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VEHICLES FOR HIRE IN OTTAWA

Smarter Transportation Planning for a Better City

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Smart Transportation Planning for a Better City

Ottawa is on the verge of a major transformation. Our city has passed the one million mark. The launch of the Confederation Line of LRT is changing how we move about our city. We are updating our Official Plan and our Transportation Master Plan and thinking about new ways to build our city. There are new technologies, new approaches to urban design, new challenges as we adapt to a changing climate and a global pandemic, and new ways to foster a healthier and more prosperous Ottawa.

Through all these changes, we must ensure that our efforts support our priorities and our values. Our by-laws should be tuned to enhancing the lives of residents. Our transportation plans must reflect the needs of people in a growing city. Creating a more sustainable, more equitable, more livable city is reflected in our goals.

In the desire to ensure that innovation and disruptive technology is a net good to the city of Ottawa, it is important to review by-laws more regularly, as the pace of change is rapid. In this instance, a review of vehicles for hire and regulations placed on Private Transportation Companies (PTCs) such as Uber and Lyft, should be undertaken.

Simply reviewing by-laws after markets are upended and the consequences to residents, customers, workers and industries are already felt, however, is a reactionary and insufficient approach to city planning. Hence, we must also strive for our planning documents, e.g. our Official Plan (OP) and Transportation Master Plan (TMP), to be visionary and robust enough to presage and account for emergent challenges.

The evidence shows that PTCs are already challenging our transportation system, with negative effects on accessibility, congestion, environmental sustainability, road safety and workers' rights. The global COVID-19 pandemic has only served to worsen this situation, with PTCs set to come out on the other side of the pandemic with a larger share of the Vehicle for Hire (VFH) and transit markets.

Core Principles

Our regulatory framework and city plans should be assessed against the following core principles when it comes to Vehicles for Hire (VFH):

- **A Focus on Equity and Accessibility:** Ottawa must be a city that welcomes and accommodates all people of all abilities. The VFH framework and city plans should ensure the city's attempts to provide equity and accessibility in our transportation system are not undermined.
- **A Focus on Mobility, Modern Transportation and Environment:** Ottawa has declared a climate emergency. The new OP and TMP must acknowledge the threats posed by irreversible climate change and consider the effects of increased congestion that stem from the introduction of unlimited PTC drivers into the VFH market. Further, our VFH framework should be designed to support the short-, medium- and long-

term transportation goals of the city as expressed in the new TMP, OP, and supporting plans and policies. Cities across the country and throughout the world are shifting to sustainable modes of transportation, and in Ottawa, our draft OP documents highlight this as part of ‘the 5 Big Moves’.

- **A Focus on Fairness and Safety:** Private Transportation Companies have entered and ‘disrupted’ transportation systems worldwide. The TMP, OP and VFH framework should ensure that workers rights and safety are not easily undermined by private actors. The City of Ottawa is updating its Road Safety Action Plan and reviewing Vision Zero policy. The TMP, OP and VFH framework should be designed to encourage new transportation methods that increase safety for Ottawa residents and workers.

This position paper reviews Ottawa’s VFH market and presents a broad perspective on the need for the TMP, OP and VFH framework to ensure this market, and the actors therein, are operating in alignment with the core principles outlined above. The proceeding sections will provide rationale for reviewing and bolstering Ottawa’s plans and policies on VFH and building a transportation system that benefits all residents.

The Fight so Far at City Hall

Advocating for better regulation of ride sharing services was a key plank of our 2018 election platform, as we have taken every opportunity thus far to do just that.

In August 2019 our office attempted to place a review of the VFH regulatory framework on the city’s by-law review workplan for the current term of council. Ultimately, we were unsuccessful in this effort. One of the most emphasized reasons as to why a review of the VFH regulatory framework was not warranted at this time was that more research on the Ottawa context was needed and that much of that research would be best carried out as part of the process, now underway, to draft a new OP and TMP. It is hoped that this position paper, therefore, will help ensure that the appropriate research is undertaken, and will help to frame the issue so that the problems and concerns are salient to those undertaking research and drafting city plans.

Earlier that year, in March 2019, our office backed a motion directing the city to renegotiate a higher ‘accessibility surcharge’ from Ottawa PTCs.¹ Unlike for traditional taxi companies, the city allows PTCs to pay their way out of providing accessible service to Ottawa residents via an ‘accessibility surcharge’. This paltry sum, 7-cents per ride, pales in comparison to other jurisdictions (e.g. it is \$2.75 USD in New York City). Our own city-solicited report from KPMG on this subject in 2016 advised asking for 30-cents—a still paltry sum we fell well short of.

¹ <https://www.facebook.com/270830316804101/videos/2199808636734052>

As we outline in this paper, we believe that PTCs should be subject to the same accessibility requirements as traditional taxis in Ottawa. However, if the city is going to continue accepting this surcharge in lieu of accessible service, we believe that it should at the very least be asking for more. The March 2019 motion passed, and city staff were directed to negotiate a higher amount.

Two years later, the city has come back to Council and advised that the rate was negotiated to be only 3-cents higher for a total of 10-cents. The 3-cents is, in real terms, only 2-cents when one factors in the inflation from 2016 to 2021. This increase, however, was apparently implemented a year ago (in July 2020), but council was advised only recently (June 8, 2021). In any event, this miniscule increase is a slap in the face to accessible taxi drivers, to persons living with disabilities and ultimately to all Ottawa residents. This recent failure to stand up to these massive American corporations, in even a small way such as this, only serves to further emphasize the need for Ottawa to take seriously the recommendations of this report, and the critical review of the current situation underpinning them.

