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The Uber-Taxi Partnership: Regulatory Evolution Spawns A New Transportation Species!

Things have certainly come full circle since “UberCab” first launched in San Francisco more than a decade ago.¹ Uber originally created a hybrid taxi-limo service, and helped get state laws passed to divide its business model from the incumbent for-hire industry. But now, years later, Uber courts and marries its ailing archenemy (“the taxi industry”) to create a new multi-modal breed or species of service. In the words of Charles Darwin, “Intelligence is based on how efficient a species became at doing the things they need to survive[;] [a] grain in the balance will determine which ... variety or species shall increase in number, and which shall decrease, or finally become extinct.”²

In late March 2022, Uber announced a partnership with taxi-hailing companies Curb and CMT, which operates the Arro app, that will eventually make up to 100% of New York City yellow taxis available on the Uber platform.³ A few weeks later in Uber’s hometown of San Francisco, the company announced similar partnerships with e-hail companies Flywheel and Yellow Cab SF, which operates the YoTaxi app.⁴ All of the partnerships are expected to expand beyond New York City and San Francisco, respectively, to the taxi-hailing companies’ nationwide networks.⁵

According to Uber, fares will be based on Uber’s pricing and policies, and the app will display an upfront price to the riders.⁶ The company says that riders will pay roughly the same price for a taxi as they would for UberX rides.⁷ Before accepting a trip referral from Uber, taxi drivers will see an upfront earnings estimate for the trip and can choose to accept or reject the request.⁸ Through existing in-vehicle systems, taxi drivers on the Curb, Arro, Flywheel, and YoTaxi platforms will have access to trip offers from Uber, in addition to ride requests through their taxi app.⁹

When I left the NYC Taxi & Limousine Commission (TLC) in 2010, before Uber was even a thing, I had a front seat view of battle between Uber, Lyft, and the taxicab industry. As President of the International Association of Transportation Regulators (IATR), local taxi regulators fought

¹ <https://www.fastcompany.com/1776376/planettran-uber-and-relayrides-want-take-you-fantastic-and-green-voyage>

² Charles Darwin. *On the origin of species by means of natural selection*, London: J. Murray (1859).

³ <https://www.businesswire.com/news/home/20220323006049/en/Curb-and-Uber-Partner-to-Make-Taxis-Available-to-Uber-Users>

⁴ <https://www.sfchronicle.com/sf/article/Uber-users-could-soon-be-picked-up-by-S-F-taxis-17060031.php>

⁵ <https://www.businesswire.com/news/home/20220323006049/en/Curb-and-Uber-Partner-to-Make-Taxis-Available-to-Uber-Users>; <https://www.pnewswire.com/news-releases/flywheel-to-partner-with-uber-in-large-national-partnership-301519635.html>

⁶ April 6, 2022, email from Conor Ferguson, Mobility Communications, Uber. *See also* <https://www.nytimes.com/2022/03/24/business/uber-new-york-taxis.html>

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

to regulate Uber and Lyft, who argued that licensing was unnecessary because they were not transportation companies, but mere platforms or aggregators like Expedia.¹⁰ The incumbent taxi industry and transportation officials around the world – which until then were notoriously at odds with one another for decades – became instantly united in interest, and begged to differ with the disruptors’ approach. What resulted was a plethora of cease and desist letters, lawsuits, investigations, media battles and lobbying skirmishes.¹¹ The contentiousness I witnessed firsthand at meetings, conferences, and while testifying at legislatures and on set in television studios, was unprecedented.

This two-front war that Uber and Lyft wages against government regulators on one front, and the incumbent taxi industry on the other, dragged on for years. The war with regulators ended when states passed legislation legalizing the so-called Transportation Network Companies (TNCs).¹² The regulators eventually reached a détente with the disruptors, who were consenting to be regulated in some way. Meanwhile, the taxi industry lost the many battles that ensued with an “uneven regulatory playing field” that allowed TNCs to more effectively compete for drivers and passengers with shorter wait times, with a hybrid model of service that replicated black cars or limousines that could be “e-hailed” with a smartphone, just like taxis. State TNC laws that were crafted by Uber and Lyft not only kept the taxi industry from benefiting from the less stringent TNC rules – which included less onerous driver background checks and no fare regulation – but also kept out potential competitors with high insurance limits that are cost prohibitive for small businesses.¹³ Add millions of dollars to subsidize fares and for lobbyists to convince state legislatures and local governments to pass legislation in their favor,¹⁴ and the taxi industry has become a virtual shell of what it once was; nearing collapse in most U.S. cities,¹⁵ with the eponymous “street hail” becoming extinct in every city but NYC. The only business that has sustained the taxi industry has been airport trips and non-emergency medical transportation – often with Wheelchair Accessible Vehicles (WAVs) that TNCs did not have or utilize for many years.¹⁶

