

Ground Transportation Issues: Navigating Political, Financial and Legal Minefields

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Ground Transportation Issues

Navigating Political, Financial and Legal Minefields Relating to Rail/Bus Access, TNCs, and App-Based Car Rental Operations

Speakers

- ▶ *Sheryl Bregman – SFO*
- ▶ *Timothy Daze - LAWA*
- ▶ *Peter Pierotti – Albuquerque*
- ▶ *Dan Reimer*

2012-2013: App-Based Services Landed on Airport Roadways

- For decades, airport commercial ground transportation was fairly stable.
- The mode of transportation now known in California as Transportation Network Companies (TNCs), arrived at airports.
- App-based car rental businesses begin operations at airports.



2013-2014: New Frontier for Regulation

- The California Public Utilities Commission (CPUC) takes on regulation of TNCs.
- The CPUC determines TNCs are *not* “rideshares” within the meaning of California law because they are for-profit enterprises.
- SFO issues pilot permits to TNCs with a new technology component to allow TNC vehicles to operate on airport roadways without a transponder or other commercial vehicle tracking device.
- SFO develops a permit for app-based rentals, allowing for different on-airport transportation options for car owners and car renters.
- FlightCar refuses to sign the permit and litigation ensues on the basis of unfair competition.

2015: Regulation Sets In

- SFO develops the App-Based Commercial Transportation (ABCT) management system to monitor TNC activity on the roadway for trip fee charges and traffic enforcement.
- AAAE/ARDF makes the ABCT management system available for other airports.
- FlightCar litigation is settled. FlightCar executes an off-airport rental car permit at SFO and begins regular operations.

2017: Challenges Continue

- SFO experiencing extraordinary road congestion primarily due to the growth in TNC activity.
- SFO starts considering alternatives for TNC curbside operations.
- Relay Rides, purchased by Turo, cancels its off-Airport rental car permit but continues operations at SFO; SFO issues cease and desist notices.

2019: Landside Today

- TNCs account for over 75% of commercial vehicle transportation at SFO, with annual revenues exceeding \$50 million.
- SFO has moved TNC pickups for domestic terminals to the central garage and international terminal operations to an outside curb.
- Ongoing litigation with Turo; non-permitted operations continue.

Los Angeles International Airport

- ▶ Timothy Daze, LAWA

App Based Car Rental Legislation

- Web Based Platforms that link the owner of a car with someone that wants to drive it.
 - ▶ Commonly referred to as “Car Sharing” or “Peer-to-Peer (P2P) Car Sharing”
- Manifestations
 - ▶ Turo
 - ▶ Car2Go
 - ▶ Getaround
 - ▶ Enterprise CarShare
 - ▶ Zipcar

App Based Car Rental Legislation

→ Issues

- ▶ P2P Companies contend activity is a social media sharing initiative
- ▶ Airports and Rental Car Companies contend P2P is a car rental business
 - Big business commercial activity
 - Not peer to peer, not sharing
- ▶ Platforms disregard taxes and fees imposed generally on car rentals
- ▶ Platforms disregard airport concession arrangements with rental car companies
- ▶ Absent legislation, auto insurance coverage is questionable
- ▶ If “car sharing” is successful at undermining these requirements, traditional car rental companies will follow suit.

App Based Car Rental Legislation

- Both Rental Car and Car Sharing Interests have promoted legislation in numerous states
 - ▶ Turo
 - ▶ American Car Rental Association (ACRA)
 - ▶ Enterprise Car Rental
- Insurance Companies have allied with Turo
 - ▶ Allstate
 - ▶ State Farm

App Based Car Rental Legislation

→ Legislation Activity

- ▶ “Peer to Peer” bills have been introduced in a majority of states, but few have passed.