The Nature of Disruptive Transportation Companies

With the promise of ridesharing, dynamic pricing to match supply with demand and the ease of app-based ride-hailing, PTCs positioned themselves not simply as a disrupter, but as a saviour of modern North American transportation.

Positioning themselves merely as the purveyors of a technology platform—and explicitly not a taxi company, nor an employer—corporations like Uber and Lyft presented their product as a complement to existing transit and transportation operations: a way to solve the last-mile problem, reduce private car ownership and reduce the demands on a city's infrastructure.

The marketing was effective; the reality, something else.

Freedom from Fair Market Competition

From their inception, PTCs have pursued a business strategy of artificially low pricing, commonly known as “dumping” or “predatory pricing”.² Companies provide services at artificially low prices in an effort to push competitors out of the market, gaining market share and, eventually, market dominance. PTCs have been either operating at a loss or have been otherwise failing to make profits despite executing billions of rides worldwide.³

This is, evidently, a short- to medium-term strategy which eventually gives way to price increases once a monopolistic or oligopolistic share of the market is achieved. With competition either significantly limited or eliminated, the PTC will have the power to extract artificially high revenues and profits from riders (residents).

The PTC strategy of predatory pricing is widely understood by commenters and investors, and was even alluded to in Uber's 2019 filing for an Initial Public Offering (IPO)⁴ with the United States Securities and Exchange Commission:⁵

... consumer discounts, promotions and reductions in fares and our service fee have negatively affected and will continue to negatively affect, our financial performance. Additionally, we rely on a pricing model to calculate consumer fares and Driver earnings, and we may in the future modify our pricing model and strategies

² This has led to charges of dumping from different competitors in different jurisdictions. See, for example, <https://www.forbes.com/sites/briansolomon/2016/11/02/uber-sued-flywheel-predatory-pricing-by-san-francisco-taxi-antitrust/>

³ <https://www.theguardian.com/commentisfree/2016/jan/31/cheap-cab-ride-uber-true-cost-google-wealth-taxation>

⁴ Uber's and Lyft's exceptionally poor IPO performances can also be seen as evidence that investors are aware and sceptical of the PTC predatory pricing strategy. See: <https://fortune.com/2019/05/10/uber-ipo-worst-performing-percentage/>.

⁵ https://www.sec.gov/Archives/edgar/data/1543151/000119312519103850/d647752ds1.htm#toc647752_2

Seeking City Exemptions

Ignoring legislation and government regulations has also been foundational to PTC market strategy. We know this in Ottawa, as PTCs began operating their taxi businesses illegally before the city intervened to legalize them through the introduction of a regulatory framework favourable to the PTC business model—applying regulations that accommodated the PTCs and providing exemptions from regulations that did not. At other orders of government, PTCs have been accused of being at odds with the Labour Relations Act, the Employment Standards Act, and even the Ontario Human Rights Code and the Charter of Rights and Freedoms.⁶

Some jurisdictions have chosen to ban PTCs, altogether.⁷ Other jurisdictions that did not ban PTCs—choosing instead to apply already existing regulations to PTCs—saw PTCs *exit the market* as they refused to adhere to a regulatory framework at odds with their pricing strategy.⁸ This refusal is itself yet another market stratagem employed by PTCs.

Competition with Public Transit

PTCs are directly competing with our public transit system. Despite their claims that they are a complementary service, the desire to replace public transit has been conceded explicitly as a “massive market opportunity” in Uber’s IPO⁹. Uber’s growth—and by extension, its long-term viability—relies on grabbing a portion of the public transit market.

This isn’t just a potential growth area for Uber and PTCs. It has already occurred—having been amply demonstrated in other jurisdictions where public funds are being used to subsidize PTCs (and their bottom line) in lieu of directly funding public transit.¹⁰ In Innisfil, Ontario, for example, Uber’s services were procured by the municipality in lieu of a public bus service—a public policy decision that has since had adverse consequences for transit users and the municipality.¹¹

It is not just public transit. Other forms of sustainable transportation are adversely impacted, too. At least two studies “have found that the majority of Uber and Lyft riders would have walked, biked or taken public transit if ride-hailing wasn’t available”.¹²

⁶ Due to accusations of worker misclassification and of not meeting accessibility standards.

⁷ <https://www.passporthealthglobal.com/2018/06/which-cities-have-banned-ride-sharing-apps/>

⁸ <https://www.passporthealthglobal.com/2018/06/which-cities-have-banned-ride-sharing-apps/>

⁹ <https://www.cnn.com/2019/04/25/tech/uber-public-transportation/index.html>

¹⁰ See, for example, Tampa Bay and Altamonte Springs in Florida, Denver in Colorado, and Summit in New Jersey.

¹¹ <https://www.citylab.com/transportation/2019/04/innisfil-transit-ride-hailing-bus-public-transportation-uber/588154/>

¹² https://www.huffingtonpost.ca/entry/uber-and-lyft-say-theyre-solving-traffic-while-making-it-worse_n_5bdb3662e4b0da7bfc181c32

Further, proceeding with the status quo will harm transportation mobility in general, as it risks worsening congestion, slowing traffic and reducing public transit ridership. Although preliminary reports on the effect of PTCs (or “Transportation Network Companies”) was mixed, a 2019 study from the University of Kentucky found PTCs had a deleterious effect on transit ridership as time went on.¹³

“Our results also suggest that for each year after Transportation Network Companies (TNCs) enter a market, heavy rail ridership can be expected to decrease by 1.3% and bus ridership can be expected to decrease by 1.7%. This TNC effect builds with each passing year and may be an important driver of recent ridership declines.”

