

How Ridesourcing went from 'Rogue' to Mainstream in San Francisco

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DRAFT



Transforming Urban Transport – The Role of Political Leadership

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Introduction

The advent of GPS, reliability of wireless internet, widespread usage of social media, and growing ubiquity of smartphones have given rise to a controversial new mode of urban transport that we label ‘ridesourcing.’¹ Ridesourcing occurs where travelers, using smartphone apps providing real-time location and navigation information summon and pay for point-to-point rides supplied by non-professional drivers of private vehicles.² While its full effects on urban mobility are largely unknown, ridesourcing is intensely debated around the world (see Appendix I for summary). However, few can dispute that ridesourcing is a notable transportation innovation, featuring what Garrison and Levinson call the “silver bullet” combination of new technology plus scale economies, from which virtually all major changes in transportation arise.³ Smartphones and a smart matching algorithm efficiently guide drivers to waiting passengers. Drivers are attracted by the promise of revenue with no additional investment (though they do incur operating costs). Passengers flock to the service, attracted by its reliability (and often lower price) in relation to taxis, and by the convenience of point-to-point service relative to mass transit. Ridesourcing companies use demand-based pricing and passenger-driver ratings to improve driver and passenger experience. The more passengers and drivers use the service, the lower the waiting times, attracting more of both.

The emergence of ridesourcing has already disrupted the taxi industry, driving many companies to rebrand themselves and adopt many of the features that make ridesourcing successful, such as electronic dispatch, electronic payments, driver ratings, and app-based hailing. Only five years after their founding in San Francisco, companies like Uber and Lyft have raised billions of dollars from private investors,⁴ obtained regulatory legitimacy in many jurisdictions, launched services in more than 300 cities worldwide,⁵ enlisted hundreds of thousands of drivers,⁶ and

¹ Lyft and Uber call their services “ridesharing,” but the term is inaccurate. Unlike ridesourcing, ridesharing is not conducted for profit and trips are incidental to the driver’s other trips, like carpooling. In ridesourcing, in contrast, drivers operate for profit, irrespective of their own destinations. The popular press often uses the term “ride-hailing,” but this could also apply to apps used to summon traditional taxis. We prefer “ridesourcing,” which we define as smartphone app-based ride services, offered for profit, not incidental to the driver’s trips, using personal vehicles.

² Uber offers several options, which differ in each city. UberX, UberPop and UberPool, which rely on non-professional drivers and allow drivers to use their own vehicle, fit the definition of ridesourcing, while UberBlack and UberTaxi are not technically ridesourcing because they use professional drivers and dedicated vehicles.

³ Garrison, William L., and David M. Levinson. 2014. *The Transportation Experience: Policy, Planning, and Deployment*. Oxford University Press.

⁴ Uber, by far the largest of the three companies, is currently valued around \$50 billion dollars, making it the second highest valued tech company based in San Francisco. By comparison, Twitter is valued at \$23.9 billion. Many believe Uber is overvalued, but even with a 50 percent discount it would remain one of San Francisco’s most valuable companies. At the time of this writing, Uber has received \$6.9 billion dollars from investors, Lyft \$1 billion and Sidecar \$35 million. (source: Crunchbase.com and <http://www.economist.com/blogs/graphicdetail/2015/07/daily-chart-mapping-fortunes-silicon-valley>).

⁵ As of June 2015, Uber had launched ridesourcing services in 300 cities worldwide. Lyft operated in 60 US cities and Sidecar in 10. Source: <http://blog.lyft.com/posts/2014/4/23/lyft-launches-24-cities-in-24-hours-on-the-24th>. <https://www.side.cr/about/> <https://newsroom.uber.com/2015/06/5-years-travis-kalanick/>

developed an enviable base of highly satisfied customers whose ranks continue to swell. According to a June 2015 national tracking poll, 12% of registered voters in the United States used Uber or Lyft applications “at least once a month,” and 3% “almost every day.”⁷ In urban areas, 21% reported using Uber or Lyft at least once a month. In the San Francisco Bay Area, the figures are even more impressive. By 2014, the yearly San Francisco Municipal Transportation Agency (SFMTA) survey reported that 25% of San Francisco residents used ridesourcing services at least once a month, compared to 19% that used taxis as frequently.⁸ In the Bay Area counties including San Francisco, ridesourcing accounts for an estimated 50,000 trips every day, compared to 22,000 by taxi. These achievements appear particularly remarkable in light of the fact that ridesourcing companies have been in the market for little more than five years, and that their services are available only to those with credit cards and smart phones.

In nearly every city that Uber, Lyft, Sidecar, and other ridesourcing services have entered, operators have faced an uphill battle, in large part because ridesourcing violated existing regulations and produced pushback from regulators and governing officials. As such, the arrival of ridesourcing companies has also raised a series of public interest questions about liability, accountability, worker protections, and fair competition with taxis and limousines. For these and other reasons, established taxi interests, usually joined by local regulators, have fought ridesourcing tooth and nail. Outside the U.S., cities with stronger regulatory traditions, more robust alternatives to automobile-based mobility, and highly organized taxi industries, like Paris and Seoul, have entirely banned ridesourcing services.⁹ Even in the US, where the prevailing culture and institutional structures tend towards greater skepticism of regulation and embrace of entrepreneurship, the reception has at times been similar. For example, Portland, San Antonio, and Broward County (Fort Lauderdale)¹⁰ have cracked down on ridesourcing services, while Seattle and New York,¹¹ have attempted to adopt regulations intended to seriously constrain ridesourcing growth.

⁶ According to the Taxi, Limousine, and Paratransit Association, there are about 171,000 taxis in the U.S. Since about as many people use Uber and Lyft as taxis, and Uber and Lyft drivers are more likely to work part-time, it’s plausible ridesourcing companies have hundreds of thousands of drivers. A study commissioned by Uber claims that the company had more than 160,000 active drivers in the United States at the end of 2014. “Active” in this study refers to completing at least four trips in one month (Hall and Kruger, 2015, p. 1-2). The same study claims that between 2012 and 2014, the number of Uber drivers more than doubled every six months (ibid. p. 13). According to the New York City Taxi and Limousine Commission, in March 2015, Uber had 14,088 black car vehicles in New York, more than the 13,587 licensed medallion taxis in the city. This does not count UberX (ridesourcing) vehicles, which represent the vast majority of Uber’s vehicles. <http://nypost.com/2015/03/17/more-uber-cars-than-yellow-taxis-on-the-road-in-nyc/>.

⁷ http://morningconsult.com/wp-content/uploads/2015/06/150505_crosstabs_mc_v2_AD.pdf, pg 23-26.

⁸ <https://www.sfmta.com/about-sfmta/reports/travel-decision-survey-2014> <https://www.sfmta.com/about-sfmta/reports/travel-decision-survey-2013>.

⁹ <http://blogs.wsj.com/korearealtime/2014/07/21/seoul-moves-to-ban-uber-plans-own-app/>;
http://www.nytimes.com/2014/12/16/business/international/france-says-it-will-ban-ubers-low-cost-service-in-new-year.html?_r=0; <http://www.reuters.com/article/2015/06/25/us-france-uber-idUSKBN0P50RX20150625>

¹⁰ <http://www.sun-sentinel.com/local/broward/fl-broward-threatens-uber-20150727-story.html>

¹¹ In New York, Mayor de Blasio introduced a City Council bill that would temporarily cap the number of new for-hire vehicles, including Uber vehicles, while the city studied their effect on congestion. The mayor dropped the proposal after it provoked opposition from Uber supporters, who included Governor Andrew Cuomo, and after Uber agreed to provide the city data for its study. (<http://www.nytimes.com/2015/07/23/nyregion/de-blasio->

Against this backdrop, the case of San Francisco stands out. It is where ridesourcing as a serious business began, and where a permissive regulatory structure first evolved. The regulatory pattern first worked out there has since set the tone for many other large U.S. cities. Also noteworthy is the fact that this evolution occurred relatively quickly and with minimal damage to the emerging industry.

Uber launched initially, in 2010, as an app exclusively using professional drivers of fully licensed limos. Uber's entry to the market raised few eyebrows in regulatory agencies. When Lyft and Sidecar subsequently launched as ridesourcing platforms, in 2012, the governmental response was much different. City and state regulators initially deemed ridesourcing illegal, viewing Lyft and Sidecar as types of taxi or limo services, and focusing on the fact that their drivers and vehicles lacked taxi medallions or limo licenses. Served with cease and desist orders from local and state regulators, Lyft and Sidecar carried forth undeterred. The cease and desist orders ultimately went unenforced, and Uber reacted by launching its own ridesourcing service, UberX.

In late 2013 the California Public Utilities Commission, permitted ridesourcing companies under a new regulatory category, Transportation Network Companies, enabling them to add drivers and vehicles without limit and to determine fares, as long as they met, monitored, and enforced minimum requirements. Within less than a year, ridesourcing had become both established and legal. Since then, many of the strategies first put in place in San Francisco have been replicated and refined in other cities, resulting in regulatory changes in 22 states based on California's example.¹²

In the upcoming pages we discuss the political actors and institutions involved in turning ridesourcing in San Francisco from a rogue operation to mainstream service. Popular accounts have often focused on the companies' lobbying skills and their tactic of rallying passengers and drivers to sign petitions, contact government officials, and attend public meetings.¹³ Yet such an explanation is far from sufficient. In San Francisco in 2012-2013 the companies' lobbying "muscle" was not as developed as it is now. In this case, we will show that while lobbying and user organizing were important to the successes of ridesourcing, so too were the responses and strategic moves of a range of public sector actors, both elected and appointed, who pursued their own set of interests.

Furthermore, a set of contextual forces and conditions particularly salient in San Francisco were critical, most notably the following: (1) mounting public frustration over serious shortcomings of the taxi system, (2) the widespread availability of new and user-friendly communications technologies that were familiar to a wide range of transportation users, and (3) city hall's

[administration-dropping-plan-for-uber-cap-for-now.html?_r=0](#)). The Seattle story is detailed in the concluding sections of this case study.

¹² As of July 2015, many cities as well as these 22 states had adopted regulations similar to California's, and ridesourcing has spread widely (in the face of varying levels of resistance) around the world.

¹³ See, for a good example, http://www.washingtonpost.com/politics/uber-pressures-regulators-by-mobilizing-riders-and-hiring-vast-lobbying-network/2014/12/13/3f4395c6-7f2a-11e4-9f38-95a187e4c1f7_story.html

growing embrace of new technology companies as key drivers of San Francisco’s prosperity and growth.

There are several major groups of actors in this story—local transport and tech industry interests, career transport regulators, and their political superiors, both elected and appointed. The line between the private and public sector is complex in San Francisco, because tech executives and other corporate leaders often occupy seats on local planning bodies and quasi-public entities, and many public officials share the perspectives and goals of local business leaders. But public officials often have to choose between private sector interests, and that was very much so in this case. We shall focus particularly on the central roles of San Francisco’s mayor, Ed Lee, and the President of the California Public Utilities Commission (CPUC), Michael Peevey.

Mayor Lee’s office shielded ridesourcing operators from regulatory crackdowns from the San Francisco Municipal Transportation Authority (SFMTA), while shepherding the issue away from the local arena to the state level, where it found a far more receptive regulatory environment. At the state level, Public Utilities Commission (CPUC) President Peevey thwarted regulators in the Safety and Enforcement Division, the group responsible for issuing cease and desist notices to ridesourcing companies as well as following up with citations. Peevey led the CPUC in creating a new regulatory category, “Transportation Network Companies” (TNCs), with rules that protected basic consumer safety but effectively legitimized the once rogue ridesourcing services. The city never challenged the state over regulatory jurisdiction of the emerging service.

In part, California’s choices reflected the political influence of the technology industry in the San Francisco Bay Area. More generally, however, the key decision makers viewed ridesourcing as a potentially transformative model for enhancing public mobility while strengthening San Francisco’s brand: technology and innovation. The next section portrays the context in which ridesharing arose. Subsequent sections tell the story of *who* clashed over ridesourcing and *how* ridesourcing companies went from being stymied by intense resistance from a deeply entrenched taxi lobby and career regulators to winning a new regulatory categorization with the active intervention of political leaders that allowed them to operate legally.

San Francisco, a City Where “You Couldn’t Get a Cab”

By 2010, many San Franciscans had come to consider their city as one where “you couldn’t get a cab.” A 2001 report commissioned by the San Francisco Planning and Urban Research Association (SPUR), reported that passengers calling on the phone for a cab had only a 40% chance of actually getting a ride.¹⁴ A similar study conducted at the end of 2005 concluded that while taxicab availability was adequate at hotel stands and around the SFO airport, “phone reservations did not meet the response time goals set by the (Taxi) Commission.” 46% of the taxis dispatched took longer than 30 minutes to arrive at the traveler pickup point.¹⁵ At the same time, San Francisco taxi fares ranked “second highest in the country and fourth highest for long trips.”¹⁶

Jordanna Thigpen, who served as Executive Director of the city’s Taxi Commission in 2008-2009, recalls frequently receiving calls in the middle of the night from friends and family who could not get a cab. Racial minorities and other marginalized groups were especially underserved. She elaborated, “We did studies that showed taxis ‘never went out to Bayview,’” a neighborhood in San Francisco’s far southeastern corner that houses the city’s largest black population. “These communities didn’t have a voice. Elderly and disabled people... couldn’t get a cab.” Charles Rathbone, a taxi company manager, added: “There wasn’t very much that I could do about it. We were blowing 50,000 orders a month at Luxor Cab because we just couldn’t fulfill them. They would come through our dispatch system and they were lost. You know, we just couldn’t cover them.”

Taxis should have been an important mode of travel in San Francisco, given the city’s relative affluence combined with compactness, low car ownership levels, and very high parking prices. The only U.S. city with a stronger taxi street hail market is New York.¹⁷ However, non-motorized modes (walking, bicycling) and public transit lag as alternatives, the former due to the city’s hilly topography and the latter due to the limited reach and capacity of existing networks.¹⁸

¹⁴ Of 588 test calls made, 170 were not even answered, and 20 callers were told there was no cab available. Of the remaining calls, just 237 cabs arrived, and there were 161 ‘no shows.’ (SPUR, 2001) -“Making Taxi Service Work in San Francisco: Final Report.” *Nelson/Nygaard Consulting Associates*. Prepared for San Francisco Planning and Urban Research Association November 2001: 9.

¹⁵ “Taxi Availability Study for PCN Determination.” *Q2 Research Group*. Prepared for the San Francisco Taxicab Commission. January 2006: 12.

¹⁶ “The San Francisco Taxicab Industry: An Equity Analysis”. *Goldman School of Public Policy*. Prepared for the Honorable Gavin Newsom. June 2006: 32.

¹⁷ Schaller, Bruce. 2007. “Entry Controls in Taxi Regulation: Implications of US and Canadian Experience for Taxi Regulation and Deregulation.” *Transport Policy* 14: 490–506.

¹⁸ Henderson (2013) describes how San Francisco halted highway construction projects, but failed to provide adequate alternatives in the form of transit or bikeways. The Bay Area Rapid Transit (BART) never attained the coverage originally envisioned and serves only a single corridor within San Francisco proper. The San Francisco Municipal Railway (MUNI) maintains a relatively dense network of buses and streetcars, but capacity has lagged far behind demand. A major barrier is the inability to finance transit projects.

Taxi users have customarily been those at the low and high ends of the income scale;¹⁹ San Francisco has many of both. With the city's population growth, especially among mid- and high-income professionals, demand for taxi-like services was growing, creating a widening gap between demand and what the taxi system could provide. On the supply side, the poor performance of the taxi system in San Francisco, most notably the scarcity and low quality of service, was widely attributed to the taxi medallion system.

