

Transformations in the Ottawa Taxi Industry:  
A Sociological Perspective

by

Declan D. Driscoll

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Carleton University  
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Declan D. Driscoll

## **Abstract**

This thesis sets out to explore the recent emergence and legalization of private transportation companies within Ottawa. In doing so it seeks to understand some of the social, economic, and governmental factors that have worked to enable these companies to successfully emerge within the previously closed taxi market, and explores some of the potential social consequences that the legalization of private transportation companies will have for labourers, residents, and governing structures within Ottawa and Canada more generally.

It begins with an overview of the history of taxi legislation within most major Canadian cities, where I compare and contrast technical differences between the taxi industry and private transportation companies. This is then followed by a critical investigation into the social discourses that predominantly support this transformation, beginning with an analysis of existing social discourses about the relationship between technology and social progress, followed by an analysis of discourses about worker and consumer autonomy. Lastly, this thesis explores the ways in which the emergence of private transportation companies asks crucial questions about the limits of our current governing structures, pointing to new ways in which companies are able to speak to workers and consumers beyond government through the use of new mobile technologies.

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## 1. Introduction: The Sharing Economy

This thesis positions itself in relation to emerging debates around the legalization of private transportation companies (e.g., Uber and Lyft). It specifically argues that the legalization of these companies will have profound future impacts on labour organization within Canada, and also argues that these new labour platforms are testing the limits of government oversight as new technologies are allowing global corporations to connect with individuals in new ways. This thesis analyzes the recent legalization of private transportation companies within Ottawa as a case study to illuminate many of the broader ways in which the presence of private transportation companies is reconfiguring the social. It deviates from traditional political analyses which focus on the technical details and legal proceedings that are encompassed within this transformation, and instead investigates how transportation networking companies are attempting to redefine notions of labour within the transportation industry and develop corporate infrastructures which allow them circumvent existing structures of governing. I argue that their success in doing so stems from their ability to draw upon current social discourses about the relationship between technology and social progress, the current trend towards the normalization of precarious labour within Canadian society, and the newfound capabilities of mobile technologies which allow companies and individuals to speak to one another in profoundly new ways.

### The emergence of the “sharing economy”

In recent years, many academics, government representatives, and managerial schools have been giving much attention the emergence of a phenomenon known as the “sharing economy”. Managerial scholars of recent years have come to define the sharing

economy as a set of new market-based economic practices in which new, crowd-based networking technologies enable individuals to “share”, rent, or sell their goods or labour to other individuals in real-time. In, *The Sharing Economy: The End of Employment and the Rise of Crowd-Based Capitalism* (2016), Sundararajan argues that the sharing economy is an economic system that is both an extension of existing market-based economic models, and a new model of market relations which draws upon decentralized “crowd-based networks rather than centralized institutions or ‘hierarchies’” (Sundararajan, 2016:27). He similarly notes that the sharing economy has worked to “blur the lines between the personal and the professional ... full employment and casual labour, independent and dependent employment” and “between work and leisure”, through granting autonomy over the conditions of their labour (ibid).

The Ontario Chamber of Commerce similarly defines the sharing economy as composed of two general practices where “sharing firms either own goods or provide services that they rent to customers, often on a short-term basis”, and/or, “create peer-to-peer platforms [that] connect providers and users for the exchange, purchase, or renting of goods and services” (Holmes and McGuinty, 2015). Some examples of these firms include transportation networking companies such as Uber and Lyft, peer-to-peer short-term lodging rental companies like Airbnb, car-sharing companies such as Zipcar and Vrtucar, and small startups like CityParking in Ottawa, Canada, which lets individuals rent private parking spots within urban areas.

However, the emergence of the sharing economy has not come without controversy. One of its most controversial areas has been the emergence of transportation network companies Uber and Lyft, whose services threaten the taxi industry of many

cities. These companies offer customers and drivers transportation and work in ways that have circumvented existing legislation within most cities around the world which restrict and regulate the form that taxi services will take. Rather than appearing as a simple case of technological advancement within an industry, these services enter into a landscape where cities have specifically set limits on the form that taxi-like services can take in an effort to ensure social and economic good for the city, its residents, and workers. The fact that these companies are not subject to the same restrictions as the taxi industry has led to much controversy and protest within major Canadian cities.

In recent years, both local and federal governments within Canada have been attempting to grapple with the emergence of the sharing economy. In most cases, new domains of the sharing economy take shape in a decentralized manner and emerge beyond the government's reach, only entering into its purview when they saturate the market and become unavoidable. The ability for companies like Uber and Airbnb to operate anarchically for quite some time before cities asked questions about their legality has caused many governments to develop pre-emptive strategies for allowing sharing economy companies to exist in innovative, yet legal ways (Holmes and McGuinty, 2015). However, in certain cases — particularly when major corporate players have been involved (e.g., Uber and Airbnb) — it is unclear if governments have control over the form that certain domains of the sharing economy will take, as the overwhelming consumer support and demand for these services prior to any sort of developed legal framework to support these services by governments often leaves the legislative process reactive and secondary.

## The “sharing economy”: new approaches to precarious labour

The emergence of the sharing economy within Canada has fallen neatly in line with an existing trend within present-day realms of employment: the increase in precarious forms of labour. Many companies that fall within the umbrella term of the ‘sharing economy’ draw upon part-time, contractual forms of employment that have become characteristic of what is increasingly being called ‘precarious labour’ by academics and government officials.

In his 2008 presidential address to the American Sociological Association, Kalleberg (2009) argues that the increase in precarious work within the present era is “a core contemporary concern within politics, the media, and among researchers” (Kalleberg, 2009:2). He defines precarious work as “employment that is uncertain, unpredictable, and risky from the point of view of the worker”, and argues that it has seen tremendous growth in many industrialized societies since the 1970s (ibid). Alternatively, The Law Commission of Ontario — an independent organization of lawyers which researches employment issues and recommends law reforms to Canadian legislators — defines precarious work as “part-time, temporary and casual forms of work”, which emphasize flexible forms of labour (“Identifying Vulnerable Workers and Precarious work”, 2016). At the same time, this commission argues that labour flexibility disproportionately benefits business owners and workers in higher wage categories while placing low-skill workers in a greater state of employment insecurity. According to this commission’s definition, precarious forms of work offer benefits to both employers and workers in higher wage categories by allowing specialized workers to have greater

autonomy in negotiating the terms of their employment, and by allowing employers to have greater control over their labour pool. On the other hand, flexibility for lower wage workers often equates to employment insecurity because it leaves workers subject to sudden fluctuations in the job market, reduces the likelihood of workers obtaining substantial job benefits, and often prevents workers from unionizing.

Part of the literature on precarious labour also discusses how the emergence of new technologies can reduce the need for educated specialists within many industries, as new technologies often allow novices to perform labour roles that were previously confined to full-time specialists (Broad, 2000; Di Domenico and Nunan, 2014; Bergvall-Kåreborn and Howcroft, 2014). An example would be new online crowdsourcing platforms like Amazon's MechanicalTurk, which use internet technologies to allow companies to break up and outsource labour in the form of "micro tasks", reducing the need for companies to hire full-time employees (Bergvall-Kåreborn and Howcroft, 2014). Through breaking apart a complex position of employment into small pieces which can be made intelligible to lower-skilled workers, and by drawing upon the vast potentials of an online labour pool, companies are increasingly transforming previously taken-for-granted notions of full-time employment. This is forcing workers and government legislators to craft new solutions to help adapt to these growing changes.

For a wide variety of reasons, there is widespread consensus that employment in the present day is breaking away from Fordist models of labour – models which emphasize employment security through career stability -- and calculative and regimented Taylorist conceptions of employment. Employers are now increasingly able to reduce the financial risk they might previously have faced by hiring full-time employees,

while workers (in theory) get to break from the monotony of the ‘old spirit of capitalism’ (Boltanski and Chiapello, 2005) that often ties them to a single and secure form of labour throughout their lifetime. While many scholars continue to discuss the ways in which the growth in precarious labour benefits employers and hurts employees, Morgan, Wood, and Nelligan (2013) argue that the rise in precarious labour has also come about because of a growing preference among youth for employment flexibility. Through conducting a variety of interviews with young professionals in Australia, these authors problematize the narrative that youth today (particularly within creative industries) overwhelmingly favour full-time employment over precarious forms of labour. For these youth, flexibility in work is often seen as liberating from the monotony of full-time labour forms. This perspective is important to consider in an academic landscape that is often pessimistic about the rise in precarious labour. However, it is important to consider both perspectives of this transformation if we are to make sense of it. In many cases, new forms of work appear to meet the demands of youth, yet there continue to be many cases where the emerging presence of precarious work is harmful and destructive.

This thesis falls neatly into these debates by discussing the ways in which transportation networking companies like Uber and Lyft are both harming labourers within the taxi industry through destabilizing their space of employment, while simultaneously creating technologies which fit neatly into the growing demand for flexible labour opportunities. It argues that their platforms are both creating a state of precarity for labourers within the taxi industry while simultaneously attempting to combat conditions of precarity in other employment sectors by harnessing technology to create a new field of easily accessible employment opportunities. This thesis looks at the

ways in which employers and large corporations are increasingly manufacturing and dictating the terms of employment within modern societies and investigates the ways in which companies today are drawing upon the new sense of autonomy that individuals around the world have gained due to the widespread use of data-connected cell phones to further their platforms, redefine employment, and restructure economies. It also argues that the early success of transportation network companies like Uber can be partially attributed its platform's capability to engage with people directly through individualized digital technologies that circumvent borders, local governments, and local economies.

The establishment of transportation network companies within Ottawa has created a unique paradox where local citizens are being connected to other local citizens in the form of pay-for-hire vehicle services, yet they are being disconnected from the local by forging new relationships with multinational corporations. In many cases, this disfavors local corporate development and the strength of locally standardized labour practices. Although Uber drivers and the Uber corporation still enter a form of social contract with states through taxation, this thesis shows how that connection is problematic and ambiguous primarily because transportation network companies like Uber are increasingly utilizing global corporate subsidiaries to facilitate their financial transactions. This is important because it asks questions about the extent to which our current local governing structures can monitor and manage new forms of digitally-enabled labour to ensure the integrity of employment and the financial accountability of these corporations. It is increasingly difficult for local and national governments to monitor these new labour arrangements, as new technologies in the form of the data-connected mobile phone and the temporary contract allow corporations to circumvent

governmental barriers to entering a local market. In normal circumstances, an emerging transportation company within Canada would have to invest in local infrastructure and establish a local corporate entity that could be held directly accountable to the Canadian Revenue Agency. Through creating a platform that asks contracted workers to utilize their own physical assets to perform work, and through establishing an elaborate network of international corporate subsidiaries, companies like Uber create an opaque field of corporate relations that obscures questions of corporate responsibility. The City of Ottawa has created a legislative framework that attempts to navigate this new and complex terrain of social and economic relations, and this thesis explores some of the city's struggles with doing so. It also discusses some of the social discourses that have complemented the infrastructural innovations of companies like Uber, and argues that these helped legitimize this new platform to Ottawa's residents and municipal government.

### Thesis structure

This thesis provides a detailed investigation and analysis of the recent emergence and subsequent legalization of transportation networking companies within Ottawa, Canada. In doing so it asks: What are some of the dominant social and infrastructural factors that have contributed to the emergence of transportation networking companies to the point of legalization within Ottawa? What are some of the potential social consequences of the legalization of transportation networking companies for labourers, residents, and governments within Ottawa and Canada more generally?

Among the enabling factors: the widespread use of new mobile technologies; the prevalent emphasis by public figures and citizens within Ottawa on the relationship between technology and social progress; the creation of new legal terminology and categories for transportation networking companies; transportation networking company's appeal to worker autonomy; and the emerging trend within Canadian society towards the normalization of part-time, contractual labour — also known as precarious labour. It looks to contribute to existing scholarship on precarious labour — literature which is critical of the normalization of precarity and its social consequences — by looking at the ways in which companies and governments are trying to create a stable legal framework for precarious labour within Canadian society.

In this thesis, I destabilize the idea that the presence of new technology always-already equates to social progress by looking at the ways in which companies achieve a presence within markets through drawing upon common social assumptions about technology. Instead of looking at the emergence of transportation networking companies as a form of 'technological progress', I look at the ways in which the deployment and use of new ride sharing technologies have worked to break up existing employment structures and social contracts by connecting consumers, labourers, and corporations in ways that stretch the limits of local and federal governments.

This thesis is structured as follows: Chapter 2 outlines some methodological considerations and the methods of my research. Chapter 3 gives an overview of the history of taxi legislation within Canadian cities and the recent legalization of transportation networking companies within Ottawa. It outlines many of the similarities and differences between transportation networking companies and the taxi industry, and

investigates the nature of these differences. Chapter 4 discusses many of the factors that contributed to the legalization of transportation network companies within Ottawa. It outlines several causal links between dominant discourses about technology within modern liberal nation-states and the successful legalization of transportation networking companies within Ottawa. Chapter 5 consists of a close analysis of the effects that new mobile technologies will have on structures of employment and future structures of employment within Canada. It consists of an analysis of how new forms of employment initiated by new mobile technologies are affecting traditional collective bargaining practices, and further investigates links between the emphasis on worker autonomy and labour precarity within this transformation. Chapter 6 investigates the role of governments within the legalization of transportation networking companies in Ottawa. It discusses the ways in which transportation networking company arrangements of employment are asking questions about the limits of our current forms of governing. Further, it engages with various sociological debates about the limits of the state within liberal-democratic societies. Chapter 7 provides some conclusions on these topics and poses some further questions for consideration. My concluding argument is twofold: 1) The legalization of transportation networking companies within Ottawa has provided a unique window for sociologists to view technology-as-discourse in action as a force that helps legitimize market and labour reconfiguration; and, 2) The emergence of the sharing economy has exposed significant gaps in our current governmental infrastructure, calling into question common understandings of the reach of governmental power.

## Terminology

Before going further, I want to make a few brief comments about the terminology used in this thesis. Prior to the the legalization of companies like Uber and Lyft in Ottawa, most of the literature on these companies referred to them as ‘transportation networking companies’. While I both think that this is a good definition for these companies and have used this terminology in the introduction of this thesis, the City of Ottawa has officially created a new term to describe these companies in its 2016 vehicle-for-hire bylaw: “private transportation companies”. For the purposes of this thesis -- particularly after I discuss the legalization of these companies in Ottawa in Chapter 3 -- I will refer to them as ‘private transportation companies’, or ‘PTCs’. Though this terminology is confusing and not commonly agreed upon internationally, ‘private transportation companies’ makes the most sense in the context of Ottawa.

I also want to note that although private transportation companies include a wide variety of vehicle-for-hire companies beyond Uber, certain sections of this thesis exclusively refer to Uber, as it has become the superpower within the PTC industry. In many senses, Uber is setting the tone for this industry and its corporate model is one that other companies aspire to within this space. Thus, in sections where I replace ‘private transportation companies’ in favour of a discussion of Uber, I do acknowledge that Uber is not the sole proprietor within this space. However, I also recognize that Uber has the most influence within this space. In many ways, its corporate techniques are establishing the terms and conditions for the legal operation of private transportation companies going forward.

## 2. Methodology

### Methodological considerations

This thesis utilizes a post-positive, qualitative approach to sociological research which represents a rejection of the central tenets of positivism as a doctrine that attempts to discern and uncover natural truths of the social through the scientific method, processes of falsification, replicability, et cetera. Instead, it looks to understand social phenomena through recognizing the impact that researchers and power within a society have on shaping the phenomena we come to observe within our research (Schwartz-Shea and Yanow, 2013; Trochim, 2006). In doing so, post-positivist research is reflexive in the sense that it attempts continuously to acknowledge — rather than to ignore, try to eliminate, or try to escape from — the effects that a researcher’s political sensibilities and position of power has on their understandings of a research context.

This line of sociological enquiry stems from the ‘reflexive turn’ in sociology which recognizes the ways in which material conditions and the development of historical forms of knowledge affect our understanding of ourselves and the world around us (Szokolczai, 1998). While many individuals in a given society develop common intersubjective understandings of themselves and the world around them, the material conditions of one’s race, class, and gender, as well as the forms of knowledge that exist today often determine the form that social subjectivities take. My position as an affluent academic researcher affects the impression that I’ve had upon my research subjects -- who are lower-middle class service industry workers -- because my presence as a researcher reflects the luxury that I have of not being subject to the day-to-day economic troubles of taxi driving. At the same time, taxi drivers’ subject positions are often ones of

urgency -- where decisions are made without the luxury of time, but instead within the confines of the day-to-day “hustle” of the taxi industry. As I attempt to paint an accurate picture of the transformations in the Ottawa taxi industry from a grand perspective, taxi drivers today are continuing to feel powerless in the face of this larger social assemblage. Social transformations that I find fascinating as a social scientific research are equally terrifying to many of the people that I’ve studied. Through the process of reflexivity, I’ve come to understand and sympathize with these struggles as well as come to understand that my form of social scientific inquiry also needs to be paired with a form of social activism that looks to resolve some of the problems outlined. If I were to claim to be passive in my research, I would be denying the power that social scientific research has in constructing a knowledge of its own to which others are then subject to. Thus, this research does not claim to be an authoritative or definitive text on the recent transformations in the Ottawa taxi industry, but is intended to be situated within the larger ebb and flow of this social transformation in order to illuminate what is at stake, for whom, and to what ends. In it, I engage with many discourses that attempt to be definitive, and deconstruct them in an effort to uncover the messy and complex social dynamic that *actually* works to constitute the present.

In this research I do not shy away from the fact that I have been, and continue to be, sympathetic towards the struggles of taxi drivers during recent transformations within the Ottawa taxi industry. At the same time, I also acknowledge that I am an individual who is fascinated with technology, not only through my background in building computer systems, networks, and websites, but also as someone who is cautiously curious about the latest tech developments from Silicon Valley companies. As a reflexive, post-positivist

researcher, my goal is not to hide these predispositions in an effort to get at an unrealistic, objective “truth” of the recent transformations in the Ottawa taxi industry, but is instead to understand that this transformation itself carries within it a wide variety of social dispositions beyond my own, which have similarly worked to interpret and give truth to this transformation. In understanding my own subject position, I am able to illuminate how this transformation itself has been enabled by a constellation of subject positions which carries within it certain sets of power relations which attempt to shape the narrative of change within this transformation. As a result, some subjective interpretations within this transformation carry significant weight over others. Though my goal is to acknowledge the plurality of social understandings that surround this transformation, I will be primarily focused on the dominant narratives and discourses that intersect with this transformation as they have the strongest political force; however, I intend to deconstruct and scrutinize these taken-for-granted assumptions.

## Methods

This thesis utilizes a mixed methods approach to social scientific research which includes multimodal critical discourse analysis (CDA), archival research, and several short interviews with key informants in the Ottawa taxi industry.

Multimodal CDA is an approach to social scientific research that draws upon the insights of early critical discourse analysis theory, in that it looks to tease out the power relations inherent in the use of language in society while bringing a political edge to their analysis as a way to instigate social change (van Dijk, 1993). However, it deviates from traditional CDA approaches in that it attempts to incorporate an analysis of multiple

levels of discourse beyond linguistic representations, which includes analysis of visual representations and an analysis of how discourses are disseminated through various material means (Machin, 2013:347).

According to Roderick (2016), multimodal CDA adopts a notion of discourse as described by Foucault, which moves beyond an understanding of it as a “connected series of utterances linked grammatically at sentence level”, and instead understands discourse as “the rules of association between texts or statements” which determine “what can be said”, and not only ‘what is said’ (Roderick, 2016:31). To put it simply, multimodal CDA looks to move away from an understanding of discourse as something that is held by certain people or fixed within certain linguistic representations as a means to mask certain power relations. Instead, it moves towards an understanding of discourse as mobile and moving through these representations and people in ways that effects them, but is not bound to them. Thus, in analyzing discourse through certain speech practices, multimodal CDA does not view it as originating in the speech practices themselves or the intentions of the speech practitioners, but instead looks to uncover refractions and reflections of discourses within these practices that index broader patterns of discursive power that are permeating a society and history more generally. Further, it looks to understand *how* those representations acquire a material form that gives these discourses a significance within particular contexts.

Roderick (2016) develops a methodological toolkit for conducting multimodal critical discourse analysis which provides researchers with instructions for understanding the ways in which semiotic representations denote and connote meanings, and how they do so by including and excluding certain variables and social actors through various

material means. He further argues that the process of uncovering discourse is one in which research must draw upon wider social and historical analysis to understand the correlations between the messages at hand and broader domains of knowledge. Thus, in my analysis of technology-as-discourse, I attempt to connect current taken-for-granted assumptions about technology and private transportation companies to a wider array of sociological literature which has followed the development of technology-as-discourse within the history of most Western societies. In doing so, I look to understand the ways in which technology-as-discourse in its current form speaks to certain historical understandings which have often worked to include and exclude certain peoples and certain social variables. By tracing this relationship, I can acquire a better understanding of how technology, as represented through certain mediums, speaks to certain social orientations and gives agency to certain actors within society.

At the same time, multimodal CDA helps social scientists understand how certain social discourses gain significant influence at particular times in history by tracing the ways in which new infrastructural arrangements give these discourses new life. Through radically reconfiguring the financial, communicative, and material infrastructure that connects private transportation company drivers to customers and corporate entities, old discourses find new form in the knowledges that are being created around private transportation companies, primarily because they are given a new material place to sit. This is not a particularly new phenomenon to the case of private transportation companies, as many scholars of consumerism have long noted how purchasing consumer goods often works to affirm our position within a wider social order (Stolle and Micheletti, 2013; Roderick, 2016; McGuigan, 2009). Through transforming consumer

goods from inanimate objects to active mediums of communication for financial and labour exchange in the form of smart phones, new corporate entities often find their legitimization in the capacities of these devices themselves by drawing upon the discursive baggage that surrounds these technologies. Not only does purchasing and possessing these materials often work to reaffirm our social order, they exacerbate difference, making present non-digital solutions to certain social problems look tedious and antiquated. Rather than viewing these phenomena as an obvious act of social evolution, multimodal CDA views these interactions as a potent intersection of discursive and infrastructural power. This intersection is a potent social space where prominent discourses work to legitimize infrastructural changes and vice versa.

This thesis predominantly adopts a multimodal CDA approach in chapters 4 and 5, where I look to tease out the various discourses about technology, society, and employment that have in part worked to enable private transportation companies to emerge to the point of legalization within Ottawa. The use of this approach generates a sociological analysis that moves away from a traditional CDA approach — which primarily looks at the language of political legislators and corporate elites and views this language as producing social knowledge from the top down — by also looking at the ways in which new technologies are reshaping citizens material relations to their social surroundings. It takes common linguistic discourses seriously as an index of a deeper discourse of technological optimism that exists beneath these transformations, but also provides insights into the effect that the widespread use of new material technologies has had on the creation of new social relations.

Multimodal CDA also makes a clearer step towards an analysis of material modalities of discursive sociality by drawing upon the insights of actor-network theory and, in particular, the work of Bruno Latour. In his 1986 article “Visualization and Cognition: Thinking with Eyes and Hands”, Latour critiqued philosophical models of the sciences which understood scientific revolutions as occurring through epistemological revolutions of the mind. Instead, Latour argued that new material arrangements created by the influx of new communicative technologies played a larger role in determining what kind of social, cultural, and scientific knowledge could be created at particular times in history (Latour, 1986). Latour’s arguments move beyond an analysis of linguistics and debates around human rationality and instead point out how the development of new communicative technologies has been the primary driving factor in the creation and distribution of new scientific and social knowledge. By visualizing social change as arising from alterations in socio-material networks composed of human and non-human actants, Latour’s work and the insights of actor-network theory allow us to better understand the role that sociomaterial networks have in enabling certain kinds of social action and social change.

Though Latour and his fellow actor-network theorists have been important in developing a form of social scientific theory that moves ‘beyond the human’, their insights are only a small component of a large shift in the last 30 years within social science away from anthropocentric theoretical models of sociality. The recent influx of phenomenology in sociology (Dreyfus and Dreyfus, 1986; Kennelly and Poyntz, 2015; Vahabzadeh, 2009) is partial indication that social scientists are finding the Cartesian social models of old — philosophical and social scientific doctrines that privilege the

mind as the origin of human thought and action — unhelpful in understanding the complex ways in which meaning is transmitted between human beings because of their embodied presence in physical environments. Similarly, the rise of affect theory within the social sciences —as described by Spinoza in his magnum opus *The Ethics* (1981), but given a new sociological energy by Gilles Deleuze and Felix Gutattari in their book *Capitalism and Schizophrenia: A Thousand Plateaus* (1987) — marks a shared concern for the development of a domain of social theory that can help social scientists understand the effects that the physical embodiment of selves within particular material environments have on the creation of social meaning. Though a materialist approach to social scientific theory has roots in the foundations of sociological thinking (i.e., Marx’s historical materialism), the shift away from anthropocentric and Cartesian models of social theory is, in part, a response to the overwhelming dominance of postmodern and poststructural theories within the 1980s and 1990s — primarily theories that privileged language as an authoritative locus of power and creator of all domains of subjective being.

The study of language is still extremely powerful and fundamental to social theory and the creation of social subjectivities as it is also one of the only means that sociologists possess to study both spatially distant and historical societies. However, the privileging of language becomes particularly problematic when sociologists both attempt to understand processes of social *change* and attempt to engage in the process of *predicting* social change. I argue that this is in part because the attempt to predict or understand the conditions of social change in its present form through an analysis of dominant linguistic discourses within a society risks ignoring the ways in which new

material technologies allow discourses to be understood and mobilized in new ways. These new material technologies create the possibility or conditions of emergence for new social, material, and sociomaterial relations — or if we want to draw upon Bruno Latour, “networks” — to develop in ways previously unimagined and/or impossible.

