



Shifting Perspectives

REDESIGNING REGULATION FOR
THE SHARING ECONOMY

MaRS Solutions Lab

Sharing Economy Public Design Report **Executive Summary**

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MaRS Solutions Lab is an innovation lab that helps to solve complex social challenges and helps build a strong innovation economy. The lab develops new approaches and brings together stakeholders from across society to help solve these problems collaboratively. It uses systems and design thinking, and builds on leading practices from similar labs around the world. The lab also helps governments to modernize their policies and public services to keep pace with changes in society, and equips people and organizations with tools and techniques to create change. MaRS Solutions Lab is part of MaRS Discovery District in downtown Toronto.

For more information, please visit our website: www.solutions-lab.marsdd.com
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Executive Summary

The rising popularity of the sharing economy is not only disrupting existing markets, like transportation and accommodation, but it is also forcing governments to rethink regulation for these and other affected markets. It's an issue that is being fiercely discussed in the media, in everyday conversations and in city councils across the globe. Many strong opinions and solutions have been brought forward, but do we really know what's going on? Regulation remains elusive as it is a complex problem without an easy solution.

The Sharing Economy Public Design project, a partnership between MaRS Solutions Lab, the Province of Ontario and the City of Toronto, applies a design perspective to this complex problem. By looking at regulation from the perspective of users, and by thoroughly mapping out the user experience, we were able to gain a much deeper understanding of the challenges at hand. We interviewed over 136 individuals, including taxi drivers, uberX drivers, hotel managers, Airbnb hosts and many others who are subject to regulation. We also convened 100 relevant stakeholders to validate our analysis and help co-design

possible solutions. We brought together regulators from all three levels of government (municipal, provincial and federal), industry representatives (e.g., from the taxi and hotel industry), sharing economy companies (e.g., Uber, Airbnb), insurers, agencies like Metrolinx, and other experts. In three different workshops these individuals helped to develop ideas for effective regulation, which can be defined as regulation that creates public value, supports innovation and reduces administrative burden.

The 'sharing economy' is a paradigm of peer-to-peer lending that enables the sharing, borrowing or bartering of underutilized assets in exchange for goods, services or money. Ultimately, it describes transactional relationships that shift the value from ownership to that of access, where assets of all kinds can be made available on a short-term basis. It is a fundamentally community-driven approach. While the term 'sharing economy' has come to broadly encompass all forms of peer-to-peer activities, many other terminologies more specifically differentiate between service-based activities, such as

the 'gig economy' (e.g., Uber, TaskRabbit) and 'collaborative consumption' (e.g., Toronto Tool Library, Rent Frock Repeat). Technology plays a key role as it allows for the creation of platforms and networks that can reach massive scale within a short period of time.

Cities are the main places where the rise of the sharing economy is felt most. The key challenge for cities is not just to know how to respond, but how to help build a sharing economy that benefits the city. This requires cities to take a broader perspective and be proactive. To better understand what a successful city strategy might entail, MaRS Solutions Lab partnered with the City of Toronto to develop such a strategy, as a case study for cities across Ontario. Such a city strategy must be more than a government strategy. While government has a crucial role to play, many more actors need to be engaged to create a strong sharing economy. This is why MaRS Solutions Lab convened participants from across society to prototype and co-design an Action Plan for a Sharing City.

Step 1: Creating a vision

Developing a vision as a city is the first step in this process. Such a vision helps to get beyond a 'whack-a-mole' responsive approach, as a previous report by the Mowat Centre advised. This city vision should align with the city's identity and strengths, be time-bound and help unite partners across the city.

Step 2: Mapping the assets of the city

The next step is mapping the underutilized assets a city might have. These are assets that sit idle but could produce value once activated. These assets can be broadly classified into three groups: skills, stuff and space. We have included an additional concept: financial assets, which can be seen as the fourth '\$'.

Step 3: Identifying opportunities

After identifying the underutilized assets,

they can be matched with the key issues that a city faces, as well as the vision it has set out for itself.

Step 4: Defining Actions

This step defines the actions related to each selected opportunity. Each action should clearly state the associated objectives, actors, resources and planning.