THE RESILIENT TAXI MEDALLION SYSTEM

Medallion systems in the U.S. date back to the Great Depression, when virtually all large American cities capped taxi supply so as to protect existing operators from the flood of new competitors who were suddenly entering the market.²⁰ San Francisco's particular version of the medallion system was significantly modified by a 1978 ballot initiative, Proposition K, following the bankruptcy of San Francisco's largest taxi company, its inability to pay drivers' benefits packages, and subsequent questions about the sale and transfer of its 500 medallions. Pressed by the company's unionized drivers, the San Francisco Board of Supervisors passed an ordinance barring corporate sales and transfers of the permits and providing that only individual taxicab drivers could hold permits. Mayor George Moscone vetoed this ordinance, but the idea was reintroduced as a ballot measure. With support from labor unions and other left-oriented groups in the city, the measure passed, though with just a 51 percent majority.²¹ Prop K eliminated the market value of taxi medallions and of course diffused ownership. Medallions could no longer be sold and could be held only by working taxi drivers. Holders could retain them only so long as they continued personally to drive their taxis at least 800 hours per year.²²

Unable to monetize their medallions at retirement, holders retained them as long as possible, leading to an aging population of drivers as well as an extensive wait time (12-15 years) for medallion applicants, so that even new entrants to the industry tended to be relatively old.²³ Rather than disappear from this market, taxi companies found their niche in connecting medallion holders with contract drivers (to supplement their own hours behind the wheel), leasing vehicles, and offering telephone dispatch services to drivers. The contract drivers, paying more than \$100 a shift in lease fees while lacking traditional employee benefits, were forced to cut corners to make ends meet and became notorious for aggressively soliciting tips, rejecting trip requests to out-of-the-way locations, and refusing to accept credit cards.

¹⁹ Dempsey, Paul Stephen. 1996. "Taxi Industry Regulation, Deregulation, and Reregulation: The Paradox of Market Failure." SSRN Scholarly Paper ID 2241306. Rochester, NY: Social Science Research Network. <http://papers.ssrn.com/abstract=2241306>.

²⁰ Gilbert, Gorman, and Robert E. Samuels. 1982. *The Taxicab: An Urban Transportation Survivor*. Chapel Hill: University of North Carolina Press.

²¹ It was constitutional to forbid medallion sales because the medallions were public, renewable licenses, distributed by local governments to their holders for a small fee. Their value in the marketplace was simply attributable to the caps that localities had placed on their number.

²² According to Mark Gruber, a longstanding spokesperson for the United Taxi Workers (UTW), "Proposition K created a situation where drivers had a way to gain a stake in the industry without having to shell out a fortune of money as was the case in other cities and as was previously the case in San Francisco."

²³ Hayashi interview

For all its problems, the Prop K system withstood change for nearly two decades. It survived two 1979 legal suits by Yellow Cab and other taxi companies,²⁴ and several local ballot initiatives seeking to allow corporate entities to hold or own, and in effect (if not name) to sell medallions.²⁵ None of these efforts succeeded, as drivers, both medallion -and non-medallion-holders, mobilized against them. Taxi drivers, despite their non-unionized status, formed an informal alliance with labor unions²⁶ that, while tenuous, helped protect the system in the labor-friendly Board of Supervisors. Further, taxi regulation fell under the purview of the San Francisco Police Taxi Detail, which periodically audited medallion holders to ensure they were fulfilling minimum driving hours and investigate public complaints about overcharging, poor service, and lost or stolen items. In the late nineties, as complaints about inadequate service increased along with burgeoning employment in the dot-com industry, Mayor Willie Brown spearheaded the creation of a city Taxi Commission. The Commission gradually increased the number of medallions from 981 in 1998²⁷ to 1,431 in 2007,²⁸ but complaints of taxi shortages during busy periods were undiminished.

A pivotal opportunity for taxi industry reform arrived with Proposition A in 2007 when Mayor Gavin Newsom (2004-2011) and the San Francisco Board of Supervisors proposed passing regulatory oversight of the industry from the Taxi Commission to the San Francisco Municipal Transportation Authority (SFMTA) and identified the sale of taxi medallions by auction as a potential revenue stream for the City amidst a local and statewide public budget crisis.²⁹ Transit labor unions supported Prop A, judging that it would help resolve the budget crisis while minimizing layoffs, but the taxi workers' organization (the United Taxi Workers), which was not a union, opposed it, fearing that it would bring about a transition toward all taxi medallions being sold and transferred on the market. As the debate raged,³⁰ Newsom announced that he would run

²⁴ In *O'Connor vs. Superior Court* (1979), the plaintiffs argued Proposition K involved an unconstitutional 'taking' of private property. Citing precedent cases, the San Francisco Superior Court upheld Proposition K, concluding, "a license or permit to engage in the taxicab business, issued by the city pursuant to its police power, does not convey a vested property right" and asserting, "[the] use of streets by taxicabs is a privilege that may be granted or withheld without violating either due process or equal protection." This ruling survived a series of appeals, and the legal controversy died down after the Supreme Court refused to review the matter.

²⁵ These were championed by Mayors Feinstein (1979, 1981 and 1988), Jordan (1993) and Brown (1996).

²⁶ Prior to Prop K, drivers working for taxi companies were unionized, but after Prop K were no longer classified as employees and could not legally form a union. The UTW was affiliated with the Communications Workers of America Local 9410. The UTW's two attempts to file for union elections were denied by the National Labor Relations Board, who ruled the drivers were not employees. While the drivers did not attain legal status as a union, they were definitively organized. (<http://www.taxi-library.org/history.htm>)

²⁷ Source: <http://www.taxi-library.org/sf-pcn98.htm>

²⁸ 1,012 of these permits here held by individuals -most of them long time cab drivers. Taxi companies held the rest (grandfathered from the "pre-K" era). <http://www.taxi-library.org/overview-of-prop-k.pdf>

²⁹ Where the SFMTA ran the San Francisco Municipal Railway (MUNI), which faced a large and growing budget deficit estimated to be around \$30 million/year, the sales of taxi medallions was to provide fiscal recourse. Source: <http://www.spur.org/publications/voter-guide/2007-11-01/proposition-muni-reform>

³⁰ Prior to its passage, UTW managed to obtain a verbal commitment from Mayor Gavin Newsom, Board of Supervisors President Aaron Peskin, and SFMTA Executive Director Nathaniel Ford, that Prop K would be preserved even after the merger of the Taxi Commission with the SFMTA. However, following the completion of the merger in 2009, Mayor Newsom announced his intention to auction taxi medallions

for Governor and turned his attention to campaigning.³¹ Consequently, the SFMTA appointed a taxi regulator, Christiane Hayashi, to find a solution that would satisfy all interests.³² Eighteen months later she recommended a small-scale medallion sale pilot program enabling medallion holders over the age of 70 or disabled to sell their medallions exclusively to registered taxi drivers.³³ Commencing in August and September 2010, the pilot resulted in the sale of 192 medallions.³⁴ Taxi patrons continued to experience long waits, dropped calls and bad service.³⁵ Of greater consequence was the fact that the shift in responsibility from the Taxi Commission to the SFMTA brought taxi regulation directly under the mayor's purview.

The Limo and Black Car Industry

The limousine and black car industry was fielding about 600 licensed limos by the mid 2000s.³⁶ Direct competition between taxis and limos was fierce, especially around hotels and major tourist destinations, where limo and black car drivers skirted regulations to poach potential clients from taxis. In California, taxis are regulated by local jurisdictions whereas limos are regulated by a state agency, the California Public Utilities Commission (CPUC). Limos are required to operate under a Transportation Charter Permit (TCP). The CPUC grants such permits, to all companies that meet its safety and insurance requirements. Individual companies can and do field multiple limos and black cars. These are essentially unregulated in economic terms, except that they must pre-arrange pick ups and may not accept street hails. The rationale for the distinction from taxi regulation is that prearrangement provides travelers an opportunity to shop around, rendering fare regulation superfluous, whereas travelers hailing from the street cannot do so as easily, creating potential for driver abuse. In reality, direct competition between taxis and limos during the mid-nineties and early 2000s was fierce, especially around hotels and major tourist destinations. "Pre-arrangement" was loosely defined and the CPUC had meager enforcement

to the highest bidders (each medallion estimated to clear for \$400,000) and direct proceeds to the City, sparking the ire of medallion holders and drivers, who demonstrated against the City's plan to "balance the budget on our backs" (<http://phantomcabdriverphites.blogspot.com/2011/06/on-protests-and-strikes.html>). Medallion holders wanted to pocket the full proceeds from any sale, while drivers on the "eligible" list, topping 3,029 applicants, worried about being priced out of the market (See 2010 Medallion Sales Pilot Program Report).

³¹ Newsom polled poorly against Jerry Brown and ended his campaign in October 2009. He then ran, successfully, for Lieutenant Governor.

³² Hayashi interview

³³ To ease the burden of the program on buyers, Hayashi established a financing mechanism with low down payments. Medallion holders got to keep all proceeds from the sale, minus 5% contributed to a driver's fund. To make good on the promise of raising revenue for the city, the SFMTA sold 60 additional new medallions to eligible drivers who had expressed interest in the purchase, raking in \$16 million (Hara report, p 2-2).

³⁴ These figures reported by the SFMTA Taxicab Advisory Council as of January 24, 2012.

³⁵ In 2012, the SFMTA commissioned yet another study to evaluate San Francisco's taxi services. The consultants found that among San Francisco's daytime weekday users of taxis, only 56% of residents experienced 15-minute service. For 15% of respondents, a taxi typically took more than 30 minutes or failed to arrive at all. In contrast, Los Angeles taxis achieved 80% to 85% arrival within 15 minutes. Performance in outlying neighborhoods and on weekends was far worse. On weekends, only 33% of San Francisco taxi users that were polled experienced 15-minute service, while 27% experienced a wait of more than 30 minutes or failure to arrive at all. (Hara Associates, "Managing Taxi Supply", p. i)

³⁶ Travis Kalanick, founder of Uber, offered this number during his talk at the Y Combinator Startup School on October 20, 2012. https://www.youtube.com/watch?v=rO6GoY2_Ujw

capacity, so limos constantly pushed the limits. As one former taxi driver put it, “illegal operations of legal limos have been an issue forever.” He elaborated, “they have deals with the doormen of hotels where they kick back to the doormen, and then the doormen steer the passengers who are going to the airport to the limos, and then they give the local rides to the cab drivers.” Occasionally, tensions escalated into public skirmishes, as in July 2003, when taxis blockaded vehicle access to the Hilton Hotel in protest of the hotel management’s practice of “steering” guests to take limos for rides to the airport.³⁷

As smartphone use became widespread, some taxi companies, worried about the inefficiencies of their phone dispatch systems and threatened by what they perceived as illegal competition from limos, partnered with software developers to create apps. In 2008, Luxor Cab launched TaxiMagic and in 2009, De Soto Cab launched Cabulous. Another company, Taxi Mojo, promised customers willing to prepay for taxi rides a higher likelihood of actually getting picked up.³⁸ While technically sound, these apps never became popular, in part because the number of taxis covered by each was so limited.³⁹ Meanwhile, the efforts of regulators to stimulate taxi service improvements, while stirring public controversy and demanding considerable planning and regulatory oversight, achieved but small scale, incremental progress, as indicated by Proposition A and the Taxi Medallion Sales Pilot Program. Moreover, in contrast to the formidable force posed by taxi lobbies in many cities, San Francisco’s taxi industry was hard pressed to advocate its own interests with political authorities, due mainly to Proposition K, which had fragmented medallion ownership and eliminated medallion market values, thereby sharply limiting the industry’s capacity for political mobilization.

Ridesourcing, Technically Possible and Financially Viable

As the taxi system floundered, enterprising tech startups capitalizing on communications technologies were quick to develop apps enabling the drivers of limos—and eventually, of personal vehicles—to fill service voids left by taxis. Many of the ideas that today form the basis of ridesourcing had been “in the air” for a long time. Demand-responsive transit (i.e. dial-a-ride services) and private ridesharing (i.e. employer-based vanpooling and carpooling) had been promoted and even subsidized by government authorities in the U.S. since the seventies, but technological limitations had made them cumbersome to coordinate and expensive to operate.⁴⁰

³⁷ <http://www.taxi-library.org/hilton.htm>

³⁸ <http://www.taximojo.com/>

³⁹ Our sources working for taxi companies, like Charles Rathbone, described these apps as “functionally identical, maybe a little less polished.”

⁴⁰ For a good review of these precedents, including a political analysis that foresaw many of the current controversies surrounding ridesourcing, see Altshuler, 1979, p. 53-61. Employer-based carpooling and bulletin boards (both physical and virtual) to organize ridesharing long existed in San Francisco, but were static, inflexible and required prearrangement (Brake et al., 2007; Cervero, 1997). Another precedent is “casual carpools”, which developed organically at the entry points of highways with HOV lanes, such as the I-80 and the San Francisco-

Carsharing, which proved popular in late nineties Europe, entered the U.S. market in 2000 with the founding of Boston-based Zipcar. Despite attracting the attention of many private entrepreneurs, carsharing organizations required significant capital investment to grow, as they owned and managed their own vehicle fleets, and paid rent for many or most of their parking spots.⁴¹ Hence, with the advent of mobile phone technology and the rapid diffusion of social media platforms in the mid 2000s, entrepreneurs like Sunil Paul and Logan Green turned their attention away from carsharing and thought afresh about the potential for “real-time ridesharing.”

Sidecar

In 2004, Sunil Paul, a former America Online manager, sold an email filtering company called Brightmail that he had founded for \$370 million dollars.⁴² Thereafter, he turned his attention to transportation, having been inspired by Robert Cervero’s 1997 book, *Paratransit in America: Redefining Mass Transportation*.⁴³ Previously, in 2000, Paul had applied for a patent for “an improved system and method for providing transportation services over a data communications network” but had been unable to raise funding to launch a company based on this idea.⁴⁴ The technology wasn’t ready; mobile phone-based systems could muster response times of only about 45 minutes.⁴⁵ Of course, pivotal changes were just around the corner. Most notably, the iPhone was released in 2007, with built-in GPS; and computerized “peer-to-peer sharing” became a new business mantra, with organizations like Zipcar, Wikipedia and Airbnb attracting substantial patronage and investment.⁴⁶

In 2005, Paul joined the board of San Francisco’s non-profit carsharing organization, City Carshare,⁴⁷ which was struggling financially. In order to reduce costs, he proposed transforming its business model to “peer-to-peer carsharing” in which private vehicle owners would rent their underutilized vehicles to pre-screened strangers. When the plan ran into a major regulatory hurdle—participants risked voiding their personal auto insurance if they rented out their vehicles—Paul successfully lobbied for new California legislation to solve this problem.⁴⁸ Toying with peer-to-peer carsharing for profit before discovering that vehicle owners demanded

Oakland Bay Bridge, giving passengers a free ride and solo drivers access to a faster commute. As of 1998, 8,000 to 9,000 people rode in casual carpools into San Francisco daily (Chan and Shaheen, 2010).

⁴¹ Despite expanding to several cities, Zipcar did not turn a profit until 2011.

<http://www.theverge.com/2014/4/1/5553910/driven-how-zipcars-founders-built-and-lost-a-car-sharing-empire>.