Chapters 3 and 6 depart from a multimodal CDA approach in their methodology. Chapter 3 discusses the history of taxi legislation in Ottawa and draws upon archival data to illuminate the relations of power at play in the creation and recent alteration of taxi legislation. Chapter 6 adopts a polemic approach. In this chapter I engage with existing sociology theory about autonomy and subjectivity by tracing the ways in which autonomy has historically been cultivated as a neoliberal subject-position. I come to conclude that appeals to this sense of autonomy by sharing economy employers is allowing these employers to reconfigure the infrastructure of employer/employee relations in our present age.

### [Reconfiguring the social through new internet technologies](#)

What may be surprising to some is that many of the key “tech visionaries” and angel investors within places like Silicon Valley are acutely aware of the power that innovative technologies have in creating new sociomaterial arrangements, and are further aware of how the creation of new forms of sociomaterial engagement has the potential to create new profitable markets. In many cases the success of early social media platforms was because it enabled humans to engage in ways never conceived. However, the subsequent “fallout” after the boom of major social media platforms resembles an environment in which tens of thousands of startups have failed to influence people to

purchase their products through their technological rhetoric alone. Technology-as-discourse works most effectively when it is coupled with new materials that work to reconfigure our relationship to the world around us, and not through rhetoric alone.

The “new wave” of Silicon Valley that this thesis discusses draws upon this new set of realizations, whereby Silicon Valley tech firms have acknowledged the difficulties of creating new social wants and needs through the development of technology and technological rhetoric alone, and have instead turned their focus towards utilizing existing social media and mobile technologies to break up and reconfigure existing and previously “untouchable” markets (this includes the taxi industry as well as the hotel industry, and much more). In this sense, many angel investors within Silicon Valley have now turned their gaze away from tech companies which look to create innovative technologies out of ‘thin air’, and are instead increasingly interested in developing platforms which utilize existing social media technologies to speak to consumers and workers in new ways. Rather than viewing these new engagements primarily as innovation, this thesis will examine how ‘ridesharing’ tech firms have come to utilize discourses of technology and innovation, in combination with the widespread access to new mobile technologies, to instigate changes within the taxi industry from the ground up.

This line of inquiry stems from the insights of existing science and technology studies (STS) literature, particularly Bowker (1994). Bowker’s work looks at the ways in which the oil giant Schlumberger was able to gain success in the early Americas oil markets through conducting “infrastructural [and] organizational work while building up a scientific discourse”, rather than through a feat of innovation within the industry

(Bowker, 1994:166). His work points to the ways in which the success of some companies within major industries comes about through groundbreaking infrastructural work rather than through a substantive epistemic break from other companies within that space. During Schlumberger's early years, scientific innovations around oil drilling were commonly shared at the time, yet little was known within the scientific community about the geology of oil drilling. Bowker argues that Schlumberger's robust infrastructural advantage led to them to become a source of scientific authority within the early oil drilling market. This was mainly because their infrastructural position itself placed them in a position where they were able to fill in the gaps within the scientific literature through translating the process of drilling into scientific knowledge. Schlumberger's position was particularly powerful because the geology of oil sands/shales was not thoroughly known in the 1920s (Bowker, 1994:10). Through drawing on the power of infrastructure and commonly held assumptions within society about the nature of scientific and technological knowledge (as objective, non-social truths), Schlumberger was able to become a source of scientific and technological authority within the industry.

Turning our focus back to private transportation companies, these companies exist in a similar corporate terrain where existing social media solutions have met new corporate infrastructures that have allowed them to craft new social understandings of the private transportation industry. Companies like Uber are not representative of technological innovation in some sort of "pure" sense. Rather, their technological success is emblematic of Schlumberger in that they have been able create and manipulate infrastructures in a way that connects existing social discourses about technology and social media solutions to a new set of infrastructural relations. This gives them a degree

of authority in this market, as existing local taxi companies lack the multinational infrastructure and capital to reconfigure social relations in similar ways. Not only do companies like Uber come to the market with an advantage in technology, but their multinational infrastructure gives them the resources to retain control over their identity as the “high tech” company within the private transportation industry. Their infrastructural authority and image as a bastion of ‘social progress through technology’ give their claims about society’s transportation needs significant weight within this industry.

Tech companies’ awareness of the power that material technologies have in reshaping social configurations through their ability to connect people in ways never before imagined, create new wants, needs, and desires for individuals, and to make hidden the broader ways in which material technologies are reshaping global finance and realms of governance, makes it all the more necessary for a critical discourse analysis in the present tech age to be multimodal. The pace through which these relations are being reconfigured is crucial to the current functioning of discourse within our technologically interconnected society, as new tech companies are simultaneously able to spread the message of their platform through socially networked means, while companies (e.g., Uber) are able to engage in developing innovative and mobile corporate structures beneath these conversations.

Data

In this thesis, I draw upon data that I have accumulated from a variety of media sources, published interviews with taxi drivers and workers, archival data from the City of Ottawa, and information from a key informant within the taxi industry. Archival data includes Minutes from the City of Ottawa's council meetings as well as industry reviews by the city, which discuss both the history and future struggles of the taxi industry. Media sources include video interviews, lengthy pieces of investigative journalism about Uber and PTCs, as well as graphical and textual information from Uber's website (see Appendix A & B). I primarily drew upon key informants for inside information on the structure of the taxi industry that I couldn't find in archival literature. These informants helped me answer questions that weren't readily available in archival and media material about the structure of taxi licensing and taxi plate bidding. My conversations with these sources were often brief and specific, as interviews were not intended to be the core source of data for this thesis (see the list of appendices for a comprehensive breakdown of the data used during this thesis).

When undertaking the process of data collection for this thesis, I was faced with an overwhelming abundance of data on this topic, as it has become a "hot" issue in most major cities around the world. As a result, this thesis has in part been an exercise in doing triage on these data to meet the direct needs of my research question. There have been many excellent case studies on the economic and qualitative technicalities of these recent transformations in the taxi industry, and my work looks to elaborate upon those rather than to perform similar tasks. As a result, I have attempted to eliminate much of the raw economic number crunching from this thesis as many other outlets have already worked

tirelessly to compare the economic impact of both private transportation companies and the taxi industry.

From time to time, I also draw upon data on the taxi industry from other major Canadian cities, such as Toronto. When doing so, I'm often touching upon subject matter of the taxi industry that is quite general both to Canadian cities and to many other major cities in the United States, which is similar enough in scope to the subject matter at hand to be relevant and helpful. Most of the technical aspects of the development of taxi legislation are similar in major Canadian and American cities, and the points of difference are often small nuances in bylaws which make minimal impact on the broader shape the taxi industry has taken in Canadian cities. This thesis engages with those broader implications and does not perform a comprehensive micro-economic evaluation of Ottawa's taxi market.

### 3. The Case of Ottawa: An Intersection of Local Industry and Global Networks

#### The formation of the taxi industry in Ottawa

This section outlines some of the early factors that contributed to the formation of the taxi industry in Ottawa. Though the information described here is in most cases specific to Ottawa, the formation of municipal law around the taxi industry within Ottawa reflects that of many other major cities throughout the world.

I will begin by discussing the early history of taxi legislation. Next I will explain the various laws that formed around the taxi industry, including taxi plate laws and taxi licensing laws, and discuss the reasoning behind these laws. After this, I discuss the emergence and legalization of private transportation companies within Ottawa and discuss the similarities and differences between taxi services and private transportation companies, and the ways in which recent legislation has classified these two competing services.

#### The origins of taxicab regulations within Canadian cities

Taxi legislation in Ottawa and most major cities within Canada and the United States has its origins both in economic downturns (in many cases the Great Depression) and concerns about public safety. It has been widely noted that the creation of the taxi plate system came about as a response to the flooding of the taxi market during economic crises — a logic that both dates to the Great Depression in some cases, and one that has also arisen in response to economic crises of recent decades in the case of Halifax

(Cooper, Mundy, and Nelson, 2013; Hara Associates, 2015:3). Economic downturns have often created conditions where individuals who live without jobs in an unregulated taxi market hire out their own vehicles as taxis (Hara Associates, 2015). In these situations, the profit for existing taxi drivers declines as the market becomes saturated with individuals who rent their vehicles out as taxis. At the same time, city officials have noted that the quality of taxi vehicles and services dramatically declines during these periods, creating public safety hazards due to their poor structural quality and because of their crowded presence within metropolitan areas (ibid). These two variables set the preconditions for the municipal taxi legislation that we see today.

### Taxi plate system

In most major Canadian cities, governments have developed a “taxi plate” system that limits the number of taxis allowed within a specific city. Taxi plates (also known as ‘Medallions’ among other things) are physical license plates that taxi drivers attach to their cars with specific designating information that, in combination with a city record, can indicate the legal owners of taxi plates. The hope by many in creating a taxi plate system was that cities could control both the profitability of owning and operating a taxicab and ensure the safety of passengers and citizens more generally through creating regulatory criteria around taxicab standards. Taxi plates within most Canadian cities are issued on a basis of population growth. According to meeting minutes from the City of Ottawa’s council meeting on April 13<sup>th</sup>, 2016, to this date, the city of Ottawa has, “issued 1,188 taxi plates, including 1,001 standard taxi plates and 187 accessible taxi plates”, and has passed an amendment to the existing 2012 taxi bylaw to increase the ratio of taxi

plates to population from 1:784 to 1:806, slightly decreasing the number of plates issued (Ottawa City Council, 2016:16). Most major Canadian cities have also created a waiting list for issuing new taxi plates or have created lotteries when new plates are issued, where taxi plates can sell for as little as \$1 in places like Ottawa, and over \$500 in places like Toronto (City of Ottawa, 2002; Hara Associates, 2015a). However, some cities, such as Toronto, have frozen the plate waiting list in response to the emergence of private transportation companies (City of Toronto, 2016).

Throughout most of the history of regulated taxicabs, various city officials and economists have debated the advantages and disadvantages of creating a regulatory framework around the taxi market. In most cases, the creation of plate limits around taxicabs has had positive economic outcomes for the stability of taxi drivers' incomes. However, there have also been cases where officials in some cities have been too slow to increase the number of plates to meet the demand. This has been attributed to many factors, including poor oversight, pressures from existing taxi drivers, plate owners, and taxi companies, and jurisdictional issues which limit the reach that certain taxicab legislation has within rapidly expanding metropolitan areas (KPGM, 2015). Currently in cities like Ottawa, the legal owner of a taxicab plate isn't always the operator of a taxicab at a given time. Though it is often the case that plate owners operate the cab to which their plate is affixed, many plate owners often rent out the rights to operate their taxicabs to other licensed taxi drivers.

Since the City of Ottawa rarely issues new taxi plates, taxi plates have become a valuable commodity. Because of these limitations, a "secondary" market around taxi plates has developed, where plate owners engage in the sale and trade of taxi plates.

According to data aggregated from my personal conversations with plate owners, from a variety of advertisements to sell plates on places like [Kijiji.ca](http://Kijiji.ca), from reports commissioned by the city on the taxi industry, as well as a report generated by the Ottawa Citizen based on official city data, in 2013 the sale of each plate averaged around \$202,000 (not including the 48 plates that were traded at \$1 between family or, though risky, possibly to avoid sales tax through behind-the-scenes deals), and prices within subsequent years have shown a decline in average price of an estimated \$100,000 (Hara Associates, 2015; KPGM, 2015; Reevly, 2016). Though time will tell if the value of taxi plates keeps dropping or if it will stabilize at a specific value, the rapid decline in plate value in recent years has been attributed to the once illegal and now legal operation of private transportation companies in Ottawa as of September 30<sup>th</sup>, 2016. What was once deemed a profitable investment for individuals and business is now being considered a risk and a liability as the influx of private transportation companies is saturating the vehicle-for-hire market.

Critics of the current taxicab plate system often attribute its flaws to the fact that some individuals and taxi companies in Ottawa own multiple taxi plates. They claim that these owners have manipulated the taxicab market to their benefit (Toronto Sun, 2014). Arguments from this side often claim that multiple ownership creates a taxi market that favors plate rental over plate ownership, giving existing plate owners significant power over this industry by allowing them to control plate rental prices. These arguments claim that by owning the “means of production” within this industry, plate owners are able to dictate all terms within the industry and are to blame for taxi driver woes, the high cost of taxi fares, and the current struggles that the industry is having because of the rise of

private transportation companies. These arguments also often claim that the dominance of plates-for-rent within the market hurts the prospects of new entrants into the taxi market, who are often immigrants (Globe and Mail, 2012). However, this analysis doesn't provide a full picture of this situation, as the price per month of taxi plate rentals is more likely to balance out within a reasonable range of the material costs of operating a taxicab, both because the price to rent a plate must be reasonable enough that drivers feel that taxicab operation is a worthwhile investment, and because most taxi drivers within Ottawa are unionized, giving them a degree of bargaining power against plate owners and taxi companies. On the other hand, taxi plate values are more ambiguous because they aren't subject to similar material constraints. Plate values fluctuate based on their current estimated value and their imagined future potential value, similar to how stocks within the stock market are valued. At the same time, these two forms of exchange are interconnected because the revenue that one generates through renting out a taxi plate will affect the predicted value of taxi plates within the market. Regardless, it is too simplistic to say that exchanges between plate renters and plate owners are a story of plate owners exploiting plate renters, as plate renters carry significant bargaining power within the industry through their participation in the local taxi driver's union.

Through these arguments, we can begin to see some of the difficulties that have arisen within a public-private economy which has three centers of authority: the city, taxi companies, and taxi drivers. Within different arguments for or against the current taxi industry, we see various centers of authority blamed for its struggles, or a combination of the three. I will touch upon this in more detail in Chapter 6, where I discuss the ways in

which a normalized comparison between public-private partnerships and private industry within public discourse is problematic.

### Taxicab licensing

Taxicab licensing itself differs from taxi plate ownership. While the plate system was developed as an attempt to limit the number of taxicabs on the streets and to control the economy of the taxi industry, the licensing system came about as an attempt to guarantee the safety and well-being of taxi passengers and pedestrians within cities. Whereas most Canadian cities set a limit on the number of taxis that can operate via the taxi plate system, there is no set limit on the number of individuals who can hold a taxi license. It is often the case that taxis will be shared or rented out by a few individuals, thus making the labour force of taxi drivers at least double that of the number of plates within a given city. Within Toronto, taxicab licensing currently exists as a way of guaranteeing the, “[1] economic, social and environmental well-being of the City, [2] the health, safety and well-being of persons, and [3] the protection of persons and property, including consumer protection” (City of Toronto 2012:5). These sentiments are shared in most major Canadian and American cities, as licensing is an attempt to keep tabs on both the safety and quality of taxi services. Within Ottawa the city government has often used the threat of revoking taxi licenses as a way of ensuring quality control within the industry. Clauses within Ottawa’s taxi by-laws list the criteria for license revocation and these criteria have often been updated after the city performs taxi service quality reviews (City of Ottawa 2012, 2016).

Currently, Ottawa's 2016 taxicab bylaw lists the following requirements for individuals to obtain a taxicab license:

- a) a completed application for a taxicab driver license;
- b) satisfactory proof that the applicant is eighteen (18) years of age or more;
- c) a current valid Class G driver's license issued by the Province of Ontario pursuant to the Highway Traffic Act or a current valid driver's license of the appropriate class issued by the Province of Quebec;
- d) original documents from the issuing agency outlining the results of investigations related to the applicant for a Police Record Check for persons seeking employment to serve the vulnerable sector of the population dated less than ninety (90) days prior to the date of the application for a license;
- e) an acceptable Statement of Driving Record issued within thirty (30) days prior to the application by the Ontario Ministry of Transportation or the Québec Contrôle du Transport Routier;
- f) on or after September 1, 2006, a Certificate confirming that he or she has successfully completed the Accessible Taxicab Training Course within two (2) years immediately preceding the application;
- g) a declaration signed by the applicant confirming that he or she does not have any current outstanding criminal charges or warrants pending before any courts;
- h) the name and address of the taxi plate holder who will be the business affiliate or employer of the applicant; and,
- i) the fees set out in Schedule "A" to this by-law (Ottawa Vehicle for Hire By-law No. 2016-272:16).

Similarly, the City of Ottawa's 2016 taxicab bylaw lists the following requirements for taxicab license holders:

- No licensed standard taxicab driver or licensed accessible taxicab driver, while engaged in the provision of taxicab service, shall fail to,
- 1) carry his or her license on his or her person or in his or her taxicab;
  - 2) produce for inspection his or her license when requested to do so by a Municipal Law Enforcement Officer;
  - 3) be neat and clean in personal appearance and well-dressed;
  - 4) behave civilly and courteously at all times;
  - 5) carry in his or her taxicab only the number of passengers or less as set out in the manufacturer's rating of seating capacity;
  - 6) place luggage or any object in, on or attached to the taxicab in a manner so as not to obstruct the taxicab driver's view of the highway;
  - 7) use the current tariff card obtained from the Chief License Inspector;
  - 8) charge a passenger any fare other than the one calculated in accordance with the current tariff card issued by the City, except as provided for in this by-law;
  - 9) charge only a single fare for each trip;
  - 10) accept as payment for the fare, any one or a combination of Canadian currency, United States currency or any other acceptable method of payment;

- 11) calculate the conversion to Canadian currency if United States currency is tendered by the passenger in payment of the fare on the basis of the current rate of exchange as disclosed by a chartered bank or financial institution on the date that the currency is tendered by the passenger;
- 12) accept debit/credit card payments;
- 13) ensure the current taxicab driver identification card issued by the City is prominently displayed in the vehicle so as to be readable under daytime and night time conditions by any passenger inside the vehicle;
- 14) ensure that the current tariff card issued by the City is prominently displayed in the taxicab at all times so that it is readable under daytime and night time conditions;
- 15) provide taxicab service with the taximeter in operation;
- 16) take the most direct route possible to the requested destination unless directed otherwise by the passenger;
- 17) keep all appointments and engagements punctually;
- 18) deliver all property, goods or money left in error by any passenger in the taxicab within twenty-four (24) hours to such passenger or notify the passenger where such property, goods or money may be recovered or, if such passenger is unknown, deliver the property, goods or money to the office of the taxicab broker that dispatched the request for taxicab service immediately;
- 19) examine the taxicab for any visible or audible mechanical defects and interior or exterior damage each day before commencing the operation of the taxicab;
- 20) report any known defects in the taxicab or damage occasioned in the taxicab forthwith to the owner of the taxicab;
- 21) ensure that the taxicab which he or she is driving is maintained,
  - a) in a clean condition as to its exterior;
  - b) in a clean, dry and odour-free condition as to its interior;
  - c) free of articles or debris left by passengers after each trip; and
  - d) free of personal property of the taxicab driver not required in the conduct of ordinary driving duties;
- 22) ensure that the roof sign provided by the taxi plate holder is securely affixed to the roof of the taxicab provided that the roof sign may be removed when the taxicab is used for personal use;
- 23) ensure that the roof sign is illuminated one-half hour before sunset until one-half hour after sunrise while the taxicab is available for hire;
- 24) ensure that the illumination in the roof sign is immediately extinguished

when,

- a) the taxicab is engaged for service,
- b) the taximeter is engaged,
- c) the taxicab is en route to a pre-arranged appointment or dispatched fare, or
- d) the taxicab is otherwise not available for service;
- 25) provide to a passenger, if requested, a receipt showing:
  - a) the name and signature of the taxicab driver;
  - b) the taxicab driver's number;
  - c) the taxi plate number for the taxicab;
  - d) the date and time of the trip;

- e) the points of origin and destination of the trip;
- f) the cost of the trip, indicating the Goods and Services Tax (GST) included in the fare;
- 26) take a position at the back of any line formed by taxicabs already in a taxicab stand upon entering the taxicab stand;
- 27) open the trunk of the taxicab for a passenger and assist in the loading and unloading of articles;
- 28) open the door of the taxicab for any person requesting taxicab service;
- 29) be sufficiently close to the taxicab to have it under constant observation while parked in a taxicab stand or public place while waiting for hire;
- 30) personally advise a person with a disability that the taxicab has arrived; and,
- 31) identify himself or herself to a person who is blind” (Ottawa Vehicle for Hire By-law No. 2016-272:16).

From these two detailed lists about taxicab licensing we can see that they attempt to cover four general themes: 1) to guarantee public safety, 2) to attempt to maintain quality control over taxicab services within Ottawa, 3) to attempt to ensure that taxicabs follow the proper tariff, payment, and tax requirements as mandated by law, and 4) to ensure that accessible cabs are available for disabled city residents. The city attempts to enforce these regulations through threat of fine or license revocation. However, many questions arise as to how the city is able practically to enforce these regulations, as taxi drivers are mobile, dispersed, and often work on their own schedules which can include late night and early morning shifts. As we can see from the long list of taxicab license requirements, the city does attempt to allow taxi passengers to be enforcers of quality control through requiring taxi drivers to show proper documentation and provide passengers with identifying information via a receipt. However, judging from personal experience, receipts are often only given when requested or when passengers pay taxi fares via debit or credit.

It is also interesting to note from this list that taxi drivers cannot charge more per ride than the maximum fare as displayed on the City of Ottawa tariff card within their

taxi. They can offer customers a lower fare if they choose; however, it is important to note that the city deems a specific fare as ‘reasonable’ from time to time, based on a financial metric that it has determined from industry data. Based on data aggregated from Ottawa’s taxi companies, most taxi companies within Ottawa charge fares close to the tariff card fare. This will be important in later chapters when I look at criticisms of taxi fare prices which also praise companies like Uber for their low prices.

## The Emergence of Private Transportation Companies Within Ottawa

### Early emergence

Private transportation companies (PTCs) began operating in Ottawa as early as 2014, although at the time they were not legally recognized as PTCs by the city (CBC News, 2016; Willing, 2016). Before legalization, most literature had named PTCs ‘transportation networking companies’, and this terminology continues to be used today by many outside Ottawa. Though other PTCs such as Lyft also emerged in Ottawa, Uber quickly became the major player within Ottawa’s PTC market.

Uber’s incarnation arose from means similar to the rise of many large social media platforms such as Facebook and Twitter. It began as a simple mobile social networking application (app) that allowed individuals who needed transportation in a particular city to connect with other individuals who could provide that transportation via their own vehicles. The Uber app also facilitated financial transactions between passengers and drivers so that these drivers could be guaranteed payment for their services. This prospect of financial gain led many individuals to begin using the Uber app

to rent out their vehicles and driving services temporarily as a quick and flexible way to generate cash. Though these transactions were visibly similar to the services that taxicabs were already providing, Uber and advocates for Uber consistently defined their platform as a “ride sharing” service. Uber officials have often argued that the Uber app is merely a platform that facilitates connections between independently acting individuals who connect for ride sharing purposes. However, they move beyond a Craigslist-type online bulletin board service because they facilitate the financial aspects of the transactions between passengers and drivers which helps guarantee the financial safety of the two parties.

Uber is also innovative in that it has a rating system which was designed as an attempt to distinguish high quality passengers and drivers from low quality ones. As of 2015, if an Uber driver’s rating falls past 4.6 out of 5 stars, they run the risk of being deactivated (Cook, 2015). According to official Uber documents, this number was 4.7 out of 5 in 2013 (Uber, 2013). Passengers, on the other hand, cannot lose access to Uber based on their rating, although Uber does reserve the right to ban passengers if they engage in behavior that the company deems inappropriate (Lazzaro, 2015).

For legal purposes, Uber employees have continually emphasized that Uber is not a traditional taxi company, and that it is not responsible for carrying out the day-to-day activities of performing vehicle-for-hire services. Instead, Uber has developed a vast web of ‘independent contractors’ who have entered into a temporary contract with Uber to perform vehicle-for-hire services. They utilize their own assets to perform private vehicle-for-hire services in exchange for pay. Though it may seem that there are many similarities between the way that taxi services and Uber operate (e.g., they both rely on a

dispatching service of some sort, they both involve independent employees, and they both offer vehicles-for-hire), Uber employees have attempted to differentiate their platform by claiming that it is legally distinct from traditional taxi services. They do so primarily through their continued attempt classify Uber as a platform which enables self-acting individuals to connect to one another for vehicle-for-hire services as a form of ‘ride sharing’, rather than as a company that performs vehicle-for-hire services. By claiming that Uber as a platform is similar in nature to a social media platform, Uber employees have attempted to obfuscate attempts by many to classify Uber as a taxi company.

In 2015, a Toronto judge siding in favour of Uber ruled that Uber is legally distinct from a taxi company because it does not rely on a telephone dispatcher. Through citing a Toronto taxi bylaw which states that taxi services are primarily defined as a vehicle-for-hire service that facilitate transactions through a *telephone* dispatcher, Uber was able to escape classification as a taxi company under Toronto’s taxi bylaw (CBC News, 2015a). Since Uber connects passengers to drivers through a mobile app, it was ruled that they did not have to follow the same legal requirements as taxis did as set out in the bylaw. This case is one of many in North America where Uber employees successfully convinced judges and legislators that their platform is sufficiently distinct from traditional taxi services that they should be given special designation by the cities in which they operate. In Ottawa, we haven’t seen a similar type of ruling, and instead City councillors have decided to legalize Uber in the new 2016 vehicle-for-hire bylaw in, among many things, an attempt to avoid similar legal battles.

Prior to the legalization of PTCs in Ottawa, taxi drivers engaged in a variety of taxi protests against Uber (Uber being the icon for PTCs more generally) around the city.