Step 5: Supporting the strategy

The final step is supporting the strategy with the right resources and structures to help ensure implementation. Some elements of support were seen as critical, including support from the Mayor and City Council, a network of ambassadors across the city, and a supporting vehicle to implement the strategy. Several ideas that emerged from our workshops to support a city strategy included establishing an advisory council, learning from other cities or creating a sharing economy fund.

ACCOMMODATIONS

The impact of home sharing has been felt in many places across the world and its growth has been rapid. Since its introduction in 2008, Airbnb has led the market with over 2,000,000 listings and 60,000,000 guests worldwide.¹ In Ontario, 11,000 hosts have listings and more than 375,000 people visited Ontario through an Airbnb in the past year.² Based on the research, six key implications for regulation have been identified:

1. Clear Thresholds: Home sharing is a primary residence a maximum of 180 days a year

Our research revealed a lack of clarity in the existing frameworks for defining styles of accommodation. The first issue that helps to define styles of accommodation more clearly is type of residence. Fundamentally, home sharing is about sharing your own home, your primary residence. If it is a secondary residence or a commercial property being rented, it is no longer considered home sharing. Related to this is the maximum number of nights per year that a space is rented out. Many cities have put a cap to reinforce the notion that home sharing is only meant for your primary residence. The simplest solution is a maximum at 180 days per year meaning the owner would have to live there more than 50% of the time. We suggest implementing these and other thresholds that define the rest of the accommodations market under a 12-month probation period to study the possible effects.

2. Pilot for Burden Reduction for Existing Operators

Many of the hotel operators we spoke to indicated that while safety regulation is necessary and important, the implementation and inspection processes create frequent time and financial costs on businesses. It was not a question about the intent of regulation, but about improving the implementation, enforcement and communication of it. Issues with health and safety inspections and the frequency of fire safety inspections were most commonly reported. We suggest

that governments and industry arrange a 12-month burden reduction pilot to test out new approaches and improve communication of obligations, before scaling them across the entire industry. This pilot should be run alongside the implementation of the home sharing regulation mentioned earlier.

3. Tax Compliance: Clear definitions and a possible tax exemption

Understanding the differences between rental and business income requires clearer definitions. First of all, many are confused by the difference between income tax and HST. Rental income is only subject to income tax; the same applies to home sharing. This classification changes, however, when services are being offered like daily linen changing or breakfast. It is suggested that the CRA communicate more clearly about this. Tax obligations and thresholds should be communicated loud and clear to hosts. The Province of Ontario and Airbnb already created a partnership to do so. It is recommended that the CRA do the same. While there is burden for residents to report their taxes, there is also burden for the government to process them. The CRA could incorporate the UK model of a room rental tax exemption to prevent tax filings that cost more to process than is being collected.

4. Piloting Condominium Regulation Models

Condominium boards are increasingly placing minimums on short-term leasing from six to even 12 months. With an independent set of building regulations allowed by the Condominium Act, all condo dwellers must abide by them and they cannot be overridden by outside regulation. This limits the activities of condo owners within their homes and has contributed to underground activity. Condominiums should address this tension and consider ways to bring the activity above ground, while also maintaining the safety and enjoyment of fellow condo dwellers.

An education and communication program that encourages ongoing and open dialogue would improve owners' awareness of their condo by-laws while helping to inform condo boards and owners of home sharing. A review of the Condominium Act to lower the percent vote required to overturn a by-law would help facilitate the possibility for model condominium regulation pilots to be implemented. Harmonizing standards in the pilots, such as introducing thresholds as mentioned earlier, could help clarify what can be allowed and consequences for not complying.

5. Destination Marketing Program (DMP)

Unlike many other parts of the world, a hotel tax does not formally exist in Ontario any longer. Municipalities now operate with Destination Marketing Programs that give local hotel associations the ability to collect a percentage of the hotel room price as a fee to use towards tourism promotion. This works, but our research has also revealed its limitations. Hotel operators outside of the city core see little benefit in participating. Customers and news reports have drawn attention to the fee and are requesting that it be removed from their bills, creating tension between hotel staff who understand it as a service charge disclosed as part of the booking, and customers who get upset at what they believe is a lack of transparency. There is hesitation from both government and industry to initiate a new tax and bear the burden of scrutiny as to how it is spent. While the industry urges home sharing platforms to participate in the program; as a fee, it is up to the host – not Airbnb – to make that decision. However, the City of Toronto is considering creating a new hotel tax. There are two solutions:

Solution 1: Continue the Destination Marketing Program as a voluntary fee operated by local hotel associations and increase transparency to consumer and hotel staff. Airbnb could invite individual home sharing hosts to participate via the platform (similar to individual hotels), and make clear they can only use DMP produced materials if

they participate.