Understanding the Recent Transit Ridership Decline in Major US Cities: Service Cuts or Emerging Modes? Graehler, Mucci and Erhardt; University of Kentucky

As Ottawa is committed to building a sustainable transportation system with a robust public transit offering, PTCs should be properly monitored and regulated to ensure they do not undermine these goals. This should be reflected in the city’s TMP, OP and VFH framework.

Congestion

New research has provided empirical evidence that the introduction of PTCs into the transportation market increases car ownership and congestion, which has several adverse impacts on the city and its people.¹⁴

One recent study has produced evidence that the introduction of PTCs in urban areas induces greater car ownership. In a study of vehicle registration records of over 200 cities, researchers at Carnegie Mellon University found evidence that PTC entry into urban areas causes an average net 0.7% per capita increase in vehicle registrations.¹⁵ This increase in car ownership has implications for congestion.

A study undertaken by the San Francisco County Transit Authority found that congestion significantly worsened in San Francisco between 2010 and 2016, with ‘average peak arterial travel speeds’ down over 25%, ‘vehicle hours of delay’ up by 40,000 hours on a typical weekday and ‘vehicle miles travelled’ up by over 600,000 miles on a typical weekday; the study estimated that PTCs alone are the cause of “51% of the increase in vehicle hours of delay, 47% of the increase in vehicle miles traveled and 55% of the decline in speeds citywide between 2010 and 2016”.¹⁶

¹³ <http://usa.streetsblog.org/wp-content/uploads/sites/5/2019/01/19-04931-Transit-Trends.pdf>

¹⁴ https://www.huffingtonpost.ca/entry/uber-and-lyft-say-theyre-solving-traffic-while-making-it-worse_n_5bdb3662e4b0da7bfc181c32

¹⁵ [https://www.cell.com/iscience/pdf/S2589-0042\(20\)31130-5.pdf](https://www.cell.com/iscience/pdf/S2589-0042(20)31130-5.pdf)

¹⁶ https://archive.sfcta.org/sites/default/files/content/Planning/TNCs/TNCs_Congestion_Report_181015_Final.pdf

Perhaps in an effort to counter these results, a study was commissioned by Lyft and Uber to identify the combined miles travelled by their drivers' vehicles over a month-long period in six major US cities: Boston, Chicago, LA, San Francisco, Seattle and Washington DC.¹⁷ The results, however, confirmed the adverse impacts of PTCs on congestion. A point that Uber's head of global policy conceded to in light of the study's findings.¹⁸ It is no wonder, then, that some jurisdictions, like New York City, have implemented an interim cap on the total number of PTC drivers while the city undertakes its own review.¹⁹

In Ottawa, PTCs are not subject to the same regulatory limits that traditional taxi companies are as to how many cars are added to Ottawa streets. In other words, the degree to which PTC cars could flood Ottawa roadways is theoretically unlimited. It would seem likely, then, that PTCs here are also contributing to congestion as they are in other jurisdictions.

Allowing PTCs to negatively impact transit ridership and increase car ownership and congestion is at odds with the city's declaration of a climate emergency and its corollary commitment to "protecting our economy, our eco systems and our community from climate change,"²⁰ as the city will experience increases to CO₂ emissions. In addition, there will also be significant costs to the city and residents²¹ in the form of infrastructure wear and tear, the lost productivity of everyone sitting in traffic (and the associated reduction of economic activity) and the wasted fuel of vehicles sitting still (and the associated increase in the cost of transporting goods and people)...not to mention increased stress—and road rage—which takes a psychosocial toll on the health and wellbeing of Ottawans.

Safety

It turns out that this less regulated VFH option—or 'buyer beware' option, to use the city's preferred language²²—may have a negative impact on the safety of consumers, residents and workers. Buyers, and everyone else for that matter, really should beware. There is evidence that putting more cars on the road, for example, leads to an increase in traffic collisions. A study released by the University of Chicago Booth School of Business, *The Cost of Convenience: Ridesharing and Traffic Fatalities*, found PTCs responsible for a 2%-3%

¹⁷ <https://www.msn.com/en-ca/autos/news/lyft-and-uber-actually-making-traffic-worse-study-shows/ar-AAFtRaj?ocid=spartandhp>

¹⁸ <https://medium.com/uber-under-the-hood/learning-more-about-how-our-roads-are-used-today-bde9e352e92c>

¹⁹ <https://www.cnet.com/news/new-york-city-extends-rideshare-cap-for-uber-and-lyft-limits-vehicles-that-cruise-empty-in-manhattan/>

²⁰ <http://app05.ottawa.ca/sirepub/cache/2/n4dcrbvoi15ljzko31nwxq/58148807182019050955816.PDF>

²¹ <https://www.citylab.com/transportation/2018/02/traffics-mind-boggling-economic-toll/552488/>

²² <https://ottawa.ca/en/city-hall/public-engagement/projects/taxicab-and-limousine-regulation-and-service-review>

increase in traffic-related deaths in the United States, and pointed to the addition of cars to the road as a causal factor.²³

PTCs have long been criticized for their lower standards when it comes to driver training, and this factor has also been fingered as a likely causal factor behind increased occurrences of traffic accidents. The City of Toronto recently voted to change their VFH rules in myriad ways, including introducing mandatory training for PTC drivers, after a Toronto resident was killed by an Uber driver. The driver has been charged with dangerous driving.²⁴ Here in Ottawa, mandatory city training was removed for all VFH drivers as part of the 2016 update.