These protests were part of a large wave of global protests against Uber's vehicle-for-hire operations. Through these protests, Ottawa taxi drivers argued that the presence and unregulated operation of PTC vehicles in Ottawa was both illegal and was hurting the existing taxi industry. They argued that PTC drivers ability to operate without having to own taxi plates and without being required to have taxi licenses gave PTCs an unfair advantage within the vehicle-for-hire market. Among the list of items that taxi drivers were required to abide by to operate a taxi and attain a taxi license, the requirement that taxi drivers hold Commercial General Liability insurance for "no less than \$2,000,000" (City of Ottawa, 2012), charge fares based on a centralized city tariff, the requirement to complete taxi training courses, and the requirement that taxi drivers must either rent or own a taxi plate to operate a taxi stood out within the protests as major burdens to Ottawa's taxi drivers — burdens that PTCs could avoid completely through being unregulated. Many taxi drivers within Ottawa were perplexed that an alternative vehicle-for-hire structure was allowed to exist with minimal barriers to entry while they were required to engage in a lengthy and costly process towards taxicab operation.

Opposition to taxi driver protests against PTCs most often cited the need for innovation within the taxi market. Uber Canada's public policy manager, Chris Schafer, has often cited Uber as a platform which encourages innovation in a stagnant transportation market (Schafer, 2015). According to Schafer, Uber's mobile app platform and low fare prices encourage city residents to participate in ride sharing once again as a dominant mode of city transportation. While I will discuss these arguments in more detail in the next chapter, it is important to say that PTCs like Uber became a popular trend among youth and trendy city-folk long before legislation. I've often surveyed my

undergraduate students at Carleton University and asked them whether or not they take taxis these days or Uber, and though this is a small sample size, students overwhelmingly say that they use Uber. It has become such a trend that I more often hear undergraduates and fellow graduate students saying “lets get an Uber” these days rather than “lets get a taxi”. This sentiment is similarly reflected in popular culture, as I continue to hear statements such as, “lets Uber it”. Uber’s ability to overtake the use of taxi rhetoric within the lexicon of youth and popular culture platforms represents a significant shift towards the normalization of private transportation companies as the default vehicle-for-hire service. Though these are personal anecdotes, it is safe to say that Uber has become the ‘cool’ term to use these days when talking about using vehicles-for-hire, and this will prove to be important for the legalization of Uber and our analysis later, as the term ‘Uber’ seemed to become cool long before legislation was enacted.

#### Private transportation company (PTC) legalization

On April 13<sup>th</sup>, 2016, the city of Ottawa passed legislation that legalized transportation network companies as ‘private transportation companies’, effective September 30<sup>th</sup>, 2016. This new bylaw created criteria through which private transportation companies could become legalized through a new harmonized bylaw named the ‘Vehicle for Hire By-law No. 2016-272’. This vehicle-for-hire bylaw was an umbrella law under which transportation networking companies were given new legal terminology as private transportation companies and also created distinct criteria for the legal operation of PTCs within Ottawa. These new requirements for PTCs reflect many of the existing requirements for taxi drivers, with the exception that PTCs are not required

to have taxi plate ownership. Instead, the City of Ottawa intends to benefit monetarily from the presence of PTCs through the implementation of a fee of \$.11 per PTC ride within the city. Below is a side-by-side comparison of the requirements for PTCs and taxis under the new bylaw:

For all vehicles-for-hire:

- Driver Screening: Police Records Check for Service with the Vulnerable Sector and a Statement of Driving Record
- **new** Vehicle Age Limit: **10 year-maximum age limit** (except classic, vintage and specialty limousines)
- Safety Certification: Annual MTO Safety Standards Certificate. Biannual inspection certificate for all vehicles over five years of age
- **new** Insurance: Minimum of **\$5 million** commercial general liability insurance and \$2 million motor vehicle insurance

For Taxis:

- Allows taxi companies to use variable pricing when rides are booked through an app
- Eliminates the \$1.50 credit and debit card fee
- Reduces the standard taxi driver license fee by over 40 per cent (from \$170 to \$96)
- Waives the taxi driver license fee for accessible taxis (from \$170 to \$0)
- Eliminates interior and trunk size requirements for vehicles
- Increases maximum vehicle age from eight to 10 years
- Allows taxi companies to determine their own industry-specific customer service training by eliminating the requirement for the Taxi Driver Education Program and the refresher training, but retaining the Accessible Taxicab Training Course
- Retains taxis' exclusive ability to accept street-hails, together with exclusive use of taxi stands and lanes
- Allows for nominal cancellation fees and surcharges for premium vehicle options when rides are booked through an app

For PTCs:

- With the PTC business model, there is a buyer beware approach for residents who use an app to book a ride from an individual driver using his or her private vehicle by means of the PTC app, although Council has established baseline consumer protection and public safety standards
- The requirements for PTCs include:
- A license fee that includes a per-trip charge of 11 cents, and an annual license fee that reflects the size of the company – up to \$7253 a year
- The requirement that rides can only be procured through an app and must be pre-arranged – drivers will not be able to use taxi stands or accept street hails, nor will they be able to accept cash payments

- Common requirements to those of the taxi industry (as noted above) such as:
  - maximum vehicle age of 10 years
  - mandatory police records checks and statements of driving records for drivers
  - mandatory vehicle safety inspections
  - minimum \$5 million in Commercial General Liability and \$2 million motor vehicle insurance, together with a requirement that all PTC drivers obtain the appropriate automobile insurance for part-time drivers providing transportation services for compensation
- Authority has also been delegated to the General Manager of Emergency and Protective Services to negotiate a voluntary per-ride accessibility surcharge

- Retrieved from the City of Ottawa's 'Taxicab and Limousine Regulation and Service Review' at <http://ottawa.ca/en/city-hall/public-consultations/law#report>

Though Taxi drivers, companies, and unions have been far from satisfied with the terms of this legislation — primarily because PTCs are not required to conform to the taxi plate system — the City of Ottawa felt that it was suitable to legalize PTCs as they were already in widespread use. This legislation made Ottawa the second major city in Canada to legalize PTCs (behind the Kitchener-Waterloo region) and city officials have hoped to set an example for other Canadian cities for legalizing PTCs while continuing to allow the taxi industry to flourish (CBC News, 2015, 2016). Shortly after the implementation of the new vehicle-for-hire bylaw, Uber officially became licensed within Ottawa, marking a significant change to the vehicle-for-hire industry.

Despite this new legislation, which reduced some of the requirements for taxi drivers *as well as* PTCs, many within the taxi industry continue to be upset that PTCs are not required to abide by taxi plate requirements. This has led taxi companies in Ottawa to file a 215-million-dollar lawsuit against the city and this suit is continuing to unfold as of January, 2017 (Chianello, 2016). In a statement of defense, the City of Ottawa continues to claim that it is not responsible for the “secondary market” created around taxi plates,

and has echoed this point within recent legislation by making next to no alteration of the existing plate laws (Ontario Superior Court of Justice Court File No. 16-69601, 2016).

In an attempt to compete with the new mobile technologies of PTCs, most taxi companies in Ottawa have developed a mobile application of their own. In most cases, these apps perform the basic functions of hailing a cab through an app on a smartphone. However, it is clear that taxicab apps lack the polish of their Silicon Valley brethren. This should not come as a huge surprise as companies like Uber come backed by large amounts of Silicon Valley capital and also have access to some of the brightest software engineers due to their financial backing and geographical location in the heart of America's tech industry. Despite this, taxi companies are still trying to compete in the app world and this new vehicle-for-hire legislation is attempting to facilitate that competition through its new clause which "allows taxi companies to use variable pricing when rides are booked through an app" (City of Ottawa, 2016). PTCs have been notorious for using flexible pricing and it has been a point of controversy as companies like Uber often initiate 'surge pricing' in times of high demand. Yet unlike PTCs, taxis are still limited by the standard maximum fare requirements and cannot exceed these prices in times of high demand whereas PTC fares do not have a legal maximum limit.

Besides the greater flexibility in fares for PTCs, this new bylaw restricts any form of in-person financial exchange between PTC drivers and customers. PTC drivers are not allowed to accept any money in the form of cash from passengers, including tips. Uber in particular has banned tips from its platform in an attempt to regulate financial exchanges facilitated by its platform.

This bylaw gives taxi drivers several exclusivities compared to PTCs, the first being that they are allowed to accept cash for fares as well as tips. Secondly, they are given the exclusive right to taxi stands and are the only vehicle-for-hire services that can accept street hails. The bylaw also tries to reduce the overhead cost for taxi drivers by removing the requirement for a Taxi Driver Education Program, and by eliminating things such as trunk and interior size limits, reducing the taxi license renewal fee from \$170 to \$96, as well as the \$1.50 credit and debit surcharge for fares in an effort to level the playing field between taxi drivers and PTC drivers. Taxi drivers are also allowed to arrange rides with customers through a mobile app and are given greater flexibility over fare prices booked through the app to meet changing circumstances.

It is also interesting that city officials haven't included steps within this bylaw to combat surge pricing by PTCs, giving taxi drivers an indirect advantage during times of peak operation. There is indeed a trend within this bylaw to try to give taxi drivers indirect advantages in several areas of this industry without any further explanation of how or if this advantage will materialize in practice. Legislators have also given taxi drivers an indirect advantage through claiming that Ottawa's residents should use PTCs with a "buyer beware approach". This indirectly characterizes PTCs as the riskier private transportation service and simultaneously makes the traveler rather than the city responsible for passenger safety. While the city continues to require taxi drivers to label their vehicles and put cameras in their taxis for safety and security reasons, PTCs are not required to abide by any of these regulations. Cameras in particular have become a contested issue between PTCs and taxis within Canadian cities, as efforts to require PTCs to install cameras in their vehicles have been met with threats by Uber's public policy

manager that Uber will withdraw its services from some cities (Dehaas, 2017). The lack of identification on Uber vehicles has also led to safety issues in some North American cities as some individuals have pretended to be Uber drivers in an effort to pick up unsuspecting customers. The only way that Uber customers are able to identify Uber vehicles is through the car model and driver's picture on the app. While many have criticized the new bylaw's laissez-faire approach to PTC safety, time will tell if city officials share these concerns enough to address them in a new bylaw.

The last major point of contention over the vehicle-for-hire bylaw involves taxes. It is safe to say that the 2016 bylaw overlooked how the municipal, provincial, and federal government will regulate taxes within this emerging industry. This issue was discussed during city council debates over the bylaw but was left at a suggestion that city officials should seek the Canadian Revenue Agency's opinion on taxation before putting a requirement in legislation. Currently, taxi drivers are required to charge HST in their fares.

In March, 2017 this impasse on PTC taxation was somewhat resolved through the implementation of the new federal government budget. Included in this budget is a requirement that PTC drivers charge HST for their services Canada-wide. To little surprise, Uber Canada's general manager Ian Black has criticized this new requirement, stating that it is a "tax on innovation", while taxi industry officials have praised this new requirement as a way of "leveling the playing field" (Fischer, 2017). As always, it is difficult to determine who within PTCs will bear the brunt of these new financial requirements as their main selling point continues to be their low prices.

Despite the requirements of this new bylaw, PTCs continue to retain a financial advantage within the industry through avoiding requirements to own taxi plates. The monthly cost to rent taxi plates continues to force taxi drivers to charge more for fares than their PTC competitors. From an outsider's perspective, it remains puzzling that city officials would keep the taxi plate system in tact while moving to legalize a new vehicle-for-hire platform, particularly when the plate system was designed to limit the number of taxis in Ottawa and to manage Ottawa's taxi economy. I think that it is safe to say that addressing the plate system would have carried with it a significant degree of financial risk for the city, as it seems that no legal solution could exist that eliminates plates without financially compensating plate owners. By claiming that the city is not responsible for the creation of the plate market, city officials have attempted to shift the liability for plate value onto the taxi industry. However, as of March, 2017, this issue has yet to be resolved, as it continues to be the subject of an ongoing lawsuit between the taxi industry and the City of Ottawa. The outcome of this lawsuit will have significant consequences for the future of Ottawa's vehicle-for-hire bylaw.

## 4. Technology as Discourse and Struggles with Corporate Agency

The case of Ottawa serves as a microcosm of the broader transformations that are occurring around the globe involving the changing the face of employment, alterations in structures of governing, and the emergence of new global corporate structures both around the taxi industry and beyond. The emergence of PTCs in Ottawa and the subsequent protest and debate around the legality of these companies reflect a dynamic in which people, governments, and industries around the world are attempting to grapple with the new connections that are being made between local individuals and global corporations through new, individuated mobile technologies. Companies like Uber's take advantage of the compression of space and time created by globalization (Harvey, 1989) — primarily through their ability to directly call upon networks of contractors and to facilitate global transactions between contractors and consumers — which allows them to circumvent many existing governing structures and regulatory practices. It is not a stretch to say that most legislation around the world that has been created in relation to PTCs like Uber has not been pre-emptive, but rather reactive and secondary. Companies like Uber have encroached on the market-share of existing taxi corporations through their efforts to draw upon vast networks of self-employed individuals armed with their own personal assets, rather than through the establishment of a traditional corporate structure with a base of full-time employees and physical assets. This has simultaneously worked to reduce corporate liability for PTCs while at the same time has allowed PTCs to draw upon the sensibilities of vast networks of self-governing, entrepreneurial individuals. The ability for PTCs to form a robust platform beyond government oversight is a large component to the success of PTCs globally.

The backdrop of neoliberal policy within many modern nations for the past 30 years also favours the success of companies like Uber, as governments have been increasingly encouraging individuals to be self-sustaining while repealing governmental regulatory regimes. Uber as a platform fits neatly into the spaces created by this rhetoric as it often disregards regulatory regimes (sometimes recklessly as in the case with self-driving cars (Etherington, 2016; BBC, 2017)), and finds its success through speaking to the autonomous sensibilities of their customers and contractors. Both by offering workers a way to enter the taxi market without having to conform to strict regulatory requirements and by allowing contractors to work as much or as little as they would like, Uber's platform intervenes in neoliberal societies at the point of a subjectivity that has been cultivated within these societies for decades. By appealing to a worker's sense of freedom and autonomy through smart phones, platforms like Uber have found new ways of communicating with individuals that circumvent regulatory oversight, both through utilizing new infrastructures (i.e., smart phones), and by calling upon these existing sensibilities within Canadian society.

This chapter discusses many of the enabling factors that have worked, in part, to allow PTCs to emerge to the point of legalization in the City of Ottawa. In it, I ask: How have private transportation companies and the taxi industry come to be understood socially as fundamentally different from one another, and how has this difference worked to legitimize the legalization of PTCs? Apart from the innovate mobile applications, new, casual temporary contract form of employment, and in most conditions lower fares than traditional taxi services, PTCs and the existing taxi industry seem strikingly similar in the nature of the services that they perform. At a fundamental level, both are services which

connect residents of a city looking to hire a private vehicle to a driver with a vehicle who is willing to perform that service for a fare. Despite the differing platforms of payment and the initial process of ordering a vehicle-for-hire, the core component of the requested service, which involves a professional driver driving a passenger to a location of their desire, is fundamentally the same.

In the following chapter I outline two major factors that contributed to the emergence and subsequent legalization of private transportation companies within Ottawa: private transportation company's alignment with current social discourses about the relationship between technology and social progress; and, private transportation company success in crafting new legal terminology to define their platforms.

### Technology and “social progress”: a historical perspective

One of the continuous themes I came across while gathering data from city documents, news reports, and online conversations, which addressed the emergence of private transportation companies, was the notion that these companies represent a significant form of technological progress within the taxi industry. While looking at arguments within this data that supported companies like Uber, rhetoric about innovation, competition, and social advancement was almost always present. On the surface these narratives of optimism around PTCs as being “clean”, “cool”, “affordable”, and in general more “in line” with how urban human beings operate, contrasted with the common narratives surrounding the taxi industry as “dirty”, “greedy”, “expensive”, and “unreliable”, paint a simplistic picture of this transformation. However, when looking at the history of taxicab legislation and the infrastructural implications of this

transformation, we begin to see a more complicated picture. This complicated picture is one that looks at the ways in which legal and structural constraints subject the taxi industry to certain public criticisms, despite the fact that many of these constraints were put in place to combat public ills. Without being knowledgeable of the structural constraints created by a political policy that increases the cost of a service, it is easy to see how a consumer could view a similar service at a cheaper price as the better option.

However, in the case of PTCs, we have encountered a situation where even those individuals who are knowledgeable about the legislative history of the taxi industry and the comprehensive precautions put in place by this legislation are also making arguments in support of PTCs. These individuals predominantly argue that PTCs, innovativeness represents a prosperous step forward for a currently stagnant taxi industry. Instead of trying to improve the existing taxi platform through legislative means to cure its growing pains, the majority of Ottawa city councillors opted for forced innovation through competition by legalizing PTCs. Before we delve deeper into the political economy of this rationale, we first need to take a closer look at the way technology-as-innovation is being understood during this transformation. In doing so, I will begin by deconstructing technology, innovation, and social progress as discourse to better understand the ways in which our broader social understandings of these concepts have come to inform this transformation.

In *Critical Discourse Studies and Technology* (2016), Ian Roderick lays the foundation for understanding how technology as discourse has operated contemporaneously with the metanarrative of ‘progress’ within most of modern history. By borrowing from the work of philosopher Richard Weaver and the insights of historian

David Noble, best known for his work on technology and automation, Roderick views the notion of ‘progress’ as a kind of “god” term through much of modern history, in the sense that it is a discourse that has been mobilized within societies which demands sacrifices (Roderick, 2016:93)<sup>1</sup>. In other words, the notion of progress has played a central role in the development of modern nation-states, governments, and colonialist projects, as a metanarrative that guides and legitimizes periods of social change. In many historical instances, governments, corporations, and other social institutions have asked citizens to make certain sacrifices in the name of progress, the greater good, and/or an imagined future, as a way of encouraging and legitimizing certain forms of social behavior. Roderick argues that, though “deeply ideological”, progress has most often been “understood as the advancement or forward movement toward a goal or higher level” (Roderick, 2016:94). By tracing the origins of the narrative of progress within the modern world to its colonial roots, he succinctly explains its relation to early forms of Social Darwinism, where linear narratives of human evolution were erroneously projected onto societies at large. This worked to place them within a ‘societal hierarchy’ that measured societies based on their perceived “evolution”, and encouraged large scale social transformations in the name of this evolution.

The important point here for the sake of the current argument is that by placing societies on a scale of hierarchical differentiation, colonial Europe created a sense of

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<sup>1</sup> Other famous works sociology on notions of progress in the West include Bury (1920), who noted that progress is a “*idolum saeculi*”, or in other words, “the animating and controlling idea of western civilization” (Bury, 1920:vii). He also argues that “*civilization and progress*” has become a stereotype which “illustrates how we have come to judge a civilisation good or bad according as it is or is not progressive” (ibid). Also see Nesbit (1980) and Chernilo (2015) on Nesbit.

temporal orientation amongst its residents, colonies, and eventually the rest of the world. Not only did this projection create a scale on which European and indigenous societies could be measured, but it also instilled the idea that societies existed on a trajectory and that they were, and would continue to be, in a perpetual state of advancement towards a state of further realization. This understanding of society as a perpetual being runs counter to many utopian political ideals of many socialist and religious communities within the Americas in the 1800s, where a clear end goal was often envisioned for a society (Peterson, 2005).

Though some futurologists today envision a future utopia as a form of “technological singularity” — a point in time where “ordinary humans will someday be overtaken by artificially intelligent machines or cognitively enhanced biological intelligence”, or both (Shanahan, 2015:xvi) — the future narrative for most modern nation-states is one of continual progression rather than a fixed utopian goal. Roderick (2016) neatly describes how the ideas of Social Darwinism within colonial times have seeped into our understandings of science and technology. Though many today have rejected the notion that Europe fosters nations within it which represent or have previously represented the model of an “ideal” society, many scholars argue that the sense of temporality instilled by modernist and colonialist projects was one of its most lasting contributions (Musharbash, 2007; Keightley, 2012). While some scholars focus on the ways in which modernity and globalization have worked to reconfigure temporal sensibilities, primarily through their ability to compress and expand space (Giddens, 1990; Harvey, 1989), and through the establishment new global flows of communication and capitalist relations — which, among other things, also reconfigure senses of

belonging and identity — (Appadurai, 1996; Marcus, 1986), modernity's effect on people's understanding of time wasn't just disruptive and distorting. It equally had the effect of orienting peoples and societies towards an imagined modernist future which was thought to be attained through progress, be it scientific, technological, and/or political.

Roderick argues that this discourse of technological progress is still alive and well today. His use of multimodal critical discourse analysis to analyze dominant media narratives neatly illuminates how our ideas about social progress are inherently tied into many of the products that we consume. Through analyzing recent technology advertisements, the suggested relationship between a major Silicon Valley tech company's products and ideas about social progress are abundant. However, Roderick also argues that this relationship is often reified in processes of individuated instances of consumption. Through an analysis of a Walt Disney attraction called the 'Carousel of Progress' which celebrates the technological progress of the 20<sup>th</sup> century, Roderick traces the ways in which the technological advances of the 20<sup>th</sup> century are often made visible through the mundane features of the household:

Progress is measured in new things that can be brought into the family home in order to make life more convenient. Once progress begins to be expressed in more mundane settings, it also begins to lose its aura as a "god term." Progress becomes more banal and can be seen in simple things like the purchase of a new stove or a refrigerator rather than great feats of engineering (Roderick, 2016:115).

In this sense, progress becomes reified through the purchasing of products that ‘upgrade’ one’s life. It has become so engrained in our lives that it takes on subtle and mundane forms which affirm our sense of belonging within a modernist temporal trajectory. For us, the notion of progress is an easily scalable notion as individuals can translate their personal life goals and experiences with new commodities into larger social aspirations and future orientations. New tech is most successful in creating a sense of awe and wonder which, as Roderick points out, further works to solidify and legitimize current socioeconomic and political relations. Interestingly in the present day, most tech companies (and non-tech for that matter) attempt to appeal to our sense of technological progress as discourse, which often works to give them a degree of value in relation to both our personal projects and broader social goals. Through calling upon these discourses of technological progress, companies are able to differentiate themselves from their competitors in a way that attempts to create a new need/want/desire within consumers. In many cases, “new tech” consumer products do offer a significant shift in capabilities versus previous product iterations; however, in many cases when there isn’t such a large difference between a new product and an existing iteration, companies often continue to draw upon rhetoric that suggests that their product signifies a significant step forward in innovation and social progress.

### [Technology-as-discourse and private transportation companies](#)

Turning our focus back to the legalization of private transportation companies within Ottawa, we need to be aware of how assumptions about the technological progress of PTCs gave their platforms a certain legitimacy in the closed taxi market. During the

time leading up to the legalization of PTCs in Ottawa, companies like Uber have continually engaged in attempts both to legitimize themselves and to differentiate themselves from taxis in the eyes of the public. Uber Canada's public policy manager, Christopher Schafer, and Uber Canada's general manager, Ian Black, continually engaged in attempts to differentiate Uber from existing taxi services within Canada to give their company legal merit in Canadian cities. In a letter to the Toronto Licensing and Standards committee dated September 15<sup>th</sup>, 2015, Schafer continued to emphasize the technological difference between Uber and taxis:

There is a growing trend around the world including Edmonton, Ottawa and Waterloo Region in Canada towards updating laws to account for changing technology. With over 400,000 Torontonians who regularly ride with Uber and half a million Uber trips happening each month in Toronto, finding a permanent and smart regulatory solution is absolutely critical and one Uber supports. uberX and ridesharing is something their residents value and that they must update regulations to be more reflective of changing technology and ways citizen are choosing to get around their cities (Schafer, 2015).

Similarly, on Uber Canada's website, Uber's employees detail some aspects of their company's history and philosophy under a section titled "Our Story":

Who is Uber? Uber drivers are drivers just like you. They are doctors, teachers, mothers, and fathers ([www.uber.com](http://www.uber.com) March, 2015).

What started as an app to request premium black cars in a few metropolitan areas is now changing the logistical fabric of cities around the world. Whether it's a

ride, a sandwich, or a package, we use technology to give people what they want, when they want it.

For the women and men who drive with Uber, our app represents a flexible new way to earn money. For cities, we help strengthen local economies, improve access to transportation, and make streets safer. When you make transportation as reliable as running water, everyone benefits. Across borders, cultures, and languages, we're proud to connect people who need a reliable ride with people looking to earn money driving their car" (<https://www.uber.com/en-CA/our-story/>, December, 2016).

These ordinary sentiments are similarly reflected in Uber's 2017 American television commercials, where the primary attraction for Uber drivers is depicted in terms of worker autonomy and a flexible schedule.

In these statements, Uber employees are not only arguing that their platform represents a shift in technology, but are also claiming that their service provides easy access for individuals to become part-time drivers; that their platform improves access to transportation compared to previous conditions; that Uber is making transportation safer; and that their goal is to make Uber so affordable and available that their service is as "reliable as running water". It is important to note, however, that through these statements, Uber's employees are making inferences about the effectiveness of taxis within most major cities. Through advertising that Uber is affordable, safe, fluid, and flexible, they are indirectly implying that taxis are expensive, unsafe, slow, and unfit for fulfilling modern metropolitan transportation needs. By claiming that "Uber drivers are just like you", Uber is similarly making an indirect claim that its competition consists of

drivers that are “not like you”. In this particular case, multimodal CDA is particularly helpful in allowing us to pay attention to importance of ‘absences’ in the production of social knowledge.

At the same time, these messages about Uber are further supporting the notion that driving vehicles-for-hire should not be a full-time job, but rather a supplementary job for people with existing careers. Further, Uber officials frequently cite the large user base that their service has attained over the past few years. They were able to acquire this user base during a time when their service remained unregulated, which makes it difficult to say if the user base would remain the same if they had been subject to vehicle-for-hire regulations from their inception.

