of machine matzah outweigh it. Overall, machines would cause the price of matzah to go down significantly since much more could be produced.

A clear formulation of this argument appeared as a letter to the editor in a Jewish newspaper in England.

## SOURCE #22

**Anonymous letter, *Jewish Chronicle*<sup>o</sup> (March 12, 1859)**

It might be urged, and with good reason too, that several poor men will be thrown out of work. Quite true, but then thousands of poorer men would

be enabled to purchase bread with their own earnings, instead of receiving it as charity in its most humiliating form, and hundreds of the community, above receiving charity, would obtain the article at a fair price.

- » What's the best way to evaluate whether to prioritize cheaper matzah (through using machines), or the livelihoods of matzah bakers? Is it clear that one should take priority over the other?

One of the core themes against Rabbi Kluger was a mockery of his resistance to new technology. Below, one of his peers says that if he is against machine matzah because of the impact it has on workers, then he could just as well apply that argument to many other technologies.

### SOURCE #23

ביטול מודעה,  
רבי אליעזר הלוי הורוויץ

מאוד אני תמה למי טעמו שענייהם  
של עניים נשואות לזה למה לא  
יאסור המאשין שנתחדש להדפסת  
ספרי קודש? שהרבה פועלים בטלים  
ממלאכתם עבור זה! ואולי גם הוא  
חלילה נכשל בזה, והדפיסו ספרו  
על המאשין והוא "מעות אשר לא  
יוכל לתקן." ואם הוא מגודרי גדר  
יאסור את מאשינין הללו לפי סברתי.  
אך צחוק היא וללעג וקלם יהיה  
בסברותיו.

*"Nullifying the Warning,"*  
Rabbi Eliezer Horowitz (1859)

I greatly wonder regarding his [Rabbi Kluger's] reason that the eyes of the poor are turned to this. Why should we not forbid the newly invented machine for the printing of sacred books, as a result of which many workers have been put out of work? And perhaps he, too, erred in this, and printed his book on the machine, which is a "twisted thing that cannot be made straight" [Kohelet 1:15]. If he is one of those who enacts preventive measures, then that machine should also be prohibited in accordance with his reasoning, but his reasoning would be the subject of derision, scorn, and a laughingstock.

We can't always prohibit machines any time they displace a human being's job—clearly we would not ban the printing press! Similarly, matzah machines should also be embraced for their overall benefits.

1. Is this a valid critique of Rabbi Kluger's argument? How might he respond to this criticism?

○ **Sdei Hemed**  
 Rabbi Haim  
 Hezekiah Medini  
 (1813-1905) was  
 an important  
 rabbinic  
 authority who  
 published a  
 nine volume  
 encyclopedic  
 collection of  
*halakhah* called  
 Sdei Hemed.

2. Can the same argument be made in support of iTaxi?

#### IV. FINDING A MIDDLE GROUND

When it came to the conflict between cheaper matzah through machines, and the jobs of matzah bakers, there were halakhic authorities who aimed to find a middle ground. One such approach came from the Sdei Hemed.°

#### SOURCE #24

##### שדי חמד ה:2365

המודעה לבית ישראל  
 תודיענו כי לפי דעת הרב  
 הגאון ר' שלמה קלוגער  
 שלשה אבות איסורין לאפות  
 מצות על המאשין: (א) בגלל  
 העניים אשר עיניהם נשואות,  
 כי מן העזר שהם עוזרים  
 במצות יש להם סעד גדול  
 להוצאות הפסח המרובים.

לפי עניות דעתי נקל  
 להסיר הטעם הנראה לעיל  
 באמצעות איזה הוספה על  
 הקמח מכל פוד מצות, או  
 על כל בית אפיה, וההוספה  
 תחלק לעניים...

##### Sdei Hemed 5:2365

“A Warning to the Jewish People” informs us that according to the great sage, Rabbi Shlomo Kluger, there are three primary violations connected to baking matzah through machines. First, the poor look to this, since the help provided by *matzot* is of great assistance with the numerous expenses of Pesah.