→ Laws which have passed

▶ Colorado

https://leg.colorado.gov/sites/default/files/documents/2019A/bills/sl/2019a_sl_391.pdf

▶ Maryland <https://legiscan.com/MD/text/SB743/id/1804158>

- <https://www.autorentalnews.com/304227/maryland-passes-bill-regulating-peer-to-peer-rentals>

▶ Ohio <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-166>

▶ Indiana <https://trackbill.com/bill/indiana-house-bill-1362-peer-to-peer-vehicle-sharing/1627244/>

App Based Car Rental Legislation

→ Take-a-ways

- ▶ Find out what is going on at your state's legislature
- ▶ Alert your management and legislative liaison about the importance of the legislation
- ▶ Take steps to ensure that airport friendly clauses are included in proposed legislation
- ▶ Work with elected officials to sponsor airport friendly legislation

App Based Car Rental Legislation

Indiana Airport Friendly Legislation

IC 24-4-9.2 Sec. 19.

(a) Except as otherwise provided in subsection (b), a county, a municipality, or another political subdivision (as defined in IC 36-1-2-13) of the state may not enact or enforce an ordinance, resolution, policy, or rule to regulate P2P vehicle sharing.

(b) A board of an airport authority or a board of aviation commissioners may enact or enforce an ordinance, resolution, policy, or rule to regulate P2P vehicle sharing.

App Based Car Rental Legislation

→ Ohio Airport Friendly Legislation

(B) The operator of a public-use airport may adopt reasonable standards, regulations, procedures, and fees that are applicable to peer-to-peer car sharing programs. The operator may enter into such agreements, including concession agreements, with a peer-to-peer car sharing program. A peer-to-peer car sharing program, shared vehicle owner, and shared vehicle driver shall comply with any applicable standards, regulations, procedures, fees, and agreements adopted by a public-use airport, and shall pay any applicable fees in a timely manner.

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-166>

→ Maryland Legislation

18.5–106. In accordance with § 5–408 of this article, a peer-to-peer car sharing program must have a concession fee agreement with the Maryland aviation administration to operate at an airport in the state.

App Based Car Rental Legislation

→ Colorado Airport Friendly Legislation

6-1-1214. Enabling operation at airport.

(1) A CAR SHARING PROGRAM SHALL ENTER INTO AN AIRPORT CONCESSION AGREEMENT BEFORE ENABLING CAR SHARING AT THE AIRPORT, UNLESS THE AIRPORT EXPLICITLY AND IN WRITING WAIVES THE RIGHT TO REQUIRE AN AGREEMENT.

(2) A CAR SHARING PROGRAM IS ENABLING CAR SHARING AT AN AIRPORT IF THE CAR SHARING PROGRAM OR A SHARED CAR OWNER USES THE CAR SHARING PROGRAM TO:

(a) LIST VEHICLES PARKED ON AIRPORT PROPERTY OR AT AIRPORT FACILITIES;

(b) CONTRACT FOR TRANSPORTATION TO OR FROM AIRPORT FACILITIES;

(c) FACILITATE THE USE OF A SHARED CAR TO TRANSPORT AIRPORT PASSENGERS ON OR OFF OF AIRPORT PROPERTY; OR

(d) PROMOTE OR MARKET A SHARED CAR TO TRANSPORT AIRPORT PASSENGERS ON OR OFF OF AIRPORT PROPERTY.

(3) AN AIRPORT CONCESSION AGREEMENT MAY IMPOSE THE TAXES AND FEES THAT ARE IMPOSED ON OTHER CONCESSIONAIRES OPERATING AT THE AIRPORT.

(4) IF A CAR SHARING PROGRAM FAILS TO OR REFUSES TO ENTER INTO AN AIRPORT CONCESSION AGREEMENT, THE AFFECTED AIRPORT MAY SEEK AN INJUNCTION PROHIBITING THE CAR SHARING PROGRAM FROM OPERATING AT THE AIRPORT AND MAY SEEK DAMAGES AND PUNITIVE DAMAGES AGAINST THE CAR SHARING PROGRAM.