Many Canadian city councillors and mayors who are in favour of creating a legal framework to support private transportation companies also claim that their presence is inevitable due to the growing nature of technology. Toronto’s mayor John Tory has long reflected these sentiments, both through indicating that the presence of private transportation companies represents both the inevitability of technological, and the democratic demand by Toronto’s residents for more affordable and higher quality vehicle-for-hire services (Rider and Pagliaro, 2016). Ottawa’s mayor Jim Watson has also been vocal about his interest in negotiating legislation which allows private transportation companies and the taxi industry to co-exist, utilizing similar rhetoric about technological inevitability and the demands of Ottawa’s residents (Metro News Ottawa, 2015). In these instances, it is interesting to see how rhetoric about ‘technological inevitability’ allows these political actors to negate the agency that they have over promoting certain forms of legislation. By claiming that events are playing out in these cities as an expression of the

natural progress of technology, these individuals frame the legislative process as reactive and secondary to the inevitable, and seemingly natural, development of certain social phenomena. This runs in stark contrast to much of previous taxi legislation which looked to craft and control the future of the taxi industry as a means to negate the economic and social harm that an unregulated taxi industry would cause.

Turning our attention to drivers, Uber's website claims that it is different from taxis in the following ways:

Uber partners:

- Drive your own car using the Uber app to find riders
- Set your own schedule
- Get paid instantly up to 5 times a day

Taxi, chauffeur, or limo drivers:

- Work for a taxi company or as a chauffeur for a limo company
- Pay every week to rent a car from the taxi or limo company (<https://www.uber.com/driver-jobs/>, December, 2016).

As we have seen in the previous chapter, Uber's description of the relationship between taxi companies and taxi drivers is not entirely true. In the majority of cases, taxi drivers either own or rent a plate directly from a plate owner while taxi companies facilitate dispatching services and process electronic payments for taxi drivers in exchange for a monthly fee.

For passengers, Uber claims that it innovates in the following ways:

[With Uber you can] tap a button, get a ride: Choose your ride and set your location. You'll see your driver's picture and vehicle details, and can track their arrival on the map. Choose how to pay: No phone calls to make, no pick-ups to schedule. With 24/7 availability, request a ride any time of day, any day of the

year. You rate, we listen: Rate your driver and provide anonymous feedback about your trip. Your input helps us make every ride a 5-star experience (<https://www.uber.com/en-CA/ride/>).

From these excerpts as well as the analysis in the previous chapter, we can conclude that the following components of Uber's platform *do* represent a significant shift in vehicle-for-hire technology: 1) Uber uses part-time, contractual drivers to perform the core of its services instead of full-time drivers, 2) Uber only operates through a mobile app, which includes dispatching and payment services, 3) Uber drivers are not required to own a taxi plate or rent a taxi plate, and, 4) Uber drivers can only use their own vehicles to perform vehicle-for-hire services. These components definitely differ from traditional taxi services, yet the degree to which each of these variables represents 'progress' in Ottawa's vehicle-for-hire industry is unclear, as we are only beginning to see some the negative effects that Uber's platform has on workers and customers, which is why the City of Ottawa has scheduled a full review of PTCs within Ottawa one year from September 30<sup>th</sup>, 2016.

Arguments about the relationship between PTCs and notions of technological progress are also overwhelmingly present online, coming predominantly from critics of the existing taxi industry. Most of these criticisms claim that those within the existing taxi industry and those who continue to support the taxi industry over PTCs are Luddites who are embracing old technology for political and monetary gains. Without understanding the legal nuances that govern many practices within the existing taxi industry and that place restrictions on what taxis can and cannot do, these critics view the

rejection of PTCs as illogical and a step backward for society. Many of these opinions similarly come with rhetoric about how free markets encourage competition which spurs innovation, arguing that the presence of PTCs will force taxis to innovate as they have become “lazy”, “incompetent”, and all too comfortable with their “monopoly” over the vehicle-for-hire industry. As I have shown in the previous chapter, this capitalist rhetoric doesn’t carry much weight in these recent changes, as the taxi industries within most cities didn’t exist as an open market before the initial influx of PTCs and, contrary to the opinions of its critics, this closed system was not created by “greedy”, “monopolistic” taxi companies who dominate the taxi industry, but by city legislation itself which looked to ensure the safety of citizens, quality of taxi services, and stability of the taxi economy. At the same time, there have been noted issues of quality control by the City of Ottawa within the taxi industry, something that the city has struggled to enforce because of the structure of the public-private taxi partnership.

### New terminology

One other way in which Uber and most other PTCs have tried to differentiate themselves from taxis is through their use of new terminology. Most of these PTCs currently attempt, and have previously attempted, to define their services as “ridesharing”. In doing so, these PTCs semantically shift our attention away from the idea that Uber is responsible for the physical work of performing vehicle-for-hire services towards the notion that drivers and passengers are autonomous, self-employed, and self-acting beings. Though Uber in particular has operated this way for a while, some of Uber’s contractors have taken Uber to court to argue that they should legally be

considered as employees. In October, 2016, Uber contractors within the United Kingdom won the sympathy of government legislators who, “accused Uber of ‘resorting in its documentation to fictions, twisted language and even brand new terminology’, adding: ‘The notion that Uber in London is a mosaic of 30,000 small businesses linked by a common 'platform' is to our mind faintly ridiculous’” (Johnson, 2016). However, legislators within Ottawa have yet to come to a similar conclusion.

The emphasis on Uber as a “peer-to-peer” ridesharing service is made clear in most of Uber’s addresses to city officials and the public, for example:

UberX, the peer-to-peer ridesharing service, is the focus of this submission.

Ridesharing is an industry in which drivers use their own personal vehicles and are matched with passengers through simple and convenient GPS-enabled smartphone apps that allow for shared rides. Uber driver partners do not accept ride requests from street hails, nor do they occupy taxi stands. Rides can only be requested and accepted through the Uber app (Uber’s Public Relations head Chris Schafer’s address to the City of Toronto. (Schafer, 2015)).

By using the term ‘ridesharing’, Uber’s employees take attention away from the idea that Uber is a vehicle-for-hire business that employs drivers and owns the means of production within the taxi industry. Ridesharing attempts to place the legal responsibility of the physical components of vehicle-for-hire work on the individuals performing the work themselves as Uber continues to emphasize its platform as one of facilitation rather than as one involved in the service industry. As of January, 2017, the City of Ottawa

remain convinced that Uber's services are distinct enough from traditional taxis that they should be given their own terminology in the 2016 vehicle-for-hire bylaw. The notion that companies like Uber should be given new terminology in legislation as 'private transportation companies' rather than as taxi companies emphasizes that the majority of Ottawa's city officials understand PTC services to be significantly different from traditional taxi services. This distinction has worked to give PTCs legal agency in the private transportation market. However, the long-term effect that the coexistence of different legally defined entities within the same market will have on the quality of taxi services, the cost of private transportation, and the wages and rights of industry workers remains unclear.

#### Attaining agency in "closed" markets.

While considering the relationship between the legalization of PTCs and both discourses about technological progress and the creation of new socio-legal terminology, it is important to understand how these notions work to allow corporations to establish a foothold within societies and markets. By drawing upon current discourses of technological progress, Uber has been able to establish a foothold within the closed taxi market through its ability to convince consumers and legislators that its platform is fundamentally distinct from the taxi industry in nature. By calling upon commonly shared understanding of technology through new material forms (i.e., smartphones), Uber's employees have been able to frame debates around the legalization of Uber in terms of technology and technological evolution rather than in terms of a public-private partnership versus private industry. Uber's employees have been successful in convincing

Ottawa's public and legislators in this regard to the point where its platform is now deemed necessary for the betterment of Ottawa as a society, and necessary for the evolution of the taxi industry.

In the previous chapter, I outlined the strict requirements that have been established for the taxi industry by the city to illuminate the complexity of the legalization of PTCs. I also illuminated a paradox where the effort by early taxi legislation to prevent the uncontrolled flooding of the market was paralleled with the prospect of recent legislation to allow thousands of new vehicles-for-hire into the market. Despite some arguments that the city hasn't released enough taxi plates to meet the demand of the population, the city closely monitors the statistics around taxi services and attempts to manage a ratio of plates to population. One could argue that there was an unnoticed demand for taxi transportation that was never realized because of the cost of taxi services. However, it is difficult to judge whether or not the demand for Uber was artificial because it could have been created by the influx of a large amount of (artificially?) low-cost supply, which makes vehicle-for-hire services much more attainable for low-income individuals. In this case it is difficult to say whether or not the ratio of plates to population was too small to meet the demand of city residents, or if the price difference between PTCs and taxi companies made it appear that way. I'm inclined to believe the latter, but my reasoning will become clearer within the next chapter as I outline some of the details of Uber driver's expenses versus their revenue and profits.

I think that one of the interesting aspect of this transformation is that city officials were well aware of the negative economic effect that the legalization of PTCs would have on the taxi industry (as economics was central to previous legislation), yet the vast

majority of city councillors voted in favor of the legalization of PTCs. City councillors may have believed that PTCs represented a significant step forward for Ottawa's residents in regards to their transportation needs as well as a significant technological improvement over existing vehicle-for-hire services when they came to the resolution that PTCs should be legalized. However, it is also possible that bribery and lobbying altered their opinions. Some may also have believed that regulations themselves restrict innovation within the industry and should thus be repealed. However, in this legislative process most city officials expressed a cautious awareness about the delicate balance between the virtues of taxis being an unregulated, open system and the virtues of regulation for the safety and well-being of workers and residents.

In this situation where officials didn't participate in blatant neglect of one or the other perspective, and where I have shown that PTCs and taxi services are very similar in nature despite their difference in dispatching technologies, cost, rating systems, corporate structures, and the legal status of workers, I have to argue that the tipping point for city officials in favor of the legalization of PTCs was that these officials understood PTCs as representing a significant improvement in how residents in Ottawa travel. The point then to debate is: if there is a significant improvement, what caused this improvement? The answer to this for many is quite simply *technology*. Technology signifies change and is most often coupled with social and cultural notions of innovation which fall neatly into the requirements for the continued operation of a capitalist society. The dominant driving force within this change was cultural and modernist notions about technology's relationship to social betterment. However, as sociologists, we often find ourselves asking: who within society do these changes benefit and to what extent and in what

forms? Or in the words of the sociologist Bent Flyvbjerg, “(1) Where are we going? (2) Who gains and who loses, and by which mechanisms of power? (3) Is this change desirable? [and] (4) What should be done?” (Flyvbjerg, 2001:162). Flyvbjerg makes the classic sociological step away from dominant narratives about a particular social transformation to look at the real ways in which changes affect the configuration of power in a society as well as the impact that these changes have on different areas of a society. In the case of PTCs, we have been flooded with arguments about how these services reflect “changing technology” and how changing technology equates to the betterment of a society. Yet sociologists are forced to look deeper at the specific details about these changes and ask whether or not the form that PTCs currently take are desirable for all social parties, if this form will be sustainable in the future, and if their existence will support the betterment of transportation needs for all. In this scenario I do not take the idea that PTCs represent a significant innovation in technology for granted, but I do have to take it seriously as a dominant discourse in light of the questions posed by Flyvbjerg above. In doing so, I argue that the most significant social implications are the ones that occur beneath this dominant narrative. However, the narrative itself gives PTCs the potential to affect those domains of sociality in the first place.

Structural issues within the taxi industry have existed for decades, yet one has to ask why is it at this particular time that they have become the center of attention? They have become the center of attention because an alternative to taxis now exists which was enabled by mobile technologies stretching the limits of government oversight and by the current dominance of discourses around technology which continue to strive to see technologies that will become the “next new iPhone”. New technological utopias have

been opened up by recent developments within the computer and internet industry to which many aspects of life and business are now compared to. Successful consumer technology companies have become models for social and economic innovation within political policy rhetoric, creating a “gold standard” goal for many to aspire to when conceptualizing how to advance our society. This craze has led many to push (sometimes artificially) innovation into many aspects of our lives — a push which quite often ends in failure for many tech startups. However, in the case of PTCs, companies were able to enter the taxi market, not because of their innovation alone, but because they were able to bend the boundaries of existing regulations and create new economic infrastructures. Yet we continue to see these aspects of PTC’s success overlooked by Uber’s public policy chief and by legislators, in favor of rhetoric around technology. This rhetoric has become a powerful force in an era of widespread technological optimism, and it is important to consider the ways in which companies today are gaining market share within previously closed aspects of our societies and lives through drawing upon this rhetoric while simultaneously transforming social infrastructures.

### [Rhetoric within the taxi industry’s lawsuit against the City of Ottawa](#)

In the recent lawsuit between the plaintiffs Metro Taxi LTD. and Marc Andre Way on behalf of the Ottawa taxi industry, and the defendant, the City of Ottawa, the taxi industry has alleged that the City of Ottawa has caused it substantial harm by allowing private transportation companies to operate illegally since 2014. They cite monetary damages in the realm of \$215,000,000, primarily citing the loss of taxi fares and the devaluing of taxi plates (Ontario Superior Court of Justice, Court File No. 16-

69601:Plaintiff's Arguments). In the city's defense, city lawyers argue that, although private citizens have acquired the right to own and trade taxi plates, the City of Ottawa is the ultimate legal owner of these taxi plates, and as such, the secondary markets created around taxi plates are 'artificial' in nature. Thus, city lawyers argue that the city is not responsible for the financial loss of plate owners in this sector. Their argument is as follows:

1. The city acknowledges that the scarcity around taxi plates has, in part, led to the development of a secondary market.
2. The city argues that "Taxi Plate License holders exploited the relative scarcity of taxi plates and Taxi Plate Licenses to unilaterally demand prices at which they could lease, market and/or transfer of their time-limited taxi plate license rights to another participant in the closed taxicab services market" (ibid, City of Ottawa Statement of Defense:4-5).
3. Thus as a result, "taxi plate holder licensees along with taxicab broker licensees created a speculative and artificial secondary market" (ibid).

In these arguments we continue to see the City of Ottawa's lawyers finding their defense within the complexity of the regulatory framework around taxis (a framework which was crafted before the City of Ottawa Municipal Act of 1999, which combined many municipal jurisdictions into the City of Ottawa). They claim that that city retains the sole right to transform the structure of the Ottawa taxi industry at any time because of the terms of the 2012 Taxicab Bylaw (which give the city ultimate authority over this industry), and because of clauses within this legislation which gives the city ultimate

ownership of taxi plates. What's troubling here is how this legislation initially set out to create a partnership between the city and private industry, yet now that private transportation companies have arrived, city officials are diverting responsibility for financial loss onto their private partners.

It is also interesting here to contrast the city's rhetoric about the artificiality of these developments within the private sectors of the taxi industry to much of the dominant rhetoric about private transportation companies, whose emergence is often considered to be an organic reflection of Ottawa's transportation woes. In many senses we can also argue that the demand for private transportation companies was also artificial, though in different ways, as it was partially enabled by their ability to operate illegally for quite some time. When considering rhetoric about organic and artificial developments in relation to city legislation and economic development, it is important to consider the ways in which these terms index the potential of alternative developments which were never clearly articulated or made into a concern within previous taxi legislation. In this case, the taxi industry is rendered bare and problematic not only because of its internal struggles, but through its ability now to be compared to an Other, which is private transportation companies.

It is also interesting to note how the city and the taxi industry made varying arguments about the legality or illegality of private transportation companies before the 2016 Vehicle-for-Hire bylaw. When discussing Uber's emergence, the city's lawyers claim that:

Uber started operating its business in Ottawa commencing in or about October 2014. Uber licensed its own Apps to individuals and through those Apps

facilitated private vehicle drivers' connections with persons desiring transportation services in exchange for a price. Uber's business was not the subject of any licensing by-law passed by the City and, accordingly, there were no applicable licensing requirements to be met by Uber or persons who licensed Uber Apps, whether as driver or rider, for their use in Ottawa. Rider preferences showed generally that taxicab service providers were incapable of matching the transportation service experience provided to users of the Uber Apps (ibid:7).

Further:

Taxicab service business participants including the Plaintiffs, the members of the proposed Class, dispatchers, drivers and unions were incapable due to their pre-existing agreements as between themselves and for reasons known to themselves but not known by the City and otherwise unwilling to innovate in order to compete with Uber notwithstanding that Uber did not have the advantages historically exploited by the taxicab service business participants and did not benefit from the 'supply management' policy contained in the 2012 Taxi By-Law (ibid).

I have to say that I'm personally surprised that the City of Ottawa's lawyers are attempting to claim that there was a level and equal playing field between Uber and the taxi industry, pre-2016, and that competition within the market alone determined the criteria by which service became more popular with consumers. This seems like a weak argument in light of the complexities of regulation that I discussed in Chapter 3.

Similarly, the City of Ottawa is making the case that Uber operated in a legal grey area before the 2016 by-law, as its platform was not subject to the criteria of the existing 2012 Taxi By-law. This is a complicated debate, as the City of Ottawa seems to be making the case that the way Uber employees initially defined their service holds legal precedence over the nature of the service performed. Here we are getting into murky legal terrain which will hopefully have clarity once there is an official ruling on this case. However, it is important to note how city lawyers are continuing to fall back on rhetoric of innovation and competition to divert the blame for recent taxi industry losses onto the failures of the taxi industry to innovate.

Later on in this statement, the City further cites failed attempts by other Canadian municipalities to rule private transportation companies illegal within municipal and provincial courts as a reason that the city incorporated private transportation companies into the new vehicle-for-hire bylaw:

When considering in good faith whether to seek and enforce the City's 2012 Taxi By-law against Uber as a taxicab broker, the City considered the negative outcomes in the taxi by-law enforcement proceedings referred to above, took heed of the legal findings of fact as to Uber's business, and that Uber neither engaged drivers, accepted calls from customers, or dispatched drivers to customer (ibid:13).

The City of Ottawa lawyers here are primarily referring to the 2015 City of Toronto ruling, where a provincial judge ruled that Uber services are not legally the same as taxi services in Ottawa predominantly because Toronto's municipal legislation around taxis defines

taxis through their use of phone-based, dispatching services (Ontario Superior Court of Justice, Court File No.:CV-14-516288).

From these arguments it is beginning to become clear that the case around private transportation companies and the taxi industry is somewhat of a regulatory nightmare. The correlations (and denial of correlations) between previous legal frameworks around the taxi industry and the social and market developments that occurred and continue to occur around this industry unveil a complicated relationship among legal interpretation, discourse, and social agency. Through often failing to contextualize the social events that shaped the current form that both taxi legislation and the taxi industry have taken, legislators are drawing on rhetoric about the changing nature of the industry through technology and competition to obfuscate previous carefully considered arrangements between the City and the taxi industry. The City claims that false narratives arose within the taxi industry about the value of plates and the autonomy of taxi workers and taxi companies within this market. What was once a loose, cooperative relationship among three centers of power (the City, taxi brokers, and taxi drivers) has now been disrupted by claims of sovereign power over the industry by the City. One might imagine that part of the motive behind creating a public-private partnership within the taxi industry versus a publicly funded, managed, and operated taxi service by the City of Ottawa was to reduce the structural burden that the City would have in attempting publicly to manage this industry. Also, another probable motive was that this kind of relationship could allow the city to tap into some of the virtues of private markets, which encourage competition and have an interest in providing a quality taxi service as a means to make a decent profit. I think that these recent alterations to this relationship could have serious implications for

the future of public-private partnerships within Ottawa, but I will get into this conversation in more detail in Chapter 6.

## 5. New Technology, Autonomy, and Job Security

### Individual and collective autonomy in the taxi industry

One of the overarching similarities between taxi driving and driving for private transportation companies is that both jobs appeal to a sense of worker autonomy. Established taxi drivers who have attained the luxury of owning and driving their own taxi vehicle enjoy a sense of autonomy over when and where they can work. For example, if there is an important family event, taxi drivers are flexible enough that they are often able to attend these events. This is particularly important for some minority taxi drivers in Canada as many minorities who work in traditional Monday to Friday, 9 to 5 jobs encounter difficulties and cultural barriers when they attempt to make a case to their employers for extended time off. The same goes for minority cultural holidays, as many holidays that are celebrated by minorities are not recognized as federal holidays by the Canadian government. These points are particularly interesting, as minorities compose a majority within the taxi industry of many Canadian and American cities. In Toronto it is estimated that minorities could compose up to 80% of the taxi driving population in 2003 (Facey, 2003), while in other major cities like New York they are an estimated 84% as of 2004 (Luo, 2004). This benefit of taxi driving was made evident to me when I spoke with Punjabi-Canadian taxi drivers in Toronto, as it is culturally normal for many Punjabi-Canadians to attend many family events for their immediate and extended families where wedding festivities can go on for much longer than the dominant anglo and franco-

Canadian weddings. However, it is also the case that many overqualified immigrants become taxi drivers in Canada because their credentials aren't recognized by Canadian institutions (Globe and Mail, 2012).

This perk of taxi driving does make it slightly appealing to low and mid skill workers, but this perk should not overshadow the fact that taxi driving can be a difficult and health-threatening job. It has been noted that taxi drivers often experience “economic exploitation, economic uncertainty, occupational violence, fatigue, and high levels of competition” (Facey, 2003). The minority status of taxi drivers has also often made them subject to racial slurs and hate crimes. At the same time, taxi drivers who have to rent a taxi plate are often required to share that taxi with another taxi driver, limiting the degree of autonomy that these kinds of drivers have. Despite the degree of autonomy that different tiers of taxi drivers have at different times, some taxi drivers who are in it for the long haul share the career and investment goal of plate ownership. This goal comes with the hope of financial gain and personal autonomy within the taxi industry.

The struggle to find a job with a degree of autonomy is also shared by other low-to-medium skill, low to middle class labourers within Canadian society, as autonomy over one's labour time can be difficult to find when working within the structure of a large company. Taxi drivers in Ottawa and many other Canadian cities are in a unique position in relation to the company with which they are affiliated, as plate-owning taxi drivers own the means of production within their industry and only rely on taxi companies as brokers for their dispatching, payment, and marketing services. The story is different for plate-renters, as they do not own the means of production. However, the majority of taxi drivers in Ottawa are unionized within Unifor's 1688 local union which

gives them bargaining powers against companies and the city itself. As we saw in Chapter 3, some companies do own and rent out plates. However, this makes up a minority of the total plates owned within Ottawa. A licensed plate owner possesses the fundamental components necessary to conduct taxi services within Ottawa, so they hold significant power over taxi companies, yet they are still forced to form some sort of agreement with taxi companies, as taxis aren't allowed to conduct business independently in the city without proper corporate affiliation.

The conscious effort made by taxi drivers in Ottawa to unionize has also allowed taxi drivers to establish precedents as a community, giving them not only a sense of individual autonomy in their workplace, but also collective autonomy in the structure of the city's taxi industry. Taxi drivers are able to keep tabs on and instigate changes in the taxi industry, including things like the pay structures, broker fees, and working conditions. The fact that taxi companies remain local to Ottawa makes it easier for taxi driver voices to be heard within key conversations about the industry.

### [Autonomy and Private Transportation Companies](#)

Among PTCs, worker autonomy is also a major selling point used to attract workers. Uber and Lyft claim that their workers most often cite workplace autonomy as the strongest selling point for working for these companies. Uber drivers frequently cite that they enjoy “being their own boss” and further enjoy the “work-life balance” that working for Uber brings them (Clifford, 2015; Hall, 2016). Uber's latest 2017 television and website advertisements for workers similarly target ideas about worker autonomy. They also boast that low cost of entry is one of the major selling factors of their platform

and have made claims that many non-plate owning taxi drivers have switched to Uber for this reason. Though this latter claim is unverified, minimal barriers to entry and the lack of plate rental costs would make PTCs appealing to newer taxi drivers, at least in the short term.

The latest batch of advertisements from Uber also shied away from the idea that driving for Uber is a full-time employment position, and has instead advertised its platform as a place where people who are currently employed in other fields can make supplementary income. In this sense, Uber's advertising team is attempting to differentiate Uber from the notion that driving for Uber is a full-time, specialized career position. Where individuals once had to learn and memorize the layout of the city to conduct vehicle-for-hire services successfully, new GPS and mobile technologies reduce the need for a geographically aware driver. As with many other industries today, technology has reduced the barrier for entry into a craft or a trade which widens the pool of potential employees upon which companies can draw. In this sense, companies in this era have also gained a new sense of autonomy because of the increase in technology and reduced need for specialists (a trend which has been a component of long-term debates within sociology about the degradation of labour). Through the reduction of barriers to entry for employees, companies have in many ways received a technological solution for the age old dilemma in political economy of worker shortage. Instead of relying on foreign workers to fill worker shortages, the reduction in barriers to entry to a form of employment can dramatically widen the potential labour force for an industry. By simultaneously lowering the barriers to entry and making vehicle-for-hire services something that is casual, contractual, and supplemental to an individual's existing income

rather than its primary source, companies like Uber have opened up their platform to a mobile, fluid, and expendable workforce, where there is no expected permanent obligation by either party.

Though contractual forms of labour do offer workers the luxury of not being stuck in a certain labour position for years and offer workers the luxury of negotiating terms of employment far more frequently than most full-time employees, precarious workers are still dependent on a steady flow of contractual work — a flow which is not always consistent. PTCs and the sharing economy fall neatly into this emerging world of normalized precarity as they give precarious workers an increasing variety of options for work by opening up domains of their life and property that they had not previously considered marketable to the market.

To put it simply, in a world of ever-increasing job insecurity, PTCs are attempting increasingly to flood the market with endless temporary ways for people to make quick cash.

### [New corporate and labour structures](#)

In this new world of increasingly normalized precarious labour, it is important to ask whether or not this trend will benefit labour and society in the long-run. In order to understand this, we first need to look at the legal relationship between PTCs and their drivers.