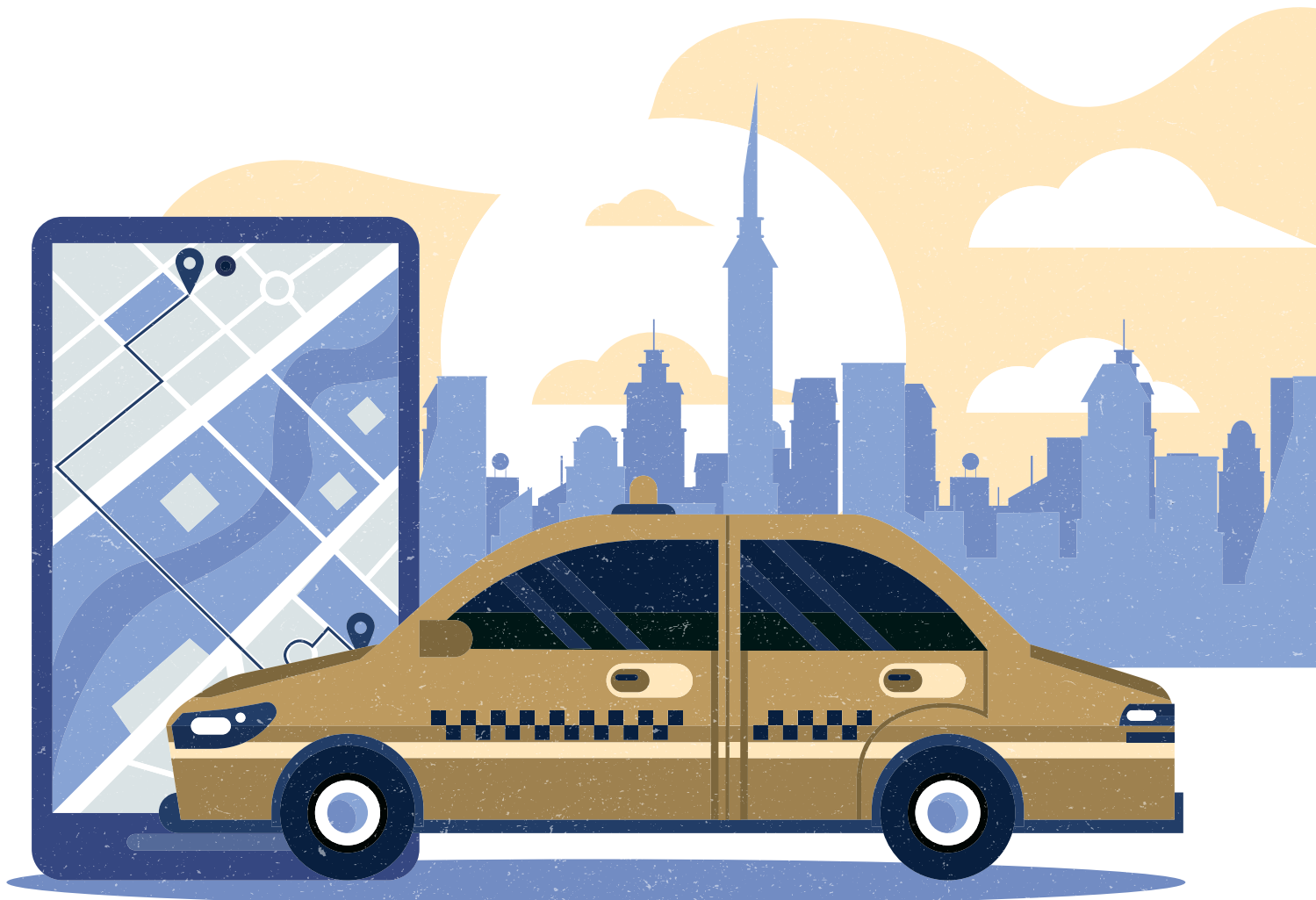
In my opinion, it's easy to remove this objection through an addition of flour from every pud [a measurement of weight] of *matzot* purchased, or from every matzah factory, and this addition would be distributed to the poor...

The Sdei Hemed is suggesting a tax. Machines should be adopted, which would lower the price of matzah. Then, an amount of flour—a tax for the poor—would be assessed for each *pud* of matzah that was purchased, or as a tax on each matzah factory.

1. Is this a win-win solution to the dilemma? Why or why not?
2. Can a similar solution be applied to our case—that a small fee would be added to each iTaxi ride, that could help support the taxi drivers? What are the benefits and drawbacks of this approach?

Take a step back

1. In what ways is our case similar to or different from the machine matzah dilemma facing rabbis in the 19<sup>th</sup> century?
2. What insights from the arguments above can be most easily applied to our case?




## UNIT 5

# Business Competition—What's Fair?


### ◦ Neighbor's boundary

”אָרױךְ מַטִּיג גִּבּוּל  
רֵעֵהוּ וְאָמַר כָּל־  
הָעָם אָמֵן.”

“Cursed be the one who moves a neighbor's landmark.—And all the people shall say, Amen.”

Devarim 27:17 

### ◦ Unfair way

Maharshal connects this phrase to the prohibition of business infringement. (Responsa of Maharshal #89 )

### ◦ Theft

This is the opinion of Rema, cited below. For a fuller discussion on the source of this prohibition, see the Encyclopedia Talmudit entry “יורד לאומנות חבירו.”

This final section considers a question essential to the case: What's the line between fair competition and unfair infringement on someone else's business? If a certain type of business already exists in a neighborhood, can another person establish a competing business?

