BACK TO THE FUTURE: A GUIDE TO REFORMING INDIANAPOLIS'S TAXI REGULATIONS

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Good afternoon, Chairman Osili and distinguished members of the Indianapolis Taxi Reform Study Commission:

I am grateful for the invitation to discuss research that my colleagues at the Mercatus Center at George Mason University and I have conducted regarding the transportation-for-hire industry in general and taxicab regulations in particular.[1]

The research team I am part of—the Project for the Study of American Capitalism—focuses on understanding how special interest groups twist government policies to benefit themselves. We study discriminatory tax, spending, and regulatory policies that privilege particular industries, firms, or occupations. Our goal is to understand and communicate how these government privileges harm the economy and the very fabric of our society.[2] This is the perspective through which I will evaluate the current state of taxi regulations in Indianapolis.

OVERVIEW

The arrival of new communication technologies, like smartphones and the Internet, have enabled new forms of interpersonal interaction. One of the more striking and visible effects of this technological

[1] Christopher Koopman, Matthew D. Mitchell, and Adam D. Thierer, "The Sharing Economy and Consumer Protection Regulation: The Case for Policy Change," *Journal of Business, Entrepreneurship & the Law* 8, no. 2 (2015); Adam D. Thierer et al., "How the Internet, the Sharing Economy, and Reputational Feedback Mechanisms Solve the 'Lemons Problem,'" Mercatus Working Paper (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, May 2015); Michael D. Farren, Christopher Koopman, and Matthew D. Mitchell, "Rethinking Taxi Regulations: The Case for Fundamental Reform" (Mercatus Research, Mercatus Center at George Mason University, Arlington, VA, 2016); Michael D. Farren, Christopher Koopman, and Matthew D. Mitchell, "Ridesharing vs. Taxis: Rethinking Regulations to Allow for Innovation" (Mercatus On Policy, Mercatus Center at George Mason University, Arlington, VA, May 2017); Christopher Koopman, "Today's Solutions, Tomorrow's Problems," *Cato Unbound*, February 17, 2015.
[2] Matthew D. Mitchell, *The Pathology of Privilege: The Economic Consequences of Government Favoritism* (Arlington, VA: Mercatus Center at George Mason University, 2015).

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innovation has been on the transportation-for-hire industry through the emergence of platform firms like Uber and Lyft.[3]

The transportation-for-hire industry, especially the taxicab market, has long been used as the textbook example of the harms caused by anticompetitive regulations.[4] When service providers (or customers) are protected from competition, they gain a degree of monopoly power because there are fewer options for consumers to choose from. The resulting monopoly profits of the established companies are paid for by higher prices and lower quality of service offered to consumers. Would-be competitors also suffer, since they are prevented from doing business. Furthermore, the benefits gained by the existing taxi companies are larger than the sum of losses to consumers and frustrated entrepreneurs. In short, because anticompetitive regulations prevent mutually beneficial trades that would otherwise occur, such rules actually decrease the economic well-being of the community.

FRAMEWORK TO UNDERSTAND TAXI REGULATIONS

The rationales to justify transportation-for-hire regulation can fall into two somewhat overlapping categories: public safety concerns and market failures. The issue of public safety is an important and relevant consideration—and a key role of government. In most cases, however, arguments for economic restrictions because of supposed market failures are actually veiled attempts to protect established companies from competition by discriminating against entrepreneurs.

The Public Safety Rationale for Regulation

Ensuring public safety is a critical role of government; historically, the mostly anonymous nature of many taxi driver–passenger interactions created situations where regulations concerning public safety may have been necessary. The anonymity of the interaction between the driver and passenger and the low likelihood that either would run into each other again reduced the cost for either to engage in antisocial or even criminal behavior. For example, in the late 1800s San Francisco implemented strict licensing requirements for taxicab drivers to reduce this anonymity after problems with "nighthawks"—drivers who under the cover of darkness would take their passengers out of the city to a remote location and extort a higher fee in order to take the passengers to their true destination.[5] In the modern era, passengers who are intoxicated or unfamiliar with the city can similarly be taken advantage of by unscrupulous drivers. It's understandable that such problems would motivate policymakers to ensure that drivers are licensed (to reduce anonymity and therefore increase the risk of prosecution from breaking the law) and have high moral character (to avoid taking advantage of helpless passengers).