The notion of worker autonomy remains central in both PTC's labour structure and in the taxi industry; however, the relationship between drivers and companies varies substantially between the taxi industry and PTCs. While both of these services are hyper-

local in the sense that they operate in a locally visible space, they differ in that taxi companies and organizations in Ottawa are also local while PTCs most often operate through distant, global relationships. In particular, Uber employs drivers in contract through its two Netherlands corporate subsidiaries, Uber B.V., and Raiser Operations B.V. which operate beneath Uber's Netherlands-based international corporation headquartered in Bermuda, Uber International C.V. (O'Keefe and Jones, 2015). These subsidiaries are responsible for all of Uber's contractual and financial obligations outside the U.S.A., where Uber B.V. is the subsidiary that currently accepts payments from customers, and Raiser Operations B.V. is the subsidiary that pays Uber's drivers in Canada. There is a clear and distinct separation here between Canadian Uber drivers and the decision-making that occurs in the corporate branches of Uber. The wide distance between driver's wills and whims and the corporate conversations at Uber's Netherlands headquarters present potential problems for workers who would like to contribute to Uber's corporate decision-making.

Uber's contractual structure and low barriers to entry similarly make it difficult for Uber drivers in Canada to collectivize. By creating a temporary contractual structure where Uber has sole discretion over the conditions and duration of an employee's contract, and by creating a corporate structure where almost any licensed driver can become an Uber driver, Uber retains strong authority over its contractors and reduces the threat of unionization by both strictly controlling the terms of contracts and by creating a platform that opens Uber up to a seemingly endless pool of potential workers. In this sense it is easy for Uber to release rebellious drivers, as there are plenty of other drivers ready to take their place. Uber has made its workers expendable and has thus drastically

reduced its corporate responsibility to workers as well as its liability in relation to worker struggles. By rendering the task of performing a vehicle-for-hire service as something simple, trivial, and easily accessible, the potential labour supply for these services becomes almost endless. In cities with hundreds of thousands of licensed drivers and less than an estimated 20,000 required vehicles-for-hire, it is difficult to see companies like Uber facing a shortage of labour. Driver's ability to sign up for PTCs digitally through a computer or mobile phone also drastically reduces barriers to entry for individuals, as users can sign up almost anywhere and don't have to waste time with a lengthy interview process. However, companies like Uber could potentially face a problem of having excess worker supply (a struggle they would surely love to have), but I can only imagine that if the PTC market becomes diluted, PTC companies will impose limits on applications, temporarily halt new applications, and potentially cut drivers with lower ratings<sup>2</sup>. Regardless, companies like Uber have put themselves in a strong position in relation to labour supply and also by working to define their platforms to workers as temporary, casual, and supplemental, they are able to fall back on explanations that working for Uber is not meant to be a full-time job, and thus Uber is not responsible for the struggles of those who attempt to driver for Uber full-time.

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<sup>2</sup> Though this excess supply has echoes of the concerns noted within early taxi legislation, this current situation does differ in that individuals still cannot perform taxi services without corporate affiliation, so there isn't an endless supply of individually incorporated, "bandit" vehicles-for-hire.

## PTCs and precarious labour

In light of the recent increase in precarious labour in Canadian society, it is also interesting to note how the labour models of PTCs are fitting in with this trend. Not only are PTCs drawing on precarious forms of labour through their contractor labour model, but their insistence that vehicles-for-hire should be a form of casual or micro labour as a supplement to a worker's existing life falls neatly into a lifestyle of normalized precarity. In a society that is ever-increasingly normalizing contractual forms of labour, job security and a steady flow of income for contractual workers becomes unstable, leaving many workers in a continual state of employment insecurity. In October, 2016, Canada's Finance Minister Bill Morneau publicly spoke about the recent trend towards the normalization of precarious labour in Canada and argued that it is here to stay and that both the Canadian government and Canadian residents need to find solutions to cope with it rather than reject it (The Canadian Press, 2016). The current president of the Social Sciences and Humanities Research Council of Canada, Ted Hewitt, echoed these sentiments in an October, 2016 letter where he contemplated whether or not what he calls the "Uberification" will have positive or negative consequences for the future of the Canadian workforce (Hewitt, 2016). Regardless, he agreed with Morneau's point that short-term, contractual work is here to stay and that it is one of the recent social trends that is requiring new social and governmental solutions. Hewitt goes so far as to say that these "emerging technologies [are] one of the six future challenges for Canada where social sciences and humanities research could contribute most greatly to the national dialogue", and that, "research in the social sciences and humanities can help us understand more thoroughly and quickly the economic, social, environmental, legal and

ethical aspects of disruptive technology. With its help, [Canada] can gain and maintain a competitive edge” (ibid).

Here, both Morneau and Hewitt are arguing for pre-emptive solutions to the emerging crisis or evolution (depending on who you talk to) of precarious labour. They agree that precarious labour is indeed becoming the norm, especially for Canada’s young workers. What is difficult to understand from their arguments is how governments can reconcile the emerging crisis through legislative means, as many forms of precarious labour within the sharing economy exist through their sole right to be autonomous and flexible. While the emergence of precarious labour within existing Canadian institutions and companies could be managed through legislation which could set stricter conditions for precarious work within Canada, sharing economy apps like Uber that connect contractors and customers through financial and digital means beyond Canada’s borders raise questions about the ability of legislation to keep up with the capabilities of these new digital economies. The early success of platforms like Uber came about primarily through their tendency to remain unnoticed by many outside the “techie” loop. It was only when these platforms came to threaten existing regulated economies that the Canadian government responded. This raises the question as to where and when legislation should affect aspects of the sharing economy, as it is difficult to envision areas of the sharing economy that don’t pose a direct risk to a regulated industry or step beyond legal boundaries coming under public and governmental scrutiny.

The operation of many forms of labour within the sharing economy outside a traditional wage structure also makes them difficult to regulate. Wage or a wage equivalence cannot be measured in many aspects of the sharing economy as the amount

an individual earns is dependent both on the quantity of tasks they complete and on the fluctuating market-value of sharing economy services. This makes forms of precarious labour within the sharing economy difficult to manage through government oversight, as the transition from earning through hourly wages and/or salaries to earning set amounts of money for completing tasks puts the burden on the individual worker rather than an employer or the service providers of sharing economy apps themselves. Though taxi drivers also earn wages in a similar manner, there have been conscious steps put in place by most major cities to regulate the market in order to ensure that taxi drivers are able to earn a living wage. Historically, Canadian cities learned that if they have a taxi labour force which is dependent on micro forms of payment rather than wages, there should be a degree of stability over market prices for these services. In other words, these cities understood in some sense that labourers whose pay is dependent upon the performance of individualized services have less security over their income as it is subject to the volatility of the market, and thus chose to regulate driver income through regulatory means beyond the minimum wage. For taxi drivers, these regulations crystallized nicely as there were other concerns about public safety that intersected with economic concerns to give labour issues merit within government legislation. As we saw in Chapter 3, there were also concerns that this labour market could become flooded because the barriers to entry into this market were low as many people in major cities already owned a vehicle. In order to ensure quality control and to benefit those who have made personal investments to establishing quality taxi services within major cities, regulations were established.

In other emerging areas of the sharing economy we run into similar concerns. For example, with the rise of apps like Airbnb that let individuals rent out their houses and apartments to others as if they were a hotel, the demand for hotels within cities may shrink. While this development comes with the benefit of allowing individuals to tap into previously unrealized personal assets, grants individuals more autonomy over their renting decisions, and gives individuals access to a new diversity of renting locales within a city, it comes at the risk of rendering permanent hotels unnecessary, which could create rental shortages in times where not enough individuals within a city are renting out their property to meet demand. In this case we run into a similar problem where hotel owners have made financial investments and followed city regulations for owning and operating a hotel, and services like Airbnb threaten these investments by acquiring market-share within this area of business. While one could make the argument that cities could develop a balance between hotels and Airbnb properties (a balance which would most likely call for a modest reduction of hotel services within major cities), it would be difficult for both cities and hotels to calculate the supply of Airbnb-like services as it is constantly fluctuating. As a result, it would be difficult ensure that an adequate supply of vacancies available at a given time of year in a market where hotel presence is declining and Airbnb-like rentals are on the rise. Though some individuals today buy properties with the sole purpose of renting them out through services like Airbnb, the casual Airbnb property owner will likely have less certainty over the availability of their property within a given year, as many individuals who rent their property out through Airbnb often occupy that property themselves. This volatility in supply creates economic uncertainty for permanent hotel owners as it becomes increasingly difficult for them to estimate the

quantity of hotels they should develop and the form that their investments should take within a particular city. At the same time cities also have an interest in ensuring that there is a supply of short-term rental properties to meet the demand of tourists, traveling business people, politicians, and scholars, as a shortage of supply could be financially devastating to a particular city. In this scenario the stakes are high for both the city and hotel entrepreneurs, and though a delicate balance between hotels and Airbnb-like services is necessary, it is difficult to imagine a way that this balance could be managed as Airbnb services are anarchic by their very nature.

For PTCs, this volatility has already been demonstrated through the development of surge pricing. In many instances, Uber and other PTCs have dramatically increased their fare prices when there is excess demand for their services. Surge pricing gives drivers the opportunity to make more money while their services are in higher demand but negatively affects customers by often making fares very high. Surge pricing has been a center of controversy for Uber for quite some time as fares have often skyrocketed on holidays, prompting Uber to develop an ‘Upfront Fare’ service which aims to better warn customers about potential price hikes (Lu, 2016). Regardless of the effectiveness of this solution, there is a clear contrast between the model of PTCs, which rely on mechanisms of the market to determine service costs which can create unexpected volatility for consumers, while taxi legislation has created a cap for fares which prevent price hikes and guarantees that fares will remain consistent for passengers.

## Uber's driver woes

For Uber, 2016 in many ways was typified by the unrest of its contractors. From the wide variety of lawsuits aimed at Uber by workers (see *McElrath vs. Uber Technologies Inc.*, *Mohamed vs. Uber Technologies, Inc., et al.*) to the many protests in major cities around the world, Uber is continuing to face criticisms from its drivers over low wages and uncertain working conditions (Booth, 2016; Fiegerman, 2016). According to a 2016 article by *The Guardian*, Uber has been required to “pay out \$161.9m [USD] since 2009” from lawsuits from workers, consumers, governments, et cetera, and was engaged in more than 170 lawsuits in the US alone as of April, 2016 (Levin, 2016). For a private company then valued at \$62.5 billion USD, this amount seems minuscule, yet Uber has reported substantial losses in its annual financial reports for the past few years (Newcomer, 2016). Though this seems like a bad sign for the future success of Uber, Joe Grundfest, professor of law and business at Stanford, claims that “it’s hardly rare for companies to lose large sums of money as they try to build significant markets and battle for market share” (Grundfest in Newcomer, 2016). Uber’s massive private investment backing signals that investors are more concerned about the opportunity to break into a previously closed, multi-billion-dollar global industry than worried about short-term hiccups. Regardless, Uber has expressed the need to tame its legal and labour woes and they are the final barrier to its dominance throughout the world. Uber has successfully appealed to consumers and has created a strong demand for its services, which has created a strong consumer backing and optimistic political constituents in many major cities who are supportive of the legalization of companies like Uber. It is no wonder that

Uber has labeled 2017 as “the year of the driver”, as we continue to see Uber struggle with the woes of its drivers (Newcomer and Zaleski, 2017).

On the other hand, Uber Technologies, Inc., has continued to attempt to develop autonomous vehicles as part of Uber’s Advanced Technologies Group, which raises questions about the future for Uber’s drivers and the long-term commitment that Uber has towards creating a sustainable platform for its drivers. It will be interesting to see how Uber tries to solve its current dilemma of labour, as it has become quite apparent that its claim that the average Uber driver makes up to \$25/hr within the United States is not always true, and as it has been claimed that this number doesn’t take into account the wide array of expenses that come with driving for Uber (Davidson, 2016). One Ottawa Uber driver claims he makes as low as \$8/hr after expenses, while others claim about \$15/hr earnings (Fischer, 2016). Though Uber likes to boast that it offers higher wages compared to taxi driving, in many cases wages end up being equal to, or lower than they are for taxi drivers. Again it is possible for some Uber drivers to play the market by targeting surge pricing, but on average driving for Uber falls on the lower end of the Canadian salary spectrum.

It is interesting to note here how Uber is able to escape minimum wage obligations by operating through contractual means. The City of Ottawa, taxi drivers, and taxi companies have worked out agreements that help taxi drivers ensure that they will earn a living wage, yet there is no such security for Uber drivers. Only the future will show if Uber decides to raise driver payments, and it can either do so through reducing the cut that it receives from customers, or through raising base fare prices. However, what we can say is that Uber and the Ottawa taxi industry draw upon differing logics. On

the one hand, Uber's business model leaves fares and workers wages more or less up to the mechanisms of the market. There is no guarantee for workers that they will earn a living wage at the outset of driving for Uber, and Uber ultimately claims that this is something that the driver is responsible for achieving through picking up many passengers and having a secondary income source. However, the playing field for Uber drivers is hardly level, as Uber does nothing to negate the startup costs and operations costs for drivers. Unfortunately, for Uber drivers, their earning percentages, workers rights, and benefits are out of their control and they will have to have good faith that Uber's corporate branch will calm their woes.

It is also difficult to understand whether or not driver protests and other collective efforts against Uber will have the same effect that traditional worker strikes have had in the past. Uber has set its infrastructure up in a way that is amorphous and hyper-mobile. Through establishing a corporate structure of elaborate international shell corporations, lowering the entry barriers for new workers, and by making its platform entirely automated, Uber has established its business platform in a way that makes it easy to cycle through labour and negate labour resistance. Uber has created a crowd sourced labour platform similar to MechanicalTurk (which is a online platform that allows companies to crowd source tasks in exchange for cash awards (Kåreborn and Howcroft, 2014) where they draw upon vast networks of potential labourers through new technologies in a way that makes the supply of labour seemingly endless. In this sense, I suggest we are entering a new age of automation that is different from industrial and technological revolutions in industry in the past. With companies like Uber, workers aren't being replaced by automated technology (though that is Uber's future goal), but instead, new

technologies are being used to widen the labour supply by casualizing previous formal forms of labour and by allowing individuals autonomously to access their platform from “within the comfort” of their personal mobile phone. In a manner similar to the ways in which globalization and technology allowed companies to connect to new labour supplies with less restrictions during the birth of neoliberalism in the 1980s (Harvey, 2005), companies like Uber are using the new potentials of mobile technologies to reconfigure the social in a way that creates a seemingly endless low-skill labour pool. This aspect is what I believe to be one of the key interests that investors have in Uber: it has taken a closed market that has existing solutions (i.e. taxis) and a labour pool that has a seemingly stable identity (I.e., full-time, career oriented workers), and redefined them in a way that gives them an apparent new energy. This dynamic is very significant for investors and business owners in a capitalist society that requires growth through innovation of some sort. For investors, companies with radically new, innovative technologies most often express the biggest potential for monetary gain within our society compared to companies that look to improve on an existing product within a saturated industry. Many of the most profitable businesses in the tech industry have created some sort of new technology never before realized by anyone on the planet. These kinds of innovations take the form of things like computers, mobile phones, et cetera, and it shouldn't be much of a surprise that there is a massive investment craze today within Silicon Valley to find the next, new innovative product. On the other hand, there is less incentive to invest in industries that are already quite saturated like bakeries, printing companies, and so on. If someone is attempting to create a business within these saturated markets, it would most likely be difficult to stand out as they would have to

innovate on a service that already has massive amounts of competition and existing solutions. In these instances, many companies who end up standing out have somehow used digital market and sales to their advantage.

Uber is unique in this sense because its service isn't radically innovative from its core but instead uses new mobile technologies to augment existing taxi services and business models. What would seemingly be a risky business venture (as there are already adequate companies and solutions within this market) turned out to have exceptional potential as Uber was not only able to create a technology that connected people in new ways, but was able to figure out a way to make a seemingly stable and closed industry accessible to new private interests. It achieved this in part by using existing mobile app technologies as means to redefine social and labour relations within the taxi market thus giving them agency within this previously closed space. I believe that it is *this* capacity of Uber and private transportation companies that is most appealing to investors: the redefinition of labour within the industry. Technology and autonomy-as-discourse have been intentionally used to manufacture difference within this industry through circumventing existing legal structures, which has given companies like Uber the opportunity to point to discourses about technology and social progress when the legitimacy of their new infrastructure is questioned. As I've shown in Chapter 3, Uber *does* innovate in many ways for customers that are a substantial improvement over existing taxi services; however, when we look at their areas of innovation that were enabled by their position outside taxi laws versus their innovation as a technology platform, the distinction becomes blurry and suspect. Ease of enrollment the low costs

seem to be both a product Uber's innovative corporate structuring and management as well as its existence outside the law for quite some time.

By appealing to an individual's autonomous sensibilities through an app that allows that individual to enroll for Uber without encountering any social barriers, Uber has crafted an infrastructure that meets the desires of autonomous individuals in a simple form. Their infrastructure eliminates much of the bureaucratic baggage that comes with being employed in other industries and gives the individual special designation to be in control of their own employment. In this sense, Uber's platform "calls out" to workers in an appeal to their desire for freedom of movement in their lives, rather than as opportunity that meets the status quo of present-day employment. It offers workers sovereignty from the social barriers that they believe hold them back, while making political inference to the kind of employment that societies are demanding in the future. Uber makes its technological claim not only through the mobile app itself, but through proposing a new modern infrastructure for managing and governing self-employment. Yet while this new form of employment emerges under the guise of autonomy, my analysis shows that labour problems of old have emerged that threaten the sustainability of this platform. As I described at the beginning of this chapter, autonomy in the workplace is also a characteristic that taxi drivers praised about their form of employment, pointing to the reality that worker autonomy is not an exclusive characteristic of private transportation companies. However, by opening up the opportunity for thousands of unlicensed drivers to perform taxi services via PTC apps, autonomy became a recruiting technique for companies that were looking to expand their platform and strengthen their base. What was once a modest benefit to a low to mid skill

labour job became the driving factor for PTC worker recruitment. In this sense, autonomy in its locally contextualized position as part of the taxi industry became appropriated by PTCs as a mechanism which could call out to a large pool of potential workers through appealing to sensibilities that most individuals in our current society share. The virtue of autonomy that taxi drivers have fought so hard to preserve became the very tool through which PTCs began to plot their demise.

## 6. The Role of Government: Uber’s “grassroots” emergence and implications for future forms of government

One of the most fascinating components about the emergence, and subsequent legalization of private transportation companies within Ottawa, is the way it challenges existing government structures. This chapter begins with a discussion about how Uber’s emergence is often understood to be “grassroots”, which challenges traditional narratives about the emergence of private corporations in the transportation space. Next it discusses the relationship among autonomy, governance, and infrastructure within these developments. Last, it delves deeper into the political economy of this transformation to explore some of the future struggles that governments will face while trying to reconcile private transportation companies with the wider social good. The tone of this chapter differs from previous chapters in that my line of argumentation is more polemical. I make a set of arguments about some of the future implications of these recent transformations, and problematize the relationship between our current forms of governing and the future development of multinational sharing economy companies.

### Uber’s “grassroots” emergence

In many ways, Uber’s emergence in Ottawa in 2014 took government officials, residents, and the taxi industry workers off-guard. The entrance of a new multinational technology company into Canadian society took the form of a grass-roots movement, where independent, self-governing individuals adopted PTC platforms as an effective way to earn money and to get around the city. Uber’s business model departed from most

traditional service-industry and retail business models in its outset, as Uber did not have to invest in physical assets or own the means of production within its industry. Workers continue to be responsible for owning and maintaining the means of production while Uber merely claims to own the intellectual property that connects drivers to customers<sup>3</sup>. Smith (2016) emphasizes this point by claiming that the sharing economy signals a shift in investment and entrepreneurship trends, where “investors and entrepreneurs will focus more attention on existing assets and infrastructure”, rather than spend a significant amount of time creating new assets and physical infrastructures (Smith, 2016:Abstract). These companies benefit from “capturing unrealized value from assets that these start-ups do not own” (ibid:383-384). While Uber’s corporate branch funds and continues to maintain a marketing and public relations entity known as Uber Canada Inc., the spread of Uber in its early days can be attributed to Uber being part of the “social media phenomenon”. Uber’s spread through word of mouth, online marketing, and social media platforms reduced its structural burden in its early development. By developing a business and marketing infrastructure that could both have a universal reach and be centralized within two small corporate locales (i.e., Uber B.V. in the Netherlands and Uber Technologies Inc. in the United States (O’Keefe and Jones, 2015)), Uber’s employees had developed a business model that could both allow for dynamic expansion and contraction without worrying about the risk involved in investing in physical assets to meet these expansions and contractions.

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<sup>3</sup> Though taxi companies similarly benefit by outsourcing the means of production within their industry, most companies still invest heavily in the plate market and in taxi vehicles.

By relying on, and by facilitating transactions between independent contractors and customers, Uber was able to distance itself from the day-to-day processes of vehicle-for-hire services, and I believe that this allowed its platform to gain popularity somewhat organically. This allowed Uber to remain “off the radar” of city officials for quite some time, as Uber took on the appearance of ‘ridesharing’ between free, self-acting residents, who were sharing their vehicles. By sitting in a legal grey area, and having a seemingly egalitarian, anarchic, and organic emergence, Uber was able to gain a tremendous amount of influence and consumer support far before questions emerged about the legality of Uber’s platform. This is reflected in the overwhelming number of online message threads and news article comment sections that I’ve analyzed which berate the taxi industry as “archaic” and “corrupt” and praise PTCs as the bastion of modern day innovation. I argue that Uber’s potential to call out to consumers who were most likely unaware of the historical rationale behind taxi legislation gave it a significant advantage by allowing its benefits to appear as if they arose out of fair market competition. The basic point here is that the inability of many consumers to parse Uber’s legal and financial areas of advantage and existing constraints on the taxi industry created by the historical development of taxi legislation gave private transportation companies like Uber a significant advantage within the vehicle-for-hire industry over taxis in their early stages. These arguments echo some of the rationale behind the taxi industry’s ongoing lawsuit against the City of Ottawa (see Appendix D). However, I want to push this narrative further to illuminate not only how this unfair market advantage benefited the earnings of private transportation companies, but also how this unfair advantage was translated into artificial consumer demand for PTCs. This has significant implications because the early

demand for PTCs later developed into a growing pressure by city residents in favour of the legalization of private transportation companies. The city of Ottawa did start to fine illegal Uber drivers in 2014; however, this process was not very successful, and Uber was allowed to operate largely untouched within Ottawa for around two years 2014 (Mills, 2014; Dube, 2015; Lofaro, 2016). This created a climate where Uber had already become a popular platform, even before city debates around legalization took place. The strong demand created by consumers for an alternative to taxis during private transportation companies' illegal operation had a significant effect on the overall milieu going into civic debates on legalization. This effect cannot be ignored when considering the factors that contributed to the successful legalization of private transportation companies, as companies like Uber's demand for integration was met with a seemingly authentic and democratic demand from residents for legalization.

#### [Autonomy and new forms of domination in the sharing economy](#)

One central theme to this thesis has been to point out the ways in which new employment and consumer opportunities, in the form of the sharing economy, does not automatically equate to a more prosperous future for these parties. Appeals made by PTCs in favour of worker autonomy work to mask the broader ways in which the political economy of the taxi industry is being restructured in ways that give PTCs significant power over the terms and conditions of their contractual relationships with workers. One key question remains, and that is, how have appeals to worker autonomy by PTCs worked to invoke a new era of employment that further reduces worker's rights? In other words, how have appeals to worker autonomy by PTCs simultaneously worked to undermine worker sovereignty and independence within our society more generally, to

the point where it's becoming the norm for companies to frame the reduction of workers benefits, the normalization of contract work, and the growth of precarious labour as better suiting the autonomous demands of the worker? In order to understand how to answer these questions, it will be useful to look at the ways in which subjectivities of freedom, autonomy, and self-governance have been promoted within liberal-democratic societies throughout much of modern history. Here, I will draw on the work of Foucault (2008) and McNay (2009) to help explain why corporate platforms that target freedom and autonomy are so successful in the present day.

In his seminal set of lectures encompassed within *The Birth of Biopolitics* (2008), Foucault lays the groundwork for his genealogical study of the birth of neoliberal subjectivity in Europe and America. Foucault traced how new sets of governing techniques that emerged in Europe in the 18<sup>th</sup> century centered around “frugal government” -- which adopted a form of governing that was based on the “truth” of the market as a logical system (Foucault, 2008:28-31) – later developed into a set of modern subjectivities that are based on neoliberal rationale. What began as a set of conversations by political economists about how governments could better conduct themselves to support both the well being of economic markets and populations turned into a set of moral codes which encouraged individuals to adopt similar mindsets. While governments increasingly worked to refine their own practices, they began encouraging their citizens to do the same in an effort to lessen the burden of government and reduce the centrality of the state. As such, notions of freedom and autonomy came about not only as a philosophical expression of personal liberties juridically legitimized through texts like the Magna Carta, but also through a broader set of projects that looked to create parallels

between forms of national governance and governance of the self. This new form of governance emphasized the importance for governments to engage in the ‘conduct of conduct’, where governments work to foster a set of behaviors amongst individuals that align with broader social goals. By establishing a new network of autonomous subjects where individuals conduct themselves in ways that both lessens the burdens of government and strengthen their social milieu, this new form of government seek to be, like the market, radically efficient and rational.