These issues are often discussed under the rubric of הַטְּגַת גִּבּוּל (*hasagat gevul*, moving a landmark). The Torah forbids you from adjusting your neighbor's boundary line in order to make your own property bigger: אָרױךְ מַטִּיג גִּבּוּל רֵעֵהוּ (cursed is the one who moves their neighbor's boundary<sup>o</sup>). This *pasuk* (verse) is sometimes interpreted in a more general or metaphoric way, to include encroaching on someone else's business in an unfair way.<sup>o</sup> Others read the *pasuk* above more literally, and think that *hasagat gevul* just has to do with land. They categorize unfair competition under the general prohibition of theft<sup>o</sup> or as a separate rabbinic prohibition.

Secular laws that address these questions are complex and vary significantly by country. Below, we will see a number of perspectives from the Talmud and later halakhic authorities that take different factors into account when determining whether a new business can launch.

Before moving on to the texts below, take a couple of minutes to reflect on the following questions.

1. Should a company ever be prohibited from launching because it is unfair to an existing business?
2. If yes, what factors should be considered when determining whether business competition is fair or unfair?

### ○ Tannaim

Tannaim are the sages whose views are recorded in the Mishnah. Their views were codified by Rabbi Yehuda HaNasi in the Mishnah in the 3<sup>rd</sup> century CE. Amoraim are the sages who interpreted the Mishnah and whose views are recorded in the Gemara (approximately 200-500 CE).

### ○ Alleyway

An Israeli beit din understood that the modern equivalent of this term is a neighborhood.

### ○ Parsa

This unit of measurement is understood to be a couple of miles.

### ○ Look around

Rashi explains that due to the certainty that fish will go into the trap if they see the food inside, it is as if the fish are already in possession of the first person. Tosafot writes more starkly, that placing a second fishing trap is akin to theft. (Kiddushin 59b, עני המהפך בחררה)

## I. OPENING A COMPETING BUSINESS

The passage belows cites two debates—one among Tannaim<sup>○</sup> and one among Amoraim—regarding the questions above.

### SOURCE #25 □

#### תלמוד בבלי בבא בתרא כא:

אמר רב הונא האי בר  
מבואה דאוקי ריחיא,  
ואתא בר מבואה חברה  
וקמוקי גביה. דינא הוא  
דמעב עילוייה, דאמר ליה  
קא פסקת ליה לחיותי...

לימא מסייע ליה מרחיקים  
מצודת הדג מן הדג במלא  
ריצת הדג. וכמה? אמר  
רבה בר רב הונא עד  
פרסה.

שאני דגים דיהבי סיארא.

#### Talmud Bavli, Bava Batra 21b

Rav Huna said: There was a certain resident of an alleyway<sup>○</sup> who set up a mill. Another resident of the alleyway came and set up a mill nextdoor. The rule is that the first one may prevent the second from doing so, by saying: You are disrupting my livelihood...

Let us say the following ruling supports Rav Huna: One must distance fish traps from other fish traps, as far as the fish travel. And how much? Rabba bar Rav Huna says: Up to a *parsa*.<sup>○</sup>

(The gemara then rejects this comparison to Rav Huna's ruling:) Perhaps fish are different, as they look around<sup>○</sup> (and then follow the food into the trap).

The gemara tries to support Rav Huna's position about the competing mills, by comparing it to a case of competing fish traps. But ultimately it concludes that the cases are different. Setting a competing fish trap is more aggressive.

After failing to support Rav Huna from the fishing case, the gemara questions his position based on a contradictory passage.

מִיתִיבִי: עוֹשֶׂה אָדָם חֲנוּת בְּצַד חֲנוּתוֹ  
 שֶׁל חֲבִירוֹ וּמִרְחָץ בְּצַד מִרְחָצוֹ שֶׁל  
 חֲבִירוֹ וְאֵינוֹ יָכוֹל לְמַחֹת בִּידוֹ מִפְּנֵי  
 שֶׁיָּכוֹל לֵאמֹר לוֹ אַתָּה עוֹשֶׂה בְּתוֹךְ  
 שְׁלִי וְאֲנִי עוֹשֶׂה בְּתוֹךְ שְׁלִי.

Objection: A person may establish a shop alongside the shop of another, and a bathhouse alongside the bathhouse of another, and the other cannot protest, because the newcomer can say: You operate in your space, and I operate in my space.

Whereas Rav Huna ruled that a person *could* prevent someone from setting up a competing business, this ruling indicates the opposite—that a newcomer *does* have the right to set up a new business.

1. Which position do you think is more logical—that of Rav Huna, or this second opinion? Why?
2. What might Rav Huna respond to the argument that “You operate in your space, and I operate in my space”?

The gemara clarifies that this debate between Rav Huna and this other (unnamed) opinion is reflective of an earlier dispute between two Tannaitic positions.