<http://www.forbes.com/sites/heatherstruck/2011/11/02/zipcar-swings-first-profit-trims-guidance/>

⁴² <http://investor.symantec.com/investor-relations/press-releases/press-release-details/2004/Symantec-to-Acquire-Brightmail-Leading-Anti-Spam-Solution-to-Complement-Symantecs-Gateway-Security-Offering/default.aspx>

⁴³ Paul interview.

⁴⁴ <http://www.google.com/patents/US6356838>

⁴⁵ Amey et al., 2011; Deakin et al., 2011

⁴⁶ Paul interview.

⁴⁷ <https://www.linkedin.com/in/sunilpaul>

⁴⁸ Assembly Bill 1871 was signed by Governor Arnold Schwarzenegger on September 29, 2010 and went into effect January 1, 2011. <http://www.shareable.net/blog/californias-p2p-car-sharing-bill-signed-into-law>;

<https://citycarshare.org/press-releases/april-2010-jones-bill-removes-insurance-hurdle-for-expanding-car-sharing/>

higher rents than most prospective renters would pay,⁴⁹ Paul returned to his original idea of “real-time ridesharing.” Partnering with Jahan Khanna, who had developed an app providing real-time bus arrival information,⁵⁰ the duo co-founded Sidecar in 2011, raising seed funding from numerous investors.⁵¹ The lingering obstacle they faced was obtaining regulatory permission to operate.

Lyft

Logan Green and John Zimmer similarly traversed a winding path through the peer-to-peer transport space before co-founding Lyft. While studying at the University of California at Santa Barbara, Green failed in his efforts to lure Zipcar to his campus,⁵² leading him to develop a home-brewed carshare program for the university. Consequently appointed the youngest board member of the Santa Barbara Metropolitan Transit District, at 20 years of age, he concluded that transit in the U.S. “is the least scalable business model there is, because you are losing money [with] every sale.”⁵³ After graduating in 2006, he set out to find an alternative “that could scale.” While traveling in Africa, he observed how even in the absence of a formal and centrally-planned transit system, people managed to move around affordably via informal jitney systems. Inspired by the flexibility of such systems, but also assuming they could be dramatically improved with app-based technology, Green imagined a “crowdsourced transportation network where anyone could be a driver and they could set their own routes.”⁵⁴

When Facebook opened its application-programming interface (API) to external developers in 2006, Green quickly developed an app to link drivers and passengers within bounded social networks, such as universities or employment centers.⁵⁵ Premising that people were more likely to share rides with school acquaintances or job colleagues than with strangers, and having one trip end in common would provide an important logistical advantage, Green spent four months developing his app, naming it “Zimride” after Zimbabwe, one of the African countries he had visited. Learning about Zimride from a mutual friend’s Facebook post, John Zimmer, a Cornell graduate and real estate financial analyst for Lehman Brothers, began helping Green improve his business model as a “social marketplace for selling seats.” In 2007, the two co-founded a

⁴⁹ In 2009, Paul founded Spride, a company designed to implement peer to peer carsharing for profit.

<http://www.bizjournals.com/sanfrancisco/blog/2012/06/entrepreneur-sunil-paul-launches.html> Other companies entering this niche are Getaround, founded in San Francisco in 2009, and RelayRides, founded in Boston in 2010.

⁵⁰ <https://www.crunchbase.com/person/jahan-khanna#sthash.Ylavzms6.dpuf>

<http://www.annarbor.com/neighborhoods/downtown/entrepreneurs-bring-buses-and-riders-together-with-innovative-information-technology-developments/>

⁵¹ Those investors included Ron Conway’s firm, SV Angel, and Lisa Gansky, who had published in 2010 a book titled “The Mesh: Why the Future of Business is Sharing.” <https://www.crunchbase.com/organization/side-cr>

⁵² <http://www.founderly.com/2012/04/logan-green-zimride-1-of-2/>

⁵³ *Ibid.*

⁵⁴ <http://techcrunch.com/2014/08/29/6000-words-about-a-pink-mustache/>. The parallel between third world jitneys and ridesourcing is, at the very least, worth noting. Jitneys are a cheap, flexible transport alternative, like Lyft. They also cause externalities like congestion and safety concerns, like Lyft. They both thrive when government fails to provide adequate public transport.

⁵⁵ Green was not alone pursuing this idea. Other closed-network ridesharing companies, such as Avego (now Carma), launched roughly at the same time.

company,⁵⁶ which made money by charging organizations a fee to make Zimride available to their networks. By 2011 they had enlisted 130 universities and businesses, including UCLA and Facebook, as clients.⁵⁷ As its technological capabilities grew and its users signaled their willingness to share rides with people outside of their social networks, Green and Zimmer expanded their business model to encompass “ridesharing for everyone.” The first “publicly available” Zimrides served inter-city trips: San Francisco to L.A. or Lake Tahoe. By early 2012, Zimride was facilitating the sale of 2,000 seats in private vehicles every month.⁵⁸ Soon, Green and Zimmer were ready to scale this new service, branded as Lyft, for trips within San Francisco.

UberCab

Like the co-founders of Sidecar and Lyft, Travis Kalanick and Garret Camp had respectively built and successfully cashed out on tech start-ups. The former co-founded Scour.com, which was bankrupted when sued for copyright infringement by thirty-three large media companies, and Red Swoosh, which developed a more viable business model for peer to peer search technology and sold for \$15 million in 2007.⁵⁹ Camp co-founded StumbleUpon, a web content discovery engine with personal recommendation features, which sold for \$75 million to EBay.⁶⁰ While both utterly lacked experience in urban transportation, they were highly knowledgeable about peer-to-peer platforms and business models, which they viewed as sufficient to get started.

The pair discussed incubating a system that would enable clients to “push a button and get a classy ride.”⁶¹ Camp proposed a “limo timeshare service,” where they would buy high-end vehicles, hire drivers, lease a garage, and develop an app that would allow a small and closed list of members to easily request limo rides from anywhere to anywhere in San Francisco.⁶² Kalanick suggested partnering with established limo companies to offer an app that would, upon being summoned by a customer, automatically assign the trip to limo partner, set the fare, and collect the payment.⁶³ For these services, their new company would receive a percentage of the fare. With this as their initial business model, Camp and Kalanick co-founded UberCab in August 2009, and hired a manager to run it, since both of them considered it a side project.⁶⁴ The

⁵⁶ <http://techcrunch.com/2012/04/19/in-the-studio-zimrides-john-zimmer-chronicles-his-move-from-wall-street-to-silicon-valley/>

⁵⁷ <http://thenextweb.com/insider/2013/07/12/lyft-founders-sell-zimride-their-carpooling-startup-to-enterprise-rent-a-cars-parent-company/>

⁵⁸ Zimmer Tech Crunch interview, min 13:15: <http://techcrunch.com/2012/04/19/in-the-studio-zimrides-john-zimmer-chronicles-his-move-from-wall-street-to-silicon-valley/>

⁵⁹ https://www.youtube.com/watch?feature=player_embedded&v=2QrX5jsiico

⁶⁰ This company struggled through the dot-com bust, went into debt with the IRS, and for periods of time failed to pay its workers. A talk by Kalanick explaining this process is available here: <http://allthingsd.com/20111108/uber-ceo-travis-kalanick-on-how-he-failed-and-lived-to-tell-the-tale/>

⁶¹ https://www.youtube.com/watch?v=rQ6GoY2_Ujw

⁶² <http://newsroom.uber.com/2010/12/ubers-founding/>

⁶³ The idea proposed by Kalanick was similar to what other software developers had previously pitched to taxi companies, resulting in the e-hailing apps Taxi Magic and Cabulous.

⁶⁴ Garrett Camp bought back StumbleUpon from EBay in April 2009, and served as its CEO until 2012. <http://allthingsd.com/20090413/stumbleupon-stumbles-out-of-ebays-arms-to-be-reborn-as-a-start-up/> Travis Kalanick was focused on angel-investing on other companies. He did not become Uber’s CEO until December 2010. <http://newsroom.uber.com/2010/12/1-1-3/>

company initially targeted customers willing to pay a premium for luxury.⁶⁵ It recruited individual limo permit holders as prospective drivers, promising that they would “turn downtime into profit.”⁶⁶ Launching in July 2010 with only ten driver-partners,⁶⁷ UberCab gained immediate popularity among tech executives but also attracted significant numbers of other frequent taxi patrons hungry for a more reliable and convenient alternative. The UberCab fleet increased to approximately 100 drivers and vehicles within several months.⁶⁸

From UberCab to Uber

In September 2010 taxi drivers mobilized to voice complaints about an “illegal, high tech taxi service” known as UberCab at a town hall meeting convened by San Francisco Municipal Transportation Agency regulator Christiane Hayashi. In their view, a limo summoned through a smartphone app offered services practically indistinguishable from street hails. Hayashi recalled: “There was an early meeting, I can’t remember exactly when, but it was just as [UberCab was] launching. We pointed out these difficulties to them, and they pretty much just shrugged their shoulders and walked away, and we never heard from them again.”⁶⁹ When news leaked on October 15 that Uber had obtained \$1.25 million from well-known angel investors,⁷⁰ Hayashi judged a stronger statement was necessary. On October 19, the SFMTA issued a cease and desist order against UberCab, and the California Public Utilities Commission followed with a similar notice one day later.⁷¹ Responding to SFMTA’s statement that “the name UberCab indicates that you are a taxicab company and as such you are under the jurisdiction of the SFMTA,” Uber responded by dropping “cab” from its name. The CPUC charged that Uber, in collecting fees from passengers and then paying a limo company for the service, was functioning in “a prime carrier/subcarrier relationship” without the requisite charter carrier permit (TCP) from the CPUC. We were unable to find any evidence that Uber responded, or that CPUC took any action to enforce its cease and desist order.

At this point, Uber’s operations were hardly groundbreaking. Other e-hailing apps such as TaxiMagic and Cabulous (see above) already existed in San Francisco. Further, the limos used by Uber to supply its services were, in fact, all properly licensed, and passengers did prearrange rides—even if only minutes ahead of service—through their app. Further, the CPUC had very limited enforcement capacity in relation to its broad mandates, and apparently had more urgent concerns.⁷² According to a CPUC official, the complaints about Uber seemed so unimportant

⁶⁵ UberCab’s website promised its customers that they would “feel like a baller every time [they] use UberCab.” The term ‘baller’ refers to someone who has finally “made it.” The word originated in reference to professional sports players experiencing a life of privilege after growing up in rough neighborhoods.

⁶⁶ <http://ubercab.tumblr.com/post/587373878/benefits-to-ubercab>.

⁶⁷ --- business insider story -- “How sharp-elbowed salesman Travis Kalanick became Silicon Valley’s Newest Star, Jan 11, 2014

⁶⁸ This figure offered by Kalanick during his remarks at a 2011 “happy hour,” offered to customers and drivers. A video is available at <https://vimeo.com/19508136>.

⁶⁹ Hayashi interview

⁷⁰ Investors included Chris Sacca, one of the first investors at Twitter. <http://venturebeat.com/2010/10/15/ubercab-funding/>, <http://techcrunch.com/2010/10/15/ubercab-closes-uber-angel-round/>

⁷¹ <http://techcrunch.com/2010/10/25/ubercab-now-just-uber-shares-cease-and-desist-orders/> (the text of both notices is available in the link.)

⁷² McReynolds interview; Tyrell interview; Hagan interview.

that they remained “invisible to the fifth floor, the fifth floor being the policymakers.”⁷³ Front line SFMTA regulators like Hayashi and even taxi representatives seem also to have been distracted by other issues deemed more urgent in 2010. Consequently, Uber was able to grow for two years without a major regulatory challenge, during which period it also attracted substantial additional venture investment.

In February 2011, with the city and state “cease and desist” orders still formally in effect but unenforced, the company raised \$11 million more, enabling it to expand to 16 additional cities, including New York (May/11), Vancouver (May/11), Seattle (Jul/11), Chicago (Sep/11), and Paris (Dec/11).⁷⁴ Throughout this period Uber continued to target an upscale market using only licensed limos, with prices averaging 50% more than taxi fares.

Uber-Competitive⁷⁵

Uber’s publicity stunts and social marketing strategy, rather than its technological features or business model, set it apart from taxi and limo competitors. As the company expanded, it often made national headlines that highlighted its ruthless competitiveness and hostility to government authority. In October 2011, for example, Uber caused a stir in San Francisco with its announcement of a plan to implement “surge pricing”—up to twice the regular fare—on Halloween to guarantee a sufficient supply of vehicles.⁷⁶ This was perfectly legal, but came in for wide criticism as price gouging. Twitter and Facebook abounded with posted images of Uber’s app displaying exorbitant fares for short rides. Nonetheless, Uber soon extended this policy to all periods of exceptionally high demand, and removed the cap of merely doubling normal prices. There was no evidence that this curtailed demand growth, and the controversy helped spread the news of Uber’s availability (even during peak periods) to potential new patrons.⁷⁷

On June 21, 2011, a group of taxi drivers in San Francisco organized a one-day strike⁷⁸ articulating numerous grievances, just one of which was lax enforcement against illegal limo operations. While only about 100 taxi drivers ultimately participated, they mounted a noisy display, driving and honking around City Hall, where the SFMTA Board was meeting,⁷⁹ to the

⁷³ Mazia Zarfar interview.

⁷⁴ <http://techcrunch.com/2011/12/05/uber-launches-its-first-international-efforts-in-paris/>

⁷⁵ In November 2014, the Economist published an article by the same title about Uber risking consumer backlash over its tough tactics. Source: <http://www.economist.com/news/business/21633833-uber-risks-consumer-backlash-over-its-tough-tactics-uber-competitive>

⁷⁶ <http://newsroom.uber.com/2011/10/halloween-surge-pricing-get-an-uber-at-the-witching-hour/> While controversial, surge pricing in peak periods contributes to accessibility insofar as it brings out drivers at times when available rides are scarce, and reducing the likelihood anyone (including taxi users) may be unable to find a ride.

⁷⁷ Complaints about surge pricing came to a peak on October 2012, when Uber caused a public uproar in the national media after maintaining its “surge pricing” fees just after Hurricane Sandy hit New York, which many customers perceived as price-gouging in a natural disaster. <http://bits.blogs.nytimes.com/2012/10/31/uber-struggles-to-get-cars-onto-new-yorks-streets/>

⁷⁸ Details and photos of the protest here: <http://www.sfgate.com/bayarea/article/Noisy-taxi-protest-at-City-Hall-2367472.php#photo-1889849> <http://phantomcabdriverphites.blogspot.com/2011/06/protest-great-time-out-27.html>

⁷⁹ A handful of MUNI operators also participated, one of them with a sign reading, “same enemy, same fight.” <http://www.sfgate.com/bayarea/article/Noisy-taxi-protest-at-City-Hall-2367472.php>

annoyance of even pro-taxi Supervisors. According to a City Hall staffer, “the taxi industry has been its own worst enemy. The drivers don’t always behave well.”⁸⁰ What the protest gained was significant media coverage, and Uber grasped the publicity opportunity, cutting its fares by 50% during the strike.⁸¹ For the first time, taking Uber was cheaper than hailing a taxi.

In April 2012, the company launched UberTaxi in Chicago. Taxi drivers were invited to accept bookings through Uber’s app, an “experiment” designed to offer “the best quality at every price point.”⁸² Five months later Uber introduced UberTaxi in New York City as well, but quickly backtracked after the city’s Taxi and Limousine Commission threatened to revoke the licenses of participating cabbies.⁸³ UberTaxi was subsequently introduced in numerous other locations, but never quite took off, in part because the taxi industry was increasingly suspicious of and antagonized by Uber, and in part because Uber executives and investors were closely following the rapid progress of their soon-to-be strongest competitors, ridesourcing companies Sidecar and Lyft.