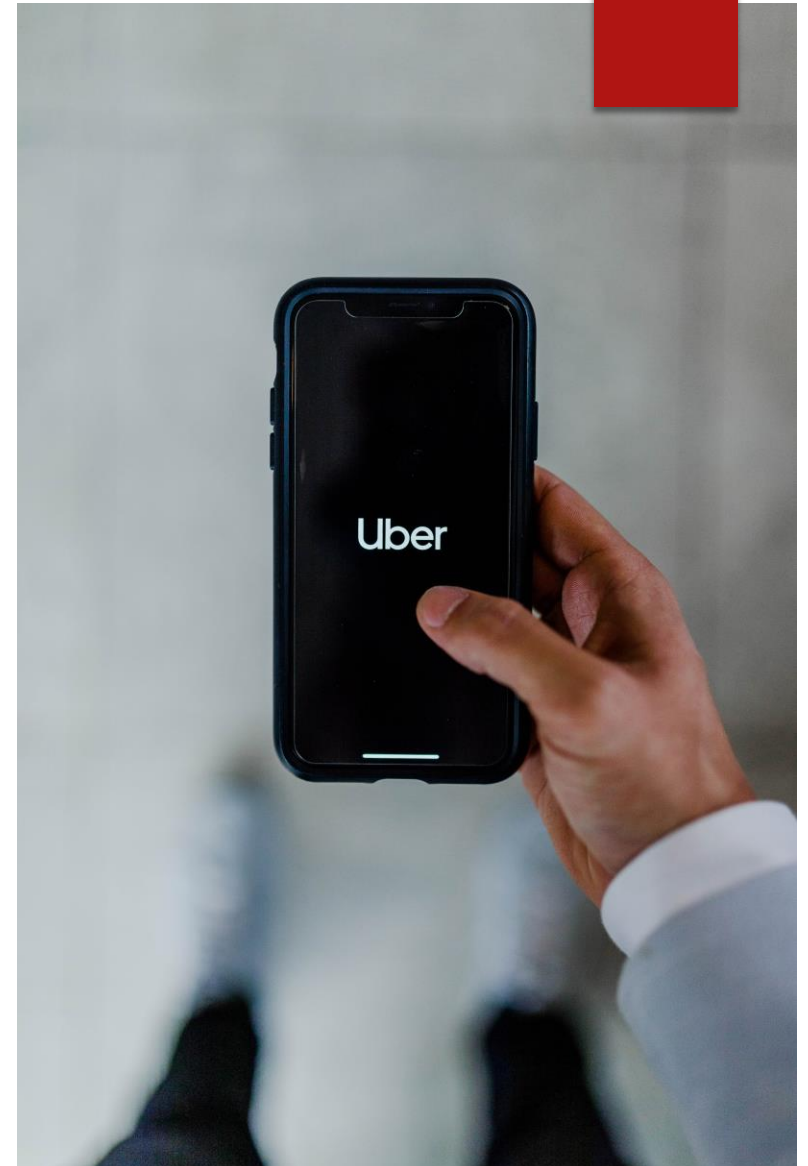
Pop Quiz

1. How many passengers flew on U.S. airlines in July 2019?
 - A. 56 million
 - B. 67 million
 - C. 78 million
 - D. 89 million