Solution 2: The Province allows municipalities to create a tourist tax for all short-term accommodation styles and revoke the DMP fee, but includes a provision for 50% of collected tax to be set aside for tourism marketing. Home sharing platforms like Airbnb would be required to contribute by collecting and remitting.

6. Data and the Network Impact

Data has helped business operators to improve or maintain a high-quality product through online review systems. These rating systems have become the new normal, but data can also help to better communicate the trends in accommodation, or the impact on the city. This could help with city planning, space asset management, and better understanding of local neighbourhood economies. For the pilots proposed as part of the solutions presented in this report, data will play a significant role in identifying trends and determining leverage points during testing. The quality of the data points will be key. Engaging and incentivizing platform operators and their users to share their data willingly will be important in gaining access to accurate data for an evidence-based regulatory process.

TRANSPORTATION

The region's existing transportation infrastructure is plagued by chronic congestion, which is leading to long commute times, loss of productivity and lots of daily frustration for thousands of Ontarians. Entrepreneurs are using the unreliable access to public transit and the region's gridlock as a catalyst to innovate. Through app-based service models, shared mobility has scaled much faster, beyond what was once imaginable. While there is no independent analysis of the economic impact, Uber claims to have 15,000 driver-partners in Toronto who are essentially competing with 10,000 licensed Toronto taxi drivers. While the sharing economy is adding value for consumers and offering alternate ways to get around, it has also blurred the lines between personal and commercial activities, effectively challenging the grey zone of regulation.

In both the existing and new models of vehicle-for-hire services, most of the risk and opportunity costs are downloaded onto the driver. And on both sides, there are either barriers or gaps in regulation that need to be addressed. Our research has identified seven key issues:

1. Certifying the driver: Everyone needs to be vetted

From a public safety perspective, it is undesirable to have unlicensed drivers on the road. This is also what the public expects. Regardless of the platform, these three elements of licensing should be upheld:

- o **Driver screening:** Every driver should have a proper background check (both criminal and driver history). The city should set the requirements and empower the brokerages to administer it, with the city conducting periodic audits.
- o **Vehicle inspection:** Every vehicle is inspected before it goes on the road and during operation, depending on the frequency of use. All vehicles should also be held to safety and environmental

standards to be set by municipalities.

- o **Insurance:** Every vehicle needs to have the appropriate insurance coverage.

In addition, the following licensing solutions are suggested:

- o **Flexible licensing fee:** Set up a fee structure for a transportation network company and another for drivers. For example, instead of paying a flat annual fee, uberX drivers could pay a fee for service on each ride.
- o **Establish a transportation network company classification:** Establish a new license model for so-called transportation network companies (TNCs), also known as app-based service models (ABSMs) and private transportation providers (PTPs), to reflect the difference in business model.
- o **Revisit the role of brokerages:** The City should re-assess the responsibilities and requirements of brokerages to reflect the changes describe above.
- o **Additional licensing considerations:** The city should review the relevance of other licensing requirements, like CPR and medical certification, as they add limited value.

2. Training: Re-design training to make it more effective

Taxi drivers we spoke with have found the training to be onerous and out of touch with the experience of driving. Meanwhile, none of the uberX drivers we spoke with went through a training program. Instead, some watched a short orientation video. However, once on the platform, uberX drivers receive instant feedback on their service and weekly emails on how they could improve their score. These differing approaches to training is why we suggest making the following changes with regards to training:

- o **Basic training requirement:** Municipal Licensing and Standards (MLS) sets the standard training requirements (i.e., what every driver should get trained on) but leaves it to the brokerages and TNC to design and deliver training programs.
- o **Targeted feedback:** Encourage brokerages and TNCs to move from standardized and generic training to a personalized and targeted feedback model. Brokerages and TNCs can remove repeat offenders from their platforms, and it should be made easier to revoke a license.