¹⁰ <https://www.vox.com/2016/4/13/11586110/three-years-ago-uber-x-was-born-with-a-policy-manifesto>

¹¹ <http://tcn.ch/bHUb4x>; <https://www.independent.co.uk/news/business/news/uber-south-carolina-issues-cease-and-desist-order-against-taxi-company-over-licensing-9985352.html>; <https://venturebeat.com/2014/12/08/portland-sues-uber-slaps-it-with-a-cease-and-desist-order/>; <https://www.latimes.com/business/technology/la-fi-tn-uber-lyft-20141209-story.html>

¹² <https://policy.tti.tamu.edu/technology/tnc-legislation/>

¹³ <https://policy.tti.tamu.edu/technology/tnc-legislation/>

¹⁴ <https://www.latimes.com/business/technology/la-fi-tn-uber-ipo-lyft-fare-increase-20190511-story.html>; <https://www.reuters.com/article/us-uber-profitability/true-price-of-an-uber-ride-in-question-as-investors-assess-firms-value-idUSKCN1B3103>;

<https://www.forworkingfamilies.org/sites/default/files/publications/Uber%20State%20Interference%20Jan%202018.pdf>

¹⁵ <https://www.usatoday.com/story/news/2017/06/05/chicago-cabbies-say-industry-teetering-toward-collapse/102524634/>; <https://www.usatoday.com/story/news/2017/06/05/chicago-cabbies-say-industry-teetering-toward-collapse/102524634/>; <https://www.ncua.gov/news/responding-collapse-new-york-city-taxi-medallion-market>

¹⁶ <https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?article=6274&context=dissertations>;

<https://www.democratandchronicle.com/story/news/2019/08/22/uber-lyft-rochester-ny-rideshare-taxi-industry/1890776001/>

Well, now it appears that the 10+ year war may be over. We have the framework for a mobility treaty of sorts – and a potential pathway for peace, collaboration, innovation and mutual prosperity. With the recently brokered deal between taxi apps Arro/Curb and Uber in NYC, what soon followed on the west coast was another partnership with the Flywheel and YoTaxi apps in San Francisco. Both cities will soon have every taxicab as an e-hail option on the Uber app. The symbolism is not lost on bystanders, as San Francisco was ground zero for smartphone app disruption, with the first company on the scene not being Uber, but rather Cabulous – the predecessor company to Flywheel.¹⁷ This time, though, NYC, which was the only city that successfully fought back and required Uber and Lyft to be licensed the same as all other for-hire vehicles, bested the west coast by a few weeks in announcing the Uber-taxi partnership first.¹⁸

Things have certainly come full circle with the latest announcements of this partnership. Uber was known as “UberCab” when it first started in San Francisco,¹⁹ and the company tried to become a taxi service in NYC before it entered the market on the black car side.²⁰ Perhaps realizing that taxis had too many regulations to be able to grow quickly and ubiquitously, Uber pivoted to a hybrid service marrying a luxury black car with an on-demand ride request known as an “e-hail.”²¹ Then came Lyft in summer 2012 with “rideshare” and its pink mustachioed cars, fist-bumps, and passengers being encouraged to sit in the front seat and join its “community.”²² Lyft’s operations threatened Uber’s higher-end offering, thereby paving the way for the creation of Uber-X and the infamous “manifesto,” where former CEO Travis Kalanick declared any regulator not shutting down Uber swiftly, amounted to tacit support to continue operating in each city.²³ If officials tried to shut down Uber, the company would leave town – and passengers would beg the media and politicians to let them back in (with Uber orchestrating robo-calls and other political tactics).²⁴ This *modus operandi* worked for a long time, until the TNCs obtained newly-created state licenses, and grew so big they eventually became part of the establishment.

Over the decade that followed, many problems continued to mount with Uber and Lyft. As the companies expanded and recruited more and more drivers to their platforms, drivers

¹⁷ <https://techcrunch.com/2012/06/21/cabulous-funding/>; <https://www.vox.com/2016/4/13/11586110/three-years-ago-uber-x-was-born-with-a-policy-manifesto>

¹⁸ <https://observer.com/2012/09/taxi-and-limousine-commission-tells-uber-they-cant-legally-operate-in-new-york-city-uber-ceo-disagrees/>

¹⁹ <https://www.fastcompany.com/1776376/planettran-uber-and-relayrides-want-take-you-fantastic-and-green-voyage>