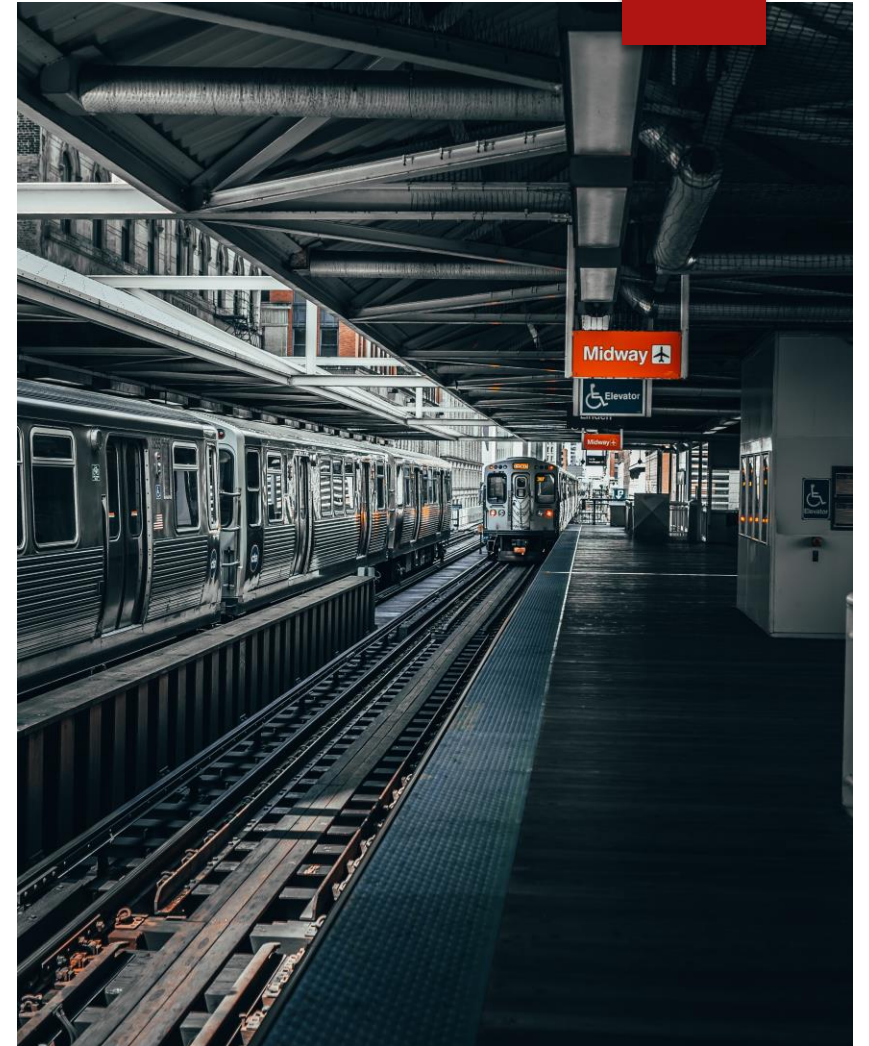
Pop Quiz

2. What was Uber's profit/loss in the second quarter of 2019?
- A. \$5.2B
 - B. \$2.6B
 - C. \$0
 - D. (\$2.6B)
 - E. (\$5.2B)