3. Insurance: Ensure accurate coverage of all drivers

One of the most pronounced issues to emerge from our work was the question of insurance. The sharing economy is turning the owner-operated model of auto insurance to one of shared access that blurs the line between private and commercial use. The following solutions are suggested:

- o **Close coverage gaps for ride-sharing:** The key problem is coverage for the driver. Government should mandate adequate insurance but remove barriers to enable the rapid approval of new products. Currently, there is only one product available on the market for uberX drivers (Aviva insurance). In other jurisdictions, mainly in the US, there are insurance policies with flexible premiums, based on types of use (personal or periods of activity) that have been introduced. These kinds of hybrid products are needed for the Ontario market.
- o **Lower the cost of commercial insurance for taxicabs:** The cost of insurance was identified as the single most burdensome aspect of being a taxicab driver, ultimately limiting their ability to compete with Uber. Taxicab drivers are paying anywhere from \$4,000 to \$7,000 a year for commercial insurance. They are being charged for their exposure to risk, not necessarily their driving history. A policy should be developed that allows for cooperative-based insurance that rewards drivers

with a discount for good behaviour. Telematics should also be leveraged to base premiums on the individual driver. The Ministry of Finance and Municipal Licensing and Standards should convene a task force comprising stakeholders from the insurance and taxi industries to review existing regulations and identify areas for changes in legislation.

4. Pricing Models and Payment Methods:

A fair level playing field amongst taxi drivers and private transportation providers is hard to achieve when one fare is regulated while the other is not. The following is being suggested:

- o **Dynamic pricing set by brokerages and TNCs:** Deregulate pricing to create a fair level playing field. Let the brokerages and TNC decide on pricing in order to compete amongst each other in an open market. Street hail, where customers have less choice, should have a fixed rate. Pricing should be made clear to consumers before they make a decision to use a taxi or a ride-hailing service.
- o **Cashless transactions to reduce fare evasion and ATM fraud:** Fare evasion is a persistent threat that taxi drivers face. To minimize their risk, they profile passengers and become selective about which neighbourhoods they go to, which is undesirable. Furthermore, more and more passengers are concerned they will become victims of ATM fraud. The industry should promote and support the shift toward cashless transactions.

5. Accessibility:

In response to the Accessibility for Ontarians with Disability Act (AODA), Toronto's Accessible Taxicab Strategy envisions a 100% wheelchair accessible fleet by 2025. Accessible ground transportation is an important service that needs to be improved in order to reduce wait times and costs associated with accommodating passengers with disabilities. However, the costs associated

with ensuring that all taxicabs are wheelchair accessible is one that is downloaded onto the driver. Taxi drivers claim it costs upwards of \$70,000 per year to keep a wheelchair-accessible car on the road, including retrofit, maintenance, and associated increases in gas and insurance. Is a 100% accessible fleet the best way to ensure 100% accessibility? Meanwhile, ride-hailing companies like Uber are already complying with accessibility laws and are in many ways ahead of the curve, as they innovate on-demand service through partnerships. The following solutions are suggested:

- o **Spread the cost:** The cost of providing accessible service should not be the burden of the passenger, nor should it be the burden of the taxicab owner or driver. Instead, this cost should be spread out across the industry through licensing fees. This fund can then serve as a subsidy program to help drive down the cost of retrofitting vehicles for prospective Toronto Taxi License (TTL) taxicab owners and drivers.
- o **Improved Partnerships:** MLS, Toronto Transit Commission (TTC) and the taxi industry should coordinate their service delivery plan to increase on-demand accessible transportation in order to avoid duplicity and to see where each can complement the other.
- o **Share the load:** Incentivize brokerages and TNCs to work together to meet the need by sharing the load. In Portland, Uber and Lyft didn't have enough wheelchair-accessible vehicles in their fleet so they created a cost-sharing model with wheelchair-accessible taxis by transferring all calls of service that came through their respective platforms to those taxis.