תַּנָּאִי הֵיא, דִּתְנַיָא: כּוֹפִין בְּנֵי  
 מְבוֹאוֹת זֶה אֶת זֶה שְׁלֵא לְהוֹשִׁיב  
 בִּינֵיהֶן לֹא חִיט וְלֹא בּוֹרֶסְקִי  
 וְלֹא מְלָמֵד תִּינוּקוֹת וְלֹא אֶחָד  
 מִבְּנֵי בְּעָלֵי אוּמָנִיּוֹת, וְלִשְׁכְּנֵי אֵינוֹ  
 כּוֹפִיהוּ.

This was discussed by Tanaaim, as it was taught: The residents of an alleyway can prevent a tailor, a tanner, a teacher of children, or any type of artisan from working [if there is already someone in the alleyway with that type of business]. But one cannot compel their neighbor from doing so.

רַבֵּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר אִף  
 לִשְׁכְּנֵי כּוֹפִיהוּ.

Rabban Shimon ben Gamliel says: One can even compel their neighbor.

These Tannaim (the first unnamed, the second Rabban Shimon ben Gamliel) are having a similar debate about whether a person has the power to prevent someone else from starting a similar business. The opinions of Rav Huna and Rabban Shimon ben Gamliel seem to align.

The final opinion we will see is that of Rav Huna the son of Rav Yehoshua (note: the acronym RHRY will be used to distinguish this individual from the Rav Huna above). RHRY is an amora, like Rav Huna. RHRY argues with Rav Huna.

### Business

For example, Tosafot understands RHRy to be following the opinion of the Sages, and Rav Huna to be a minority opinion. (Bava Batra 21b, Peshita)

### Havat Ya'ir

Rabbi Yair Hayyim Baharāh (1639-1702) was a leading 17<sup>th</sup> century rabbinic authority. Havat Ya'ir is a collection of responsa for which he is most known, named after his grandmother Hava.

אמר רב הונא בריה דרב  
יהושע פשיטא לי בר  
מתא אבר מתא אחריתי  
מצי מעבב, ואי שייך  
בכרנא דהכא לא מצי  
מעבב. בר מבואה אבר  
מבואה דנפשיה לא מצי  
מעבב.

Rav Huna, son of Rav Yehoshua, says: It is obvious to me that a resident of one town can prevent a resident of another town from establishing a similar business. But if they pay the tax of that town, the first person cannot prevent them. The resident of an alleyway cannot prevent a resident of the same alleyway.

There is a debate between Rav Huna and RHRy about when a business owner can prevent a similar business from opening. The debate partially hinges on the identity of the second business owner.

**If the person lives in the same town:** RHRy says the second person has the right to open their business.

**If the person lives in a different town:** RHRy says the second person has the right to open their business, so long as the second business owner pays the local tax.

However, in both cases Rav Huna would prohibit the second business from opening.

## II. A CASE OF “GUARANTEED DAMAGE”

The majority opinion in the debate above is understood to be that of RHRy, against Rabban Shimon ben Gamliel and Rav Huna. In other words, you **may not** prevent someone else from opening a competing business.<sup>o</sup> This is how most later halakhic authorities rule (see Hoshen Mishpat 156 [□]). Here is how one 17th century authority sums up these debates.

### SOURCE #26 [□]

שו"ת חוות יאיר סימן מב  
יורד לתוך אומנות חבירו  
קיימא לן דמותר לכתחלה

### Responsa Havat Ya'ir<sup>o</sup> #42

It is completely permissible to compete with someone else's business, except if you live in

אם לא בבר מתא אחרית... והכי  
נהוג בכל תפוצות ישראל.

another town [and do not pay the local tax]. This is the  
custom of all Israel.

This passage sounds definitive, but reality is more complex! There are a number of cases where there is disagreement about this, even among earlier authorities.

For example, the Mordekhai writes that in a particular type of case, the *halakhah* follows Rav Huna, and it is possible to block a newcomer from setting up a business.

### SOURCE #27

**מרדכי**  
**מסכת בבא בתרא פרק לא יחפור**

ומבוי הסתום מג' צדדין רק בצד  
אחד יכנסו לו ודר ראובן אצל סופו  
הסתום. ובא שמעון לדור כנגד  
הצד הפתוח שאין העובד כוכבים  
יכול לילך אם לא ילך תחלה לפני  
פתח שמעון. נראה דיכול לעכב  
עליו כדבר הונא.

**Commentary of Mordekhai**  
**on Bava Batra 21b**

When an alleyway is closed on three sides and is open only  
from one entrance, and where Reuven lives [and already  
operates a mill] on the closed end and Shimon comes to  
live [and establish a mill] on the open end, so that potential  
customers cannot enter the alleyway without first passing  
Shimon's door, the law is that Reuven may prevent Shimon  
[from opening a mill], like the position of Rav Huna.

The Mordekhai explains that when a street only has a single entrance, Shimon (the newcomer) cannot establish their business in a spot that would *require* customers to walk past their business before reaching Reuven (the original business.) Presumably, in this type of dead end street, it is inevitable that Shimon would cause significant damage to Reuven's business.