However, drivers also suffer from the problem of anonymity. Taxicab drivers have the highest on-the-job murder rate of any profession—even higher than police officers—because the accumulated cash payments they carry make them attractive targets for thieves.[6] The policy response in this situation has not been to require passenger licenses, but instead to mandate increased protections for the driver, such as emergency call buttons, security cameras, or bullet-resistant partitions.[7]

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[3] Platform firms are companies that specialize in connecting people. They provide a "platform"—a social space or a private market—that enables interpersonal interaction, including bringing buyers and sellers of goods and services together. Common examples are Amazon, Craigslist, and eBay, as well as Facebook, Twitter, and many Internet dating sites.

[4] See Alfred E. Kahn, *The Economics of Regulation: Principles and Institutions* (Cambridge, MA: MIT Press, 1988); W. Kip Viscusi, Joseph Emmett Harrington, and John M. Vernon, *Economics of Regulation and Antitrust*, 4th ed. (Cambridge, MA: MIT Press, 2005), 583–586.

[5] Donald Anderson, "The Short, Contentious History of the Gurney Cab Company in San Francisco," *FoundSF*, October 2013.

[6] One former Chicago taxi driver reports being mugged 5 times over 40 years of taxi driving. Leonor Vivanco, "Number of Chicago Taxi Drivers Hits 10-Year Low as Ride-Share Companies Take off," *Chicago Tribune*, December 17, 2016; Occupational Safety and Health Administration, "Preventing Violence against Taxi and For-Hire Drivers," 2010; Max Ehrenfreund, "Charted: The 20 Deadliest Jobs in America," *Washington Post*, January 28, 2015.

[7] Sewell Chan, "Taxi Partitions, Born of Danger, May Be Set for a Makeover," *New York Times*, August 9, 2005; Emma Whitford, "TLC Makes Plastic Partitions Optional, Hopes Yellow Cab Drivers Will Appear More Friendly," *Gothamist*, April 22, 2016.

The Rationales for Economic Restrictions

In contrast to potential problems regarding public safety, there seems to be little reasoning behind taxi regulations purely intended to create economic restrictions. Such regulations would have to be premised on there being "market failures" wherein the ordinary interactions of buyers and sellers are hindered by an economic problem that limits the benefits that come from economic exchange. Examples of this are monopoly power,[8] externalities,[9] or asymmetric information.[10]

The Federal Trade Commission, in researching the origin of modern taxi regulations, found:

> The discussions of the early 1930s emphasize that the motivation behind the regulations was "to drive many cut-throat cabs, operating without authority, from the streets" and to enable the organized cab fleets and transit companies to increase their profits. Restriction of entry was not motivated by a concern for congestion or pollution externalities.[11]

Some proponents of economically restrictive taxicab regulations have argued that transportation-for-hire markets are intrinsically different than markets for other goods and services and therefore require greater regulatory intervention.[12] Their arguments generally involve the ideas that a taxicab customer lacks adequate information regarding the driver and vehicle (asymmetric information), that the passenger faces a lack of options for service (giving the taxicab driver a degree of monopoly power over pricing and quality of the ride), and that the passenger is unable to escape a taxicab once she accepts the ride.[13] However, this perspective misses the fact that these supposed problems exist in many other industries as well. For example, a customer doesn't truly know the quality of a restaurant meal until she tastes it. A customer faces a similar social pressure against complaining about the food or leaving the restaurant in protest as she would telling a taxicab driver to drive more safely or to end the ride. And comparable to the potential lack of alternatives in the transportation-for-hire market, the restaurant in question may be the only food service business open late at night in that area. Lastly, the indelible memory of the unpleasant experience will likely lead the customer to avoid choosing that particular taxi company again, in just the same way that she might never return to a restaurant with bad food or poor service.