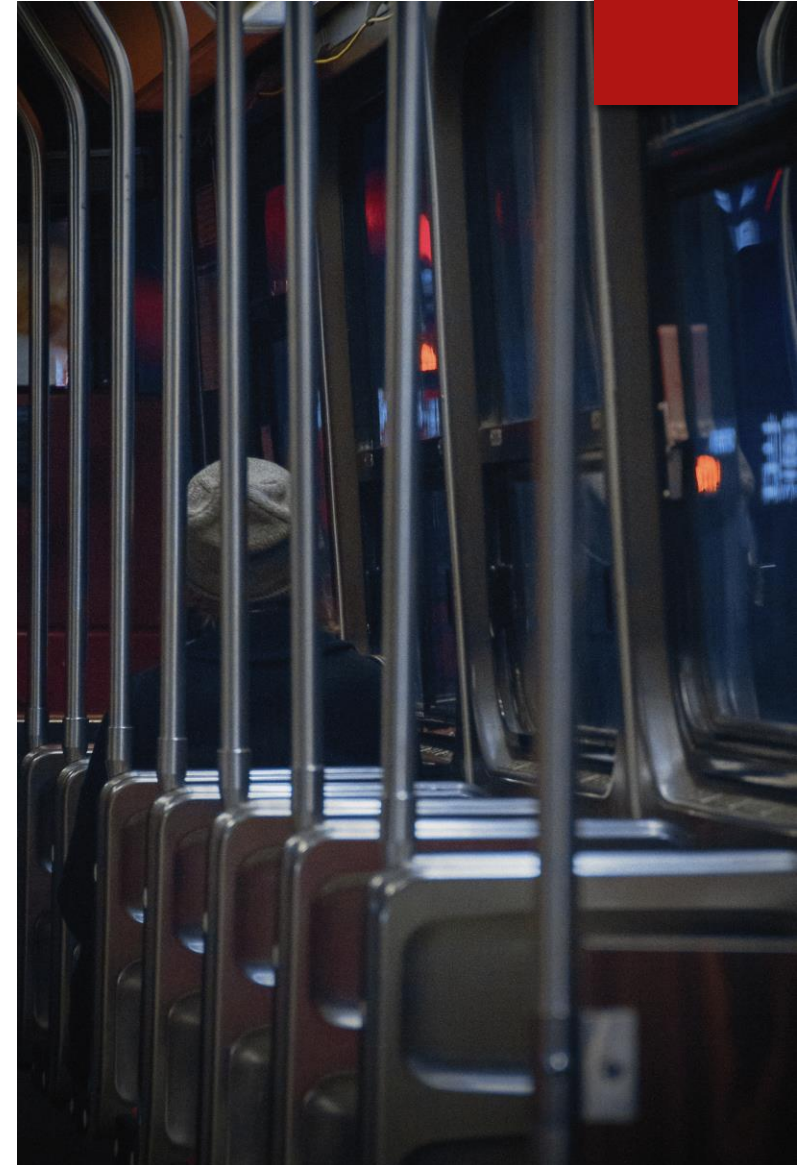
Pop Quiz

3. What percentage of U.S. large hub airports have (easy) commuter rail access?
- A. 50%
 - B. 60%
 - C. 70%
 - D. 80%

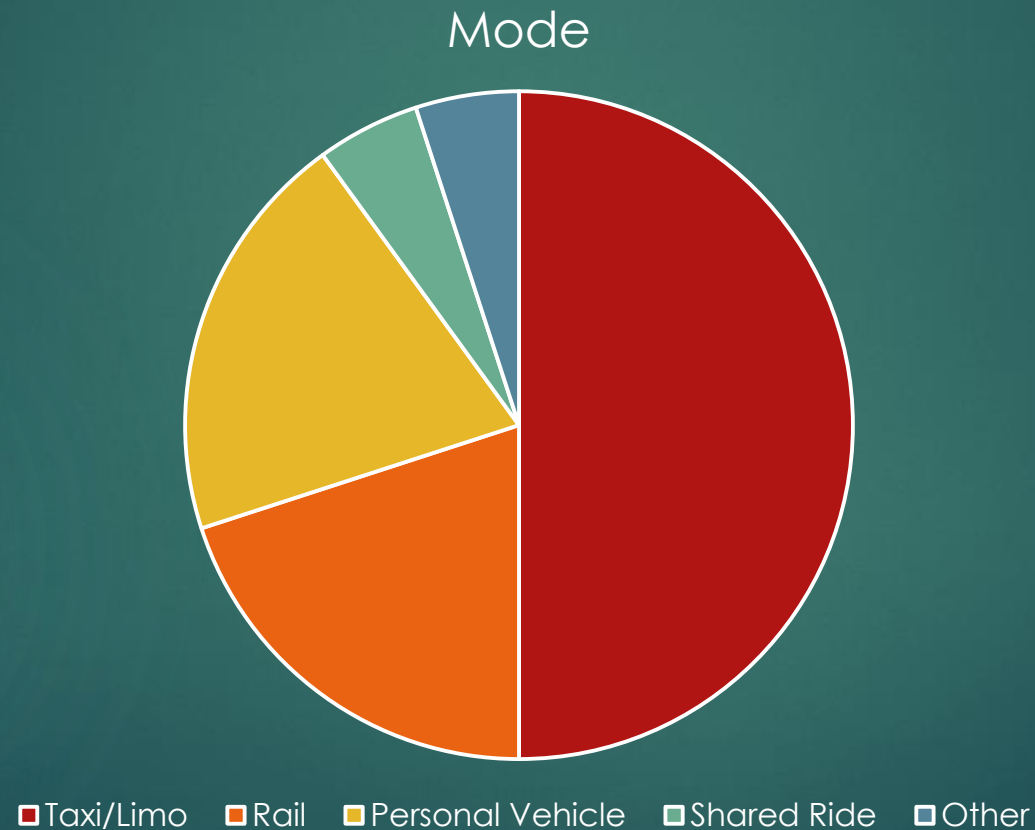


Pop Quiz

4. What was the increase/decrease in public transportation ridership from 2017 to 2018?
- A. +5%
 - B. +2%
 - C. 0
 - D. -2%
 - E. -5%