²⁰ <https://www.nytimes.com/2012/09/05/nyregion/as-ubers-taxi-hailing-app-comes-to-new-york-its-legality-is-questioned.html>; <https://www.theverge.com/2013/4/26/4271490/uber-becomes-first-taxi-app-to-get-approved-in-new-york-city>

²¹ <https://www.benedelman.org/uber/uber-policy-whitepaper.pdf>

²² <https://qz.com/895390/lyft-is-taking-more-money-from-drivers-as-it-expands-to-100-us-cities-to-compete-with-uber-in-2017/>; <https://venturebeat.com/2013/05/23/lyft-races-ahead-with-60m-in-funding-but-what-challenges-lie-ahead/>

²³ <https://www.benedelman.org/uber/uber-policy-whitepaper.pdf>; <https://www.inc.com/quora/uber-left-sidecar-and-lyft-in-the-dust-with-this-brilliant-strategy.html>

²⁴ <https://www.texastribune.org/2016/06/08/ridehailing-companies-bring-battle-legislature/>

complained of lower wages.²⁵ There were major worker classification struggles with independent drivers claiming they were employees in class actions suits and as part of labor department investigations. In New York, courts have held that Uber drivers are employees, entitled to unemployment insurance.²⁶ In New Jersey, the state fined the company \$649 million for years of unpaid employment taxes for its drivers, which the state said had been misclassified as independent contractors.²⁷ Exponential growth in the number of vehicles working on the Uber and Lyft platforms also contributed to already mounting traffic congestion,²⁸ and in many cities, the oversupply contributed to the decline in the value of taxi medallions.²⁹

On the customer side, there was criticism for high fares, surge pricing, and a lack of service to underserved communities.³⁰ There was also criticism and litigation from advocates for people with disabilities who were unable to book a wheelchair accessible TNC.³¹ In New York City, disability rights groups reached a settlement with the Taxi and Limousine Commission in 2013, requiring the TLC to make half of its yellow taxis wheelchair-accessible by 2020. By July 2017, vehicles working for Uber far outnumbered taxis, but Uber had dispatched fewer than 100 wheelchair-accessible vehicles, leading to a class action lawsuit and eventually to the TLC mandating accessibility standards for all for-hire vehicle bases.³²

As we entered the COVID-19 pandemic, Uber and Lyft had both become public companies under intense pressure and scrutiny to become profitable.³³ At the same time, enhanced unemployment benefits, government shutdowns, and reduced travel had created a driver shortage where taxis had started to compete effectively with TNCs – especially at airports.³⁴ In addition, as we enter hopefully the tail end of the pandemic, Car-mageddon and increased car travel is already off the charts, setting the stage for pressure on TNCs as contributing to this problem, which many argue is mostly caused by other variables.³⁵

²⁵ <https://www.fox5dc.com/news/uber-drivers-complain-about-wages-after-they-say-company-cut-fares-for-passengers>

²⁶ https://www.americanbar.org/groups/labor_law/publications/labor_employment_law_news/fall-2021-issue/ongoing-battle-worker-classification/

²⁷ <https://www.nytimes.com/2019/11/14/nyregion/uber-new-jersey-drivers.html>

²⁸ <https://www.cnet.com/roadshow/news/uber-lyft-traffic-congestion-car-ownership-study/>;
<https://www.theverge.com/2019/8/6/20756945/uber-lyft-tnc-vmt-traffic-congestion-study-fehr-peers>

²⁹ https://www.washingtonpost.com/business/economy/uber-lyft-and-the-hard-economics-of-taxi-cab-medallions/2019/05/24/cf1b56f4-7cda-11e9-a5b3-34f3edf1351e_story.html

³⁰ <https://hbr.org/2015/12/everyone-hates-ubers-surge-pricing-heres-how-to-fix-it>

³¹ <https://www.theverge.com/2021/11/10/22774771/uber-disabled-discrimination-lawsuit-justice-department>;
<https://www.dailycal.org/2019/04/01/lyft-uber-face-class-action-lawsuits-for-disability-discrimination/>

³² <https://www.politico.com/states/new-york/city-hall/story/2018/06/13/new-york-city-and-uber-reach-settlement-on-wheelchair-accessibility-466459>; <https://attorney.elderlawanswers.com/uber-lyft-sued-over-wheelchair-access-17146>

³³ <https://www.reuters.com/technology/uber-posts-first-small-adjusted-profit-ridership-rises-delivery-gets-more-2021-11-04/>

³⁴ <https://www.barrons.com/articles/uber-lyft-stock-driver-shortage-51647883733?tesla=y>;
<https://www.nytimes.com/2021/06/15/nyregion/uber-prices-rise-yellow-taxis.html>