Evading city training, and lax criminal background checks,²⁵ may also be contributing factors to the mounting evidence that PTCs have a sexual assault problem.²⁶ Lawsuits alleging sexual assault are piling up against Uber and Lyft. One American attorney in a statement to the media in August 2019 said that "right now, we have over 100 cases between Lyft and Uber. We're getting new cases every day".²⁷ Another American attorney representing over 100 complainants²⁸ claims that the companies have been actively covering up these incidents and have been uncooperative with law enforcement and survivors.²⁹

Since then, under pressure from American authorities, Uber has released its own internal report on occurrences of sexual assault in the United States during 2018, and the results are alarming.³⁰ Thousands of instances of sexual assault were reported to Uber, including hundreds of reports of rape.³¹ These are significant numbers given the extent to which sexual assaults tend to go unreported (estimated to be around 80% in both the United States³² and Canada³³).

It is important to note that it is not just passengers who are affected, but Uber drivers as well (42% of sexual assaults on the platform were reported by drivers).³⁴ Uber and Lyft have been found to have more women drivers than traditional taxis (19% and 30% of drivers for

²³ <https://research.chicagobooth.edu/-/media/research/stigler/pdfs/workingpapers/27thecostofconvenience.pdf?la=en&hash=A15B1513F98D7A17B9E37F78DD2EBDC4C6338BFA>

²⁴ <https://www.theglobeandmail.com/canada/toronto/article-toronto-to-bring-in-mandatory-training-for-uber-and-lyft-drivers/>

²⁵ <https://www.cnet.com/news/uber-lyft-reportedly-skimp-on-background-checks/>

²⁶ Uber, in particular, has long been criticized for having a sexist culture, in part due to the prevalence of a 'tech bro' mentality that can be seen in comments from Uber's former CEO and co-founder. See: <https://www.vox.com/conversations/2017/2/28/14726004/uber-susan-fowler-travis-kalanick-sexism-silicon-valley>

²⁷ https://www.vice.com/en_us/article/vb5ed8/lyft-has-been-flooded-with-sexual-assault-lawsuits

²⁸ <https://www.vox.com/2019/12/7/20998646/uber-safety-report-sexual-assault-lyft-cases>

²⁹ <https://www.nytimes.com/2019/12/05/business/lyft-sexual-assault-lawsuit.html>

³⁰ <https://www.nbcnews.com/news/us-news/uber-reveals-widespread-sexual-assault-problem-including-hundreds-reports-rape-n1096411>

³¹ There were also 9 murders and 58 other deaths reported.

³² <https://www.brennancenter.org/our-work/analysis-opinion/sexual-assault-remains-dramatically-underreported>

³³ <https://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2019/apr01.html>

³⁴ <https://www.vox.com/2019/12/7/20998646/uber-safety-report-sexual-assault-lyft-cases>

the two companies identify as women, respectively, in the United states), but they lack some of the basic protections typically enjoyed by the latter, namely a union and more comprehensive city regulations (e.g. in-vehicle security cameras).³⁵

³⁵ <https://www.vox.com/2019/12/7/20998646/uber-safety-report-sexual-assault-lyft-cases>

The Purchase of the Pandemic

With the COVID-19 global pandemic upon us we have seen a dramatic change in the day-to-day transportation patterns of people. Walking and rolling are up,³⁶ for example, while public transportation has taken a massive hit, with ridership down 70% in Ottawa as of October 2020 (slightly up from the spring).³⁷

Pandemic Profits?

The VFH market has also taken a massive hit from COVID-19, with evidence suggesting that traditional taxis have been more impacted than have PTCs.³⁸ This has resulted in PTCs taking an even larger share of the VFH market from traditional taxis and favours the PTCs' monopolistic strategy. Although this market share was gained alongside a significant downturn in business, the victory is likely less than pyrrhic for PTCs, while it could prove fatal for traditional taxis.

Although there is little empirical data currently, it has been suggested that pandemic conditions may see more users of public transit relying increasingly on VFH to get around, due to the increased proximity to other people while in transit, and suggestions from some public health experts that VFH alternatives may be safer than transit, especially when the latter is crowded or not ventilated well.³⁹ This will only serve to exacerbate the trend of PTCs eating into the transit market.

With pandemic conditions, however, comes another example of the 'buyer beware' culture of PTCs. Since the start of the pandemic, several news reports have highlighted the issue of PTC drivers not wearing masks when picking up costumers. These reports come from various cities, including in Ottawa.⁴⁰ This scrutiny led to platforms requiring drivers to take selfies of themselves wearing a mask before being able to accept a fare. In September 2020, Uber reported more than 1250 riders in the United States and Canada have lost access to the app for repeated violations of the mask policy.⁴¹

PTCs appear again to be offering unregulated (i.e. less safe) spaces relative to their competitors in the traditional taxi market. Indeed, the latter had meanwhile adopted additional protective screening between the front and bank seats of their cars in Ottawa.⁴²

³⁶ <https://blogs.worldbank.org/transport/covid-19-creates-new-momentum-cycling-and-walking-we-cant-let-it-go-waste>

³⁷ <https://ottawa.ctvnews.ca/oc-transpo-bleeding-fare-revenue-ridership-still-well-below-pre-pandemic-levels-1.5154685>

³⁸ <https://citymonitor.ai/transport/uber-lyft-rides-during-coronavirus-pandemic-taxi-data-5232>

³⁹ <https://www.washingtonpost.com/transportation/2020/10/26/coronavirus-travel-options/>