Ridesourcing as a Rogue Operation

Sidecar began beta testing its ridesourcing app in February 2012. By its public launch in June, the company had provided more than 10,000 “peer-to-peer” trips.⁸⁴ Zimride finished developing its Lyft app soon after, and began testing it in May 2012.⁸⁵ The Lyft app became available on Apple’s App Store on August 28,⁸⁶ and by October demand far exceeded Lyft’s initial supply of drivers. With the development of their apps, Sidecar and Lyft pioneered several elements integral to what we understand as ridesourcing today, including flexible pricing mechanisms.⁸⁷ Their key innovation, however, was in convincing passengers to ride with drivers lacking TCP licenses or taxi medallions, and non-professional drivers to pick up strangers. Lyft and Sidecar allowed passengers and drivers to “see” with whom they were matched, and revealed to each the other’s ratings from previous rides. By doing this, the ridesourcing companies enhanced the safety (or at least the perception of safety) of the rides, and made available a previously untapped supply of drivers. Avoiding licensing enabled the services to keep costs low and scale quickly, but it also attracted the ire of regulators.

In the months preceding the public launch of their ridesourcing platforms, Lyft and Sidecar executives reviewed existing regulations and consulted regulators at both the SFMTA and the

⁸⁰ Lauterborn interview

⁸¹ <http://newsroom.uber.com/2011/06/uber-drops-fares-50-for-sf-taxi-strike/>
<http://techcrunch.com/2011/06/20/san-francisco-taxis-going-on-strike-tomorrow-uber-taking-advantage-with-50-rate-cut/>

⁸² <http://newsroom.uber.com/chicago/2012/04/chicago-taxi-uber/>
<http://techcrunch.com/2012/04/18/uber-experiments-with-lower-priced-taxis-in-chicago-through-newly-launched-labs-group-garage/>

⁸⁴ <https://gigaom.com/2012/06/26/sidecar-launches-with-real-time-ride-sharing/>
<http://www.shareable.net/blog/interviewed-sunil-paul-of-sidecar-leader-in-ridesharing>
<http://www.wired.com/2012/06/sidecar/>

⁸⁵ <http://techcrunch.com/2012/08/25/lyft-san-francisco-launch/>

⁸⁶ <http://business.time.com/2012/09/04/need-a-lyft-ride-sharing-startup-zimride-hits-the-gas-pedal/>

⁸⁷ Sidecar allowed each driver to determine his or her own fares.

CPUC, but it was increasingly obvious to them that their business model—based on utilizing vehicle owner assets (vehicle, labor, insurance) to reduce the cost of their service—could not be authorized under the existing rules. They saw that the San Francisco City Charter and California Public Utilities Code defined taxis and limos rather narrowly, which exposed ridesourcing companies to several regulatory risks. In San Francisco, the SFMTA could choose to treat ridesourcing vehicles as taxis without medallions, and enforce existing regulations against them, in which case ridesourcing’s business model would simply be non-viable. At the state level, the CPUC could decide to treat ridesourcing providers as charter-party carriers, in which case onerous licensing requirements would deter most casual or part-time drivers. As Emily Castor, Lyft’s Director of Transportation Policy, put it, “ultimately, the vision of Lyft was to have everyone be a driver but to be participating on a very part-time basis, making themselves available when they’re going somewhere that they already intend to go. And so, if you have a category that starts out by saying, ‘You can only have a few hundred people [providing service],’ there’s no pathway that you can get to that vision.”⁸⁸

Concluding that compliance with either of these two regulatory codes would doom their business model from the start, neither company sought a permit to operate. The founders of each were determined to avoid suspending operations, even if temporarily. Their venture investors expected them to scale in short order, and any pause would give competitors, including Uber, the taxi companies with new smartphone apps, and potential new entrants into the ridesourcing market, a chance to overtake them. Instead, they chose to focus on a regulatory exemption for “ridesharing” as delineated in the California Public Utilities Code. It provided that ridesharing does not require a permit from the CPUC, *if* it is for work-related trips, *if* it “is incidental to another purpose of the driver” and *if* the primary purpose of the activity is not to make a profit.⁸⁹ Knowing it was a stretch, Lyft and Sidecar executives extended the term “ridesharing” to their ridesourcing services—a practice that continues to this day. As Carol Brown, Chief of Staff to the CPUC President put it, “it wasn’t disregard of current rules. They were cleverer than that. Every word they put on any page made sure it said what they were doing did not [violate] any regulation... Rideshares are allowed. Carpooling had always been promoted by the state of California. So they kept trying to fit into those boxes.”⁹⁰

Christiane Hayashi of the SFMTA recalls discussing this issue with Lyft’s John Zimmer, “I remember him admitting to me that it was not ridesharing, but that it was important for him to get a supply of vehicles on the streets in order to make the system work.” Sidecar’s Sunil Paul further illuminated, “our hope initially was that they would just accept our argument that this was a gray area and not in their jurisdiction.”⁹¹

The General Counsel for Sidecar, Dave Philips, explained to regulators, “Sidecar was *designed to be 100% legal* and therefore we have constrained ourselves by requiring that there is destination and choice” (emphasis added).⁹² Sidecar’s app indeed forced its users to input their

⁸⁸ Castor interview

⁸⁹ California Public Utilities Code, Section 5353, H.

⁹⁰ According to Sunil Paul, “we were looking for a description of services that was not explicitly prohibited.”

⁹¹ Paul interview.

⁹² Quote from the rulemaking proceeding workshop. Day 2, part 1

destination into the app, which enabled the company to claim its drivers knew ahead of time whether prospective riders were truly making trips “incidental to another purpose of the driver.”⁹³ To go around the requirement that the transport be not for profit, Lyft and Sidecar asked passengers for “suggested donations.” As Paul explained in 2012, “payment is completely voluntary, and we never use the word fare.”⁹⁴ Ensuring that the trips be work-related was trickier, but executives from these companies argued that their apps simply facilitated ridesharing, and that they could not be held responsible if users and drivers used it for other purposes. Ed Reiskin, Executive Director of the SFMTA, recalled, “John Zimmer and a couple of his folks came in and were really pitching [Lyft] very earnestly as ridesharing. ‘We just want to fill the empty seats, good for the Earth.’”⁹⁵ Lyft claimed that, as “ridesharing,” its service allowed people to get around without owning a car and therefore reduced automobile travel.⁹⁶ Neither SFMTA nor CPUC regulators bought the argument. According to Hayashi, “it was obvious from the get-go that that the driver was not going to the place where the passenger was going and that it was the biggest lie in the world to call them ridesharing.”⁹⁷ At the CPUC, the Director of the Safety and Enforcement Division, Jack Hagan, called the ridesharing argument “just flat bullshit.” He explained, “a car goes from point A to point B and money is exchanged, period.”⁹⁸

If Sidecar and Lyft did not fall under the jurisdiction of SFMTA or CPUC, they also did not, they argued, have to comply with these agencies’ insurance or licensing requirements for taxis or limos. Lyft’s terms of service stressed that “Lyft does not provide transportation services, and Lyft is not a transportation carrier.”⁹⁹ Sidecar identified itself as “a matching service, not a dispatching service.”¹⁰⁰ Its 2012 terms of service stated, “SideCar is solely a ride-sharing marketplace, and not a common carrier, limousine or taxicab service, or travel agent.”¹⁰¹ The CPUC did not buy these arguments either. “We actually laughed at them,” the CPUC’s Director of Policy and Planning recalled, “and we said, ‘that’s never going to fly.’”¹⁰² Fortunately for

⁹³ <http://www.shareable.net/blog/interviewed-sunil-paul-of-sidecar-leader-in-ridesharing>

⁹⁴ <http://www.wired.com/2012/06/sidecar/>

⁹⁵ Ed Reiskin interview.

⁹⁶ True ridesharing, in which the passenger’s travel is incidental to the driver’s, does reduce car trips. The effect of ridesourcing on car trips, however, is ambiguous, and depends on the extent to which ridesourcing reduces car ownership and the extent to which it causes people to take trips they otherwise wouldn’t. Because the cost of car ownership is fixed, car owners perceive the cost of an addition to trip to be relatively low. If the availability of ridesourcing allows people to not own a car, the cost of the same additional trip (now by ridesourcing) would be higher, so they may avoid the trip. On the other hand, the convenience of ridesourcing may cause some people to travel by car more. Evidence of these potential effects remains scarce.

⁹⁷ Hayashi interview. Hayashi also worried Lyft and Sidecar would cause congestion, which would slow SFMTA’s buses.

⁹⁸ Jack Hagan interview.

⁹⁹ <http://genius.com/Lyft-inc-lyft-inc-terms-of-service-december-22-2014-annotated/>

¹⁰⁰ Quote from the rulemaking proceeding workshop. Day 2, part 1

¹⁰¹ <http://arstechnica.com/business/2012/09/my-life-as-a-high-tech-part-time-not-quite-taxi-driver/>

¹⁰² Lawyers for ridesourcing companies also claimed the 1996 Federal Telecommunications Act, which limits California’s ability to regulate IP-enabled services (such as EBay’s online auctions), should extend to their companies. Uber later used this argument too. On April 11, 2013, at a public meeting held at the CPUC’s headquarters, the General Manager for Uber in San Francisco stressed, “Uber is no more a taxi than kayak is an airline or hotels.com is a hotel. All we are is a software platform that facilitates the process of prearranging services from transportation providers.”

ridesourcing companies, the mood among elected officials and other political authorities was much more supportive than among local and state regulators.

THE “SHARING ECONOMY” AND ITS POLITICAL ALLIES

Preceding the controversy over ridesourcing, Mayor Ed Lee and the Board of Supervisors had established an important and encouraging local precedent with respect to the so-called “sharing economy.”¹⁰³ A company called Airbnb, founded in San Francisco in 2008, was helping “people to list, find, and rent lodging” for short-term stays.¹⁰⁴ Similar to ridesourcing, Airbnb swiftly and widely gained traction to become a fierce competitor of the incumbent industry—in this case the hotel industry. Its business model clearly violated San Francisco’s existing regulations prohibiting unlicensed vendors from renting rooms for less than 30 days, while Airbnb hosts also neglected to pay the city’s 14% hotel tax. Consequently, it encountered intense criticism – from hotel companies, hotel worker unions, and tenant groups. The tenants maintained that Airbnb, by helping some renters to pay more than they would be able to afford otherwise, was contributing to the shrinkage of affordable housing supply in San Francisco.

Not only did the rules go unenforced, but local elected officials unabashedly embraced Airbnb as an embodiment of the “sharing economy.” When San Francisco Tax Collector Jose Cisneros ruled in early 2012 that hosts should pay the hotel tax, the Mayor and most of the Board of Supervisors spoke in support of the company’s position.

On March 27, 2012, Mayor Lee and Board of Supervisors President David Chiu announced the formation of a “Sharing Economy Working Group,”¹⁰⁵ praising companies like Airbnb for “leveraging technology and innovation to generate new jobs and income for San Franciscans in every neighborhood and at every income level,” and pledging to place San Francisco “at the forefront of nurturing its growth, modernizing our laws, and confronting emerging policy issues and concerns.” Supervisors who frequently disagreed on other topics suddenly found common cause. Pro-business Supervisor Farrell exclaimed on the day of the launch, “As policymakers, we must make sure our 21ST century economy isn’t strangled by outdated laws and rigid regulations written in the last century that never envisioned what technology makes possible today.” The Mayor and majority of Supervisors called on the tax collector to postpone application of the tax until the Board of Supervisors came up with new legislation.¹⁰⁶

¹⁰³ The term “sharing economy” refers to a business model in which participants borrow or rent assets owned by someone else, typically when those assets are expensive to buy and underutilized. (<http://www.investopedia.com/terms/s/sharing-economy.asp>) “Sharing” in this sense is in effect no different from simply borrowing or renting. However, the idea of a “sharing economy” drew keen interest from entrepreneurs as advances in information technology lowered transaction costs that previously made such renting uneconomical, opening previously unexploited rental markets for spare bedrooms, cars, tools, and parking spaces.

(<http://www.economist.com/news/leaders/21573104-internet-everything-hire-rise-sharing-economy>)

¹⁰⁴ By mid-2011, Airbnb had brokered one million nights in 172 countries.

<http://techcrunch.com/2011/02/24/airbnb-hits-1-million-nights-booked-as-european-clone-emerges/>
<http://www.sfgate.com/business/article/Airbnb-passes-bookings-milestone-1-million-nights-2473584.php>

¹⁰⁵ The working group would eventually include representatives of Lyft and Sidecar.

¹⁰⁶ The company did begin to pay taxes, including back taxes, in October 2014, after the Board of Supervisors enacted a city ordinance explicitly authorizing property owners to rent rooms for short term stays.

<http://www.sfbg.com/2013/03/19/airbnb-isnt-sharing>

<http://www.thebolditalic.com/articles/6664-will-airbnb-hosts-really-jump-through-the-city-s-new-hoops>

An Unlikely Consensus in City Hall

For decades, so-called progressives had constituted the establishment in San Francisco—positioning the city’s political center much to the left to what’s common in most American cities. Encompassing neighborhood preservation, environmental, and labor friendly interests, progressivism originated in the 1970s as an urban movement seeking to stop the “Manhattanization” of San Francisco. Since the late 1970s, however, the San Francisco Bay Area has led the world in computer-based high tech development. Most such companies have chosen to locate in Silicon Valley, an expansive area roughly 50 miles south of San Francisco and outside the purview of San Francisco city government. But many employees of these companies reside in the city of San Francisco, attracted to its numerous urban amenities, vibrant cultural scene, and spectacular natural environment. These new residents tend to earn higher incomes than existing residents in many of the neighborhoods in which they have located, and thus are able to pay higher rents. Nearly two-thirds of San Francisco residents are renters,¹⁰⁷ and they have long been a highly influential, mobilized voice in local politics. Progressive elected officials championed their interests, pressing in particular for strict rent control and eviction restrictions, affordable housing set-asides in new residential developments, affordable housing “linkage fees” paid by commercial developers, and a “Transit First” policy.

Their opponents in local politics were the so-called “moderates,” whose priority was local economic growth. Moderates viewed the Bay Area tech boom far more as an opportunity than threat, and wanted to draw as much of it as possible into the city. The moderates have been dominant over the past quarter-century, and have facilitated substantial amounts of new downtown housing and office development, most of it in formerly industrial districts. The progressive movement, meanwhile, has been torn by internal battles and the lack of a cohesive agenda. As unemployment surged in the aftermath of the Great Recession, however, the moderates and progressives largely suspended their differences to focus on job creation and balancing the city’s budget.¹⁰⁸ It was in this context that in 2009 the Board of Supervisors agreed to bring taxi regulation directly into the mayor’s line of command (abolishing the quasi-independent Taxi Commission).