1. Do you think it makes sense for this case to be an exception to the typical rules that permit competition? Why or why not?
2. Compare this case to the case of fish traps from Bava Batra 21b. In what ways is it similar or different?

### ○ Rema

Rabbi Moses Isserles (1530-1572), also known as the Rema, was a halakhic authority in Krakow. He is most well known for his comments on the Shulhan Arukh, which have had a great influence on the Ashkenazi Jewish community to this day.

### ○ Rabbi Meir of Padua

Rabbi Meir ben Isaac Katzenellenbogen (c. 1473-1565) was a leader of the Jewish community in Padua (Italy) and a halakhic authority of his generation.

### ○ Rabbi Moshe Feinstein

Rabbi Moshe Feinstein (1895-1986) was a preeminent halakhic authority of the 20<sup>th</sup> century. His most famous work is a collection of responsa called *Iggerot Moshe*. Born in Belarus, he moved to New York City in 1937 and led a yeshiva.

Two centuries later, the Rema<sup>○</sup> was faced with a complex question along these lines. The matter at hand was a controversy around publishing rights. Rabbi Meir of Padua<sup>○</sup> had taken tremendous effort to publish a corrected version of the Rambam's Mishneh Torah. Since Rabbi Meir did not own a printing press, he partnered with a Venetian printer named Aloizi Brogodin. However, this angered a rival printer named Marcos Ostinian, who wanted Rabbi Meir's business.

Ostinian was a wealthy aristocrat and retaliated by publishing his own version of the Mishneh Torah. To make matters worse, he sold it at a much reduced price, to hurt the sales of Rabbi Meir's edition. Since he was wealthy, Ostinian was able to accept this loss in order to settle the score.

Rabbi Meir brought his case to the Rema, asking him to prohibit anyone in the Jewish community from purchasing Ostinian's edition. The Rema ruled in favor of Rabbi Meir, noting the passage from the Mordekhai above in his first argument.

### SOURCE #28 □

#### שו"ת הרמ"א סימן י

ואם כן בנדון דידן נמי  
בריא היוקא הוא, כי  
היענשילומר השני נתן  
להכריז שכל ספר יוויל  
זהוב טפי מהגאון. ומי ראה  
זאת ולא יבא אליו לקנות  
ממנו. ויכול הוא להויל כי  
הוא מעשירי הארץ. לכן  
גם בדינינו הלכתא היא  
כרב הונא.

#### Responsa of Rema #10

If so, [that in the case of the dead-end, one cannot establish a new business in front of the existing one] then our case is also one of "guaranteed damage," since the second publisher was able to set a lower price than the scholar [Rabbi Meir]. And who would see this and not want to purchase the cheaper one? He was able to do this [offer such a low price] because he is one of the richest people in the country. Therefore, also in our case the *halakhah* follows Rav Huna.

The Rema rules in favor of Rabbi Meir, explaining that the logic of the Mordekhai also applies to this case. Later in the passage, the Rema writes in extremely harsh language about the consequences of violating his ruling, saying that anyone who does so should be excommunicated from the Jewish community.

In the 20<sup>th</sup> century, Rabbi Moshe Feinstein<sup>○</sup> ruled similarly. The case then was

about a “breakaway” synagogue that planned to open near an existing synagogue. This would have disastrous implications for the rabbi of the original synagogue, whose livelihood was connected to the membership of his synagogue.

### SOURCE #29

#### שו"ת אגרות משה חושן משפט חלק א סימן לח

הנכון לעניות דעתי שלא היה רשות  
לא להם ולא לשום אדם ליסד בית  
כנסת אחר במקום הסמוך, שעל ידי  
זה ודאי שהרבה מאלו שהיו הולכים  
אצלו כשלא היו מייסדים בית הכנסת  
האחר ילכו לבית הכנסת האחר  
שיסדו, דיש בזה איסור מהפך בחררה  
ויורד לאומנות חברו...

דבדבר שאין מקום לשניהם איכא  
איסור יורד לאומנות חברו אף לבר  
מאתיה אף לרב הונא ברי דרבי  
יהושע (בבא בתרא דף כ"א)...

ואף שעדיין נשארו אצלו אנשים  
שמתפללים שם כיון שהוקטן המנין  
כל כך עד שאין לו כדי חייו והוזל על  
ידי זה בית הכנסת שלו בהרבה מאד,  
הוא ודאי קפוח הפרנסה שאסור.

#### Iggerot Moshe, Hoshen Mishpat I:38

The correct response in my opinion is that these people do not have the right to establish a synagogue near the existing one, since certainly many people would attend this other synagogue. This will violate the prohibition of infringing on a person's livelihood...

In a case where there is insufficient business for both parties, there is a prohibition against infringing on the [first] person's business, even according to the position of RHRY (Bava Batra 21b).