Furthermore, new technologies and business models are providing customers with greater access to information and therefore are increasing competition between service providers. Customer ratings such as those that can be found on Yelp and Amazon are readily available. Social media platforms such as Twitter and Facebook allow customers to instantly—and publicly—protest poor service. And smartphone-enabled ridesharing applications like Uber and Lyft similarly allow customers to prescreen drivers while they are en route to pick up passengers and to instantly review them after the ride.

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[8] Monopoly power can occur when a single entity faces a lack of competition to serve customers. This potentially gives the company more control over prices and product quality than it otherwise would have in a market where customers had more options. The result is that there might be less trade than would otherwise occur because prices are higher, quality is lower, or both.
[9] An "externality" occurs when a person does not internalize all the costs (or benefits) of a given decision, resulting in an economically inefficient amount of production. In the case of taxicab markets, an example of an externality would be the traffic congestion created by the taxicab's presence on the roadway, which increases other drivers' travel time. The taxi driver does not bear this cost, which is paid by the other drivers.
[10] "Asymmetric information" refers to the situation where the seller has disproportionately more information about the quality of the good or service than the buyer. Because buyers will be hesitant to pay higher prices for goods which may be low quality, asymmetric information hinders the amount and kinds of trades that take place.
[11] Mark W. Frankena and Paul A. Pautler, "An Economic Analysis of Taxicab Regulation" (Bureau of Economics Staff Report, Federal Trade Commission, Washington, DC, 1984), 79.
[12] "Review of Taxicab Regulatory Changes in Cincinnati, Indianapolis, and Seattle" (Institute for Transportation Research and Education, North Carolina State University, Raleigh, NC, May 1998), http://www.puc.pa.gov/pcdocs/1426809.pdf.
[13] Ibid.

In short, the nature of the transportation-for-hire industry does not foreclose the possibility of a competitive, information-rich market. In many cases, however, state and municipal laws do. Taxicab regulations originally enacted during the 1910s through the 1930s limited competition in the transportation-for-hire industry, meaning the United States has rarely seen a transportation service market that is subject to the same competitive pressure as markets for other goods and services.[14] During the occasions in which strong competitive pressure did arise—during the jitney phenomenon in the 1910s[15] and the increase in taxicab companies during the Great Depression—special interest groups were able to persuade policymakers to put into place economic restrictions that protected large, established companies from entrepreneurial competition.[16]

ANTICOMPETITIVE TAXICAB REGULATIONS

The economic restrictions that taxicabs face can be placed into three broad categories based on how they limit competition—barriers to entry, price controls, and mandated business practices. These categories are not mutually exclusive—a given regulation can have effects that place it in multiple categories. The critical issue is that by inhibiting competition, these regulations can actually create the exact kinds of problems that economic regulations are, in theory, supposed to prevent.

Furthermore, public safety regulations can have the exact same effect as economic restrictions. For example, excessive licensing requirements intended to reduce the anonymity problem can create a barrier to entry that reduces the number of drivers available to provide service. This can actually cause a net negative effect on public safety if the lack of transportation options results in increased DUI occurrence or inhibits people's ability to escape a dangerous situation.

Barriers to Entry

Barriers to entry are simply restrictions on who may provide goods and services to consumers. The clearest example of a barrier to entry is a limit on the amount of taxicab medallions or licenses available in a city—the result being that any other entrepreneur who wants to serve customers is categorically prohibited from doing so. Similar to license limits are franchise requirements, which require a new entrepreneur to petition the regulatory authority for permission to operate, usually through obtaining a certificate of public convenience or necessity (CPCN).[17] Application for a CPCN usually involves a hearing wherein established companies can argue against the entrepreneur by making the case that the market is already adequately served. In both situations this leads to companies obtaining market dominance through government authority, rather than companies competing to please customers and win their business.