In January 2011, San Francisco Mayor Gavin Newsom left office to become California’s Lieutenant Governor, and a deeply divided Board of Supervisors struggled to agree on a replacement. Many expected a polarizing showdown between political progressives—who held a narrow majority—and moderates—who had prevailed in most recent mayoral elections.¹⁰⁹ In the

¹⁰⁷ <http://quickfacts.census.gov/qfd/states/06/06075.html>

¹⁰⁸ Budget relief could not be expected from the State, as California had severe fiscal problems of its own. (<http://www.psmag.com/books-and-culture/the-governors-last-stand-44798>) In an interview published Jun 27, 2010, local political consultant Jim Ross suggested the state of the economy was blurring the “progressive” and “moderate” fault lines at the Board of Supervisors: “But now, with more than 30 percent unemployment in the construction trades, the pressure to put San Franciscans back to work might trump any ideology.” <http://www.bizjournals.com/sanfrancisco/stories/2010/06/28/focus5.html>

¹⁰⁹ Many expected the 2011 election to be a repetition of the ideologically contentious 2003 showdown, in which moderate Newsom barely edged progressive candidate Matt Gonzalez, who campaigned openly as a left-oriented, anti-corporate candidate.

face of apparent gridlock, local powerbroker and Chinatown leader Rose Pak, with backing from former Mayor Willie Brown, suggested appointing Ed Lee to complete the year remaining of the mayoral term.¹¹⁰ Lee, the son of Chinese immigrants, first entered San Francisco's political fray in the 1970s, fighting for tenant rights in Chinatown as Managing Attorney for the Asian Law Caucus before joining Mayor Art Agnos' administration in 1989 as Investigator for the City's first Whistle Blower Ordinance. Next directing the Human Rights Commission, he steadily rose in the city's bureaucracy, becoming City Administrator in 2005, a position he still occupied as Mayor Newsom departed. He now sought the mayoralty, pledging that if appointed he would not to run in the forthcoming November 2011 election. And he was selected.

A few months later, however, Rose Pak organized a controversial grassroots campaign calling on Lee to run and become "the first Chinese (elected) Mayor." She took the lead as well in collecting 51,000 signatures on a petition urging his candidacy.¹¹¹ In response, Lee withdrew his previous pledge and put himself forward as a "pragmatic" candidate belonging to neither of the traditional Board of Supervisors factions.¹¹² In the election that followed he prevailed with 60% of the vote, along the way defeating several Board of Supervisors members who had appointed him in the first place.¹¹³

To the consternation of many progressives, Lee built on Newsom's agenda of supporting business and inherited many of Newsom's supporters, most notably tech sector leaders.¹¹⁴ His signature initiative during his first year in office was a program of tax breaks, some controversial, which his supporters later credited with bolstering San Francisco's ability to attract and retain tech companies while simultaneously increasing city revenues.¹¹⁵ At the same time,

¹¹⁰ http://www.nytimes.com/2011/01/07/us/07bcmayor.html?_r=0

¹¹¹ http://www.huffingtonpost.com/2011/08/01/ed-lee-mayor-run-ed-run-signatures_n_915609.html
<https://www.baycitizen.org/news/politics/money-behind-run-ed-run/>

¹¹² Local politics in California are officially non-partisan, although virtually all politicians in San Francisco identify as Democrats, by national standards. Locally, though, political alliances have long broken down into two groups, identified as the "moderates" and "progressives".

¹¹³ <http://www.businessinsider.in/San-Franciscos-tech-mayor-is-facing-a-cakewalk-re-election-even-though-the-city-is-at-war-with-itself/articleshow/47806882.cms>

¹¹⁴ Lee's 2011 election campaign drew its largest contributions from a group called "San Franciscans for Jobs and Good Government," organized by Ron Conway, arguably the city's best-connected and most politically influential investor. Contributors included Google VP Marissa Mayer, Salesforce.com CEO Marc Benioff, and Napster founder Sean Parker, as well as Conway himself. <http://www.citireport.com/wp-content/uploads/2012/02/Section-1-Total-Financing-End-of-2011-CF-article.pdf> http://www.citireport.com/wp-content/uploads/2012/11/rptConwayRonald_Self-and-Family_Detail.pdf.

¹¹⁵ The first was a six-month waiver of payroll taxes on new hires for companies that located in the city's historically disinvested Mid-Market/Tenderloin area, where real estate interests were now keen to redevelop. Twitter, along with eighteen other tech-based companies, took advantage of this deal. A 2014 report by the City Comptroller suggests the tax breaks probably did increase the number of tech businesses in the area (<http://sfcontroller.org/Modules/ShowDocument.aspx?documentid=5914>). The second policy was Proposition E, which replaced the city's payroll tax with a gross receipts tax. This measure was seen as favorable to both tech startups and other small businesses. ([http://ballotpedia.org/San_Francisco_Gross_Receipts_Tax_on_Businesses,_Proposition_E_\(November_2012\)](http://ballotpedia.org/San_Francisco_Gross_Receipts_Tax_on_Businesses,_Proposition_E_(November_2012))), <http://www.sfgate.com/bayarea/article/Prop-E-rare-chance-to-change-tax-3969843.php>) <http://www.smartvoter.org/2012/11/06/ca/sf/prop/E/>, <http://www.sfgate.com/bayarea/article/Prop-E-rare-chance-to->

Lee's close public alliance with community activists like Pak helped shield him from much criticism by the progressives. His understated personal demeanor and reluctance to take divisive positions in public, moreover, markedly contrasted Lee from his immediate predecessors. He also benefited from a rightward tilt within the Board of Supervisors and the general sense of economic urgency.¹¹⁶ As of 2011, San Francisco's unemployment rate was still 8.9%, down from a high of 9.4% in 2010,¹¹⁷ and the city projected a budget shortfall of \$263 million for fiscal year 2012.¹¹⁸ More generally, the technology industry's center of gravity was gradually shifting northward, from Silicon Valley toward San Francisco. For an increasing number of high-tech companies, the need for large spaces had been replaced by a desire for easy access to amenities, making urban locations relatively more attractive.¹¹⁹

In his January 8, 2012 inauguration address, Mayor Lee declared San Francisco “the Innovation Capital of the World,” promising to facilitate development while also advancing traditionally progressive social and environmental causes. “Whether it’s parks, health care, the arts, public safety, the environment or schools – our ability to make progress is directly connected to giving every family the dignity of a paycheck and our willingness to embrace innovation.” For the professed “pragmatic” belonging to neither the progressive nor moderate factions of the San Francisco Board of Supervisors, the “sharing economy,” complete with the semantics of widespread gains, provided a venue to reconcile conflicting priorities and interests.¹²⁰ On May 2, 2012, when Airbnb signed a lease on a 169,000 square foot office space in San Francisco, and announced plans to grow its staff to 1,000, Mayor Lee declared, “the sharing economy was born here, and I am committed to ensuring that San Francisco supports this emerging sector’s growth and success.”¹²¹

Around this time, Sunil Paul met personally with the mayor to let him know of his intent to launch a ridesourcing service. Paul recalls: “Before we launched, I went and had a meeting with him, and just said, ‘Hey, this is what we’re up to.’ It’s not clear what the mayor said at this meeting, but Paul claims to have come away from it feeling very encouraged.

[change-tax-3969843.php, http://www.businessinsider.com/ron-conway-and-san-francisco-vote-in-proposition-e-gross-receipts-tax-2012-11](http://www.businessinsider.com/ron-conway-and-san-francisco-vote-in-proposition-e-gross-receipts-tax-2012-11)

¹¹⁶ In places like the Mission, the influx of tech workers drew blame for escalating housing costs, social and cultural marginalization, and community displacement. As longtime residents—disproportionately minority and low income—faced ongoing evictions and landlord bullying, some turned to community organizing and protests, not only against the record numbers of residential evictions but also over allocations of public infrastructure and space.

¹¹⁷ U.S. Bureau of Labor Statistics.

¹¹⁸ <http://sfmayor.org/Modules/ShowDocument.aspx?documentID=179>

<http://www.sfmayor.org/index.aspx?page=521>

¹¹⁹ www.salon.com/2014/02/16/san_franciscos_rightward_turn_why_it_may_no_longer_be_americas_iconic_liberal_city/

¹²⁰ For example, Supervisor Kim, known as a progressive member of the Board, asserted, “Whether it’s sharing bikes, cars, apartments or tools, we must bring impacted communities and stakeholders together to develop model policies that protect public safety, reflect our values and ensure that the benefits of the ‘sharing economy’ extend to all San Franciscans.”

¹²¹ <http://www.sfmayor.org/index.aspx?page=795>

RIDESOURCING FACES PUSHBACK FROM CPUC REGULATORS

As soon as the taxi industry detected the occurrence of ridesourcing services in volume, its members started to bring complaints to both the SFMTA, the city's taxi regulator, and the CPUC, the state-level regulator for limos. The manager of Luxor Cab, Charles Rathbone, recalled, "We were in a terrible state of shock. We just could not believe that what was happening would continue. It's so obviously illegal. Not in the gray area, but clearly illegal... We kept thinking that the authorities would step in at some point." In June 2012, moreover, shortly after Lyft and Sidecar launched their ridesourcing services, representatives of Uber marched into the CPUC offices and demanded that regulators enforce the law. Marzia Zafar, CPUC's Director of Policy and Planning, recalled: "The head of Uber, I forgot his name, he came here along with a slew of his lawyers and lobbyists and he said, 'I'm here to ask you to shut down Lyft. They are illegal and you guys have to shut them down.' ... [It was a] strange meeting, mainly because you know, we tend to expect people to be on their best behavior when they come to talk to us, especially the regulated utilities and regulated industries. This guy comes in and is rude and demands it".

The irony was that Uber actively used regulation as a bludgeon against competitors while vehemently rejecting the authority of any government agency over its own operations. Kalanick, now working full time as Uber's CEO, refused to meet with officials at the SFMTA, and CPUC regulators repeatedly described what they perceived as an attitude of contempt emanating from Kalanick and his company. "Their strategy," according to Jack Hagan, "was just purely [to say] 'you have no business—you have no jurisdiction.'" Michael Peevey observed: "He [Kalanick] came in to see me once or twice. But [his attitude was] 'screw government, we don't need government.'" Denise Tyrell called Uber "probably the most obnoxious organization I've ever had to deal with."

Uber's executives apparently hoped to shut down its competitors so that its black car service could grow. Should CPUC decline to act, Uber threatened to launch its own ridesourcing option, UberX, to compete head-to-head with Lyft and Sidecar. According to Carol Brown, Uber's message was, "If you're going to let those guys [Lyft and Sidecar] exist, we're going to compete with them. But it's okay with us if you want to get rid of that aspect of the market." Carrying through with this threat, on July 4, 2012, Uber quietly added an UberX button to their app in San Francisco. According to its website, the button would summon vehicles "at a lower price point than our standard black car service."¹²² While Uber refrained from outright announcing that UberX was ready to recruit drivers and vehicles lacking a TCP license, Kalanick clearly conveyed to the press the true logic behind the new service: "It remains to be seen whether

¹²² Uber's initial UberX pitch to their limo partners was that they could compete against lower cost Lyft and Sidecar by saving on fuel with hybrid electric vehicles. In the end, Uber relaxed the hybrid vehicle requirement to allow most private vehicles lacking a TCP license to use Uber's platform.

regulators will crack down [on ridesharing]. If they don't, Uber is more than happy to play in this space."¹²³

The CPUC, for its part, was stretched thin in regulating limo services together with heavy rail, light rail, municipal rail and ferries, and the transmission and distribution of electricity, natural gas and propane throughout the state. It was further mired in a public relations crisis following a natural gas pipeline explosion that had killed eight people in San Bruno, a suburb only a few miles away from San Francisco International Airport in October 2010, prompting a media firestorm. Investigations concluding in January 2012 revealed that the CPUC shared some of the responsibility, as it had failed to enforce safety regulations on the Pacific Gas and Electric Company, which owned the pipeline. Consequently, the CPUC's enforcement arm, the Safety and Enforcement Division, underwent a leadership change, with Jack Hagan, a retired Brigadier General, appointed as the new head. The Division's mandate, he maintained, was abundantly clear: "The mission is safety."¹²⁴ Rejecting the agency's standard business card, he designed his own logo and printed his *modus operandi* on the back: "Mission: **'No one dies on my watch!'**"¹²⁵ Hagan believed that existing ridesourcing services, lacking any insurance requirements, posed a threat to public safety. This heightened CPUC's response to ridesourcing but with surprising results.

On August 23, 2012, the Safety and Enforcement Division issued notices to Sidecar and Lyft ordering them "to cease and desist immediately all advertisements and operations as a charter-party carrier of passengers carried without a valid authority in force with the Commission." According to the notice, failing to comply with this notice would be punishable "by a fine of up to \$5,000 or by imprisonment in the county jail for up to three months, or both" for every day of continued violations.¹²⁶ Consistent with their strategy, Sidecar and Lyft continued to operate, claiming the CPUC had no jurisdiction, as they raised capital from investors and planned their expansion beyond San Francisco.¹²⁷ Uber likewise continued to expand its ridesourcing service UberX, aggressively courting Lyft and Sidecar drivers and slashing its prices.¹²⁸ It also rolled out UberX in New York City in September 2012.¹²⁹

In November, Hagan, having been ignored by all three companies, followed up on the cease and desist notices. The Division issued \$20,000 citations to each for: (1) operating as a passenger

¹²³ <http://techcrunch.com/2012/07/01/uber-opens-up-platform-to-non-limo-vehicles-with-uber-x-service-will-be-35-less-expensive/>

¹²⁴ Hagan interview

¹²⁵ Emphasis in original. Hagan interview.

¹²⁶ Source: CPUC cease and desist letter.

¹²⁷ Sidecar finalized its Series A funding round on October 10, 2012, raising \$10 million dollars from several investors led by Google Ventures. In November 2012, Sidecar expanded to Seattle, and by February 2013, it had launched service also in Los Angeles, Austin and Philadelphia. Lyft was focused on closing its Series B funding round, which in January 2013 raked \$15 million, leading to the company's expansion to Los Angeles, Seattle, Chicago and Boston during the first half of 2013.

¹²⁸ Competitive warfare between these companies, particularly Uber and Lyft, would escalate significantly in 2013 and 2014. <http://www.forbes.com/sites/ellenhuet/2014/05/30/how-uber-and-lyft-are-trying-to-kill-each-other/>

¹²⁹ <http://newsroom.uber.com/nyc/2014/10/three-septembers-of-uberx-in-new-york-city/>
<http://allthingsd.com/20120702/a-status-symbol-moves-down-market-whats-behind-the-uberx-launch/>

carrier without evidence of public carrier insurance coverage, (2) engaging employee-drivers without evidence of workers' compensation insurance, (3) failing to enroll drivers in the Department of Motor Vehicles Employer Pull Notice Program,¹³⁰ and (4) failing to test and enroll drivers in the Controlled Substance and Alcohol Testing Certification Program. The message was unambiguous: ridesourcing would no longer be able to slip between the cracks of existing regulatory boxes.

This time, the ridesourcing companies quickly sought a meeting with Hagan's team at the CPUC. According to Emily Castor, from Lyft, "It was very scary. I mean, we were a very small company that was very new, and to have an agency of state government telling you that they were going to shut you down certainly is something we didn't want to have happen." Sidecar's Sunil Paul agreed, "they were basically saying, 'you're illegal. You need to stop.'"

The companies now shifted their strategy. If they couldn't simply evade regulation, they would seek to change the regulations. Costly licensing and insurance requirements might compel higher rates, and it was not yet clear how much passengers were willing to pay for their services. Moreover, if the licensing procedure were onerous or costly, driver recruitment would become more difficult. As they aspired to scale nationally and globally, the firms also wanted to avoid a situation in which each locality, of which there are many in the typical U.S. urban region, imposed different requirements.¹³¹ Finally, they were determined to avoid suspending operations, even if temporarily. Securing favorable regulations, they judged, would require active rather than merely tacit approval from the political supervisors of the career regulators. As explained by Sunil Paul, "regulators may not listen, but politicians will listen, and ultimately politicians are the ones that will make the rules."