Moreover, even if there are people who remain at the original synagogue— since the number of people who attend is reduced significantly to the point that he [the rabbi] cannot support himself through it, and the value of the synagogue is reduced significantly, certainly it is prohibited.

Rabbi Moshe Feinstein ruled that even if the original synagogue still had enough members to function as a synagogue, it was *still* prohibited for the second synagogue to launch. That's because the loss of membership would have a large effect on the rabbi's livelihood.

- » How does this ruling relate to our case, where the established drivers in Glendale would still be able to function, but would likely lose a significant number of their customers?

It's important to note that while the Rema and Rabbi Moshe Feinstein both base their arguments on the ruling of the Mordekhai above, not everyone agrees with this interpretation. Many authorities say that even in the dead-end case, the second business is allowed to launch. For example, the first source in this section (Havat Ya'ir) is of the opinion that competition would be allowed even in a case when there is "guaranteed damage" to the original business.

Take a step back

1. Which of these texts corresponds most directly with the facts of our case? How so?
2. Based on the discussion above, does iTaxi have a right to launch their business in Glendale? Why or why not?



# Appendix: Contemporary Perspectives

The selections below are suggested readings to broaden your understanding of the case. They include excerpts from news articles, research reports, and academic research. They are all linked if you would like to read them in full. These resources are provided for your enrichment; you are not required to include them in your arguments.

## 1. France moves against Amazon's cheap book deliveries

Politico EU | December 16, 2021 | Laura Kayali

Is there a downside to offering discounts that can't be matched by other competitors? The French Senate thinks so. Targeting Amazon in particular, they passed a law that would prevent online booksellers from offering free shipping. (Technically, this was already against the law in France, but Amazon had previously responded by charging one cent for book delivery.)

The goal of this legislation was to help protect small booksellers in France, who are unable to compete with Amazon's free shipping.

- Refer to the debate in Mishnah Bava Metziah 4:12 (source #4) between Rabbi Yehudah and the Sages—how do you think each would rule here? How about the Arukh HaShulhan Source #9)?

*PARIS — Amazon could soon be forced to raise its book delivery prices in France.*

*In a fresh swipe at the e-commerce giant, French senators unanimously adopted Thursday legislation that would stop Amazon from offering virtually free shipment for book purchases.*

*“One operator [Amazon] is currently offering almost free delivery of books, regardless of the quantity and the amount of the purchase, while no other player is able to provide such a bargain to readers,” Culture Minister Roselyne Bachelot told senators ahead of the vote, without naming the U.S. tech company.*

*The legislation adopted Thursday was initially drafted by the Senate and backed by President Emmanuel Macron. It aims to help brick-and-mortar shops compete with Amazon by requiring a minimum rate for book deliveries. The amount will be set by the economic and culture ministries...]*

## 2. Germany Says Wal-Mart Must Raise Prices

The New York Times | Sept. 9, 2000 | Edmund L. Andrews

The article below highlights how one government opted to protect small businesses that could not afford to offer the same low prices as larger companies. As you read the excerpt below, contrast the situation below with the conflict in our case. Consider how else the German government could have responded here. Do you think their actions here were warranted? What

might the texts in this sourcebook (particularly Units 1 and 2) recommend it proceed? (Note: Six years after this government action, Wal-Mart pulled out of Germany entirely.)

*“German competition regulators accused Wal-Mart Stores of being too competitive today, and ordered the giant retailer to raise its prices for household staples like milk, flour, butter, rice and cooking oil...”*

*After months of investigation, Germany’s federal cartel office accused Wal-Mart of inciting a price war in which it and two German supermarket chains illegally sold products below their wholesale costs. The regulators said they acted to prevent Wal-Mart and other big chains from using “unfair” tactics to devastate smaller stores. [...]*

*In its action today, the German cartel office accused Wal-Mart of what amounts to predatory pricing. “The benefit to consumers is marginal and temporary, while the damage to competition through illegal obstruction of small and medium-sized companies is lasting and significant,” said Ulf Boge, director of the cartel office.*

*But the case highlights the sharp contrast between German and American notions of competition, at least when it comes to stores.*

*German law is heavily tilted toward protecting small shopkeepers in the thousands of towns scattered across the country. Despite widespread unhappiness among many shoppers, federal laws still prohibit most stores from staying open past 8 p.m. on weekdays or opening at all on Sundays. Despite years of popular complaints about the restrictions, which have been championed by small-shop owners, Chancellor Gerhard Schroder dismissed proposals just last week that would have liberalized the rules.”*

### **3. Google AI Beats Doctors at Breast Cancer Detection—Sometimes**

The Wall Street Journal | Sept. 9, 2020 | Brianna Abbott

While the Glendale case is about self-driving taxis, it’s hardly the only industry affected by artificial intelligence. Even the most complex human jobs that require many years of schooling are being impacted by automation in significant ways. For example, the article below details an artificial intelligence system that is trained to do the work of radiologists, detecting cancer by analyzing images.