An often overlooked class of barriers to entry are requirements that raise the dollar cost of entry or increase the number of bureaucratic hurdles an entrepreneur must leap. High licensing fees, minimum service requirements, minimum company sizes, and mandates that specific equipment or business models be used all fall under this category. By limiting the ability of new entrepreneurs to challenge

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[14] During the early 1980s, 21 US cities reduced taxicab regulations. However, in many cases some anticompetitive regulations remained, and the economic results were therefore mixed. A metaphor can help explain the lack of substantively different outcomes: A person trying to carry a 1,000-pound boulder will only be marginally better off if it is replaced with a 500-pound boulder. It would be understandable if the person carrying it didn't get that much farther despite the improvement.
[15] Matthew D. Mitchell and Michael D. Farren, "If You Like Uber, You Would've Loved the Jitney," *Los Angeles Times*, July 12, 2014; Ross D. Eckert and George W. Hilton, "The Jitneys," *Journal of Law & Economics* 15, no. 2 (1972): 293–325.
[16] Frankena and Pautler, "An Economic Analysis of Taxicab Regulation."
[17] The CPCN requirement treats transportation services as if they were a public utility (like water or electric service). CPCNs are normally reserved for services that have characteristics of a "natural monopoly" (where there is a high fixed cost to provide service, often owing to the initial infrastructure construction of transmission pipelines). CPCNs create taxicab markets that are inherently anticompetitive since established companies can leverage government authority to keep out competitors.

established companies, barriers to entry provide a degree of monopoly power to established companies, allowing them to charge higher prices, provide lower product quality, or both.[18]

Price Controls

Price controls—stipulations on the maximum, minimum, or the exact price that may be charged—are the second major type of taxicab regulations. Price controls are ostensibly implemented to protect customers from price gouging, which may be a relevant concern when barriers to entry have limited the number of potential service providers. Essentially, price controls prevent a company with monopoly power from fully acting like a monopolist by increasing the price of service. However, the company's natural response is then to decrease its costs by reducing service quality in a backdoor attempt to exercise its monopoly power. As a result, customers may still pay a higher price relative to the quality of service they receive.

Furthermore, because taxicab companies generally have better access to policymakers than the taxicab customers (i.e., the general public), they are likely to exercise greater influence over the determination of the regulated prices than consumers.[19] Previous research suggests that regulated taxicab market prices in Washington, DC—which was relatively lightly regulated compared to other cities[20]—were substantially higher than the unregulated prices that emerged in the sharing economy.[21] The extreme example of this situation occurred in St. Petersburg, Florida, in the late 1970s. During a period of taxicab regulatory reform, the taxicab special interest groups managed to convince the city council both to restrict the number of taxicab licenses available—giving them a measure of monopoly power by protecting them from competition—and to *not* regulate taxicab prices, allowing the taxicab companies the freedom to fully use their monopoly power.

Like barriers to entry, price controls also limit competition. In an open market, companies can compete to win customers' business along a number of margins (price, quality, availability, etc.), but price is undoubtedly one of the primary considerations. Limiting a service provider's ability to change prices therefore negates a core area where she can differentiate herself from other service providers.

In addition, price controls also limit competition between *customers* to access the scarce amount of services available. For example, a job applicant who is running late for an interview is prevented from being able to offer to pay a higher price for speedy service. As a result, price controls can actually hurt customers who are in desperate need of the regulated service.

Mandated Business Practices

Mandated business practices occur when regulators stipulate the means by which regulated firms are to accomplish a given policy goal. In many cases the policymakers arguing in favor of mandated business practices may have the purest intentions at heart, but stipulating the method by which a goal is to be achieved precludes the entrepreneurial discovery of more efficient or effective means to accomplish the goal.[22] Restricting innovation in this way inherently decreases the margins along which companies can compete, resulting in a stagnant market that cannot respond to new opportunities.

