

Illegal Innovation

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Over the past 20 years firms have innovated by directly and explicitly engaging in illegal activity to innovate. Not all succeed, but when they do the results can be incredibly lucrative. Uber, Youtube, and Grokster launched their platforms on business models of varying degrees of illegal conduct. Youtube succeeded, Uber may succeed, and Grokster failed. The stories of these companies--and many others in domains ranging from cryptocurrency to pharmaceuticals--raise three questions. First, why did some succeed and others fail? Second, should some have succeeded and others failed? And third, ought companies be allowed to engage in illegal innovation, even when it has clear and direct welfare-enhancing effects? This Article attempts to sketch preliminary answers to these questions, which have profound effects from sectors to real estate to medicine. It argues that some baseline rate of illegal innovation is desirable, but it must be supplemented through vigorous monitoring and enforcement schemes.