Foucault argues that through these new form of governance that emerged in the 18<sup>th</sup> century, new neoliberal subjectivities have been created in the present day, particularly in countries like the United States where economic metrics have entered into the most mundane aspects of life such as marriage and raising children (Foucault, 2008:268). While discussing this, McNay (2009) argues that “the generalization of the enterprise form to social relations was conceptualized in such exhaustive terms that it encompassed subjectivity itself” -- Foucault going so far as to classify this form of subjectivity as *homo oeconomicus* (McNay, 2009:56; Foucault, 2008:268). Thus, what began as a set of governing practices in the 18<sup>th</sup> century has become fundamental to how we conduct and understand ourselves in the present. Rose (1999) looks at this phenomenon in the context of the development of freedom as a concept within advanced liberal-democratic societies, as a concept imagined to be so fundamentally separate from forms of government and intrinsic to our being that they can ironically be mobilized as a concept to legitimize and delegitimize certain forms of government. What began as a concept created by thinkers in philosophy and political economy is presently imagined to be so fundamentally separate from forms of governance and academia that it can

ironically be called upon to govern populations in particular ways. This point is particularly important to understanding why freedom, autonomy, and self-governance are potential forms of power that can be called upon by various entities in the present, both government and beyond.

Turning our focus back to PTCs, we can see how historical conditions neatly laid the groundwork for both corporate and governmental entities to call out to individuals and create new infrastructures through the lens of autonomy. By understanding freedom, autonomy, and self-governance as potent forms of subjectivity rather than as transcendent, metaphysical concepts, we can begin to articulate how these subjectivities materialize into particular social forms at particular times, and to what effect. In a similar fashion to how governments of past and present have called upon vast networks of self-governing individuals to eliminate the image of government action as authoritative and centralized, PTCs such as Uber have established a social networking structure that makes their success appear organic, decentralized, and natural. By using self-acting consumers as its point of entry into the taxi market, Uber developed a robust base of “organic” consumer demand for its platform -- a base which also has a strong influence on political matters in Ottawa as it is a democracy – it has been able to mobilize the most potent force within our (neo)liberal society: the consumer/citizen. Yet, as I discussed earlier, Uber’s support from this robust base was primarily enabled by its early illegal operation. Consumer support was acquired long before new government constraints – constraints which may potentially increase Uber’s fare prices – in a “free land” where Uber’s service and prices were only restricted by consumer demand and worker supply. While Uber operated in a legal grey area for two years, they were able to gather a tremendous amount

of support from Ottawa's consumer base. Thus at the time when legislative debates around PTCs came to the fore, there was an extensive and vocal consumer base that supported the legalization of these platforms.

At this time, Uber was able to rely on its developed network of autonomous, self-governing workers and consumers to help make the case for the legalization of its platform, allowing it to appear as decentralized rather than bureaucratic, authoritative, and manipulative. It is also important to note that while many consumers use Uber because of its innovative mobile app technologies, its low price is most likely its biggest selling point. This low price has been attained through the minimal cost of Uber's infrastructure, in combination with its existence within a legal grey area for two years, and continued avoidance of the taxi plate system within the new bylaw. Though Uber is now facing pressure from its workers and the Canadian government that may threaten its low prices, Uber was able to disrupt the current taxi industry by beginning at a loss, and might now raise prices since it has an established consumer base. This strategy, also known as 'predatory pricing and recoupment' (Leslie, 2013), has allowed many other major corporations to become successful in new markets, such as Wal-Mart, specifically when a startup has large reserves of investment capital (as with Uber). Though scholars are aware that this kind of business strategy violates anticompetitive acts, in places like Canada and the US, these laws are difficult to enforce as plaintiffs in court have to "prove that the defendant will be able to acquire monopoly power and charge a monopoly price for long enough to make the whole scheme profitable" (Leslie, 2013:1695). Since PTCs have yet to threaten a monopoly over the vehicle-for-hire market in Ottawa, and since

Ottawa's new vehicle-for-hire creates taxi exclusivities, it is highly unlikely that we will see a Competition Act-type lawsuit filed against PTCs in the near future.

Regardless, Uber's ambiguous legal status in combination with its decentralized infrastructure -- which calls upon a plurality of autonomous sensibilities -- played a significant role in the success of Uber within Ottawa. McNay's (2009) observation that the promotion of the self as enterprise has been promoted in liberal-democratic societies to "such exhaustive terms that it has encompassed subjectivity itself", has created a field of social conditions in the present where notions of freedom, autonomy, and self-governance can be called upon by non-governmental entities (McNay, 2009:56). What began in the 18<sup>th</sup> century as a set of government projects to reduce the burden of government and manage a society more democratically has led to a condition where these forms of subjectivity have lost their rootedness in projects of sovereign governments. In the case of Uber, we are now seeing corporations draw upon these forms of subjectivity in new ways to foster projects that often work to go against established government initiatives. Where traditional neoliberal rhetoric pits the freedom of the market against the burdens of government regulation, companies like Uber pit their platform which favours freedom of economic movement against the burdensome public-private "mess" of the taxi industry. We also often see the struggles of the taxi industry attributed by Uber and the public to some inherent character deficiency of the taxi industry, rather than as part of the growing pains of a public-private industry. However, Uber often flip-flops on their stance of blaming government regulation or the taxi industry to suit particular contexts. For example, Uber Canada's Ian Black has criticized the new harmonized sales tax requirements for Uber by claiming that they will stifle innovation within the industry,

akin to the taxi industry's innovative stand-still. In other instances, "greedy" taxi industry moguls are blamed for the taxi industry's inability to compete with Uber (Fischer, 2017). Regardless, we continue to see narratives that pit a centralized governmental bureaucracy against the freedoms and wills of the market and citizens, narratives that find their origins in 18<sup>th</sup> century European tactics of governance.

The question still remains as to how we can get from a point where autonomy is understood through the politics and philosophy of old, to a point where we understand it as integral to the domination of workers within the vehicle-for-hire industry. When we move from an understanding of worker autonomy as merely an expression of workers interests, towards a more sophisticated understanding of it a small component within a larger infrastructural transformation, we can begin to see how autonomy as a narrative works to mask some of the broader implications of this transformation for employment. Worker's rights to collectively bargain with PTCs and job security have been left ambiguous throughout these transformations, where companies like Uber are actively fighting against attempts by governments around the world to classify their contractors as employees. Autonomy has been an excellent way to expedite the recruitment process for Uber's employees, yet only time will tell if the woes of their workers and the stresses of the government's interest in regulating the vehicle-for-hire industry catch up to them.

One final problem remains in regards to these topics, and that has to do with governing the sharing economy. The presence of companies like Uber and AirBnB has posed significant challenges to government regimes of regulatory oversight. Taxi laws aside, independent, autonomous contractors have historically been difficult to govern in capitalist societies with liberal-democratic forms of government (Collins, 1990; Maltby

and Yamada, 1997). By drawing upon digital technologies, companies like Uber have made it difficult for governments to “crack down” on illegal (“bandit”) taxis, ensure public safety, and ensure the financial transparency of Uber and its drivers. It is possible that some of Ottawa’s city councillors did take into consideration the impossibility of managing private transportation companies if they continued to operate illegally, and legalized them, in part, out of a necessity to regulate this new industry. Regardless, the capacity for new global corporations to reach out to workers through digital means poses significant future challenges for global governments. Autonomy in a digital space can often come with the potential for anonymity, making it difficult to gauge where labour is taking place, and where new economies are arising. Uber is a perfect example of the latency that we may now expect from governments who are dealing with the emergence of the sharing economy within their cities. It took the city of Ottawa two years to resolve the legal conundrums created by PTCs, and even this current fix is subject to change pending an extensive review of the new bylaw. In the past year, Uber has begun to realize its strength over governments and flexed it by putting self-driving cars on the streets of San Francisco without the approval of California’s department of transportation. When criticized, Uber officials threatened to pull their cars out of California, claiming that transportation regulation hurts innovation and job creation within California (Etherington, 2016). Uber has faced few consequences when deploying new services that bend the boundaries of existing transportation legislation, which makes me wonder if it is setting a new standard for global corporate autonomy today. Most of Uber’s advancements are met with dramatic latency from governing bodies, where authoritative corporate governing structures have partnered with the expedience of new digital technologies to make the

legislative process look tedious and antiquated. Companies like Uber have created more threats to our current governing structures than many realize, and governments will continue to face significant challenges in the future when attempting to managing new digital economies – particularly when these economies draw upon material labour forms. This is only the beginning.

### Struggles of a public-private partnership

In many senses, the taxi industry within Ottawa represents an iconic attempt by a government to create a public-private relationship within an industry, where public ambitions and incentives come into contact with the physical capabilities of private industry. For Ottawa's taxi industry, this public-private partnership created three interconnected yet legally separate centers of power: The City of Ottawa, taxi companies, and taxi drivers, many of whom have unionized. Historically, this has created both legal and structural autonomy for these three centers which has provided each center benefits in various ways; however, it has also been noted that this tripartite relationship has created various issues for these parties in regards to quality control and financial bargaining which is why the City of Ottawa and Canadian policy centers often commission taxi services reviews (Monteiro and Civettini, 2014; Hara Associates, 2011; 2015; KPGM, 2015; Johal, Ditta, and Zon, 2015).

Within this relationship, the city holds sovereign authority over taxi drivers through licensing in an effort to enforce public safety and quality control standards, companies hold some authority over their drivers through their ability to accept and reject drivers based on their behavior and the quality of their services (though this authority

doesn't have a strong hold over unionized drivers), and drivers have authority over companies both in their ability to unionize and their possible ownership of taxi plates, as well as authority over the city in their ability to be elusive and difficult to surveil. The complicated relationship between these three parties has often made negotiations and improvements within the industry quite difficult to achieve, both because of power in this relationship is not hierarchical and centralized but also because the nature of taxi driving itself makes it difficult for companies and city officials actually to evaluate the quality of taxi work. As a result, the city and policy agencies will often rely on financial metrics to determine the quality and integrity of taxi services based on annual revenues (Monteiro and Civettini, 2014).

In contrast to this, most private transportation companies have a hierarchical structure of authority where corporations retain control over the quality of their services based on user reviews. These companies also retain the authority to release contractual employees based on reviews or other criteria at their sole discretion. In the United States, Uber has gone so far as to adjust its current terms of service to attempt to deny contractors the right to bargain collectively with the company<sup>4</sup>. According to Uber's most recent terms of service iteration in the US:

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<sup>4</sup> It is also important to note that Uber drivers are often asked to agree to new terms of service through the mobile app itself. Canadian Uber drivers on uberpeople.net have often reported that they were unable to read or see the terms of service on specific mobile devices. This is another interesting way in which Uber is able to use the infrastructure of mobile devices to expedite and often obfuscate lengthy contract bargaining processes. Terms of service changes can be pushed to drivers at a rapid pace, and drivers are presented with a compact terms of service on their phones which can be "swiped through" fairly quickly.

By agreeing to the Terms, you agree that you are required to resolve any claim that you may have against Uber on an individual basis in arbitration, as set forth in this Arbitration Agreement. This will preclude you from bringing any class, collective, or representative action against Uber, and also preclude you from participating in or recovering relief under any current or future class, collective, consolidated, or representative action brought against Uber by someone else (Uber, 2016b).

However, this situation is complicated and ongoing, particularly in places like Seattle where Teamsters Union Local 117 succeeded in getting a local ordinance passed that allows independent contractors to bargain collectively (Uber, 2016; 2016a). In their arguments against this ordinance, Uber's public relations team frequently pitted this ruling against the fear that this ruling would cause the Seattle Uber industry to adopt many of the "flaws" of the "old" taxi industry. From Uber's website:

By rigging the system and denying drivers a voice with this ordinance, special interests will be able to force Uber to operate like the old taxi companies. Wait times will go up, reliability and service quality will go down, and Seattle's roads will get more congested and less safe (Uber, 2016a).

Though much of this statement is fabrication (e.g., this ordinance will make "Seattle's roads ... more congested and less safe"), there is a degree of truth in the fact that Uber's current corporate structure allows it to maintain a greater degree of quality

control over its services. While its contractual-based work model might be harmful and less beneficial to workers, Uber doesn't face the trouble of having to negotiate with alternative centers of power within its own corporate structure. This somewhat resolves the dilemma that cities face when they attempt to manage quality within taxi services. If we compare Ottawa's taxi industry to an actual public-managed transportation service (e.g., OC Transpo, Ottawa's public transit service), management decisions are more connected to both the city and workers on the ground as they all exist as part of one organization (even though OC Transpo workers are unionized). The communicative modalities are clearer within these kinds of corporate structures as management has the direct ability to oversee and surveil the day to day activities of transit vehicles (e.g., you will often see transit supervisors parked at large bus stations to monitor transit schedules, et cetera). Even within a company like Uber, its platform incorporates a mode of communication in the form of user ratings which allows Uber to keep a communicative channel open between its customers, employees, and corporate offices — a mandatory rating system that asks both drivers and customers to rate each other after each ride.

The City of Ottawa and taxi companies also have avenues where customers can give feedback through phone and email, but it is far from mandatory and often more burdensome than one click through a mobile application. However, it is interesting that Uber drivers can discriminate against passengers based on their personal rating, creating a complicated situation where drivers and customers become defined by their rating and can be denied service based on this rating. I won't get into all of the ways in which rating systems as a form of identity can be problematic, but it's important to point out that Uber's rating system isn't a flawless alternative to the system within the taxi industry.

During the rise of private transportation companies, a different narrative about quality control also emerged, one that is familiar to capitalist rhetoric: competition. One of the major driving forces towards the legalization of Uber was complaints by residents about the quality of taxi services and hope by some that an influx of competition into a “closed” market would force the “stagnant” taxi industry to innovate. While I have indeed discussed the struggles with enforcing quality control within the tripartite taxi industry structure versus the monolithic structure of companies like Uber, I do not think that opening up the taxi industry to the brute forces of the capitalist market will necessarily enhance the quality of vehicle-for-hire services nor ensure a wider social good for residents and workers of Ottawa. I have indicated that the modalities of communication among consumers, taxi companies, taxi drivers, and the City of Ottawa may be the most problematic aspect of the existing taxi structure. However, rather than acknowledging that this is a communicative and multi-party problem, many tossed blame at one specific section of this tripartite organization.

There is also the issue that taxi companies position as small, local entities, effects the possibility for them to instigate large scale mobile app development. Most local companies have now developed an app of some sort, but it is difficult to imagine a world where local companies possess the capital and talent that Silicon Valley companies like Uber have to develop groundbreaking mobile technologies. Without acknowledging the reasons for these struggles and limitations of the existing taxi industry, many people went ahead and judged these companies based on their consumer capabilities, rather than the infrastructural capacities and social benefits of each particular company. I do think that it is careless that residents and city officials overlooked the sophistication of these two

systems in favor of a surface analysis of the pros and cons of each of platforms themselves. Whether or not city officials agree that existing legislation fostered a taxi industry that became stagnant and untenable, there are certainly cooperative projects that could improve the existing taxi industry and make it more competitive in the current technological climate. An example of this could be the development of a mobile taxi application by the city in cooperation with taxi drivers and taxi companies that would allow Ottawa's taxi drivers to remain technologically competitive.

I do think that there is a seed of truth in the idea that the city government of Ottawa wanted to legalize private transportation companies in an effort to express that Ottawa is a city of innovative governing that is looking to set an example for other cities in how effectively to manage a vehicle-for-hire market that is both open to taxi companies and private transportation companies. And to the City of Ottawa's credit, it has ordered a formal annual review of these new by-laws on September 30<sup>th</sup>, 2017, so there is a chance that the city will come to have a different opinion about the effectiveness of this new bylaw. Regardless, the legalization of private transportation companies within Ottawa reflects a wider problematic: that the presence of new sharing economy companies is inevitable for most major cities. This thesis has attempted to pre-empt some of the future crises may arise because the unnoticed social consequences of sharing economy companies, and has pointed to the ways in which existing taxi legislation was, by its nature, pre-emptive. We need to understand that those clinging to solutions of the past don't always do so because of their "Luddite tendencies", but have responded to complex problems social problems that technology fails to address.



## 7. Conclusion

Throughout this thesis, I have attempted to destabilize the often taken-for-granted notions about the nature of recent transformations in the Ottawa taxi industry. In doing so, I critically analyzed the technical similarities and differences between private transportation companies and the taxi industry to illuminate the ways in which technicalities about the taxi industry and taxi legislation often become forgotten in favour of narratives about technological change and new economic opportunities for city residents.

The main arguments of this thesis are as follows:

1) Private transportation companies like Uber have benefited from the socio-spatial gaps created by new mobile technologies. These new digital platforms work to alienate the user and driver experience from the broader infrastructural transformations that are occurring through the implementation of these platforms. These infrastructural transformations have implications for the future of employment in Canada, future forms of governmental oversight into the private sphere, and the future of sharing economy companies in Canada.

2) Private transportation companies have taken advantage of growing concerns by workers for autonomy and flexibility in their lives by creating platforms which give workers autonomy and flexibility, but simultaneously reduce the extent to which workers can bargain with their employers. In particular, Uber has utilized its infrastructure to great effect by allowing it to “do the talking” to their employers and customers, thus

giving it's corporate structure sovereignty from the day-to-day process of the vehicle-for-hire business. The fact that many large businesses are separating their corporate base from their lower-tier labour force by drawing upon digital infrastructure that manages employees and “does the talking” has profound implications for the future of corporate autonomy around the world.

3) Uber has often utilized taken-for-granted notions within our society during this transformation about the relationship between technology and social progress to give their platform legitimacy. By framing debates around the legalization of PTCs by tying together notions of “technology”, “social progress”, and the “free market”, many of the significant social contributions of previous taxi legislation went largely unnoticed within public sphere debates about PTCs. Early legislation applied social solutions to social problems rather than technological solutions to social problems. The fact that many individuals and government legislators are beginning to assume that social problems can always be fixed by technology has profound implications for the future of public-private partnerships and public industry within Canada.

4) Sharing economy companies are profoundly challenging the capacity for governments to keep up with the reconfiguration of economies and employment instigated by new digital platforms. Where governments once had the leisure to deliberate about certain corporate and labour practices, their responses are often now reactive, secondary, and hasty. This has implications for the quality and the depth of future legislation that regulates the interaction between private residents and private corporations.

In Chapter 4 I undertook the often shunned task within mainstream politics of questioning how current social assumptions about technology can often over-represent the degree to which a particular product or service improves social relations and personal livelihoods for all. By tracing the ways in which our experiences with innovative technology can translate into taken-for-granted assumptions in the form of discourse, I've shown how private transportation companies draw on these taken-for-granted notions to attain new power and agency in previously closed economic markets. They have done so by bringing questions about competition, technology, and innovation to the fore of social discussions while simultaneously making technical questions about the legality of their operations secondary.

In Chapter 5 I discussed how discourses of worker and consumer autonomy have also intersected with this transformation to give it legitimacy within a society that is ever-increasingly favouring precarious forms of labour. I also expressed that there is an emerging sentiment within modern day forms of employment that look to move away from the monotony of a Fordist, career-based form of employment. Though these arguments are dwarfed in relation to the raw economic needs and desires of Canadian residents, they are still relevant as younger generations are ever-increasingly shying away from the career-based forms of employment that are characteristic of their parents, or rather, don't have access to them. Later on in this chapter I discussed the ways in which worker autonomy varies between private transportation companies and the taxi industry through discussing the differing relationships of power within these two industry structures. Taxi drivers and taxi companies have worked long and hard to establish a

relationship with both the city and one another in a way that guarantees that taxi drivers will have a stable income. On the other hand, private transportation companies currently do little to guarantee job security, and have often actively worked against efforts undertaken by their independent contractors to unionize (as in the case of Seattle). What I've demonstrated here is that there are invisible benefits for workers within the existing taxi industry that have largely gone unnoticed during dominant conversations about these transformations within Ottawa. In many cases it is also often difficult for some taxi companies and drivers to articulate the broader ways in which power relationships developed within the industry without conducting a thorough study of all of the various mechanisms that work to give life to this industry. In these cases, taxi drivers rely on the city and union organizers to manage and preserve the complexities of this relationship. However, in the case of Ottawa, it is easy to see why many taxi drivers feel that the city has failed them.

Chapter 6 departed from a multimodal critical discourse analysis to focus on sociological questions about autonomy and governance. In this section I drew literature which discuss the power that subjectivities of autonomy and the self-as-enterprise have within liberal-democratic societies. Though Ottawa's municipal government did allow terms to be negotiated around the legalization private transportation companies – which did not result in an outright revolt from taxi drivers (somewhat proving the effectiveness of our current forms of governing) -- this chapter argues that corporate intervention at the level of self-governance has become a primary way for private transportation companies to circumventing the reach of existing governing structures. This became apparent within the City of Ottawa's statement of defense against the taxi industry where they discussed

the struggles that other Canadian municipalities have had in attempting to outlaw private transportation companies: legalize the ungovernable in an effort to make it intelligible within existing governmental frameworks. Thus in making these arguments, I argue that self-governance remains crucial to our understanding of new social transformations -- particularly those initiated by new, mobile technologies – even if self-governance is being used as a device by some companies to go against the government’s interests.

In the last section of Chapter 6 I discussed some of the technical struggles with managing the public-private partnership that has come to be known as the Ottawa taxi industry. I acknowledge the struggles that the city government and taxi companies have in enforcing quality control throughout the industry versus the kind of quality control that companies like Uber have; however, I argue that a free-market approach should not have been the solution to this age-old problem. Through framing this current struggle in terms of technology, innovation, and competition, instead of the technical terms of this transformation for labourers and city residents, previous collective agreements and public-private relationships were rendered irrelevant.

### Future Considerations

One of the difficult aspects of research this topic for this thesis is that the phenomenon that I’m studying is ongoing. Throughout the process of researching and writing the thesis, new events and legal rulings were constantly emerging which challenged some of the initial assumptions that I had about the state of Uber today. Most notably, there has been a large amount of worker backlash recently against Uber which is

testing the sustainability of Uber's current 'contractor' labour model. Though Uber remains a massive corporate behemoth within the tech world with an estimated value of up to \$70 billion, it still has problems to solve in regards to labour rights, wages, and employee benefits.

At the same time the lawsuit between the the taxi industry and the City of Ottawa is ongoing, and the outcome of this could have serious implications for the future of the taxi industry and private transportation companies within Ottawa. The City of Ottawa has also ordered a thorough review of the new 2016 Vehicle-for-hire Bylaw in September, 2017, which opens up the possibility that some of the current legislative constraints on private transportation companies and the taxi industry could be altered.

In an attempt to incorporate the possibility of changes in the City's stance towards private transportation companies, my thesis moved away from an analysis which looked to provide an ultimate solution to the City's current transportation woes. Instead, I looked to outline what is at stake in an era where companies are able to reach out to workers and consumers beyond the state, which will hopefully invoke further inquiries into the ways in which mobile technologies are reconfiguring both the social, and our current forms of governing.

By connecting current assumptions about the relationship between technology and notions of social progress to historical analyses that have traced similar discourses throughout the history of modernity and Western societies, I have hoped to illuminate an ongoing relationship between the present and the past, where we aren't consumed by new technology in a way that it makes us forget its relationship to age-old historical discourses. Many people often toggle back and forth between arguments that we need to

develop an entirely new vocabulary and frame of analysis to understand and render intelligible the ways in which new technology is reshaping our lives and our societies. Though some have been optimistic about the potential of social media to create a more open and egalitarian society, we have also seen how existing power structures and new power structures have also found new form within these platforms. This is particularly relevant in our current times where the Donald Trump presidency has asked new questions about the ways in which fake news in social media is allowing people within powerful positions to reconfigure social narratives.

I also predict that there will be problems in the future for the federal branches of Canada's government with regulating taxes within the private transportation market. Canada's most recent federal budget now requires Uber to charge HST, and it will be interesting to see how this unravels throughout the coming year. There are also concerns about corporate taxation, and though I lack the legal expertise to determine the jurisdictional reach of Canada's Revenue Agency, Uber's elaborate international shell structure will most likely complicate the corporate tax game. Many major governments and major corporations such as Amazon and Apple have been notorious for getting into muddy waters about national tax obligations, and I expect Uber's situation to be even more complicated as it continues to draw on similar techniques to these companies, yet also carry with them a complicated global network of independent contractors whom it has to pay and manage.

### Future Research Possibilities

Future research on this topic will be extremely relevant as the sharing economy continues to broaden into many unexpected realms of our personal lives. As indicated

above, there are some important research questions that political economists will need to address when looking at Uber's future corporate responsibility to nation-states and workers. Many prominent officials throughout the world are now claiming that the "Uberification" of our societies is inevitable, which indicates that this research puzzle is only beginning to unfold. Short-term lodging services such as Airbnb seem to be the next area of major municipal controversy within the sharing economy, which is asking new questions about the security of corporate investments and city control over the rental market within their own municipalities. Unfortunately, we won't be able to avoid these questions as the changing nature of internet technology will inevitably force governments to ask existential questions about their effectiveness in this era.

### Concluding Thoughts

Conducting this research has been an absolute pleasure. The energy surrounding these recent transformations in the taxi industry has given me a tremendous amount of belief that the issues at stake here are crucial not only to the livelihoods of taxi drivers, but to the future of current notions of employment. As we continue to see jobs that have previously required specialists both being replaced by automation and by new crowdsourcing technologies that open up these industries to a vast pool of casual labourers, new legislative frameworks need to be developed that both ensure job security and market stability. My goal with this thesis was never to criticize advancements in technology blindly, as if technology is merely a mask for certain institutions within positions of power to manipulate social relations in their favour, but was instead to scrutinize how our understandings of technology get translated into a discourse around

technology which can enable and disable certain forms of social change at particular times in history. Make no mistake in understanding that companies like Uber have indeed positively improved how individuals hire private vehicles within Ottawa; however, I hope people recognize that there is a lot more at stake within this transformation. The livelihoods of taxi drivers and Uber drivers, and workers in general are at stake as we continue to see a radical new way of organizing labour take shape around the world.

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## Appendix A – Media Sources

This section includes a list of media sources that I drew on extensively in my data analysis. Many of the news sources that were drawn upon sporadically have been included in the references and not in these appendices.