For example, New York City's 1994 requirement that all taxicabs be equipped with bullet-resistant partitions is one means to solve the problem of late-night muggings of taxicab drivers. However, the

[18] Economist William Baumol famously illustrated that simply the credible threat of new competition can motivate a company with monopoly power to act as if it actually faced competition. William J. Baumol, John C. Panzar, and Robert D. Willig, "Contestable Markets: An Uprising in the Theory of Industry Structure: Reply," *American Economic Review* 73, no. 3 (1983): 491–96.
[19] George J. Stigler, "The Theory of Economic Regulation," *Bell Journal of Economics and Management Science* 2, no. 1 (1971): 3–21.
[20] Bruce Schaller, "Entry Controls in Taxi Regulation: Implications of US and Canadian Experience for Taxi Regulation and Deregulation," *Transport Policy* 14 (2007): 495–97.
[21] Michael D. Farren, Christopher Koopman, and Matthew D. Mitchell, "Rethinking Taxi Regulations," 15.
[22] Israel M. Kirzner, *Competition and Entrepreneurship* (Chicago: University of Chicago Press, 1973).

partitions diminished the quality of service for passengers as well as drivers and even created a safety hazard for passengers when taxis were involved in a traffic accident.[23] Another approach would have simply required taxicab companies to address driver safety issues and created rewards for compliance (or penalties for noncompliance). It's possible that driver-passenger partitions would still have been the primary means of satisfying this requirement, but the latter approach at least *allows* for innovation, both initially and in the future when new ideas and technologies become available.

In the same way that cities implement price controls to limit the ability of taxicab monopolies from abusing their lack of competition, cities also often mandate the manner and method in which service must be provided to prevent those same companies from decreasing service quality to cut costs to earn monopoly profits. For example, many cities, including Indianapolis, set a legal dress code for taxicab drivers. Another example is the requirement that every taxicab be inspected multiple times annually to ensure it is clean and the paint job looks attractive.

UNDERSTANDING INDIANAPOLIS'S CURRENT TAXICAB REGULATIONS

Using the framework just discussed, I now analyze Indianapolis's current taxicab regulations to illustrate how specific taxi regulations can inhibit competition.

Chapter 996, Section 996-42

The requirement that taxicabs be equipped with a two-way radio is an example of mandating a specific business practice (using radios rather than smartphones for communication, for example) as well as a barrier to entry, since an entrepreneur would have to purchase a two-way radio before being able to legally provide service.

Similarly, the requirements that a public vehicle for hire must have a tax situs[24] in Marion County and Marion County license plates prevents entrepreneurs from outside of the county from competing with Marion County service providers. This gives those in Marion County some protection from competition, which would result in a decreased focus on customer service.

Chapter 996, Section 996-43

Similarly, the requirement that a taxicab company have a minimum of 20 taxicabs is a major barrier to entry, as is the mandate that the company have a physical business office in Marion County that must dispatch cabs 24 hours each day. These requirements by their nature seem predicated on preventing competition by small, independent taxi companies.

The timing of when this regulation (2002) was enacted is also relevant. It essentially reregulated the taxicab market by disallowing any new entrepreneurs of the sort that had abounded following regulatory reforms in 1994. After the 1994 reforms, hundreds of small entrepreneurs entered the market to compete with the three major taxicab companies that had previously existed in the city.[25] These results mirror Minneapolis, Minnesota's experience with taxicab regulatory reform in 2006.[26] Furthermore, the 2002 reforms, by blocking new entrepreneurs, likely discriminated against specific social groups, because the entrepreneurs entering the market after the 1994 reforms were primarily minorities and women: "Within 6 months of [the 1994] deregulation, the city reported 32 new companies had started, three quarters of which were owned by minorities or women."[27]

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[23] Jack S. Lusk, former chairman of the New York City Taxi and Limousine Commission said: "Those partitions create a plastic surgeon's dream." Chan, "Taxi Partitions."
[24] A "tax situs" is the determination that a piece of personal property is located in a given jurisdiction.
[25] "Review of Taxicab Regulatory Changes," 21.
[26] Eric Roper, "A Bumper-to-Bumper Crop of Cabs," *Minneapolis Star Tribune*, May 9, 2012; Lee McGrath and Anthony Sanders, "Ride Sharing: 10 Years of Freedom in Personal Transportation," *Minneapolis Star Tribune*, October 12, 2016.
[27] "Review of Taxicab Regulatory Changes," 24.