⁴⁰ <https://ottawa.ctvnews.ca/riders-concerned-some-uber-drivers-not-wearing-masks-during-pandemic-1.4951005>

⁴¹ <https://www.washingtonpost.com/transportation/2020/10/26/coronavirus-travel-options/>

⁴² <https://ottawa.ctvnews.ca/plastic-shields-installed-in-ottawa-taxis-to-protect-customers-and-drivers-1.4883358>

PTCs Deliver at our Expense, a Case Study

Despite ridership and bookings being down for public transit and the VFH market, respectively, there has been a massive increase in business in a VFH-adjacent market: app-based delivery services, such as Uber Eats⁴³, Skip the Dishes, DoorDash and Instacart.⁴⁴ Uber Eats, for example, saw its revenues grow by more than 50%, to \$819 million, in the first quarter 2020.⁴⁵

Understandably, more and more residents are wanting to avoid going out in public and risking exposure to the virus, and so they are increasingly relying on app-based delivery services to bring the food and other supplies they need or desire to their doorstep. This shift in the transportation of goods comes at a price, however, to local and small businesses, to workers, and to consumers.

Many app-based delivery services are charging a hefty premium to participating businesses, with many restaurant owners reporting that they do not make any profit from app-based sales yet feel they must participate on these apps to stay relevant. Even with some apps reducing their fees in response to public pressure, restaurants continue to fall short.⁴⁶

This is particularly grim for restauranteurs who have been forced on and off to stop all in-door dining due to public health concerns relating to potential transmission of the COVID-19 virus. Delivery services should be their lifeline during COVID-19 shutdowns. Instead, profit-gorging app-based delivery services do little to keep these businesses afloat while the latter continue to lose money, or worse, close shop permanently. This unfortunately tracks with broader economic trends, too, with many small businesses losing profits and going under, while giant e-commerce corporations, like Amazon, are seeing unprecedented profits and growth.⁴⁷

The massive uptick in delivery services is also seeing a shift of labour hours from within retail and restaurant locations, where the status of employees is recognized by management, to outside service-industry establishments, where the 'gig-economy' furnishes workers with no employee status, and little to no workplace security or benefits. In short, the labour market associated with these service-sector industries is becoming even more precarious than it already was.

⁴³ Uber has also unveiled a new grocery delivery app, see here:

<https://www.businesswire.com/news/home/20200707005306/en/>

⁴⁴ Lyft has also announced its entrance into the delivery market, see: <https://mashable.com/article/lyft-pink-grubhub-free-delivery/>

⁴⁵ <https://www.forbes.com/sites/michaelgoldstein/2020/07/27/what-is-the-future-for-uber-and-lyft--after-the-pandemic/>

⁴⁶ <https://www.cbc.ca/news/business/food-delivery-apps-fees-1.5765790>

⁴⁷ <https://www.cnn.com/2020/04/09/tech/amazon-dominance-coronavirus/index.html>

Finally, consumers are paying the price, too. Although the convenience and safety of app-based delivery services may come at a price many are willing to pay, the 'middle-man' and profit-oriented nature of the app-based delivery service providers means that consumers are paying unnecessarily high mark-ups and fees. Beyond that, consumers are at risk of losing their choice to support small and local businesses as more of them close or otherwise exit the apps. It is also worth noting that consumers and service sector workers are not a mutually exclusive category, and that downward pressure on working conditions in the service sector can be expected to result in a corresponding decline in consumer purchasing power.

A public or non-profit alternative to app-based delivery services could mitigate the cost to local businesses, workers and consumers, by charging a fairer rate to businesses, by treating workers more fairly, and by lowering the mark-ups for consumers while simultaneously enhancing and expanding their consumer choices. It could accomplish this by prioritizing public wellbeing over profit (while potentially still making a modest return that could be paid back to the city through dividends).

Even with the ostensible end of the pandemic in sight as vaccine rollout continues apace, the COVID-19 pandemic thus far has taught us that vehicles for hire are an essential aspect of our transportation network. We must learn from this regardless of whether a vaccine-resistant, or otherwise novel, infectious disease plagues us in the future—a distinct possibility.

City of Ottawa Vehicle for Hire By-law

The VFH By-law, in its current form, offers PTCs several advantages over traditional taxi companies. This is evident by the distinct and disparate treatment of PTCs in comparison to traditional taxi services in the VFH By-law.

Instead of subjecting PTCs to the existing regulatory framework for taxi services, or otherwise amending the regulatory framework to be applied equally to all existing taxi-services, in 2016, the city chose to amend the VFH By-law to accommodate PTCs and their preferred business model separately—explicitly accepting the argument of PTCs that they are not a taxi service.

Despite their branding, it has become clear that PTCs provide taxi services like the traditional companies. The innovations offered by PTCs—such as booking through a phone app—offered a different process for providing taxi services. It did not change the service that was being offered. Five years later, the disruptive technology—an app—has been mimicked by Ottawa’s taxi industry, significantly closing the superficial gap between PTCs and traditional taxis.

PTCs regularly argue that they shouldn’t be treated the same as traditional taxi companies, but strip away the rhetoric about “technology platforms” and “disruption”, and the only justification for different treatment would seem to be that it benefits the PTCs and facilitates the success of their business strategy.

Against Oligopolies

So far, the city’s 2016 changes to the VFH By-law—coupled with the flawed system for traditional taxis—appear to have served the PTCs’ strategy. This is a win for PTCs but a loss for consumers—residents—as the illusion of enhanced consumer choice will dissipate once a dominant market share has been achieved.