MAYOR LEE ACTS

Why was it that only regulators from the CPUC and not the SFMTA pushed back against ridesourcing? Again, neither Mayor Lee nor other city government officials involved have spoken publicly, or to us, about events taking place in this period behind the scenes. However, three things seem clear. First, Lee prevented the SFMTA from claiming jurisdiction over ridesourcing. Fortuitously, since the Taxi Division had become part of SFMTA in 2009, the Mayor had full control, with SFMTA's Director Ed Reiskin reporting directly to him. Second, Lee kept the SFMTA and the Board of Supervisors from pursuing regulatory change at the city level. Third, he urged the CPUC to step in and quickly create a new set of statewide regulations. The CPUC commissioners were known to be extremely business-friendly and supportive of innovation. CPUC had no history, moreover, of interaction with, the taxi industry.

¹³⁰ As part of this program, the record of each driver becomes accessible to taxi and limo companies. When the record is updated, for example as a result of an accident, a conviction, or a driver license suspension, the DMV automatically gives notice to the driver's employer.
https://www.dmv.ca.gov/portal/dmv/?1dmy&urile=wcm:path:/dmv_content_en/dmv/vehindustry/epe/epngeninfo#programwork

¹³¹ A patchwork of regulations would make it difficult to provide rides across municipal lines. Rides between San Francisco and Palo Alto, for example, were a lucrative market.

When asked why the SFMTA didn't make a stronger effort to claim regulatory authority, SFMTA director Ed Reiskin explained, "It... was fairly clear that City Hall didn't want us to step in and do so." Luxor Cab manager Charles Rathbone added, from a taxi industry perspective: "A hundred times we in the industry, including drivers, went to the regulator, Chris Hayashi, and said, 'Chris what are you doing? These—look what they're doing... it's completely against the law.' And she would say to us over and over and over and over again the exact same words. She said, 'The problem is in Room 200,' which is the Mayor's office in city hall. She must have told us dozens of times that the problem is in Room 200."¹³² In a similar vein, the CPUC's Marzia Zafar observed that SFMTA officials "were pretty vocal in saying that (ridesourcing companies) should be taxis, that their operations disrupted traffic in the city, and [that they] were also reducing city revenue. But then the mayor said something different."¹³³ According to Sunil Paul, Mayor Lee made sure that the "SFMTA allowed [this issue] to go to CPUC. This was very, very important." As a result the CPUC, not the SFMTA, assumed responsibility for developing rules to govern ridesourcing.

Risks and Draws of Supporting Ridesourcing

Support for ridesourcing aligned with Mayor Lee's political agenda, but carried increasing risk. As employment levels and city finances were recovering from the recession, the temporary détente between moderates and progressives was beginning to fray. Fears of gentrification and displacement were on the rise. Many residents blamed the influx of tech workers for skyrocketing housing costs and objected to the city's accommodation (e.g., bus stops on public streets) of private shuttle buses run by Google and other Silicon Valley tech companies for their employees resident in the city.¹³⁴ Local transportation officials, including Hayashi, expressed concern that ridesourcing was creating a two-tier transportation system in which the wealthy would travel in private, exclusive vehicles, leaving public mass transit for the poor. Uber and Lyft were indeed more expensive than public transit, required a smartphone and credit card, and marketed to a young, educated populace. They also tended to concentrate services in areas of highest traffic demand, with higher concentrations of affluent riders.¹³⁵

Yet, ridesourcing was attracting more and more users and drivers, some of whom could be counted on to contact their elected officials when asked. Further, the Mayor and most supervisors

¹³² Christiane Hayashi indicated that she was personally eager to regulate at the local level but uncertain of SFMTA's authority. She recalled:

"I wanted to go, you know, loaded for bear [but] I didn't want to go jump out ahead of the train and get myself run over. So I went to my legal counsel, and I said, 'Tell me what the scope of my authority is here to enforce.' And they declined to give me that advice. I think that the City Attorney's office, which is also an elected office, didn't want to mess with it politically. And I was sitting there waiting for this advice... They never came back to me. And it was just very frustrating." According a staff member from the office of Progressive-leaning Supervisor Eric Mar, "we asked the city attorney to look into it, and the attorney said the city can't do much."

¹³³ Zafar interview.

¹³⁴ A year later, community protests would erupt over the allocation of street space for private bus stops and over the record numbers of residential evictions. <http://www.businessinsider.com/how-googles-buses-are-ruining-san-francisco-2013-2>

¹³⁵ On the other hand, taxis were subject to most of these same criticisms – the main exceptions being that they accepted cash payments and did not require smart phones for access.

continued to see ridesourcing as the kind of innovation for which they wanted the city to be known around the world.¹³⁶ For Mayor Lee, the popularity of Uber, Lyft, and Sidecar reflected the success of San Francisco, and perhaps even the success of his mayoral administration. Other start-ups were already beginning to imitate Uber's on-demand model, with services like "Uber for lawn mowing" or "Uber for groceries." Crunchbase, an online site that tracks startup activity, identified 29 companies launched between 2012 and 2014 identifying themselves as an "Uber of x."¹³⁷ Clearly, ridesourcing was gaining wide traction, not only among users and drivers, but additionally among entrepreneurs in other industries as well as among the broader public, in turn raising the political stakes of regulation.

RIDESOURCING COMPANIES AS POLITICAL OPERATIVES

Because all ridesourcing users and drivers have to register for the service using an email address or Facebook profile, each company has a direct channel of communication to its user base. This access gives them a distinct advantage over taxis, whose users are essentially anonymous. Through email and social media, the companies mobilized their users and drivers in San Francisco to sign petitions, contact elected officials, and attend public meetings.¹³⁸ In November 2012, Sidecar investor Lisa Gansky started an online petition calling for the CPUC to "revoke the cease and desist on Sidecar and Lyft."¹³⁹ Both companies asked users and drivers to sign in support of "transportation innovation"¹⁴⁰ and "the peer-to-peer ridesharing movement."¹⁴¹ Over six thousand supporters signed the online petition and many others called or emailed CPUC officials. The numbers were modest, but authorities were discovering that ridesourcing interests could be at least as vociferous as the taxi industry. The ridesourcing companies also hired lobbyists to press their cause with CPUC commissioners and with key elected officials in Sacramento. For example, Lyft retained Susan Kennedy, former Chief of Staff to California Governor Arnold Schwarzenegger. Sidecar had former CPUC commissioner Rachelle Chong on its staff. And Uber employed Lane Kasselmann, who had served as Deputy Policy Director in the administration of former Mayor (now Lieutenant Governor) Gavin Newsom.

¹³⁶ Some progressive members of the Board of Supervisors disagreed, but generally remained silent. According to a supervisor staff member, the "there wasn't much political will to do something about [ridesourcing]." The general attitude was: "why take on something that people seem to like? And it's not [as if] people like taxis." However, former Board of Supervisors President Aaron Peskin, who had been termed out in 2008, and Chris Daly, who had lost his supervisor seat in 2010, began calling for an aggressive city crackdown on ridesourcing. Both planned to later return to the Board of Supervisors.

¹³⁷ <https://info.crunchbase.com/2015/02/uber-for-x/>

¹³⁸ <https://www.change.org/p/petitioning-the-cpuc-we-want-ridesharing-in-california> ; <https://neighborland.com/ideas/sf-ridesharing-to-keep-on-ke>; <http://techcrunch.com/2013/05/12/sidecar-sunil-paul-backstage/>

¹³⁹ <https://www.change.org/p/tell-the-puc-to-support-ride-sharing-services>, <https://www.facebook.com/sidecar/posts/163023553821386>

¹⁴⁰ <https://www.side.cr/sidecar-gets-20k-ticket-for-innovating-over-speed-limit/>

¹⁴¹ <http://blog.lyft.com/posts/2012/11/14/defending-lyft?rq=petition>

These efforts proved fruitful. According to Denise Tyrrell of the CPUC, “The governor got involved at some point to say, ‘Hey, we don’t want to stand in the way of an emerging business model. That’s not what we want to do. Find a way to do this... in a way that satisfies your safety obligation.’”

In December 2012, all five CPUC commissioners voted to open a “Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing, and New Online-Enabled Transportation Services.”¹⁴² In its order, the Commission stated: “We initiate this proceeding to protect public safety and encourage innovators to use technology to improve the lives of Californians. The purpose of this rulemaking is not to stifle innovation and the provision of new services that consumers want, but rather to assess public safety risks, and to ensure that the safety of the public is not compromised in the operation of these business models.”¹⁴³ The Commission specified that Uber, Lyft and Sidecar could continue to operate during this proceeding, provided that they immediately met temporary insurance and safety requirements. For weeks, the three companies resisted, expressing concern that early concessions on items like insurance and background checks would become the new industry standard.

Meanwhile, Hagan continued to follow up on the cease and desist notices with citations. In his words, “I was going to hit them with a \$50,000 citation every day if they didn’t [comply].”¹⁴⁴ A particular point of contention was access to company records, including information that would allow regulators to identify drivers and vehicles and monitor service patterns. The companies claimed they were proprietary; Hagan told us he threatened to seize their data. He recalled telling them: “You don’t understand what that means, do you? Well, it means I show up one morning with about a dozen guys in little black suits that say police all over the back of them, and serve you the warrant. I walk in, I take oh, every scrap of paper in this office. I take every computer, every keyboard, every mouse, every monitor. I strip this room to the walls... Get out of the way because I’m taking out everything in that room too. And by the way, did I mention all the TV cameras that’ll be watching us carry out all your boxes? And the fact that this warrant will be on every news show?”

As it turned out, Hagan’s threats would prove empty.

In late January 2013, all three companies entered into settlement agreements with the Commission’s Safety and Enforcement Division, which included continued proof of insurance, Department of Motor Vehicle checks, and national criminal background checks. CPUC suspended the cease and desist orders and voided the \$20,000 fines.¹⁴⁵ Uber interpreted CPUC’s interim agreements with Lyft and Sidecar as confirmation that TCP licenses would no longer be required of ridesourcing operators and prepared, as it had earlier threatened, to open its UberX

¹⁴² According to Peevey, two of the five commissioners were skeptical about whether ridesourcing should be permitted, but they were to content to go along with the rulemaking process. (Peevey interview.)

¹⁴³ R.12-12-011, Rulemaking at 2

¹⁴⁴ Hagan interview.

¹⁴⁵ <http://thenextweb.com/insider/2013/01/30/lyft-cpuc-interim-agreement-and-expansion-to-los-angeles/>

platform to personal vehicles and non-professional drivers.¹⁴⁶ As the competitive rhetoric escalated, Uber’s Kalanick and Lyft’s Zimmer each accused the other (on Twitter) of plagiarism in developing their apps and of concealing the terms of their insurance policies.¹⁴⁷

CPUC LEGALIZES RIDESOURCING

Unlike local officials in San Francisco, CPUC President Michael Peevey was eager to take on the challenge of legalizing ridesourcing. A former energy company executive and entrepreneur, Peevey believed that “a proper role for agencies like the Public Utilities Commission is to foster and promote change—positive change—in a variety of technologies.”¹⁴⁸ He had first heard about Uber from his daughter, who lived in San Francisco. He tried the service and found it “wonderful.” He recalled thinking, “my God, here we have an application of a new but modest technology... We ought to be in favor of competition and opening up markets and [encouraging] exactly the thing that you say people need, which is more mobility.”¹⁴⁹ His staff recalled his clear instruction: “Let’s not stifle it, but regulate it.”¹⁵⁰

In the negotiations leading to the interim settlement, Hagan had played hardball with the companies, but this would be his last involvement with the issue. Just as Mayor Lee had blocked Hayashi’s efforts to crack down on ridesourcing, Peevey whisked the issue away from Hagan’s supervision. Peevey’s choice to oversee the rulemaking process was Director of Policy and Planning Maria Zafar, who had once driven a cab in San Francisco and since become severely critical of the taxi industry. Zafar shared Peevey’s view that the CPUC should enable ridesourcing and move rapidly to promulgate regulations. Officially, CPUC was to consider three alternative definitions of ridesourcing services: as taxis, as limos, or as a distinct service type requiring rules of its own (and perhaps exempt from regulation entirely). Unofficially, though, several sources confirm that the CPUC’s key players, President Peevey and Director Zafar, favored the last of these options from the outset—and with minimal regulation.¹⁵¹

Among telltale signs were the uneven dynamics at the proceeding’s main public event, a workshop on April 11-12, 2013. There, representatives of the taxi and limo industries, for once united in a common cause, fervently argued that unless the CPUC defined ridesourcing services as taxis or limos, it would be enabling unfair competition. A transport advocacy group warned that giving ridesourcing companies free reign could jeopardize the viability of public transit.¹⁵²

¹⁴⁶ See Uber’s interpretation here: <http://newsroom.uber.com/la/2013/01/california-clears-uber-to-continue-and-expand-operations/>

¹⁴⁷ The discussion took place on March 19, 2013. It is still available on Twitter: <https://twitter.com/travisk/status/314053528165433345>

¹⁴⁸ Peevey interview.

¹⁴⁹ Peevey interview.

¹⁵⁰ Carol Brown interview.

¹⁵¹ Two of the five Commissioners were initially skeptical about the safety of ridesourcing, but except for Peevey none felt the issue was a priority and mostly deferred to Peevey.

¹⁵² The group, TransForm, pushed for measures to ensure ridesourcing complemented, rather than substituted for, public transit. (Katz, Andy. TransForm Reply Closing Statements, June 12, 2013.) An additional argument, not raised in the rulemaking but raised by other critics, is that if ridesourcing became a substitute for services provided by the SFMTA, the loss of “choice” riders could weaken the political and financial base supporting transit, leaving an even poorer system for “captive” riders.

Hayashi, representing the SFMTA, joined taxi and limo interests in arguing that ridesourcing companies, unlike taxis and limos, were not inclined to serve the disabled community.¹⁵³ As Hayashi urged the CPUC to ensure that ridesourcing services did not have regulatory advantages over taxis, she felt her arguments fell on deaf ears. “The questions were friendly to [the ridesourcing company representatives], and they were hostile to the drivers,” she explained. “And actually, at a certain point, [CPUC moderators] stopped letting people hold the microphones; they held the microphone themselves, and when they were tired of hearing that person speak, they would walk away.”¹⁵⁴ The UTW’s Gruberg likewise recalled, “It was a very clear hostility that we felt from the people who were running the rulemaking.”

On the day the workshop concluded, Kalanick posted the following notice on Uber’s website: “Uber will roll out ridesharing on its existing platform in any market where the regulators have tacitly approved doing so. If a competitor is operating for 30 days without direct enforcement against transportation providers, then Uber will interpret that as ‘tacit approval’ of ridesharing activity.”¹⁵⁵ Until this point Uber had claimed to operate UberX in San Francisco using licensed TCP drivers and high-end hybrid-electric vehicles. The clear implication was that it would be openly accepting non-professional drivers and personal vehicles very soon. Subsequently, on July 13, just days before the CPUC circulated its draft rules for final comments, Mayor Lee proclaimed “Lyft Day in San Francisco.” The proclamation read, “Lyft and ridesharing support the City of San Francisco’s commitment to innovation and sustainability and promote transportation alternatives to individual private car ownership”¹⁵⁶ Los Angeles’ Mayor Eric Garcetti, with his own local innovation agenda, soon followed in voicing his support.¹⁵⁷

NEITHER TAXIS NOR LIMOS: Transportation Network Companies

On July 30, Commission President Peevey issued a proposed framework, entitled: “Decision Adopting Rules and Regulations to Protect Public Safety while also Allowing New Entrants to

¹⁵³ The ridesourcing companies insisted they were equipped to provide service to disabled passengers. (CPUC joint workshop report)

¹⁵⁴ Hayashi interview. The authors watched the workshop videos, confirming this happened.