Chapter 996, Section 996-72

Similarly, the requirements that taxicabs older than 10 model years be retired is a mandated business practice that prevents entrepreneurs from providing service with an older—but still safe—vehicle.[28] In the same way, the requirements that taxicabs be equipped with a certified taximeter,[29] have a permanently affixed top light,[30] and be painted in a given color scheme increase the cost to enter the market.[31] This means that low-income entrepreneurs may find it harder to start businesses. Mandating a minimum quality of service will reduce the availability of low-cost services, meaning that low-income people will have less access to transportation. In this way, anticompetitive regulations can completely cut off access to service for certain groups of customers.

Chapter 996, Section 996-84

The restrictions on when and how a taxicab company can change fares limits the entrepreneur's ability to respond to new information in the marketplace (such as the development of a new technology, the emergence of a new competitor, or the discovery of a new group of customers). As such, they create a mandated business practice that inhibits innovation.

Chapter 996, Section 996-86 and Section 996-89

The restrictions on how charges can be levied and the maximum rate on the charges similarly inhibits new kinds of business models from being developed, especially those oriented to serving customers in niche markets, such as elderly or disabled persons or those people needing immediate service.

Section 996-89 is also illustrative of another lesson: When prices are set by policymakers, rather than by market forces, they may never be updated to reflect new information and new valuations of the services. It appears that the maximum taxicab fare permitted by law has not been updated in over 21 years.

Chapter 996, Section 996-106, Section 996-123, and Section 996-124

These sections provide good examples of how regulations can mandate particular business practices (procedures regarding waiting times, billing during traffic delays, vehicle aesthetic maintenance, and the driver's dress code), rather than leaving decisions about business operations up to the service provider. Stipulating the particular ways that service may be legally provided can distract or even forestall entrepreneurs from brainstorming new ways to satisfy customers, reducing competition and its associated benefits.

OPPORTUNITY TO RETHINK TAXI REGULATIONS

The state legislature's passage of a transportation network company (TNC) law that prohibits municipalities from enacting their own TNC regulations, while likely aggravating to city leaders, offers Indianapolis an opportunity to rethink taxi regulations and what rules are truly necessary. Des Moines, Iowa, facing the exact same situation, recently completely repealed its taxi regulations, effectively

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[28] The alternate, goal-oriented approach would require that taxicab companies prove their vehicles meet a given safety standard and establish penalties for noncompliance.

[29] A taximeter would understandably seem to be a requisite for a taxicab, but there are other methods of calculating payment for service, such as fixed fees or zone-based fees. These payment structures do not necessitate the investment of a costly taximeter, meaning that low-cost service providers might choose to employ those means of fare calculation.

[30] A permanently affixed top light increases not only the cost to enter the taxicab market, but also the cost to *leave* the market, since it lowers the resale value of the vehicle. This reduced ability to gain salvage value from capital investments represents another type of barrier to entry.

[31] Having a particular paint job is useful to avoid the asymmetric information problem for customers, but mandating such a paint job is not necessary because there is already sufficient incentive to build a high-quality brand to attract customers. Mandating that taxicabs be painted differently than an ordinary passenger car keeps out those entrepreneurs who don't initially have the funds for a new paint job.

allowing the taxi industry full freedom to compete with state-regulated TNCs.[32] In a recent policy paper, my colleagues and I suggested a process by which city leaders could reexamine their current taxi regulations.

Step 1

The evidence presented here suggests that Indianapolis would be well served if anticompetitive taxi regulations were eliminated. Specifically, policymakers should pass legislation that sets an ambitious goal of eliminating regulations that are anticompetitive, especially those that raise substantial barriers to entry, privilege incumbent businesses, or discriminate against certain business models.