*Google’s health research unit said it has developed an artificial-intelligence system that can match or outperform radiologists at detecting breast cancer, according to new research. But doctors still beat the machines in some cases.*

*The model, developed by an international team of researchers, caught cancers that were originally missed and reduced false-positive cancer flags for patients who didn't actually have cancer, according to a paper published on Wednesday in the journal Nature. Data from thousands of mammograms from women in the U.K. and the U.S. was used to train the AI system. [...]*

*Radiologists and AI specialists said the model is promising, and officials at Google Health said the system could eventually support radiologists in improving breast-cancer detection and outcomes, as well as efficiency in mammogram reading.*

*"There's enormous opportunity, not just in breast cancer but more widely, to use this type of technology to make screening more equitable and more accurate," said Dominic King, the U.K. lead at Google Health. "It feels like this is another step towards this technology actually making a difference in the real world." [...]*

*The AI system was then tested on different mammograms of more than 25,000 women in the U.K. and 3,000 women in the U.S. from those datasets. The AI system reduced missed cases by 9.4% in the U.S. and 2.7% in the U.K. compared with the original radiologist diagnoses. It also reduced incorrect positive readings by 5.7% and 1.2%, respectively. [...]*

*The researchers then had six U.S. radiologists who didn't make the original diagnoses look at 500 U.S. mammograms and compared their responses with the AI system's. The radiologists also received the patients' history and past mammograms when available, while the AI system didn't. The AI system outperformed the average radiologist in determining whether the women would develop breast cancer.*

*While the AI system caught cancers that the radiologists missed, the radiologists in both the U.K. and the U.S. caught cancers that the AI system missed. Sometimes, all six U.S. readers caught a cancer that slipped past the AI, and vice versa [...]*

*"I found it sobering," said Ziad Obermeyer, acting associate professor of health policy and management at the University of California, Berkeley who studies machine learning and health and wasn't involved in the research. "I think this is a testament to how difficult the task is and how weirdly good humans are at it, even with some of the best data in the world."*

#### **4. The Future of Jobs Report 2020**

World Economic Forum | October 2020

Here are some of the key findings of this report that maps the jobs and skills of the future:

- Forty-three percent of businesses surveyed indicate that they are set to reduce their workforce due to technology integration. By 2025, the time spent on current tasks at work by humans and machines will be equal.

- We estimate that by 2025, 85 million jobs may be displaced by a shift in the division of labour between humans and machines, while 97 million new roles may emerge that are more adapted to the new division of labour between humans, machines and algorithms.
- The public sector needs to provide stronger support for reskilling and upskilling for at-risk or displaced workers. Currently, only 21% of businesses report being able to make use of public funds to support their employees through reskilling and upskilling. The public sector will need to create incentives for investments in the markets and jobs of tomorrow; provide stronger safety nets for displaced workers in the midst of job transitions; and to decisively tackle long-delayed improvements to education and training systems.

## 5. **Jobs lost, jobs gained: What the future of work will mean for jobs, skills, and wages**

McKinsey Global Institute | Nov. 28, 2017 |

*In an era marked by rapid advances in automation and artificial intelligence, new research assesses the jobs lost and jobs gained under different scenarios through 2030.*

- *Our key finding is that while there may be enough work to maintain full employment to 2030 under most scenarios, the transitions will be very challenging—matching or even exceeding the scale of shifts out of agriculture and manufacturing we have seen in the past.*
- *Our scenarios suggest that by 2030, 75 million to 375 million workers (3 to 14 percent of the global workforce) will need to switch occupational categories. Moreover, all workers will need to adapt, as their occupations evolve alongside increasingly capable machines. Some of that adaptation will require higher educational attainment, or spending more time on activities that require social and emotional skills, creativity, high-level cognitive capabilities and other skills relatively hard to automate.*

## 6. **Dueling Delis Need Solomon On Cedar Lane**

The New York Times | Feb. 14, 1993 | Michael Winerip

What happens when the laws of *hasagat g'vul* (fair business competition) are applied in modern times? The following article deals with a modern day conflict around a new kosher restaurant opening in an area that already had multiple kosher restaurants. Is this simply the free market at work, or could it be an inappropriate infringement on existing businesses?

Refer back to the sources on *hasagat g'vul* (Unit 5) to determine how to proceed, and what are the core questions that need to be answered from a halakhic standpoint.