6. Tax compliance:

Taxi drivers need to register and start collecting HST at \$0 under the Income Tax Act. If the city were to regulate Uber's fares, uberX drivers would not automatically need to start collecting HST at \$0. The Canada Revenue

Agency (CRA) would have to determine that Uber drivers are the same as taxis. Whether that requires a full legislative amendment to the Income Tax Act is not clear. The Uber app does not allow drivers to collect HST on each fare, meaning that they would have to keep track of HST collection themselves. Most Uber drivers we spoke to drove part-time (less than 10 hours per week) and would not be meeting the threshold of \$30,000 required for HST. While most drivers understand that they are responsible for filing their taxes, they are generally not clear about what their exact tax duties are. The following is suggested:

- o **TNCs also need to charge HST:** Transportation network companies like Uber should be required to charge HST on fares, so that both passengers and drivers are able to claim deductibles.
- o **Communicate tax obligations clearly:** The Canada Revenue Agency should develop clear communication in non-legalese language about the tax duties of those engaging in the sharing economy.
- o **Allow taxi drivers an HST threshold of \$30,000:** As taxi drivers are self-employed, they should be allowed the \$30,000 HST threshold like any other self-employed individual. It makes sense to have both taxi drivers and Uber drivers collect and remit HST, but with a \$30,000 threshold. If that principle is applied, it could lead to a significant increase in taxi drivers' yearly incomes and would require legislative change.
- o **Data-sharing with CRA:** Transportation network companies should collaborate with the Canada Revenue Agency by sharing a list of the drivers on their platforms who meet the \$30,000 threshold.

7. Data:

Governments should enable and encourage a seamless multi-modal network of transportation that includes these new data-driven and app-based models of social transportation. Shared mobility needs to be

a vital part of that network. The following suggestions could be part of such a strategy:

- o **Mandate a minimum provision of data:** Government should mandate a minimum level of data provision from any commercial users of roads, so that we have the data needed for evidence-based policy-making.
- o **Create a data aggregation body:** A trusted transportation data aggregation body should be created in order to assess, monitor and act on ways to leverage transportation network companies in a data-driven deployment of resources.
- o **Develop data-driven dynamic transit models:** New models of dynamic allocation of transit resources should be implemented, rather than relying on fully-fixed or schedule-based TTC resources. We should incentivize single-occupancy drivers to share their commutes by incorporating all types of shared mobility into a seamless multi-modal transportation network. Further, dynamic mobility pricing should be used to change commuter behaviours, manage congestion and offload peak travel pressures from the transit system.

CONCLUSION

To conclude this report, here are some general reflections.

Regulation for new entrants must also mean relief for existing operators

When it comes to introducing regulation for the sharing economy, governments should not only look at regulating new activities, but also use this opportunity to revisit current regulations to reduce burden for existing operators.

It's more than regulation

Governments and other stakeholders should not just think of the sharing economy as something to respond to. They should think about what kind of sharing economy they want, and then develop a proactive strategy that helps build that sharing economy. Importantly, it should be a strategy that helps to create more homegrown startups in the sharing economy right here in Ontario.

Create effective regulation using technology and data

Effective regulation is easy to understand, easy to follow and easy to enforce. Using technology and data smartly is critical to help governments create effective regulation. Governments are no strangers to data; they are already gathering and managing a lot of information. The challenge is to put them to use, and make smart connections with data from other sources like sharing economy companies, to help create better public value against lower costs.

To harmonize or not to harmonize?

There is no single solution to a complex problem. Many actors need to be involved and have a role to play: regulators at all three levels of government, across different ministries and agencies; industry representatives; and other stakeholders. However, local context matters, and cities should still be in the lead here. Nevertheless, it seems undesirable if the differences between cities vary from one extreme to another. The Province should play a role in creating a certain degree of harmonization.

Keep on learning

The final lesson in this report is about the need to experiment and learn. To deal effectively with a complex challenge, like regulating the sharing economy, where technology continues to evolve and disrupt is not an easy feat. Traditional approaches to regulation no longer fit and the consequences of new regulation are largely unknown. We encourage governments to keep on learning when they are putting in place new regulations and, where possible, to actively experiment.

MaRS Solutions Lab is honoured to have partnered with the Province of Ontario and the City of Toronto to apply this new approach to policy-making. This partnership can be considered a great example where government is organized around the problem, instead of organizing the problem around government.