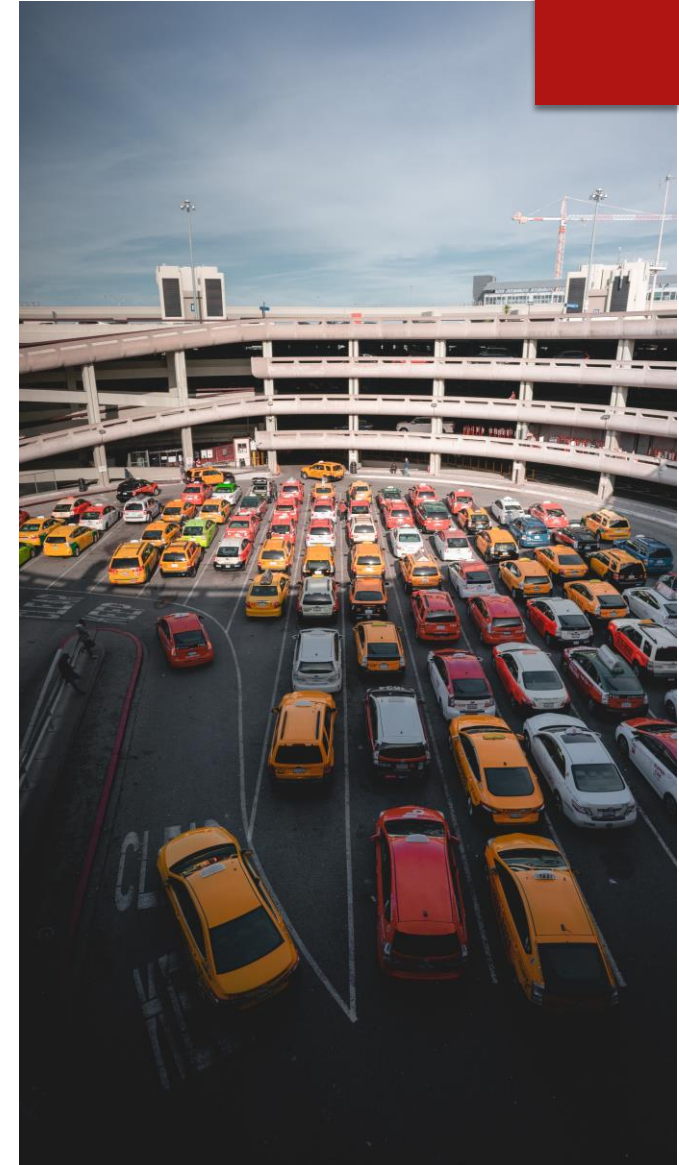


Pre-TNC Mode Choice (urban, large hub airport)



Mode Choice Today

- ↓ Taxi
- ↑ For-hire, app-based
 - ▶ On-demand ride-hailing (TNCs)
 - ▶ Car-sharing (ex. Turo)
- ↑ Mass transit
 - ▶ Rail
 - ▶ Bus
- ↓ Limo
- ↓ Personal vehicles
- ↓ Shared-ride shuttle
- ↓ Rental car



Potential Future Options



Autonomous/connected vehicles



Next phase of for-hire, on-demand, ride-hailing



High speed and inter-city rail



Personal rapid transit



Hyperloop



Alternate technology (ex. Arrivo)

Denver and Colorado's All-of-the-above Strategy

- ▶ New Capital Projects
 - ▶ New DEN parking structure (2015)
 - ▶ RTD University of Colorado A Line (2016)
 - ▶ Pena Boulevard improvements (2019)
 - ▶ DEN Real Estate
- ▶ Partnerships
 - ▶ Hyperloop
 - ▶ Panasonic
 - ▶ MobilityNEXT
 - ▶ Arrivo
- ▶ TNC Regulation

Airport owner's influence (past)

- ▶ Permitting
- ▶ Rulemaking
- ▶ Compensatory ratesetting
- ▶ Construction of capital improvements
 - ▶ Hold lots
 - ▶ Curb
 - ▶ Wayfinding

Airport owner's influence (going forward)

- ▶ Relocating TNC pickup/drop-off locations
- ▶ PIN feature
- ▶ Rate adjustment
- ▶ Further rulemaking and permit conditions
- ▶ Capital improvement planning
- ▶ Future-proofing facilities
- ▶ Involvement in state legislative efforts
- ▶ Exercising power to withhold access and/or grant monopolies