¹⁵⁵ Kalanick, Travis. “Principled Innovation: Addressing the Regulatory Ambiguity Around Ridesharing Apps,” Uber Policy White Paper 1.0. April 12, 2013. <http://newsroom.uber.com/2013/04/uber-policy-white-paper-1-0/> In an interview to the Wall Street Journal, Kalanick explained, “regulatory risk is a spectrum. What I would say is that they [Sidecar and Lyft] have gone all the way to the extreme. As much as folks said ‘wow, Uber is very brazen’ these guys are far more, and that’s why we sat on the sidelines for a year.”

¹⁵⁶ <http://blog.lyft.com/posts/2013/7/15/lyft-day-in-san-francisco>. Mayor Lee, it bears mention, had already sent letters to the CPUC Commissioners maintaining that ridesourcing companies were a welcome addition to the city’s mobility menu—letters that directly contradicted the SFMTA’s official position.

¹⁵⁷ In July 2013, just a month after assuming office, incoming LA Mayor Eric Garcetti issued a public statement in support of the CPUC proposed decision, saying, “this is an exciting moment for Los Angeles as we work to embrace technology to improve our transportation options and save people money,” (<http://www.laweekly.com/news/eric-garcetti-muzzles-taxi-czar-who-criticized-uber-4171837>) Like Lee, Garcetti blocked his Taxi Commission from enforcing taxi regulations against the companies, saying in September 2013, “to shut them down I think is the wrong move.”

the Transportation Industry,”¹⁵⁸ which the CPUC adopted unanimously after minor revisions on September 19.¹⁵⁹ The process had been unusually rapid, roughly half the length of a typical CUPC rulemaking proceeding.¹⁶⁰ The decision was largely perceived as a win for ridesourcing companies. Its central component was the creation of a new regulatory category, Transportation Network Company (TNC), defined as “an organization, whether a corporation, partnership, sole proprietor, or other form, operating in California that provides transportation services for compensation using an online-enabled app or platform to connect passengers with drivers using their personal vehicles. The primary distinction between a TNC and other Transportation Charter Party (TCP) is that a TNC connects riders to drivers who drive their personal vehicle, not a vehicle such as a limousine purchased primarily for a commercial purpose.”¹⁶¹

The new TNC regulations bestowed sizeable discretion upon ridesourcing companies and operators. Whereas each taxi or limo must be individually licensed to operate in California, the CPUC directed that permits be awarded directly to ridesourcing companies, which would be free to add an unlimited number of drivers and vehicles to their platforms. Each TNC was to be responsible for conducting background and driving record checks on drivers and for implementing a zero-tolerance policy on drugs and alcohol. Prior to offering service, vehicles utilizing TNC platforms were to be required to pass a 19-point inspection. The CPUC also required TNCs to have a commercial liability insurance policy with a minimum of \$1 million coverage for each incident involving TNC vehicles and drivers while providing a TNC trip. Rates would remain unregulated, enabling TNCs to implement surge pricing or undercut taxi prices.¹⁶² They would, however, be required to submit yearly data on their operations, including the number of rides requested and accepted by TNC drivers within each zip code, the number of hours and miles driven by each TNC driver, the cause of each driving incident involving a TNC driver, and revenue per trip. The Commission would collect one-third of one percent of total revenues from TNC services as fees, and could revoke TNC permits.¹⁶³

The regulations clearly expressed CPUC’s authority to regulate ridesourcing and its interest in ensuring public safety but were vague on the topic of enforcement. For example, the rules required vehicle inspections but did not specify who was to conduct them. More generally, sources at the CUPC informed us that enforcement is lagging due to simple lack of agency capacity.¹⁶⁴ These sources also indicated that the TNCs, and particularly Uber, have remained highly resistant to providing the service data required. According to Denise Tyrrell, who replaced Hagan as head of the Safety and Enforcement Division, “the real big negotiation was the data request. They all agreed to it, but when it came time to submit it they did not want to

¹⁵⁸ <http://www.scpr.org/news/2013/07/31/38445/utilities-commission-says-it-will-regulate-app-bas/>

¹⁵⁹ CPUC Decision 13-09-045 <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M077/K132/77132276.PDF>

¹⁶⁰ Zafar interview.

¹⁶¹ CPUC Decision 13-09-045, p 24.

<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M077/K132/77132276.PDF>

¹⁶² Final decision, p. 74

¹⁶³ Final decision, p. XX. As of this writing, in 2015, the CPUC is undergoing a new rulemaking proceeding that will again focus only on two topics: public safety and “fostering innovation.”

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M151/K340/151340097.PDF>

¹⁶⁴ Tyrrell interview.

hand it over. Uber still hasn't handed over the information."¹⁶⁵ Also, emerging controversies about the liability of TNCs led the California State Assembly, on September 17, 2014, to pass an amendment to the Public Utilities Code, adjusting and clarifying the CPUC's original insurance requirements, so that ridesourcing company coverage would be extended to drivers as soon as they opened their apps regardless of whether or not they were carrying passengers.¹⁶⁶

While admitting that the regulations were far from perfect, Peevey expressed pride in what had been achieved in California, telling us, "It was an exciting thing to do and to be the first."¹⁶⁷ Regulatory bureaucrats, on the other hand, were less than pleased,¹⁶⁸ and taxi interests were incensed.¹⁶⁹ Coming up with a balanced evaluation of the impacts these regulations have had on urban mobility in San Francisco remains difficult, as publicly accessible data has only begun to emerge. The SFMTA has recently reported that the number of taxi trips in SF dropped from 2.5 million per month in 2012 to 870,000 per month in 2014.¹⁷⁰ Most of the former taxi users are thought to have shifted to Sidecar, Lyft and Uber, which has additionally gained new riders from other modes as well as those undertaking extra trips that were previously unfeasible. The proportion of San Francisco residents that report using TNCs at least once a week grew from 10% in 2013 to 17% in 2014, according to the SFMTA, and undoubtedly continues to grow. On

¹⁶⁵ This issue has recently been the focus of controversy in California, as the CPUC imposed, on July 15, 2015, a \$7.3 million dollar fine against Uber for failing to comply with its obligation to submit its data reports. <http://www.sfgate.com/business/article/Uber-fined-7-3-million-for-keeping-info-from-6387070.php>.

¹⁶⁶ The triggering event for this legislation was that on New Year's Eve 2013, three months after the CPUC issued its rules, an UberX driver hit and killed six-year-old Sophia Liu. Because the driver was logged on to Uber's app but did not have a passenger in the car at the time, Uber's CPUC-compliant commercial insurance did not cover the accident. The Board of Supervisors held hearings on the subject, but continued to defer to the State. Following the passage of the legislative amendment by the State Assembly, on November 2014, the CPUC clarified and strengthened its original insurance requirements. As a result varying levels of coverage are required for three periods of the ride: (a) When the app is open, but no match has been established with a passenger, (b) when the driver has accepted a request, and is on route to pick up the passenger, and (c) when the passenger is on the vehicle and until the passenger exits ending the ride. <http://techcrunch.com/2014/01/02/should-car-services-provide-insurance-when-ever-their-driver-app-is-open/> <http://www.cpuc.ca.gov/NR/rdonlyres/71B6669F-EF0D-47DE-8401-9D43C585063F/0/CPUCStrengthensInsuranceRequirementsforTransportationNetworkCompanies.pdf>

¹⁶⁷ Peevey interview

¹⁶⁸ "It was obvious that they [the CPUC] had already made up their minds," Hayashi said of the rulemaking. "They didn't want to hear from anybody that was going to contradict them; they didn't accept any evidence in the record it was really bad." Ed Reiskin was diplomatic: "I thought it was going to be a little bit more constructive than I think it's turned out so far to be." Hagan too was disappointed. "As far as I'm concerned the rulemaking just went sideways. It didn't do anything. It didn't look at anything."

¹⁶⁹ For UTW's Gruberg, the entire proceeding was "a charade, a farce." Rathbone summarized: "In case after case, city after city, what's happened is that the regulator, who's a part of government, the administrative part of government, said, 'Wait a minute. These people are breaking the law. That's against the rules. You can't operate a taxi service without a permit. That's the law in our city.' And so then they issue some kind of cease and desist or whatever. And then the other part of government, the mayor typically, comes in and says, 'No, no, no. These people get a pass on the law.' And I'm not exaggerating."

¹⁷⁰ These figures based on a September 2014 report by the SFMTA Taxi Director, who revealed that average monthly trips per city taxi plummeted in this period from 1,424 in 2012 to 504 (assuming 1,735 taxis). <http://archives.sfxaminer.com/sanfrancisco/report-says-sf-taxis-suffering-greatly/Content?oid=2899618>

the other hand, taxis continue to be preferred over Transportation Network Companies by users earning less than \$75,000 per year.¹⁷¹

Uber and Lyft continue to compete for passengers and drivers, with the former significantly strengthening its market position since the rulemaking. Sidecar's position, in contrast, appears to be slipping, and the company is now refocusing toward on-demand package delivery. In April 2014 Lyft moved its 379 San Francisco employees to a 66,000 square foot office in the Mission District.¹⁷² In June 2014, Uber relocated its roughly 700 local employees to an 88,000-square-foot space on Market St.¹⁷³ A year later, it further unveiled plans for a new 423,000 square foot, two-building complex in Mission Bay, to house 3,000 employees managing its global headquarters.¹⁷⁴ Even before these new hires, Uber ranked as the 15th largest tech employer in San Francisco, ahead of companies like Yahoo, Cisco and Airbnb. (Lyft ranked 27th.)¹⁷⁵

Conclusion

The emergence of ridesourcing has powerfully captured the imagination of transportation analysts in the United States and in other mature economies. Local governments in the United States face fiscal and political constraints that severely limit government-driven transport innovation. Ridesourcing promises to address many of the problems associated with auto-dependence, without replicating the spatial and temporal rigidities of fixed mass transit. It can scale rapidly, even in periods of fiscal austerity, given low capital and operating costs, entirely borne by the private sector. Transportation Network Companies have proven to be highly nimble in adjusting their service characteristics to varying consumer preferences, political circumstances, and urban settlement patterns. Hence ridesourcing has become popular not only in dense central cities but also in several lower density, more auto-oriented urban environments.

Fully cognizant of ongoing controversies about the benefits and costs of ridesourcing, this case has sought to explain why and how it came to gain legalization in its locale of origin, San Francisco, in the face of intense resistance from a deeply entrenched taxi lobby and career regulators. Many observers seeking to explain the rapid diffusion of ridesourcing have identified the brazen approach of the private entrepreneurs leading these companies, such as that of Uber's Travis Kalanick, as key. This case, however, suggests that the success of these companies and the viability of ridesourcing cannot simply be attributed to the individual agency of its founders. Once technology broke through—making available the smartphone, GPS, social media, peer-to-

¹⁷¹ These figures are reported in the SFMTA's yearly Travel Decision Surveys.

<https://www.sfmta.com/sites/default/files/reports/2015/Travel%20Decision%20Survey%202014%20Summary%20Report.pdf> pg 8

¹⁷² <http://www.sfgate.com/business/article/Seeing-pink-A-look-inside-Lyft-s-new-5896142.php>,

http://sf.curbed.com/archives/2014/10/24/inside_lyfts_pink_mustachioed_headquarters_in_the_mission.php

¹⁷³ <http://www.sfgate.com/technology/article/Uber-shifts-into-Mid-Market-headquarters-5521166.php>

¹⁷⁴ <http://www.sfgate.com/bayarea/article/Uber-will-set-up-its-headquarters-in-SF-s-6289792.php>

¹⁷⁵ <http://www.bizjournals.com/sanfrancisco/blog/techflash/2015/03/largest-sf-tech-employers-jobs-salesforce-twitter.html#g12>

peer platforms and “app” technology—entrepreneurs quickly assembled the building blocks for ridesourcing. The ridesourcing companies, further, were adroit (if not always polite) in lobbying state and local officials on the one hand, and mobilizing their drivers and patrons on the other, to further their aims. But it was not until the political leaders of San Francisco gave Lyft and Sidecar their protection from local regulators and escalated regulatory processes to the state level that ridesourcing could achieve the level of disruption eliciting our consideration.

So what made San Francisco a uniquely favorable entry point as of 2011-2013 for this new service and the companies organized to provide it? We emphasized the following:

The city’s taxi system experienced serious shortcomings in terms of supply scarcity, long average wait times, uneven geographical coverage, and underservice of low income, racial minority, elderly, and disabled passengers. As a consequence, it had few local defenders, and even these viewed it as in need of great improvement.

Moreover, the regulatory and jurisdictional arrangements governing the for-hire vehicle industry in San Francisco were unusually favorable to the legalization of ridesourcing. Taxi medallion owners are frequently important players in local politics, because their interests are clear (above all, limiting competition), they tend to mobilize around their interests, and because no other interests are as organized and active around taxi issues.¹⁷⁶ However, they are insignificant players in state politics. In the case of San Francisco, they were triply handicapped. First, a local charter amendment, adopted in 1978 for reasons wholly extraneous to this case, provided that medallions could only be held by active taxi drivers, one per driver, and could not be sold, virtually eliminating the market value of medallions and, consequently, the resources available for medallion holders’ political mobilization. Second, a more recent reform had placed local taxi regulation directly in the mayor’s line of command, and the incumbent mayor during this period was favorably disposed both toward tech-based innovation in general and ridesourcing in particular. Third, car and limo for-hire services were regulated by a state agency, which was in a position to assert primary jurisdiction over ridesourcing if it so chose, and whose leadership took pride in California’s role as a spawning ground for new tech-based industries.

San Francisco had, as well, a cadre of motivated and skilled entrepreneurs, with easy access to well-connected and highly capitalized investors willing to take big risks, and accustomed to challenging the status quo. Sunil Paul and Travis Kalanick, we must remember, had previously launched startups that placed them in direct confrontation with regulatory agencies, and they had experience in surviving legal suits, raising capital and creating consumer products. The leading ridesourcing companies originated and were headquartered in San Francisco. This was anything but coincidental, of course, but it gave them particular leverage in San Francisco and California politics. That key decision makers (and presumably large sectors of its population) in San Francisco saw the city as part of the world’s leading urban region for computer-based innovation predisposed them to remove rather than impose regulatory obstacles to technological innovation. More specifically, the Bay Area (and in some cases the city of San Francisco itself) had previously served as the launchpad for pioneering computer-based, peer-to-peer services such as

¹⁷⁶ One exception is the disability community.

Napster, Airbnb, and Facebook. Indeed, some of the issues that would arise with ridesourcing had just been debated in San Francisco with the emergence of Airbnb, to the latter's favor.

Still, ridesourcing companies required a strong political champion in San Francisco to help them cut through the red tape and maneuver a regulatory shift. That political environment started to materialize in the years following the Great Recession of 2008-2009, during which pro-development forces ("moderates") were ascendant in San Francisco and California politics. This ascendancy was exemplified in the leadership of San Francisco Mayor Ed Lee (2011-date) and CPUC President Michael Peevey (2002-2014). Within city government, Lee moved to block regulators in the transportation agency, the SFMTA, from enforcing existing rules or pushing for new ones. At the CPUC, President Peevey sidelined his own Safety and Enforcement Division, and promoted the creation of a new legal framework that allowed entrepreneurs to grow their customer base, fine-tune their technology, and attract capital while also protecting consumer safety. One might view California's regulatory changes to accommodate ridesourcing as evidence of the growing political power of the technology industry in San Francisco. It was probably of at least equal significance, however, that San Francisco voters included a growing percentage of tech sector workers and tens of thousands of ridesourcing drivers and riders, many of who were actively signing petitions, contacting elected officials, and attending public meetings. Finally, the key decision makers in this case appear to have viewed ridesourcing as a potentially transformative model for enhancing public mobility while strengthening San Francisco's brand—technology and innovation.