### Video Sources (including interviews):

Bloomberg: When Their Shifts End, Uber Drivers Set Up Camp in Parking Lots Across the U.S.

<https://www.bloomberg.com/news/articles/2017-01-23/when-their-shifts-end-uber-drivers-set-up-camp-in-parking-lots-across-the-u-s>

Blueline Taxi Driver Interviews about Uber:

<https://www.youtube.com/watch?v=BeMJgLDwrFw>

<https://www.youtube.com/watch?v=-aRbYU2HZgI>

CBC News: Taxi driver disrupts Ottawa city council after Uber vote

[https://www.youtube.com/watch?v=Y6\\_gbFdix\\_I](https://www.youtube.com/watch?v=Y6_gbFdix_I)

CBC News: Toronto Uber Drivers Fear For Safety

<https://www.youtube.com/watch?v=SdipBEs5wso>

Ottawa Unifor 1688 Representative

<https://www.youtube.com/watch?v=PozutjoS-I8>

Toronto Star: Uber Female Driver in Toronto Streets

<https://www.youtube.com/watch?v=N99lxM-9vJ8>

Uber: 4 month update, what I've learned, tips and tricks.

<https://www.youtube.com/watch?v=-fbPL8Y0Xo8>

UBER DRIVER 101 – Personal Experience of Driving For Uber

[https://www.youtube.com/watch?v=0\\_hvSXLw3Ps](https://www.youtube.com/watch?v=0_hvSXLw3Ps)

Uber undercover: What it's like to be a driver (Toronto)

<http://www.ctvnews.ca/autos/uber-undercover-what-it-s-like-to-be-a-driver-1.2408025>

Uber driver says wages work out to about \$8 an hour (Ottawa)

<http://www.cbc.ca/news/canada/ottawa/uber-driver-says-he-made-eight-dollars-an-hour-1.3527435>

Text Sources:

CBC, Uber drivers often unaware of tax obligations

<http://www.cbc.ca/news/business/taxes/tax-time-2016-uber-drivers-1.3462006>

Business Insider: Uber's internal charts show how its driver-rating system actually works

<http://uk.businessinsider.com/leaked-charts-show-how-ubers-driver-rating-system-works-2015-2>

Fortune: How Uber plays the tax shell game

<http://fortune.com/2015/10/22/uber-tax-shell/>

New York Times Interactive: How Uber Uses Psychological Tricks to Push Its Drivers' Buttons

<https://www.nytimes.com/interactive/2017/04/02/technology/uber-drivers-psychological-tricks.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=photo-spot-region&region=top-news&WT.nav=top-news>

[www.uberpeople.net](http://www.uberpeople.net)

A message board where Uber drivers from around the world discuss working for Uber.

Indeed Canada: Uber Partner Reviews

<https://ca.indeed.com/cmp/Uber-Partner-Drivers/reviews>

National Post: Taxi drivers launch \$215 million lawsuit against City of Ottawa weeks before Uber becomes legal

<http://news.nationalpost.com/news/canada/taxi-drivers-launch-215-million-lawsuit-against-city-of-ottawa-weeks-before-uber-becomes-legal>

Toronto Star, Proposed Ontario class-action claims Uber drivers are employees not contractors

<https://www.thestar.com/business/2017/01/24/proposed-ontario-class-action-claims-uber-drivers-are-employees-not-contractors.html>

[Uber Advertisements and Documents:](#)

In the Driver's Seat: A Closer Look at the Uber Partner Experience

<https://newsroom.uber.com/in-the-drivers-seat-understanding-the-uber-partner-experience/>

Uber Daily Pay with Mastercard Payfare (Canada)

<https://www.uber.com/en-CA/drive/resources/daily-pay/>

Ottawa Driver Vehicle Requirements

<https://www.uber.com/en-CA/drive/ottawa/vehicle-requirements/>

Rasier Operations B.V. Services Agreement, December 29th, 2015 (Canada)

Uber B.V. Terms and Conditions, March 16, 2017

<https://www.uber.com/en-CA/legal/terms/ca/>

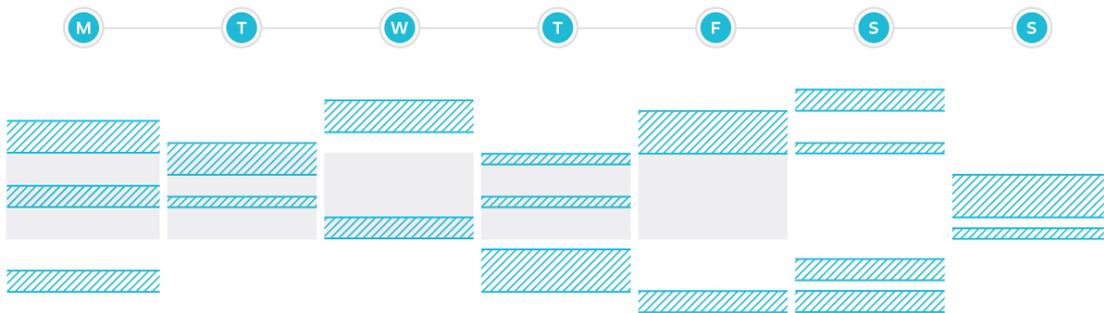
## Appendix B – Uber Information Graphics

### THE ECONOMICS OF PARTNERING WITH UBER

#### DEMAND FOR FLEXIBILITY



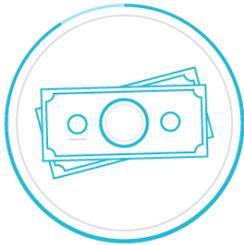
The Bureau of Labor and Statistics found that **82% OF INDEPENDENT CONTRACTORS** prefer their work arrangement to a traditional job.



**73% OF UBER PARTNERS** say the same: they would rather have a job where they choose their own schedule and are their own boss than a steady 9-5 job with some benefits and a set salary.

---

## WHY ARE PEOPLE CHOOSING TO DRIVE WITH UBER?



**91%**

“To earn more income to better support myself or my family.”



**85%**

“To have more flexibility in my schedule and balance my work with my life and family.”



**87%**

“To be my own boss and set my own schedule.”

---

## IS UBER DRAWING NEWCOMERS TO THE TRANSPORTATION ECOSYSTEM? IT'S NEARLY A 50/50 SPLIT:



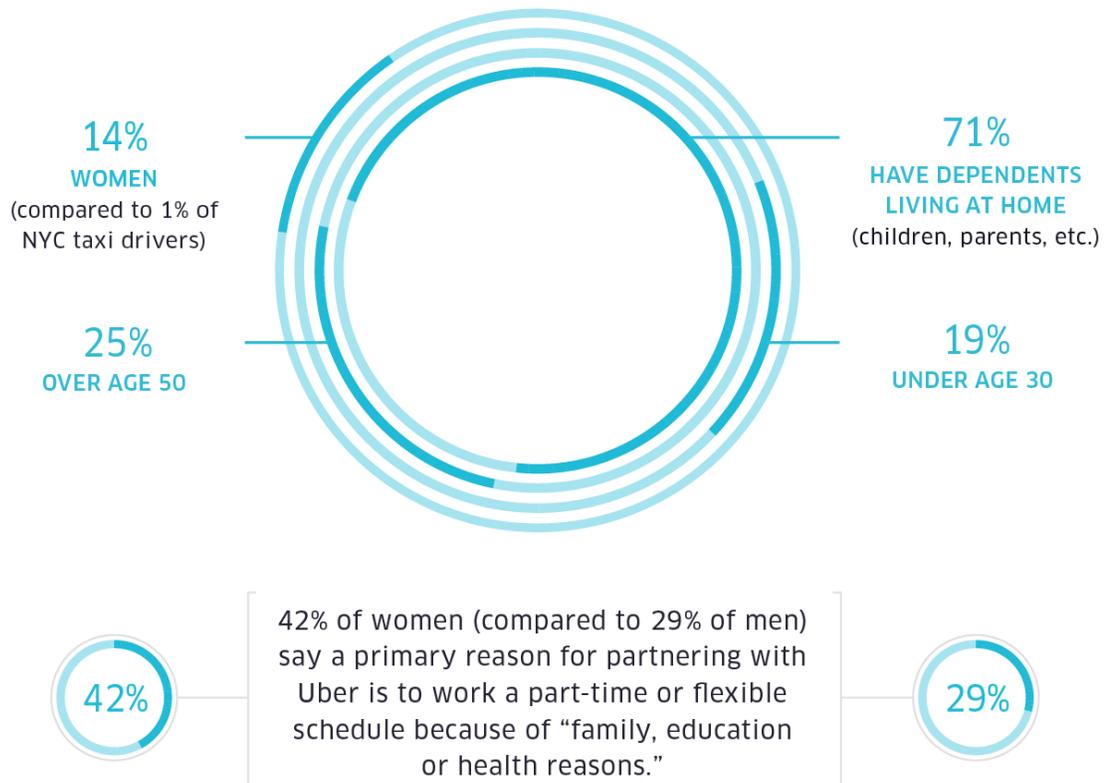
**49% OF UBER PARTNERS**

have previous experience driving at some point in their career.

**51% OF UBER PARTNERS**

have never previously worked as a driver.

## WHO ARE THESE DRIVERS?



Retrieved from: <https://newsroom.uber.com/in-the-drivers-seat-understanding-the-uber-partner-experience/>

Behind the Wheel

## They're people like you, going your way

What makes the Uber experience truly great are the people behind the wheel. They are mothers and fathers. Students and teachers. Veterans. Neighbors. Friends. Our partners drive their own cars—on their own schedule—in cities big and small. Which is why more than one million people worldwide have signed up to drive.

[WHY DRIVE WITH UBER →](#)



Helping Cities

## For the good of all

A city with Uber has more economic opportunities for residents, fewer drunk drivers on the streets, and better access to transportation for those without it.

[OUR LOCAL IMPACT >](#)



Safety

## Putting people first

Whether riding in the backseat or driving up front, every part of the Uber experience has been designed around your safety and security.

[HOW WE KEEP YOU SAFE >](#)



Retrieved from: [www.uber.com](http://www.uber.com) on April 10<sup>th</sup>, 2016

## Appendix C – City of Ottawa Archival Data

Results of the Comprehensive Taxicab and Limousine Regulations Review March 15, 2015

[www.ottawa.ca/en/city-hall/public-consultations/law](http://www.ottawa.ca/en/city-hall/public-consultations/law)

Community and Protective Services Committee Minutes 12 Special Meeting Thursday, 07 April and Friday, 08 April 2016 10:00 a.m.

Hara Associates. (2011). Ottawa Taxi Cost Index 2011 Update. Bylaw and Regulatory Services City of Ottawa

Hara Associates. (2015). Taxi Economics – Old and New. City of Ottawa. Taxi and Limousine Regulations and Service Review

Hara Associates. (2015a). City of Ottawa Taxi and Limousine Regulations and Service Review: Current Regulatory Framework. Retrieved at:  
[http://documents.ottawa.ca/sites/documents.ottawa.ca/files/documents/regulatory\\_regime\\_en.pdf](http://documents.ottawa.ca/sites/documents.ottawa.ca/files/documents/regulatory_regime_en.pdf)

KPGM. (2015) City of Ottawa Taxi and Limousine Regulation and Service Review. KPGM LLP.

Taxicab and Limousine By-law No. 2012 - 258

Vehicle for Hire By-law By-law No. 2016-272

# Appendix D – Taxi Industry Vs City of Ottawa: Statement of Claim

①

Court File No.

16-69601

**ONTARIO  
SUPERIOR COURT OF JUSTICE**



METRO TAXI LTD. and MARC ANDRE WAY

Plaintiffs

– and –

CITY OF OTTAWA

Defendant

Proceeding under the *Class Proceedings Act, 1992*

## STATEMENT OF CLAIM

### TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: August 12, 2016

Issued by:..........

Local registrar  
161 Elgin Street  
Ottawa ON K2P 2K1

TO: City of Ottawa  
Ottawa City Hall  
110 Laurier Avenue West  
Ottawa, Ontario, K1P 1J1

## CLAIM

1. The plaintiffs claim, on their own behalf and on behalf of the Class:
  - a) an order pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 certifying this action as a class proceeding and appointing the plaintiffs as the representatives of the Class;
  - b) an order declaring that the by-law passed on April 13, 2016 with respect to private transportation companies is *ultra vires*;
  - c) an order declaring that the City has unlawfully failed to enforce By-law 2012-258 (the "Taxi By-law") against Uber since September 2014;
  - d) damages in the amount of \$215,000,000;
  - e) a declaration that fees collected from the City from Class Members under the Taxi By-law are *ultra vires* and an order for restitution of those fees;
  - f) an order directing a reference or giving such directions as may be necessary to determine issues not determined at the trial of the common issues;
  - g) pre and post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43;  
and
  - h) costs on a substantial indemnity basis.

## The parties to the action and related parties

2. The defendant, the City of Ottawa (the "City"), is a municipality incorporated pursuant to the laws of the Province of Ontario.

3. The plaintiff, Metro Taxi Ltd., carrying on business as Capital Taxi, holds a licence to operate and dispatch taxicabs in the City of Ottawa, and is a “taxicab broker” (“Broker”) under the Taxi By-law.

4. The plaintiff, Marc Andre Way, holds licences (“Plate” or “Plates”) to operate taxicabs in Ottawa, and is a “taxicab plate holder” (“Plate Owner”) under the Taxi By-law.

5. In this pleading, “Class” or “Class Members” means all persons who were Plate Owners, Brokers, or both, on or after September 1, 2014, regardless of the number of Plates owned by such persons.

6. Uber B.V., Rasier Operations B.V., Uber Canada Inc. and/or Uber Technologies, Inc. (collectively, “Uber”) collectively operate a taxi service in the City of Ottawa, as further described below.

## **Background**

### ***The regulatory scheme for taxi services in Ottawa***

7. The City and its predecessor municipalities began regulating taxi services in Ottawa in or around 1960. Since that time, the City’s regulatory scheme of taxi services has consistently included the following elements:

- a) The City has required a licence to operate a taxi (a “Plate”) and a licence to operate as a taxicab broker (a service which dispatches taxis in response to customer requests);
- b) The City has regulated and monitored the rates charged for taxi services and the number of Plates to ensure a balance between reasonable earnings for Class Members and reasonable services for the public;

- c) The City has fixed the number of Plates relative to the population of the City of Ottawa, and has actively maintained a cap thereon;
  - d) The City has granted an exclusive right to Plate Owners to operate "taxicab services" within Ottawa;
  - e) The City has required Brokers to only dispatch taxis with Plates; and
  - f) The City has permitted the sale or lease of Plates.
8. As a result of the City's regulatory scheme, Plates have a market value.
9. The Taxi By-law establishes the particulars of the regulatory scheme as of September 1, 2014. Under the Taxi By-law, it is an offence to operate an unlicensed taxicab or as an unlicensed taxicab broker. The Taxi By-law also imposes various fees on Plate Owners and Brokers.
10. The Taxi By-law defines "taxicab," "taxicab service," "taxicab broker", and "dispatch" as follows:

"taxicab" means a motor vehicle with seating capacity of not more than seven (7) individuals, including the driver, that is intended to be used or is actually used for hire for the purpose of transporting a person and includes an accessible taxicab and a standard taxicab but does not include a limousine;

"taxicab service" means the transportation of a passenger by taxicab from a point in the regulated area to any point within or beyond the regulated area;

"taxicab broker" means a person who accepts calls in any manner for the dispatch of taxicabs and which taxicabs are not owned by that person or that person's immediate family or employer; and

"dispatch" means the act or service of sending or directing a taxicab, by electronic or any other means, to a person or persons who have requested taxicab service but does not include a request made directly to a taxicab driver.

11. Under the statutory, regulatory, and administrative framework of the regulatory scheme, including the Taxi By-law, the *Municipal Act, 2001*, S.O. 2001, c. 25 (the "Act"), the *Provincial Offences Act*, R.S.O. 1990, c. P.33, and a memorandum of understanding with the Attorney General of Ontario, the City has the responsibility to investigate and prosecute contraventions of the regulatory scheme, including the responsibility to investigate and prosecute persons who operate unlicensed taxicabs or unlicensed taxicab brokerages.

***Events between September 2014 and April 2016***

12. In or around September 2014, Uber began operating the following service in the City of Ottawa:

- a) Uber engaged drivers willing to provide transportation services for hire from within Ottawa to other points in Ottawa or outside of Ottawa;
- b) Through electronic means, Uber accepted calls from customers wishing to engage its drivers; and
- c) Uber dispatched drivers to customers by electronic or other means.

Uber's drivers therefore operated taxicabs within the meaning of the Taxi By-law. Uber operated as a taxicab broker within the meaning of the Taxi By-law. Uber and its drivers therefore required licences pursuant to the Taxi By-law.

13. Uber and its drivers did not obtain licences. Uber's drivers did not purchase Plates. Uber and its drivers did not comply with various other requirements of the Taxi By-law for operating taxicabs and taxicab brokerages and, in particular, did not pay any of the fees payable under the Taxi By-law.

14. The Class Members asked the City to take reasonable steps to enforce the regulatory scheme against Uber and Uber's drivers. The City prosecuted a limited number of Uber's drivers. The City did not take any steps to enforce the regulatory scheme against Uber. Uber continued to operate its services in the City of Ottawa. The City knew that Uber would continue operating its services unless the City took steps to enforce the regulatory scheme against Uber or took meaningful and reasonable steps to enforce the regulatory scheme against Uber's drivers.

***The Amendments***

15. On April 13, 2016, the City enacted amendments to the regulatory scheme, with a coming-into-force date of September 30, 2016 (the "Amendments").

16. The Amendments purport to create a new class of licence for "Private Transportation Companies" such as Uber. The Amendments provide a number of advantages to Uber and its drivers not available to the Class Members, including the following advantages in particular:

- a) Uber and its drivers are not required to pay the same fees as Class Members in order to operate a taxi;
- b) Uber and its drivers are not required to purchase or lease Plates in order to operate taxis or pay the associated fee with registering and renewing Plates;
- c) Uber and its drivers are not required to charge regulated rates;
- d) Uber drivers are not required to install in-vehicle cameras;
- e) Uber drivers are not required to submit driver abstracts, police records, or proof of adequate insurance to the City;

- f) Uber is not required to maintain a minimum percentage of its fleet as accessible taxicabs;  
and
- g) Uber drivers are not required to collect and remit HST or to provide passengers with a receipt indicating the Goods & Services Tax included in the fare.

17. In enacting the Amendments, the City did not consider the value of Plates and the expectations of Class Members to be relevant considerations.

### **The City negligently failed to enforce the regulatory scheme**

#### ***The City owed a duty of care to Class Members***

18. The City and the Class Members were in a relationship of proximity in which the City's failure to take reasonable care would foreseeably cause loss or harm to Class Members. In particular, the City's failure to take reasonable care to maintain the integrity of the regulatory scheme would foreseeably cause loss or harm to Class Members.

19. The following circumstances enhanced the relationship of proximity between the City and the Class Members:

- a) The City created and maintained a regulatory scheme for taxi services in Ottawa;
- b) In order to function effectively, the regulatory scheme required investment by Class Members and collaboration between the City and Class Members;
- c) The Class Members have a significant interest in the integrity of the regulatory scheme;
- d) The City regulated and monitored the rates charged for taxi services and the number of Plates to ensure a balance between reasonable earnings for Class Members and reasonable services for the public;

- e) The regulatory scheme created and maintained the market value of the Plates;
- f) The City actively and deliberately encouraged the growth in the market value of the Plates including, in particular, by permitting and facilitating the sale of Plates and maintaining a cap on the number of Plates issued;
- g) The City closely monitored the market value of Plates by requiring purchasers of Plates to provide affidavit evidence indicating the consideration paid for the taxi business;
- h) The City represented to Class Members that sound public policy reasons justified maintaining the market value of the Plates and maintaining the limits on the number of Plates issued by the City;
- i) When making changes to the regulatory scheme that affected the market value of the Plates, the City provided Class Members with a reasonable period to adjust to the changes;
- j) The City directly benefitted from the market value of the Plates, including through fees levied on the transfer of Plates; and
- k) The Class Members reasonably relied on the City's actions to change their position, in particular by purchasing Plates and maintaining taxi businesses, and the City was aware of this reliance.

20. As a consequence of the direct and close relationship between the City and the Class Members, the failure of the City to take reasonable steps to maintain the integrity of the regulatory scheme would foreseeably cause loss or harm to Class Members. There is no policy reason why a duty of care should not be recognized.

21. On the contrary, there are sound public policy reasons to recognize a duty of care. In particular, the recognition of a duty of care encourages investment in the taxi industry in Ottawa by assuring stakeholders that the City will take reasonable care in its operational decisions to avoid causing loss or harm to stakeholders.

***The City breached its duty of care***

22. The duty of care required the City to take reasonable steps to maintain the integrity of the regulatory scheme.

23. The City breached its standard of care by taking no steps to enforce the regulatory scheme against Uber and taking vastly inadequate steps to enforce the regulatory scheme against Uber's drivers.

24. The failure of the City to enforce the regulatory scheme was an operational decision and was not based on economic, social, or political factors. The failure of the City to enforce the regulatory scheme did not result from a policy decision of the City made in good faith.

**The City has unlawfully refused to enforce the regulatory scheme**

25. The City had a public duty, pursuant to the Act, its by-laws, the *Provincial Offences Act*, and a memorandum of understanding between the City and the Attorney General of Ontario, to investigate and prosecute contraventions of the regulatory scheme. Furthermore, the City had a duty, under section 106 of the Act, not to confer an obvious advantage on a commercial enterprise not available to other enterprises and, in particular, not to give a total or partial exemption to any commercial enterprise from any levy, charge, or fee.

26. Beginning in September 2014, the City refused to carry out its duty by failing to take any steps to enforce the regulatory scheme against Uber and failing to take reasonable steps to enforce the

regulatory scheme against Uber's drivers. The City's refusal to enforce the regulatory scheme is not defensible, justifiable, or intelligible. The City's refusal conferred an obvious advantage on Uber and its drivers not available to Class Members, contrary to section 106 of the Act.

### **The Amendments are unlawful**

27. The Amendments are *ultra vires* and unreasonable. In particular:

- a) In developing the amendments, the City ignored relevant considerations, including the rationale of the regulatory scheme and the reliance of Class Members on the regulatory scheme;
- b) In developing the amendments, the City fettered its discretion by refusing to consider the market value of Plates, a value which the City itself had created and encouraged. This refusal was inconsistent with past amendments to the regulatory scheme, in which the City considered and took into account the impact of regulatory changes on the interests of Class Members; and
- c) By providing Uber and its drivers with various advantages not available to Class Members, the Amendments also discriminate against Class Members and confer an obvious advantage on Uber and its drivers, contrary to section 106 of the Act.

28. Furthermore and in the alternative, the Amendments were unreasonable and *ultra vires* because they did not provide Class Members with reasonable notice of the changes to the regulatory scheme. This was inconsistent with previous changes to the regulatory scheme, in which the City provided Class Members with a reasonable adjustment period.

### **The City collected ultra vires taxes**

29. The Taxi By-law provides for the payment of fees by Class Members. In particular, to maintain their licence, Class Members must pay a renewal fee, a processing fee, and fees for mandatory inspections. Plate Owners must also pay a fee to transfer their Plate. The City has collected these fees from Class Members since the enactment of the Taxi By-law. Prior to the enactment of the Taxi By-law, the City collected similar fees from Class Members.

30. The fees are a tax. These fees are enforceable by law, imposed under the authority of the Act, levied by a public body, and intended for a public purpose. Furthermore, there is no nexus between the fees and the cost of providing services or programs to Class Members. There is no reasonable connection between the fees charged and any services provided by City to Class Members.

31. The City does not have the authority to impose a tax on Class Members in this manner. Accordingly, the fees are *ultra vires*.

### **Remedies**

#### ***The Class Members are entitled to declaratory relief***

32. The Class Members are entitled to a declaration that the City unlawfully refused to enforce the Taxi By-law and that the Amendments are unlawful. The issues are real and not theoretical, and the Class Members have a real interest in determining the issues.

33. The Class Members are also entitled to a declaration that the fees collected under the Taxi By-law are *ultra vires*. The issue is real and not theoretical, and the Class Members have a real interest in determining the issue.

***The Class Members are entitled to damages***

34. As a result of the City's negligence, the Class Members have suffered damages. In particular, the Class Members who are Plate Owners have suffered damages through a loss in the value of their Plates and a loss in the income earned from their Plates. The Class Members who are Brokers have suffered damages by a loss in income earned from their business as taxicab brokerages.

35. The Class Members are also entitled to monetary relief at public law for the City's unlawful refusal to enforce the regulatory scheme and the enactment of the unlawful Amendments. In particular:

- a) An award of monetary relief for the unlawful refusal of the City to maintain the integrity of the regulatory scheme is appropriate in light of the unacceptability and indefensibility of the City's decision, the circumstances of that decision, its effects on Class Members, and the public law values that would be furthered by an award of monetary relief.
- b) Declaratory and mandatory remedies are insufficient to compensate Class Members for the unlawful conduct of the City. As a result of the refusal of the City to reasonably enforce the Taxi By-law and the enactment of the Amendments, Class Members have suffered damages.
- c) An award of damages at public law would vindicate public law values, including the principles of proper, fair, pragmatic, and effective administrative decision-making. In particular, an award of damages would vindicate the obligation of municipalities, under section 106 of the Act, not to grant bonuses.

***The Class Members are entitled to restitution of illegal taxes***

36. The taxes collected pursuant to the Taxi By-law are *ultra vires*. Accordingly, the Class Members are entitled to restitution for the taxes they paid under the Taxi By-law.