*NOAM SOKOLOW is an entrepreneurial wonder. He began working the kosher catering circuit at age 12, saved his money, skipped college and four years ago, at 21, opened his own delicatessen, Noah's Ark, on Cedar Lane. It's popular among hip Orthodox Jews and is prospering where two delis before him failed. Friday, in the midst of a blizzard, 15 people waited for lunch takeouts...*

*Last summer Mr. Sokolow spied opportunity: A vacant building across the way that could seat three times as many customers. He decided to move Noah's Ark, his meat restaurant, there and open a kosher dairy restaurant at the smaller site where Noah's Ark had been.*

*Then the trouble began. Owners of five other kosher restaurants on Cedar Lane went to rabbinical court and demanded that Noah's Ark be enjoined from expanding, citing the ancient Jewish law on ruinous competition known as hasagat gvul. "We are not afraid of competition," these owners wrote. "We are only afraid of businesses opened to destroy us."*

*Mr. Sokolow tried to negotiate a settlement over what he'd be allowed to serve at his dairy restaurant. He nearly had a deal with Jerusalem Pizza. "I said, 'I won't serve any pizza, no falafel in exchange for your dropping the charges.' Then they threw in eggplant Parmesan, baked ziti, tuna melt. They wanted too much."*

*Ann Arfe, owner of Santoro's, a dairy restaurant that would be hard hit by Mr. Sokolow's new place, wrote the rabbis: "There is absolutely no need for another dairy restaurant in this area. Santoro's is a dairy, vegetarian, fish restaurant that caters to all price ranges and palates." This became known as the "our restaurant is more than enough" defense...*

*Mr. Sokolow had to submit to a Manhattan rabbinical court. Not to have done so would have jeopardized his kosher certification and cost him his Orthodox clientele. He was sure he'd win. He isn't a big chain. This was plain old American competition.*

*Wrong! Last fall, the rabbinical court permitted Noah's Ark to move to the larger location, but then shocked many here by refusing to let Mr. Sokolow open a dairy restaurant.*

## **7. Driverless taxis are coming to the streets of San Francisco**

The Associated Press | June 3, 2022

While it might seem that the Glendale conflict is many years away, the reality is that autonomous taxis are already being tested on our streets. Below is a news article detailing a recent update in the self-driving taxi industry. For the first time, driverless taxis are operating on streets *without* back-up human drivers present.

*California regulators on Thursday gave a robotic taxi service the green light to begin charging passengers for driverless rides in San Francisco, a first in a state where dozens of companies have been trying to train vehicles to steer themselves on increasingly congested roads.*

*The California Public Utilities Commission unanimously granted Cruise, a company controlled by automaker General Motors, approval to launch its driverless ride-hailing service. The regulators issued the permit despite safety concerns arising from Cruise's inability to pick up and drop off passengers at the curb in its autonomous taxis, requiring the vehicles to double park in traffic lanes.*

*The ride-hailing service initially will consist of just 30 electric vehicles confined to transporting passengers in less congested parts of San Francisco from 10 p.m. to 6 a.m. Those restrictions are designed to minimize chances of the robotic taxis causing property damage, injuries or death if something goes awry. It will also allow regulators to assess how the technology works before permitting the service to expand.*

*Cruise and another robotic car pioneer, Waymo, already have been charging passengers for rides in parts of San Francisco in autonomous vehicles with a back-up human driver present to take control if something goes wrong with the technology.*

*But now Cruise has been cleared to charge for rides in vehicles that will have no other people in them besides the passengers — an ambition that a wide variety of technology companies and traditional automakers have been pursuing for more than a decade. The driverless vehicles have been hailed as a way to make taxi rides less expensive while reducing the traffic accidents and deaths caused by reckless human drivers.*

## **8. The Controversy Surrounding Machine-made Matzot: Halakhic, Social and Economic Repercussions**

Meir Hildesheimer and Yehoshua Liebermann | Vol. 75 (2004) | Hebrew Union College Annual

For a thorough analysis of the machine matzah controversy referenced in the sourcebook, see this comprehensive article by Professors Meir Hildesheimer and Yehoshua Liebermann. The essay presents historical context and a full accounting of the various arguments cited on both sides of the debate.

*The present essay seeks to examine the annals of the historical controversy concerning machine-made matzot and its halakhic, social, and economic repercussions. More specifically, the study highlights the potential conflicts between halakhic considerations on the one hand and social and economic forces on the other. It is shown that under certain circumstances the conflict materialized into sharply opposing interests and positions, each supported by rival rabbinical leading figures.*

*From the historical perspective of approximately 165 years, it can be seen that the fierce opposition to mechanically produced matzot, as led by prominent contemporary rabbis, was doomed by the overwhelming social and economic changes of the modern era, which were already taking place when the initial controversy started. Nonetheless, in a sort of paradoxical historical process, the oppositional attitude did not vanish without leaving its imprint on the future. On the contrary, it*

*spurred a continuously improving production technology that has been developed to meet the strictest kashrut standards, as demanded even by the most zealous halakhists...*

*The research on the history of the controversy is organized into three sections. The first section delineates the historical background of the dispute. The second section delineates the controversy following the appearance of machine-made matzot, and the third section focuses on the economic considerations of the controversy.*