While it is true that the city’s regulatory framework had already facilitated an oligopolistic taxi market before the arrival of PTCs (thus contributing to a much-lamented lack of innovation), the solution is certainly not to replace one oligopolistic market with another oligopolistic market designed explicitly to serve the bottom lines of corporations rather than the transportation needs of residents.

We should not be sacrificing regulatory oversight for convenience. We should be addressing the problems that make traditional taxis less popular than PTCs.

Robust Regulations versus a Laissez-Faire Approach

A review of some of the specific differences in treatment within the VFH By-law allows for a more thorough evaluation of the degree to which there is unequal treatment and to what extent this treatment is warranted. Perhaps the most salient indicator of a difference in

treatment in the VFH By-law is the stark contrast in the sheer amount of regulatory language applied specifically to the traditional taxi industry compared to that applied to PTCs.

Sections 13-101 of the VFH By-law (88 sections total) specifically address the traditional taxi industry, which amounts to 13,238 words. Regulation specifically addressing PTCs, however, is limited to just 16 sections for a total of 2,868 words. All told, the taxi industry is subjected to 550% more regulatory sections and 460% more regulatory language.

This is not a case of superfluous language; it is a representative accounting of the significant difference in treatment of the two categories of taxi service providers by the City of Ottawa.

In broad strokes, the traditional taxis are subjected to a strong regulatory approach with the VFH By-law regulating, for example, hours of work; fare levels; vehicle inspections; how civil, courteous, neat and well-dressed the driver is; how clean and odorous the car is and even the size and font of the identification numbers to be affixed to the exteriors of cars.

PTCs, on the other hand, are treated in a relatively laissez-faire manner with licensing, fares, individual driver insurance, and driver behaviour and appearance left to the PTCs to oversee or administer themselves. This is significantly less oversight compared to the regulations and obligations of traditional taxi companies.

Traditional taxis also appear to be disproportionately exposed to by-law enforcement as a result of being disproportionately regulated—a result of the city’s decision not to subject PTC cars to the same regulations requiring external markings and roof signs, which presumably makes it more difficult for by-law enforcement officers and Ottawa residents to recognize breaches of by-law when they occur.

For example, PTC taxis are restricted from accepting or soliciting street hails, but it only takes a walk through the Byward Market at the end of a Friday or Saturday night to see that this proscription is regularly ignored by drivers who are either employed by PTCs, or who are otherwise “bandit cabs”. What makes these occurrences worse is that PTC drivers are not insured for hails accepted outside of PTC apps, which is putting the city, workers and consumers at risk.

Accessible Transportation at Risk, a Case Study

A concerning aspect of the inequality in the VFH By-law is the city’s treatment of accessible taxi services and the drivers providing that service. Traditional taxi companies must provide accessible services, and rightly so. The city ensures that accessible services are provided at a level that is proportionate to the size of a taxi company’s overall fleet. That means a certain portion of their fleet must be wheelchair accessible.

Accessible taxi drivers are also subject to provisions explicitly ensuring that, if warranted, they will accompany persons with disabilities to and from the immediate interior of a building, will wait at least three minutes after notifying the customer of

the taxis arrival, will provide support in the carrying of their items, will carefully fasten the passenger's seat belt, will secure the person's mobility aids in accordance with the vehicle and equipment specifications, will politely inquire and address the person's needs and concerns before assisting the person into the car, and, finally, they will request and wait for paramedic services if the person develops a need for medical attention during the trip, if a friend or family member is not present.

In addition, all traditional taxis, accessible or not, also have rules explicitly stating that they must allow for the passage of service animals, must assist passengers with disabilities in the loading and unloading of articles from the trunk, must open the door, must personally advise a person with a disability when their cab has arrived, and must identify themselves to someone who is blind.

PTCs, however, are not expected to provide accessible services, nor maintain any of these accessibility standards, at least not according to the VFH By-Law. Instead, the city has only chosen to ask that PTCs voluntarily contribute a meager seven-cent surcharge per trip (increased to ten-cents as of July 2020) to subsidize the alternative accessible transportation options—options which the PTCs appear to be simultaneously undermining.⁴⁸ PTC aversion to accessibility, it should be noted, is not just an Ottawa phenomenon, it appears to be an issue in every market that PTCs enter⁴⁹

The entrance of PTCs into Ottawa's taxi market has, evidently, eaten into the market share of the traditional taxi companies,⁵⁰ and this has put financial pressures on these companies and their drivers. This is particularly true for accessible taxi drivers who face significant costs that PTC drivers do not. Converting vans to become accessible costs thousands of dollars up front. Accessible taxis must also pay for the installation of the required taximeter and security cameras (a cost also borne by standard taxis, but not PTC drivers). Once operating, accessible taxis incur significantly larger overhead costs, including increased fuel and maintenance costs.

These increased costs, especially the increased overhead costs, are particularly problematic due to VFH By-law provisions that require some accessible drivers (i.e. those who don't share their plate), to work a *minimum* of 10 hours a day, five days a week; and further require them to accept all requests for accessible taxi service (with few exceptions), including cases where accepting fares is not profitable for the

⁴⁸ City council recently voted to direct staff to negotiate for a higher surcharge that is more in line with other jurisdictions and the amount initially suggested (30 cents) by a KPMG report commissioned by the city.

⁴⁹ <https://www.bloomberg.com/news/articles/2018-12-11/uber-promises-to-ramp-up-access-for-wheelchair-users>

⁵⁰ We do not have the figures for Ottawa, but in New York City, for example, PTC taxis now outnumber traditional cabs 6 to 1. See : https://www.huffingtonpost.ca/entry/uber-and-lyft-say-theyre-solving-traffic-while-making-it-worse_n_5bdb3662e4b0da7bfc181c32

drivers. A breach of either of these regularly enforced⁵¹ requirements results in steep fines for accessible taxi drivers.