The regulatory changes adopted in California cleared the path for the expansion of ridesourcing to other cities in the U.S. and the world. In each new U.S. city they have entered, ridesourcing companies have replicated their San Francisco strategy, entering the market, rapidly growing their user base, and then, once regulators become involved, mobilizing the support of passengers and drivers to lobby elected and politically appointed authorities on their behalf, most often at the state level. As of this writing, 22 states have adopted laws or regulations designed to authorize ridesourcing services, and the legislatures of several others have bills pending.¹⁷⁷ Outside the United States, many countries including France,¹⁷⁸ Germany, Spain,¹⁷⁹ Italy,¹⁸⁰ South Korea,¹⁸¹ and Thailand¹⁸² have for the moment banned UberX (and similar Uber ridesourcing products, like UberPop). Following New Delhi's ban on Uber, the Indian national government has recommended that other jurisdictions follow suit. Uber is further facing regulatory pushback in Canada, the U.K., Brazil,¹⁸³ Japan,¹⁸⁴ and China.¹⁸⁵

¹⁷⁷ States with legislation include: Arizona, California, Colorado, District of Columbia, Georgia, Illinois, Kansas, Maryland, Nevada, Tennessee Virginia. Laws in Michigan and Ohio are pending. A list and details are available here: <http://viewer.zmags.com/publication/60841263#/60841263/1>

¹⁷⁸ <http://www.reuters.com/article/2015/06/25/us-france-uber-idUSKBN0P50RX20150625>
http://www.nytimes.com/2014/12/16/business/international/france-says-it-will-ban-ubers-low-cost-service-in-new-year.html?_r=0;

¹⁷⁹ <http://www.telegraph.co.uk/news/worldnews/europe/spain/11282761/Judge-in-Spain-bans-Uber-taxis.html>

¹⁸⁰ <http://www.theguardian.com/technology/2015/may/26/uber-pop-italy-order-discontinue-unfair-competition-taxi>

¹⁸¹ <http://uk.reuters.com/article/2014/12/24/uk-southkorea-uber-idUKKBN0K20G320141224>

<http://blogs.wsj.com/korearealtime/2014/07/21/seoul-moves-to-ban-uber-plans-own-app/>;

¹⁸² <http://www.bangkokpost.com/news/general/445978/uber-declared-illegal-in-thailand-drivers-face-heavy-fines>

¹⁸³ <http://panampost.com/belen-marty/2015/04/29/brazil-slams-brakes-on-uber-for-violating-regulations/>

Nonetheless, ridesourcing has provided a highly significant new urban mobility option in hundreds of locales within just the first several years of its existence. And it has afforded further evidence of the San Francisco Bay Area's role as one of the world's leading innovation hubs.

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¹⁸⁴ <http://www.bloomberg.com/news/articles/2015-03-07/uber-ends-japan-pilot-ride-sharing-as-ministry-calls-halt>

¹⁸⁵ <http://chinafocus.us/2015/06/17/uber-facing-regulation-in-china-when-the-sharing-economy-cuts-the-communist-cake/>

Appendix I: Summary of Debate on Ridesourcing

Proponents of ridesourcing generally highlight its following features:

- It is highly flexible for patrons, in this respect emulating taxi and limo travel.
- It is also flexible for providers, enabling vehicle owners who wish to drive for-hire to do so on their own schedules, for as many or few hours per week as they wish.
- It is easy to access, at least for those with smart phones, from virtually any location within the areas that it serves. And response times tend to be excellent.
- When combined with variable or “surge” pricing, it is extremely good at matching supply with demand, even during the busiest periods.
- The mutual passenger-driver rating system, which affects the ability of both to access future rides, encourages civil interactions.¹⁸⁶
- The recording of personal details about both drivers and passengers reduces the likelihood of crime, facilitates the resolution of disputes, and the return of items lost in the vehicle.
- It has the flexibility to offer services ranging from the high-end limousine type to demand-responsive transit (for-hire carpooling).¹⁸⁷
- Particularly in its less expansive variants, it has great potential in areas poorly served by transit and conventional taxi companies to enhance the mobility of those too young or old to drive, the disabled, and others without easy access to automobility.
- Its provision for automatic electronic payment, generally without tipping, is a valuable convenience feature for patrons.
- It provides users with the opportunity to share their ride with others, potentially reducing costs (with service options like UberPool and LyftLine).
- While ridesourcing companies are frequently criticized for their labor practices (see below), these are often no worse than those prevalent in the taxi industry, as indicated by the large numbers of taxi drivers who appear to have defected to ridesourcing.

Critics, on the other hand, tend to highlight the following:

- The regulatory freedom that has been provided to ridesourcing companies in California and many other jurisdictions is unfair to taxi and limousine companies, which are subject to far stricter (and more expensive) standards, intended to enhance both public safety and the availability of service to less advantaged groups.
- Ridesourcing companies classify their drivers as independent contractors, ineligible for such benefits as unemployment insurance, workers’ compensation, employer-subsidized health and social security benefits, and career pathways. (This is, it bears mention, true of virtually all taxi and limousine companies as well.)
- Ridesourcing companies tend to concentrate their services in areas of high traffic demand and incentivize driving during peak times through variable pricing. In doing so, they may worsen traffic congestion in these areas,¹⁸⁸ even as they underserve potential patrons outside them.¹⁸⁹

¹⁸⁶ Ridesourcing companies periodically remove low rated drivers from their networks, and will not pair a passenger who in the past gave a driver a low rating with the same driver again. In turn, drivers can see the passengers’ rating, and can choose to withhold service to low rated customers.

¹⁸⁷ See Lyft’s “hot spots,” launched March 2015 in San Francisco: <http://blog.lyft.com/posts/hotspots>.

¹⁸⁸ Congestion is a plausible charge given the large number of additional vehicles for hire that ridesourcing companies have lured into service, and their tendency to cluster where prospective patrons are most concentrated. However, no studies have yet definitively measured congestion effects, and doing so is likely to prove more complicated than critics assume. Theoretically, the issue is the extent to which (a) drivers spend time circulating

- In order to access ridesourcing, one needs a smartphone and credit card, which tends to exclude most low-income urban residents. Taxis, on the other hand, accept phone and street hails as well as cash.
- Ridesourcing, particularly as it expands to include opportunities for ride-sharing, is likely to undercut mass transit, to the particular disadvantage of the poor.
- Taxi medallion investments are themselves a product of public policy, and come with mandates to serve poor, elderly, and disabled passengers. It is unfair of governments to undercut them without compensating existing medallion owners.¹⁹⁰
- Ridesourcing companies may mislead potential drivers by overstating expected earnings and downplaying costs.¹⁹¹
- Whereas ridesourcing companies emphasize the “job flexibility” they offer drivers, and the large amount of employment they are generating, Uber is deeply engaged in research on self-driving cars, and may in a future iteration dispense with drivers for the most part.

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without passengers, (b) drivers offer ridesourcing services full time or only part-time, and (c) ridesourcing trips are replacing taxi trips, transit trips, car trips, or trips that would otherwise not have been made.

¹⁸⁹ Critics warn ridesourcing companies might focus service in the most lucrative markets and neglect residents of less profitable areas. An analysis of all Uber and taxi rides in New York City taken April to September 2014 concluded that the ridesourcing company had a larger share of its trips originating outside of Manhattan. Twenty-two percent of all Uber trips in NYC originated outside of Manhattan, compared to 14% of all yellow and green taxi rides. This may not be indicative, however, of the situation in other metropolitan areas.

<http://fivethirtyeight.com/features/uber-is-serving-new-yorks-outer-boroughs-more-than-taxis-are/>

¹⁹⁰ In the U.S., most cities have regulated the supply and service characteristics of for-hire vehicles since the 1930s based on laws that, with some exceptions, have proven very resilient. To be sure, in the 1970s and 1980s, some cities partially deregulated the taxi industry by relaxing entry or fare constraints. San Francisco, the subject of this case study, was not one of these cities. Taxi regulations in many cities, including San Francisco, also have been challenged by limited “leakage” in the form of limo and black car services. See Dempsey, Paul Stephen. 1996. “Taxi Industry Regulation, Deregulation, and Reregulation: The Paradox of Market Failure.” SSRN Scholarly Paper ID 2241306. Rochester, NY: Social Science Research Network. <http://papers.ssrn.com/abstract=2241306>. Teal, Roger F., and Mary Berglund. 1987. “The Impacts of Taxicab Deregulation in the USA.” *Journal of Transport Economics and Policy* 21 (1): 37–56.

¹⁹¹ For example, <http://www.businessinsider.com/uber-drivers-say-theyre-making-less-than-minimum-wage-2014-10>

Appendix II: Timeline of Events

- **1970s:** progressives originate as an urban movement together seeking to stop the “Manhattanization” of San Francisco and actively for restrictive building codes, affordable housing set asides and other community benefits from developers, rent control and eviction restrictions, and a “Transit First” policy, gaining considerable policy traction into the 1990s.
- **1970s:** Ed Lee, the son of Chinese immigrants, enters San Francisco’s political fray fighting for tenant rights in Chinatown as Managing Attorney for the Asian Law Caucus.
- **Late 1970s:** the San Francisco Bay Area emerges as world lead in computer-based high tech development. Over the next three decades rapid and massive proliferation of the high tech industry, together with the housing boom, overtakes the region.
- **1978:** Proposition K diffuses the concentration of ownership in San Francisco’s taxi industry and eliminates the market value of taxi medallions.
- **1989:** Ed Lee joins Mayor Art Agnos administration as Investigator for the City’s first Whistle Blower Ordinance. Over the next two decades, he steadily shifted towards public management roles, most notably including two appointments as City Administrator.
- **Late 1990s:** To address taxi industry shortcomings, Mayor Willie Brown spearheads creation of Taxi Commission, which increases medallions from 981 in 1998 to 1,431 in 2007.
- **2000:** Carsharing enters the U.S. market in 2000 with the founding of Boston-based Zipcar.
- **2000:** Sunil Paul applies for a patent for “an improved system and method for providing transportation services over a data communications network” but is unable to raise funding to launch a company based on this idea.
- **2003:** Business-friendly political moderate Gavin Newsom narrowly defeats progressive candidate Matt Gonzalez, a left-oriented, anti-corporate candidate.
- **July 2003:** Taxis blockade vehicle access to the Hilton Hotel in protest of the hotel management’s practice of “steering” guests to take limos for rides to the airport.
- **2005:** Report concludes poor response times and high rates among San Francisco taxis.
- **Mid 2000s:** advent of mobile phone technology and the rapid diffusion of social media platforms.
- **2007:** Newsom wins mayoral reelection with over 72 percent of the vote, consolidating moderates as the dominant force in local politics.
- **2007:** Logan Green and John Zimmer co-found Lyft.
- **2008:** Great recession triggers surging unemployment.
- **2008:** Brian Chesky, Joe Gebbia, and Nathan Blecharczyk co-found Airbnb in San Francisco.
- **August 2009:** Travis Kalanick and Garret Camp co-found UberCab as limo-share company.
- **2009:** Proposition A shifts Taxi Division under jurisdiction of SFMTA.
- **August and September 2010:** Taxi Medallion Sales Pilot Program transfers ownership of approximately 192 medallions and generates \$16 million for the SFMTA.
- **July 2010:** Ubercab launches with only ten driver-partners.
- **September 2010:** taxi drivers voice complaints about an “illegal, high tech taxi service” known as UberCab at a town hall meeting convened by SFMTA.
- **October 2010:** Uber reported to obtain \$1.25 million from well-known angel investors.
- **October 2010:** SFMTA and CPUC issue cease and desist orders against UberCab.
- **January 2011:** Ed Lee appointed to fill vacant mayoral seat when Mayor Gavin Newsom leaves to become California’s Lieutenant Governor.
- **February 2011:** With city and state “cease and desist” orders still formally in effect but unenforced, Ubercab raises \$11 million more, enabling it to expand to 16 additional cities.

- **June 2011:** Group of taxi drivers in San Francisco organizes one-day strike over numerous grievances, including lax enforcement against illegal limo operations.
- **October 2011:** Uber causes stir in San Francisco with announcement of impending experimentation with “surge pricing” on Halloween.
- **2011:** Lee backs controversial corporate tax breaks offering six months of payroll tax breaks on new hires, including stock-based compensation, for companies that locate in the city’s historically disinvested Mid-Market/Tenderloin area.
- **November 2011:** Ed Lee runs in the mayoral election to gain 60% of the vote against several Board of Supervisors members.
- **2012:** Sunil Paul and Jahan Khanna co-found Sidecar.
- **January 2012:** At inauguration address, Mayor Lee declares San Francisco “the Innovation Capital of the World.”
- **Early 2012:** Mayor and most of the Board of Supervisors defend Airbnb when San Francisco Tax Collector Jose Cisneros rules that hosts should pay the hotel tax.
- **March 2012:** Mayor Ed Lee and Board of Supervisors President David Chiu announce the formation of a “Sharing Economy Working Group.”
- **May 2, 2012:** when Airbnb signed a lease on a 169,000 square foot office space in San Francisco, and announced plans to grow its staff to 1,000.
- **June 2012:** Lyft and Sidecar launch their ridesourcing services.
- **July 2012:** Uber quietly added an UberX button to their app in San Francisco.
- **2012:** Lee and Ron Conway form sf.citi, to improve the city’s business climate.
- **2012:** CPUC’s enforcement arm, the Safety and Enforcement Division undergoes leadership change, with Jack Hagan, a retired Brigadier General appointed as the new head.
- **August 2012:** Sidecar and Lyft issued cease and desist notices by CPUC.
- **November 2012:** Sidecar investor Lisa Gansky starts online petition calling for the CPUC to revoke cease and desist on Sidecar and Lyft. Hired lobbyists simultaneously press their cause with CPUC commissioners and Sacramento key elected officials.
- **November 2012:** Hagan follows up on the cease and desist notices with \$20,000 citations.
- **November 2012:** Proposition E replaces San Francisco’s payroll tax with a gross receipts tax, with wide business and labor support.
- **December 2012:** CPUC commissioners open “Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing, and New Online-Enabled Transportation Services under supervision of anti-taxi industry Maria Zafar.
- **January 2013:** Sidecar, Lyft, and Uber enter settlement with CPUC Safety and Enforcement Division. CPUC suspends the cease and desist orders and voids the \$20,000 fines.
- **July 2013:** CPUC President Peevey issues “Decision Adopting Rules and Regulations to Protect Public Safety while also Allowing New Entrants to the Transportation Industry,” which is unanimously adopted two months later.
- **April 2014:** Lyft moves 379 San Francisco employees to a 66,000 square foot office in the Mission District.
- **June 2014:** Uber relocates 700 local employees to an 88,000-square-foot space on Market St.
- **2014:** SFMTA survey reports ridesourcing to be “the most used of the new travel options,” ahead of taxis, carsharing, and bikesharing in the Bay Area counties.
- **Late 2014:** Rose Pak distances herself from Lee.
- **2015:** Uber unveils plans for a new 423,000 square foot, two-building complex in Mission Bay, to house 3,000 employees managing its global headquarters.