³⁵ <https://www.npr.org/2021/12/20/1066017211/not-the-carmageddon-that-some-predicted-traffic-jams-in-some-cities-are-back>

Announcing the taxi partnership in NYC first, makes perfect sense for Uber. Recent reforms that capped new for-hire vehicles helped to increase Uber's service footprint without adding more vehicles to the street.³⁶ Also, at a time when there is a shortage of drivers,³⁷ Uber can now tap into an entirely new pool of workers to fulfill ride requests. Uber working with taxis may be novel for the U.S., but in other parts of the world, where the regulatory and taxi establishment held firm, Uber either worked with the taxi industry or became a part of it – examples include Spain, Colombia, Austria, Germany, Turkey, South Korea and Hong Kong.³⁸ In Europe, the labor opposition from voting and organized taxi drivers, coupled with losses in the courts and opposition from regulators unsympathetic to Silicon Valley tech companies, required Uber to work with taxi companies.³⁹ Rather than approach the companies themselves, Uber first partnered with Autocab, a software taxi dispatch company working with many fleets across Europe, to more smoothly enter the taxi industry; and later on, Uber eventually purchased the company.⁴⁰ It was only a matter of time before Uber came back to square one to work with taxis in the U.S.

While the taxi/Uber partnership may have come as a surprise to the media and the public, it was not a surprise to transportation regulators and the taxi industry. For several years, Uber has been using WAV taxis on its NEMT platform known as Uber Health.⁴¹ Uber and the taxi industry appeared side-by-side at various conferences over the last year or so, flattering one another, including at the IATR regulators' conference, the NEMTAC (Non-Emergency Medical Transportation Accreditation Commission) conference, and at the TTA (The Transportation Alliance) taxi industry conference. At the 2021 TTA conference in Las Vegas, Uber also announced that Autocab was going to work directly with U.S. taxis, prompting several taxi dispatch and app companies to start discussions to see who could cut the best deal and partner first to prevent Uber from making inroads on its own. While Flywheel was talking to Uber for a long time, Curb and Arro, likely due to the intense interest in launching first in NYC, made the deal a few weeks before SF. Panels at these conferences had these potential partners talking about what could be, so it was in the works for some time behind the scenes.

What is brilliant about the partnership is that it not only increased Uber's stock price and valuation overnight,⁴² but it also begins to solve many of the policy problems and challenges that have plagued the company and the TNC movement for years. The Uber-taxi partnership is a regulatory work of art, which may solve many of the challenges plaguing the taxi and rideshare industries for years, including:

³⁶ <https://www.engadget.com/2019-08-07-nyc-uber-lyft-rideshare-vehicle-cap.html>

³⁷ <https://www.barrons.com/articles/uber-lyft-stock-driver-shortage-51647883733?tesla=y>

³⁸ April 6, 2022, email from Conor Ferguson, Mobility Communications, Uber.

³⁹ <https://www.theverge.com/2017/12/20/16799970/eu-court-uber-regulation-taxi>

⁴⁰ <https://www.uber.com/en-GB/newsroom/uber-to-acquire-autocab/>

⁴¹ <https://iatr2021.heysummit.com/talks/plenary-session-2-tncs-working-with-taxis-wth/>

⁴² <https://www.thestreet.com/markets/uber-stock-surges-after-deal-to-list-new-york-city-taxis-on-app>

- Mitigating congestion by using existing taxis on the road instead of adding vehicles to the road;
- Increasing taxi drivers' trip volume and income to benefit from a 5.3% Uber pay bump, when they have not seen a fare increase in 10 years in NYC;
- Allowing passengers faster service, with more vehicle options and fewer apps to toggle between;
- Adding more WAVs to the Uber platform, for easier access by people with disabilities; and
- Advancing equity with more service to low income, underserved communities and transportation deserts, through expanded geographic UberX coverage.

This partnership is simply the beginning, setting the stage for the next phase of disruption and mobility evolution, which is the technological integration of mobility companies with each other, as well as with public transit services and infrastructure. The partnership – in theory – enhances passenger service, economic opportunity for drivers, promotes equity and accessibility, reduces congestion, and may solve many of the policy challenges mobility professionals have grappled with for years. Only time will tell how this new mobility species evolves and whether it can survive. Many drivers are skeptical as to whether they will make more money, and some regulations may need to be changed on the state and local level to accommodate this new framework, but regulators seem to be open right now to watching this experiment grow in the NYC and SF petri dishes. For now, we have a peace accord that may end the battle between these industries, and a new marriage of convenience. In terms of Darwin's theory of natural selection, passengers and drivers will ultimately be the grain in the balance that determines the success or extinction of this new Uber/taxi species.