Accessible taxi drivers, meanwhile, report being “pushed to a boiling point”, arguing that it is no longer financially sustainable for them to continue providing the service. Members of the disability community who rely on this service have added their voices to those of the accessible taxi drivers, stating their concern that the service itself will collapse.⁵² City staff reported in August 2019 that 16 accessible taxi drivers had recently turned in their accessible taxi plates. It is no wonder, then, that accessible taxi drivers and their union (Unifor 1688) were, at the time, calling for a \$15 levy for each accessible taxi ride (to be funded from an increased accessibility surcharge on PTCs)—a reasonable request that should be further considered by the city.

PTCs take market share from traditional taxi services, but they are not required to provide accessible taxi services. They are simply asked to pay a nominal fee. Traditional taxis provide accessible taxi services, on which many of the most vulnerable Ottawans rely. Without a robust traditional taxi service—or an application of traditional taxi regulations to PTCs—accessible taxi services will continue to shrink relative to the overall VFH industry in Ottawa.

It is unfortunate that accessible taxi drivers in Ottawa are struggling to provide a valuable public service to residents with mobility issues while PTCs are let off the hook. It has been suggested that many taxi drivers work in excess of 50 hours each week anyways, making section 60 of the By-law not a concern. In fact, this reality is an indictment of the current paradigm, as no worker should have to work extremely long hours, nor should we want professional drivers worked to exhaustion. The VFH By-law should be reviewed and adjusted to respect the needs and rights of accessible taxi drivers.

Deregulation is not the Answer

The regulatory imbalance of VFH should be of concern to staff, councillors and residents. City regulation of Vehicles for Hire should ensure that all regulatory efforts align with the city’s transportation goals, and benefit residents, users and the city. This does not mean, however, that the city should simply deregulate traditional taxi companies to align with the laissez-faire treatment of PTCs; although this appears to be the current direction at City Hall. Instead, the city should be looking to alter sections of the by-law that do not foster Smarter Transportation Planning for a Better City, ensuring our regulatory framework provides:

⁵¹ <https://www.cbc.ca/news/canada/ottawa/accessible-taxis-demand-bylaw-charges-1.5065683>

⁵² <https://www.cbc.ca/news/canada/ottawa/accessible-taxi-drivers-turn-in-plates-1.5094484>

- A Focus on Equity and Accessibility.
- A Focus on Mobility, Modern Transportation and Environment.
- A Focus on Fairness and Safety.

Re-affirming these core principles will ensure that our VFH By-law works toward making a better City of Ottawa in the short-, medium- and long-term.

Laying the Groundwork for a future Review

Although the VFH By-law was updated only four years ago to accommodate PTCs, and our office's proposal to add it to the list of by-laws to be reviewed this term of council was unsuccessful, a visionary and robust OP and TMP should make clear the need for the VFH regulatory framework to be on the by-law review workplan for the next term of council.

It is not too soon for such a review. Other jurisdictions, like Toronto, who made similar accommodations for PTCs in their regulatory framework after Ottawa had, already have revisited these decisions. Reviewing policy after further analysis is done and more information is known is a prudent step to take.

Conclusions and Options

There is no shortage of research that should be undertaken immediately as part of the drafting of a new Transportation Master Plan (TMP) and Official Plan (OP). There is much already known about the effects of PTCs on urban mobility, sustainability and prosperity, but continuing to develop our understanding of this new market actor, especially in an Ottawa context,⁵³ will facilitate better decision-making for years to come. The information presented by city staff in the *VFH One Year Update*⁵⁴ is a good start, but we should strive to further address crucial issues concerning the impacts on overall congestion, road safety and public transit in Ottawa. The drafting of a new OP and TMP presents the city with an opportunity to insulate itself from the many externalities of our current VFH market. A sufficiently ambitious OP and TMP should lead to a review of many of the city's regulations next term of council, including the VFH regulatory framework.

Cui Bono?

City staff and city councillors should ask themselves who benefits from not ensuring proper governance of PTCs through city plans and regulations, particularly as PTC prices are tending to rise alongside increased market share and saturation.

Not only are the prices of PTCs unsustainable, there is also a misclassification of workers—part of a broader trend of "casualization"—that has worsened working conditions for Ottawa workers. Studies of PTC drivers have found that many, if not most,⁵⁵ are making less than minimum wage on average⁵⁶ (and Ottawa Uber drivers have said as much⁵⁷) and they lack the benefit of being able to unionize. PTCs have been forced to reverse this misclassification in some jurisdictions, including New York state.⁵⁸ A case from Toronto is currently being pursued in Ontario courts,⁵⁹ and a class action lawsuit from the traditional taxi industry against the City of Ottawa is also being concurrently pursued.⁶⁰

Further, the deregulatory approach of PTCs is part of a broader trend of deregulation driven recently by other 'sharing economy' platforms like Airbnb, which has had a disastrous

⁵³ It should also be noted, however, that Ottawa does not exist in a vacuum. Just because certain research has yet to occur in Ottawa specifically, this should not lead us to treat research from elsewhere with undue scepticism.