Step 2

Policymakers should establish an independent commission charged with examining the jurisdiction's regulations. The commission's first task should be to identify the anticompetitive aspects of current regulations. It should be comprised of a wide variety of individuals, including consumer representatives and third-party experts with no financial stake in the taxicab industry. This is because the history of taxi regulations has shown over and over again that such regulatory study commissions are often captured by taxi industry special interests and the resulting regulations favor established companies at the expense of customers and new entrepreneurs. As a result, the clear and explicit mission of such a commission should be to create an open and egalitarian regulatory environment that specifically avoids creating barriers to entry or price controls.

Step 3

The independent commission should be charged with setting a comprehensive path toward creating an open and level regulatory environment with as few restrictions on entry, price, and business models as possible. A process for implementing this is shown in table 1. The commission should start from a blank slate of zero regulations to avoid being influenced by status quo bias. Critically, any regulations that are deemed necessary should focus on requiring compliance with a goal—allowing entrepreneurs to continually innovate to find the best and least costly solutions—rather than mandate the method to achieve that goal.

CONCLUSION

Indianapolis has an excellent opportunity to revise transportation-for-hire regulations in ways that allow the natural interplay that occurs in markets: Competition between sellers to attract buyers that leads to better and lower-cost service. Most cities have entire neighborhoods and communities that have not been adequately served by taxicabs because of anticompetitive regulations lingering from a prior era. There is good evidence that TNCs and taxis, unburdened by such regulations, have started addressing these problems in underserved communities.[33] With the right reforms, Indianapolis can illustrate how to further free the creative energy of entrepreneurs and serve its own citizens better in the process.

Thank you for inviting me to speak with you today about taxi regulation in Indianapolis. I look forward to answering any questions you may have.

[32] Des Moines City Council, "Ordinance 15,540" (2016).

[33] Jared Meyer, "Uber-Positive: Ride-Share Firm Expands Transportation Options in Low-Income New York" (Issue Brief No. 38, Manhattan Institute, September 2015); "Illinois Issues: How Uber and Lyft Are Catering to Communities of Color," *Peoria Public Radio*, November 11, 2015; McGrath and Sanders, "Ride Sharing."

Table 1: Guidelines for Privilege-Free Regulatory Rulemaking

Start with a Blank Slate	Policymakers should approach their task using a fresh perspective, asking themselves: "If I were to design regulations today, what would they look like?"
Define the Nature of the Problem	Begin by identifying a systemic market failure that the regulation aims to address. This step requires the policymaker to clearly explain how the normal process of market competition is not working and assess the factual basis for this market failure. The desire to simply improve a product or service falls far short of justifying regulatory intervention.
Identify Alternative Solutions	If a systemic market failure has been identified, the next step is to develop reasonable ways to address it. The list of options should include reducing existing regulations and doing nothing. These options are important to consider because the current set of public policies might be contributing to failure (e.g., through regulatory capture). Ultimately, there may be no need for regulatory intervention if other approaches resolve the problem more effectively than regulation (especially if there is an entrepreneurial incentive to solve the problem privately).
Define the Expected Costs of Each Alternative	Every available option will require tradeoffs of some sort, and regulators must identify the expected costs—both monetary and nonmonetary—associated with each. Regulators should also explicitly recognize the potential for unintended consequences of regulation (such as regulatory capture) and attempt to include these difficult-to-quantify unknowns in their qualitative analyses.
Define the Expected Benefits of Each Alternative	The benefits of each alternative need to be identified, defined, and quantified as much as possible. Importantly, maintaining the profitability or continued existence of established firms should not be counted as a benefit of regulation. Such artificial protections of industry come at the expense of consumers, taxpayers, would-be competitors, and future economic growth.
Compare Benefits and Costs	Once the benefits and costs of each alternative have been identified, defined, and quantified, the tradeoffs of regulation can be systematically and transparently evaluated. In cases where the benefits and costs cannot be accurately quantified, the subjective nature of these tradeoffs should be explicitly acknowledged and discussed.