37. The plaintiffs propose that this action be tried in Ottawa.

Date: August 12, 2016

Conway Baxter Wilson LLP  
401-1111 Prince of Wales Dr.  
Ottawa ON K2C 3T2

Thomas G. Conway LSUC No. 29214C  
Colin S. Baxter LSUC No. 33574P  
Benjamin L. Grant LSUC No. 63390O  
Carmen Baru LSUC No. 65798L

Tel.: (613) 288-0149  
Fax: (613) 688-0271

Lawyers for the Representative Plaintiffs

## Appendix E – City of Ottawa Statement of Defense

Court File No. 16-69601

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

METRO TAXI LTD. and MARC ANDRE WAY

Plaintiffs

- and -

CITY OF OTTAWA

Defendant

Proceeding under the *Class Proceedings Act, 1992*

### **STATEMENT OF DEFENCE**

1. The Defendant City of Ottawa [the "City"] admits the allegations contained in paragraphs 9, 10 and 37 of the Statement of Claim.

2. The City denies the allegations contained in paragraphs 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 of the Statement of Claim. For greater certainty, the City denies that the Plaintiffs, either on their own behalf or on behalf of the proposed Class or of the members of the proposed Class, are entitled to any of the relief sought at paragraph 1 of the Statement of Claim.

#### **The Parties to the Action**

##### **A. The City**

3. The City is a body corporate incorporated on January 1, 2001, pursuant to the *City of Ottawa Act, 1999*, S.O. 1999, c. 14, Sched. E. The City is the successor corporation to the Regional Municipality

of Ottawa-Carleton, the City of Cumberland, the City of Gloucester, the Township of Goulbourn, the City of Kanata, the City of Nepean, the Township of Osgoode, the City of Ottawa, the Township of Rideau, the Village of Rockcliffe Park, the City of Vanier and the Township of West Carleton.

4. The City is delegated discretionary by-law making authority by the Province of Ontario pursuant to the *Municipal Act, 2001*, S.O. 2001, c. 25, and other statutes.

5. The City is empowered but not required by sections 8, 9, 10 and 151 of the *Municipal Act, 2001*, to pass by-laws to provide for a system of licences with respect to businesses operating within its territory, including businesses for the sale or hire of services on an intermittent or one-time basis.

6. The City is also empowered but not required by sections 8, 9, 10, 151 and 156 of the *Municipal Act, 2001* to pass by-laws with respect to the "taxicab" services contemplated by the *Municipal Act, 2001*.

7. The City is empowered but not required by sections 8, 9, 10 and 390 to 399 of the *Municipal Act, 2001*, to impose fees and charges on persons for services or activities provided or done by or on behalf of the City, including, without being exhaustive, fees and charges upon the Plaintiffs for the licencing, regulatory, and enforcement system enacted by the City through by-laws with respect to taxicab services as contemplated by the *Municipal Act, 2001*, as well as for other businesses regulated by the City.

**B. Metro Taxi Ltd.**

8. The Plaintiff Metro Taxi Ltd. ["Metro"], formerly known as "Eastview Taxi Sale and Rental Limited", operates under the unregistered business name "Capital Taxi" within the geographic vicinity of the City of Ottawa. Metro has been issued a taxicab broker licence expiring on April 30, 2017, by the City in accordance with the City's By-law No. 2012-258 [the "2012 Taxi By-Law"], and in accordance the

of Ottawa-Carleton, the City of Cumberland, the City of Gloucester, the Township of Goulbourn, the City of Kanata, the City of Nepean, the Township of Osgoode, the City of Ottawa, the Township of Rideau, the Village of Rockcliffe Park, the City of Vanier and the Township of West Carleton.

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**B. Metro Taxi Ltd.**

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City's Vehicle-for-Hire By-law no. 2016-272 which will come into effect on September 30, 2016 [the "VFH By-law"].

9. In accordance with the 2012 Taxi By-law and its predecessor versions, Metro made annual applications to the City and requested the renewal of its annual taxicab broker licence at all material times between December 1992 and the present. Metro paid the applicable taxicab broker licence renewal fees required for renewal without protest. Metro and its representatives as well as representatives of the members of the proposed Class had the opportunity to participate in and made presentations to the City with respect to what it and they considered appropriate license renewal fees.

**C. Marc André Way**

10. The Plaintiff Marc André Way ["Mr. Way"] is a director of Metro, is the Chief Operating Officer of Coventry Connections and is the current president of the Canadian Taxi Association.

11. Mr. Way has been issued one-year term standard taxicab plate holder licences ["Taxi Plate License"] expiring on April 30, 2017, corresponding to each taxi plate he holds as a licensee in accordance with the 2012 Taxi By-Law and the VFH By-law.

12. In accordance with the 2012 Taxi By-law and its predecessors, at all material times between the dates upon which he received the transfer of the taxi plates he holds as a licensee to the present, Mr. Way has personally or through his representatives made annual applications to the City for the renewal of the annual Taxi Plate Licenses he holds as licensee.

13. Mr. Way has at all material times paid the applicable licence renewal fees required for the renewal of his Taxi Plate Licenses without protest, or caused the renewal fees to be paid on this behalf, also without protest.

**D. Non-Parties**

14. Uber B.V., Raiser Operations B.V., Uber Canada Inc. and/or Uber Technologies Inc. referred to by the Plaintiffs collectively as "Uber" are corporations incorporated in different jurisdictions who, in affiliation with each other, carry on business in the electronic software application ["App"] and application licencing businesses in relation to facilitating private transportation services for compensation through telecommunications platforms and/or a digital network.

15. Uber operates neither a taxicab service nor a taxicab broker service within the meaning of the 2012 Taxi By-law, the VFH By-law, or the *Municipal Act, 2001*.

**Background**

16. The City is the sole and exclusive owner of each and every standard taxi plate ["Taxi Plate"] issued pursuant to any by-law enacted by the City for the regulation of taxicabs.

17. Taxi plate licenses are issued annually to eligible licensees by the City pursuant to the 2012 Taxi By-law and the VFH By-law. Taxi plate licensees hold time-limited licenses to participate in taxicab service business as regulated by the 2012 Taxi By-law, the VFH By-law, and the *Municipal Act, 2001*.

18. No person holding a license issued pursuant to the 2012 Taxi By-law or the VFH By-law has any vested right or interest in any license or in its continuance and/or annual renewal.

19. No person holding a license issued pursuant to the 2012 Taxi By-law has any ownership or other proprietary right in any Taxi Plate or in any issued taxi plate license.

20. The Plaintiffs and the members of the proposed Class have at all material times known and accepted that they have no ownership or proprietary interest in the time-limited licenses they hold.

21. The City acknowledges that it and its predecessor municipalities have regulated and licensed taxicab services within the City of Ottawa's geographic area through by-laws which have changed over time. The City denies the allegations contained at subparagraphs 7 a) through 7 f) of the Statement of Claim, inclusively, and pleads and relies on each of the by-laws and taxicab regulations implied by the Plaintiffs therein.

22. The City and its predecessors exercised their legislative discretion as provided by the applicable *Municipal Act* to pass by-laws to regulate and license the taxicab business within its territory. The prevailing regulatory model applied by the City and its predecessors had been a "supply management" regulatory model which managed the supply of and demand for taxicab services. The supply management model created barriers to entry into the taxicab services business and required taxicab service providers to comply with the public safety, consumer protection, and service accessibility policy objectives set out in the taxicab by-laws passed by the City and its predecessors.

23. Independently from any action or inaction by the City, the various persons involved in the taxicab services business in Ottawa either as licensees pursuant to 2012 Taxi By-law or its predecessors, or otherwise, entered into various collective bargaining agreements, brokering agreements, Taxi Plate License leasing agreements, taxicab leasing and other agreements as between themselves which further increased the barriers to entry into the taxicab business and increased the costs of operation for taxicab drivers generally. These same persons were at all material times consulted by and made submissions to the City with respect to the regulation and licensing of taxicab services in Ottawa.

24. The supply management policy led to the relative scarcity of taxi plates. The taxicab services market participants such as Taxi Plate License holders exploited the relative scarcity of taxi plates and

Taxi Plate Licenses to unilaterally demand prices at which they could lease, market and/or transfer their time-limited taxi plate license rights to another participant in the closed taxicab services market.

25. By doing so, taxi plate holder licensees along with taxicab broker licensees created a speculative and artificial secondary market for time-limited taxicab service licenses based on factors known to the Plaintiffs and the members of the proposed Class but not to the City.

26. The City had and has no involvement in the creation of the secondary market or in the valuation of Taxi Plate Licenses and other licences issued pursuant to the 2012 Taxi By-law or its predecessor by-laws.

27. The City's involvement in the transfer of Taxi Plate Licenses is limited to ensuring that the transferor and the transferee comply with the requirements of the applicable by-law for the transfer. A copy of the written agreement of purchase and sale of the Taxi Plate License between the transferor and the transferee containing the details of their dealings in respect of such taxicab, equipment, taximeter, good will, if any, and any other thing included in the sale agreement be provided to the City's Chief License Inspector.

28. Since 2012 transferees of Taxi Plate Licenses have reported to the City that they have agreed to transfer agreements in exchange for their payment of amounts of money ranging from \$ 1.00 to \$ 320,000. Different Taxi Plate Licenses command different transfer prices as determined by the transferor and transferee independently of the City despite that the different Taxi Plate Licenses provide the same rights and have no inherent monetary value.

29. The Taxi Plate licence transfer prices reported to the City for arm's length transfers since the arrival of Uber and other similar App-based businesses in Ottawa have been consistent with the transfer

prices reported to the City in the years prior to the arrival of Uber and other similar App-based businesses in Ottawa.

**A. Events since 2014**

30. Uber started operating its business in Ottawa commencing in or about October 2014. Uber licensed its own Apps to individuals and through those Apps facilitated private vehicle drivers' connection with persons desiring transportation services in exchange for a price. Uber's business was not the subject of any licensing by-law passed by the City and, accordingly, there were no applicable licensing requirements to be met by Uber or by persons who licensed Uber Apps, whether as driver or rider, for their use in Ottawa.

31. Rider preferences showed generally that taxicab service providers were incapable of matching the transportation service experience provided to users of the Uber Apps.

32. Taxicab service business participants including the Plaintiffs, the members of the proposed Class, dispatchers, drivers and unions were incapable due to their pre-existing agreements as between themselves and for reasons known to themselves but not known by the City and otherwise unwilling to innovate in order to compete with Uber notwithstanding that Uber did not have the advantages historically exploited by the taxicab service business participants and did not benefit from the "supply management" policy contained in the 2012 Taxi By-law.

33. The City enforced the relevant provisions of the 2012 Taxi By-law after receiving complaints, including complaints from members of the proposed Class.

34. The Plaintiffs and the members of the proposed Class were not satisfied with the City's good faith and reasonable enforcement measures of the 2012 Taxi By-law. They believed that Uber was

operating a taxicab services business within the meaning of the 2012 Taxi By-law and the *Municipal Act, 2001*, when Uber was not. The Plaintiffs and the members of the proposed Class called upon and lobbied the City to eliminate their perceived competition rather than compete with Uber in the marketplace for customer preference.

**B. Taxi and Limousine Regulation Review**

35. The City began a comprehensive review of its taxi and limousine regulations in or about May 2015. The comprehensive review initiated by the City required reviewing the Ottawa taxicab and limousine industry in respect of service delivery to residents and visitors within the existing regulatory framework while recognizing the emergence of new technology based business models like Uber. The review was guided by three (3) principles:

- a) public safety: ensuring public safety through insurance coverage, appropriate screening processes, driver checks and vehicle condition;
- b) accessibility: consider whether the delivery model considered the needs of the aging population and meets the need of the accessible community; and,
- c) consumer protection: consider the measures required to protect both the passenger and the drivers, means to establish reasonable fees for service and a thorough complaint resolution process.

36. The City engaged in the comprehensive review of its taxi and limousine regulations, retained subject matter experts, consulted with and invited interested stakeholders such as the Plaintiffs, the members of the proposed Class, taxicab drivers, the public and representatives of Uber to make presentations to the City on any economic, social, political, policy or other issue for its consideration in

determining how, in its discretion, the City should develop its policy with respect to Uber and similar businesses as well as what, if any, changes should be made to existing taxi and limousine regulations by way of one or several by-laws.

37. Taxicab service representatives' presentations as well as subject matter expert reports delivered to the City for its consideration in developing the policy direction to be followed with respect to regulating Uber and similar businesses included content with respect to:

- a) Taxi Plate License value;
- b) the potential impacts on Taxi Plate License value should the City regulate Uber and similar businesses in a manner other than as suggested by taxicab services business participants; and,
- c) the expectations of the members of the proposed Class.

38. The City considered those presentations and those reports as well as their content along with social, economic, consumer protection, and health and safety concerns arising from existing or suggested regulations in its deliberations with respect to the policy direction it desired to follow.

39. After significant public consultation including consultation with the members of the proposed Class or their representatives, on April 13, 2016, the City:

- a) approved and adopted modest amendments to the 2012 Taxi By-law effective September 30, 2016, to reduce taxi service costs while preserving the taxicab services business' monopoly over taxicab services;

- b) approved and adopted modest amendments to the regulations applicable to limousine services; and
- c) approved and adopted an altogether new set of regulations applicable to "Private Transportation Companies" such as Uber effective September 30, 2016.

40. Also on April 13, 2016, the City delegated authority internally to the City Clerk and Solicitor and General Manager of the City's Emergency and Protective Services Branch to:

- a) combine:
  - i) the 2012 Taxi By-law as amended;
  - ii) the Licensing By-law applicable to limousines as amended; and,
  - iii) the newly adopted regulations applicable to Private Transportation Companies; and,
- b) create a consolidated "Vehicle-for-Hire By-law" which consolidated the three separate and distinct sets of regulations into a single larger set of regulations which regulated each type of vehicle-for-hire separately, all coming into effect on September 30, 2016.

41. The 2012 Taxi By-law amendments approved and adopted by the City include, among other things, reduced licence fees, the elimination of various requirements applicable to taxicab drivers, permitting taxicabs greater flexibility in fixing their fares for rides pre-arranged through an app to a rate below the maximum fare prescribed in the 2012 Taxi By-law.

42. The City's regulations applicable to Private Transportation Companies through the VFH By-law does not regulate the business of Private Transportation Companies in the same manner or through the same means as taxicab services because their transportation business, business model and method of operation is separate and distinct from the taxicab services business.

43. Some of the regulatory proposals made to the City by the Plaintiffs and/or the members of the proposed Class for the adoption of a policy to regulate Private Transportation Companies and impose regulatory requirements identical to those set out in the 2012 Taxi By-law were ultimately not retained in the City's policy choices for inclusion in the Private Transportation Companies regulations.

44. The City's regulation of the taxicab service business through the 2012 Taxi By-law is limited to the regulation of the taxicab service business as contemplated and defined in the 2012 Taxi By-law and the *Municipal Act, 2001*. The barriers to entry into the taxicab business and the business advantages and exclusivity resulting from those same barriers to entry have provided the Plaintiffs and members of the proposed Class with business advantages available to no other transportation business operating in Ottawa.

45. The 2012 Taxi By-law at no time purported or sought to prevent any person from creating and exploiting a business which is not a taxicab business as contemplated and defined in the 2012 Taxi By-law and the *Municipal Act, 2001*.

46. The 2012 Taxi By-law as amended in April 2016 and now consolidated into the VFH By-law continues to:

- a) require that no person shall operate a taxicab for the purpose of providing taxicab services in a vehicle other than the motor vehicle for which any particular taxicab plate

was issued pursuant to the 2012 Taxi By-law or any other predecessor by-law regulating taxicab services in Ottawa; and,

- b) preserve the business advantages and exclusivity reserved for the Plaintiffs and members of the proposed Class as Taxi Plate Licensees and licensed taxicab brokers which are not available to any other transportation business operating in Ottawa.

47. The Plaintiffs and the members of the proposed Class continue today to hold the monopoly over the exploitation of taxicab services as regulated by the 2012 Taxi By-law as amended and consolidated into the VFH By-law. The integrity of the regulatory scheme for the taxicab services business has been maintained.

48. The Plaintiffs and the members of the proposed Class continue to have the ability to transfer their Taxi Plate Licenses to whomever they may desire in exchange for the consideration they demand from the transferee independently of the City provided the persons involved in the transfer transaction meet the requirements of the 2012 Taxi By-law or the VFH By-law for a transfer to be approved by the City.

### **C. By-law Enforcement**

49. The City has the sole discretion as to the manner in which it will enforce the 2012 Taxi By-law. This discretion includes the discretion of not prosecuting persons who are engaged in activities which may appear to be but are not activities prohibited by the 2012 Taxi By-law. It also includes the discretion to avoid spending public monies when 2012 Taxi By-law prosecutions would have little prospect of success.

50. The City enforced the 2012 Taxi By-law at all material times and acted reasonably and in good faith in its enforcement measures of the 2012 Taxi By-law. The City prosecuted suspected or alleged contraventions of the 2012 Taxi By-law by persons who provided their own personal vehicle for hire and presented themselves as vehicle-for-hire drivers. The City obtained more than 100 convictions with respect to the same.

51. In early 2015, two (2) Canadian municipalities having taxi by-laws similar to the City's 2012 Taxi By-law unsuccessfully prosecuted legal proceedings against Uber for its/their allegedly illegal operation of a "taxicab service" or taxicab broker service in which Uber was alleged to have been:

- a) engaging drivers to provide transportation services for hire;
- b) through electronic means, accepting calls from customers wishing to engage Uber drivers; and,
- c) dispatching drivers to customers.

52. When considering in good faith whether to seek to enforce the City's 2012 Taxi By-law against Uber as a taxicab broker, the City considered the negative outcomes in the taxi by-law enforcement proceedings referred to above, took heed of the legal findings of fact as to Uber's business, and that Uber neither engaged drivers, accepted calls from customers, or dispatched drivers to customers.

53. The City acted reasonably, decided in its discretion and in the public interest that its prosecution of Uber in Ottawa did not have reasonable prospects of success and that prosecuting Uber would be an unwise expenditure of public monies. The City did not prosecute Uber, although it did prosecute and obtain convictions of drivers who had been accused of offering "taxicab services" in Ottawa.

54. Contrary to that alleged by the Plaintiffs there is no memorandum of understanding in place between the Attorney General of Ontario and the City pursuant to which the City is required to enforce the 2012 Taxi By-law's offence provisions.

**Duty of Care**

55. The City pleads that it was not in a proximate relationship with the Plaintiffs or the members of the proposed Class which could give rise to a duty of care as alleged in the Statement of Claim.

56. The City at all relevant times properly performed its duties as licensor in a regulatory framework toward the Plaintiffs as licensees. The City pleads that the relationship between a regulator performing its administrative and regulatory functions does not give rise to a relationship of proximity sufficient to give rise to a duty of care as alleged in the Statement of Claim.

57. The City pleads that it did not owe a duty of care to the Plaintiffs or to the members of the proposed Class in either the enforcement of the 2012 Taxi By-law or in making policy decisions leading to the adoption of a new, separate and distinct regulatory framework for the regulation of Private Transportation Companies.

58. The City pleads that it did not owe a duty of care to the Plaintiffs or to the members of the proposed Class to reduce or eliminate competition in business for their benefit.

59. In the event that this Court should find that the City did owe a duty of care to the Plaintiffs or to the members of the proposed Class, which is denied, then the City pleads that any *prima facie* duty of care is negated on policy grounds. The City states that it exercised its discretion to enforce the 2012 Taxi By-law and to enact a new regulatory framework with respect to Private Transportation Companies

on the basis of public policy, political, social and economic considerations and that its actions in this regard were reasonable, taken in good faith and are in any event not justiciable.

60. The City is immune from liability toward the Plaintiffs and toward the proposed members for the Class arising from having passed by-laws following its assessment and weighing of public policy considerations in good faith and in accordance with its duty to the public.

61. The City pleads that it did not through its enforcement of the 2012 Taxi By-law or its adoption of the Private Transportation Companies regulatory framework confer any advantage or partial or total exemption upon Private Transportation Companies within the meaning of section 106 of the *Municipal Act, 2001*.

***Vires of the 2012 Taxi By-law as amended, of the VFH By-law, and the Legal Authority to Charge Fees through By-laws***

62. With respect to the allegations of excess of jurisdiction with respect to the as made by the Plaintiffs and the members of the proposed Class, the City repeats and relies on the allegations contained at paragraphs 4, 5, 6 and 7 hereof. The City further states that the Plaintiffs' and the members of the proposed Class' disagreement with the policy content of a new, separate and distinct regulatory framework which does not apply to them does not affect the City's lawful authority to enact the Private Transportation Companies regulations, or to have those regulations included in a consolidated by-law which makes distinctions and provides for regulatory differences between different types of vehicles-for-hire.

63. The City's Private Transportation Companies regulations and the VFH By-law were adopted and passed by the City and are *intra vires* the City's legislative authority.

64. The City states that there is no requirement in law for the City to provide the Plaintiffs or the members of the proposed Class with notice of changes in the regulatory scheme set out in the City's by-laws. Notwithstanding the absence of any legal requirement for notice, the Plaintiffs and the members of the proposed Class had actual notice of the regulatory changes considered by the City, were invited to make presentations to the City in connection with those proposed regulatory changes and in fact did so.

65. The City states that the Plaintiffs and the members of the proposed Class use and license taxi plates which are the City's sole and exclusive property. The City is specifically empowered to impose fees or charges on the Plaintiffs and the members of the proposed Class for their use of the City's property. The City pleads and relies on sections 8, 9, 10, 390 and 391 of the *Municipal Act, 2001*.

66. The City states that the fees and charges imposed on the Plaintiffs and the members of the proposed Class for the services delivered and activities carried out by the City in connection with the 2012 Taxi By-law are connected to and imposed in order to permit the City to defray the costs it incurs in connection with the 2012 Taxi By-law and are therefore permissible and authorized fees and charges. The City pleads and relies on sections 8, 9, 10, 11, 390 and 391 of the *Municipal Act, 2001*.

#### **Remedies**

67. The Plaintiffs and the members of the proposed Class do not have a sufficient interest to seek the declaratory orders as claimed with respect to the legal authority of the City to adopt the Private Transportation Companies regulations and to enact them through the VFH By-law or with respect to the fees charged by the City in connection with the 2012 Taxi By-law. The Plaintiffs and the members of the proposed Class are seeking theoretical relief for the improper purpose of eliminating lawful competition in the transportation services business in Ottawa.

68. The Plaintiffs and the proposed Class members have not suffered any damages for which the City is liable at law, either on the basis of a private law duty or at public law.

69. If this Court finds that the Plaintiffs and the members of the proposed Class have suffered damages, then the City pleads that:

- a) the Plaintiffs and the members of the proposed Class failed to mitigate their damages in breach of their duty to mitigate;
- b) the damages as alleged are grossly exaggerated, too remote and incapable of proof; and,
- c) the damages suffered are the result of the Plaintiffs' and the members of the proposed Class' own inaction, complacency and contributory negligence. The City pleads and relies on the *Negligence Act*.

70. The Plaintiffs and the members of the proposed Class are not entitled to the restitution of any or all fees and charges they have paid pursuant to the 2012 Taxi By-law. The City pleads that the Plaintiffs and the members of the proposed Class's right of action, if any, which is denied, is extinguished by the passage of time pursuant to the *Limitations Act, 2002*, and the *Municipal Act, 2001*.

71. In the alternative, the Plaintiffs and the members of the proposed Class have acquiesced to the fees and charges payable and paid pursuant to the 2012 Taxi By-law, have voluntarily waived their rights to seek any restitution of any such monies, and are otherwise estopped as a result of their individual and collective conduct in paying the fees and charges annually without protest, making submissions to and lobbying the City to assist in the City's determination of the amount of fees payable pursuant to the 2012 Taxi By-law and its predecessors.

72. The City pleads that this action should be dismissed with costs payable to the City on substantial indemnity basis.

Date: September 12, 2016

**GOWLING WLG (CANADA) LLP**  
Lawyers • Patent and Trademark Agents  
160 Elgin Street, Suite 2600  
Ottawa, Ontario  
K1P 1C3

**Benoit M. Duchesne (LSUC# 44922I)**

613.786.0142 (direct tel)  
613.788.3637 (direct fax)  
[benoit.duchesne@gowlingwg.com](mailto:benoit.duchesne@gowlingwg.com)

Lawyers for the Defendant  
City of Ottawa

**TO:**  
**CONWAY BAXTER WILSON LLP**  
401-1111 Prince of Wales Dr.  
Ottawa, Ontario K2C 3T2

**Thomas G. Conway (LSUC # 29214C)**  
**Colin S. Baxter (LSUC# :33574P)**  
**Benjamin L. Grant (LSUC# 63390O)**  
**Carmen Baru (LSUC#: 65798L)**

613.288.0149 (tel)  
613.688.0271 (fax)

Lawyers for the Representative Plaintiffs

03399877/OTT\_LAW\66694321

METRO TAXI LTD. and MARC ANDRÉ WAY

Plaintiffs

-and -

CITY OF OTTAWA

Defendant

Court File No. : 16-69601

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ONTARIO  
SUPERIOR COURT OF JUSTICE  
Proceeding commenced at Ottawa

Proceeding under the  
*Class Proceedings Act, 1992*

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**STATEMENT OF DEFENCE**

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**GOWLING WLG (CANADA) LLP**  
Lawyers • Patent and Trade-mark Agents  
160 Elgin Street, Suite 2600  
Ottawa, ON K1P 1C3

**Benoit M. Duchesne (LSUC # 449221)**

613.786.0142 (direct tel)  
613.788.3637 (direct fax)  
[benoit.duchesne@gowlingwlg.com](mailto:benoit.duchesne@gowlingwlg.com)

Lawyers for the Defendant  
City of Ottawa

Court Box no. 145