⁵⁴ <http://ottwatch.ca/meetings/file/486908>

⁵⁵ <https://www.vox.com/2018/10/2/17924628/uber-drivers-make-hourly-expenses>

⁵⁶ <https://globalnews.ca/news/4213667/uber-drivers-minimum-wage-gig-economy/>

⁵⁷ <https://www.cbc.ca/news/canada/ottawa/uber-driver-says-he-made-eight-dollars-an-hour-1.3527435>

⁵⁸ <https://www.labornotes.org/2018/08/how-new-york-taxi-workers-took-uber-and-won>

⁵⁹ <http://www.williamshrlaw.com/2019/01/17/court-paves-way-for-uber-drivers-class-action-to-determine-employee-status/>

⁶⁰ A pretrial conference is currently scheduled for later this year.

impact on the availability and affordability of rental housing in Ottawa and elsewhere.⁶¹ Ottawa's recent regulatory response to the pernicious effects of companies like Airbnb on the long-term rental market was adequately measured and laudable,⁶² but ensuring that the long-term rental market in Ottawa is affordable and of high quality is something that must also be better reflected in our city's OP. This dual approach is also needed to ensure Ottawa is insulated from the pernicious effects of PTCs.

Finally, there is little evidence that the City of Ottawa is benefitting from the status-quo given the evidence of adverse impacts of PTCs on congestion, road safety, the environment and public transit. PTCs, on the other hand, do appear to benefit from the current arrangement in Ottawa and similar arrangements in other jurisdictions. Their market share has, evidently, been increasing.⁶³

Uber and Lyft may have a veneer of popularity, but the city has a responsibility to frame the issue critically and objectively. It should surprise no one that cheaper and supposedly more convenient goods and services are popular with consumers, but that popularity needs to be tested against other considerations. Would this popularity remain if the true cost of PTCs—worker exploitation, traffic congestion, inequality, environmental degradation, lower regulatory and safety standards, and weakened public transit—were widely shared?

Furthermore, PTCs are only popular *relative* to an oligopolistic and dysfunctional taxi market (and an over-priced transit system with inadequate service) that the city has had a lead role in creating and maintaining.

A Snapshot of Potential Options

This report highlights various potential paths of action that ought to be considered by the city, but here is a shortlist of potential options moving forward:

- Responsible Monitoring
 - Reviewing the impact of PTCs on congestion, road safety and public transit ridership in Ottawa.
 - Reviewing PTC insurance requirements.
- Designing a Fair VFH System that works for everyone
 - Introducing a cap on the total number of PTC drivers in Ottawa.

⁶¹ <https://www.theglobeandmail.com/canada/article-airbnb-likely-removed-31000-homes-from-canadas-rental-market-study/>

⁶² https://www.shawnmenard.ca/rental_accommodations_study_update

⁶³ <https://www.businessinsider.com/uber-lyft-are-gaining-even-more-market-share-over-taxis-and-rentals-2018-7>

- Amendments to or overhaul of the taxi plate system.
- A publicly owned and provided taxi and delivery service under the auspices of OCTranspo, or as a separate municipal crown corporation.
- City support for co-op or otherwise non-profit VFH and delivery services.
- Protecting Accessible Transit
 - Enforcing greater accessibility standards on PTCs.
 - Using a further increased accessibility surcharge on PTCs to subsidize accessible taxis.
- Reducing Regulatory Inequalities and Strengthening the Regulatory Framework
 - Making Part IV of the VFH By-law (which governs PTCs) more in line with Part II of the by-law (which governs traditional taxis), namely as it relates to the execution of regulatory oversight by the city, but also as it relates to other inconsistencies.
 - Reviewing city training for all taxi drivers (whether they drive for PTCs or traditional taxi companies).

The City's Prerogative

The city, in effect, governs the very existence of PTCs in Ottawa, providing them permission to operate here through the regulatory powers it has over them. The city can, therefore, also use its bargaining power to induce 'voluntary' compliance measures on top of what is possible within the scope of permittable by-law—such as a higher accessibility surcharge—from industry participants reliant on government permission to operate. To suggest otherwise is to conflate power with a narrow understanding of jurisdictional authority.

In short, we have enough leverage over PTCs to do what is right for residents.

The recent negotiation for a higher surcharge is evidence that this bargaining power exists, but it is also evidence of how tepidly current management at the city chooses to wield it.

A Better Approach to Vehicles for Hire

It could be argued that taxi services, 'app-based' or otherwise, are an integral part of the city's transportation system, much like the provision of public transit services. Taxi services are a common good that the public relies on and, therefore, could be treated as such by being publicly-provided, co-operatively provided, or through an alternative non-profit model.

Thus, as part of an investigation of VFH services in Ottawa, the city should re-assess the quasi-privatized status of taxi services and consider bringing taxi services in-house as a publicly-owned and operated service under OC Transpo, or as a separate municipal crown

corporation. Such a publicly operated service could provide revenue for city projects (e.g. public transit) or operate at cost providing a fee-for-service taxi option to residents without compromising workers' rights, our regulatory framework or our transportation planning. Alternatively, the city could look at ways to establish or promote co-operative or non-profit VFH services.

The increasing reliance of local businesses and residents on app-based delivery services during the pandemic means that any assessment of alternatives in the VFH market should also include consideration of alternative delivery services. The global pandemic has only underlined how integral a part of the city's transportation system the VFH market is.

The Risks are Clear

The current rules for VFH puts the City of Ottawa at risk. We are at risk of losing necessary, accessible taxi services. We are at risk of exposing drivers to increasing economic insecurity and unsafe working conditions. We are at risk of subjecting consumers to a less regulated, less safe and ultimately less desirable oligopolistic market. And we are at risk of worsening congestion, amplifying the effects of climate change and weakening our transit ridership. We need to mitigate these risks.