OLR RESEARCH REPORT

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OLR BACKGROUNDER: THE "SHARING ECONOMY" AND PUBLIC POLICY

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INTRODUCTION

Information and telecommunications technologies have reduced transaction costs, making it cheaper and easier to share assets on a large scale. Internet-based sharing services allow individuals as well as firms to share cars, rides, or rooms. In the "peer-to-peer" sharing model, a firm offers an Internet platform for individuals offering goods or services. Examples of firms using this approach include Airbnb (short-term housing) and Uber (ride-sharing). In contrasts, for firms such as Zipcar, the company owns the good being rented or directly provides a service. Some of these "sharing economy" firms, such as Zipcar and Airbnb, are currently operating in Connecticut while others such as Uber are not. The website shareable.net, which focuses on the sharing economy, notes it exists, at this time, almost entirely in legal grey areas.

Sharing firms have gained increasing attention and financing in recent years. In 2013, Uber disclosed that it had raised more than a quarter of a billion dollars in venture-capital funding, most of it from Google. Moreover, there is no longer a bright line between the share economy and conventional firms. In 2013 Avis Budget Group paid $500 million for Zipcar, despite the fact that the firm only generated a profit of $4.7 million over the past year.

This report discusses sharing economy initiatives in transportation and short-term housing. It identifies policy issues and related legislation, administrative proceedings, and litigation. Among the policy issues raised by the sharing model are:

1. should states promote sharing services;

2. should the services be regulated in the same way as traditional providers (e.g., car rental and taxi firms or hotels), left unregulated, or something in between;

3. what public safety and consumer protection provisions should apply;

4. what insurance requirements should apply to service providers; and

5. how should shared service providers be treated for tax purposes.

There are firms in other sectors of the economy that share goods and services not discussed in this report, as diverse as boats, household tools, and pet-boarding services. There has been extensive coverage of the sharing economy in the press, with recent articles in periodicals such as *The New York Times*, *The Economist*, and *Fast Company*, among others.

TRANSPORTATION

Car-sharing Companies

Car-sharing provides members of the providing firm with a vehicle when needed, allowing them to avoid the costs associated with vehicle ownership. Typically, several members access a shared vehicle during a given day. Vehicles are most frequently parked in dense urban areas with good public transportation services. Car-sharing services are also common in university towns.

Car-sharing differs from traditional car rentals in that:

1. car-sharing is not limited by office hours;

2. reservation, pickup, and return are all self-service;

3. vehicles can be rented by the hour, as well as by the day;

4. car-sharing typically does not offer uninsured, under-insured or personal injury protection insurance; and

5. fuel costs are included in the rates.

The largest car-sharing service is Zipcar, which was founded in 2000. According to March 7, 2013 press release, Zipcar had nearly 800,000 members and offered nearly 10,000 vehicles in Canada, Europe and the United States. Zipcar has a dozen locations in New Haven. There are two locations in Hartford, two in Middletown, and one in New London.

Members can view vehicle availability and reserve a car using the internet or by phone. They are given an access card with a wireless chip that opens the reserved vehicle at the time they have reserved it. The reservation covers the driver's insurance and includes a gas card for the car and reimbursements for maintenance items like car washes and window wiper fluid refills. A member can reserve and use a Zipcar in any Zipcar city. The vehicles are fueled and insured for up to 180 free miles per day. Members can send a text message to extend a reservation and get reminders at the beginning and end of a reservation. The service provides 24-hour roadside assistance and a member services hotline. Members are reimbursed for fuel obtained at gas stations that do not accept the gas card.

Although Zipcar is the largest car-sharing company, several vehicle rental companies have launched their own car sharing services, including Hertz; Enterprise; and U-Haul. Nationally, Hertz has 2,600 vehicle sharing rental locations and has recently begun placing its rental facilities in Lowes and Walgreens stores, including locations in 18 towns in Connecticut. Enterprise car-sharing operates in 20 metropolitan areas in 14 states, including Boston, Chicago, Houston, Miami, New York, Philadelphia, as well on more than 70 college campuses. It also develops custom car sharing programs for universities, businesses, governments, and organizations. U-Haul's program primarily serves college towns. In addition, there a number of single city initiatives such as Community Car (Madison, Wisconsin) and TimeCar (Oklahoma City).

Another approach allows individuals to offer their private vehicles on a short-term basis to others. For example, RelayRides, which operates in much of Connecticut, allows vehicle owners to list their cars on-line. The owner is notified of and gets to approve any reservation requests.

RelayRides screens renters, who must:

1. possess a current valid driver's license,

2. possess a mobile phone in the renter's name that can be verified through text message, and

3. be at least 21 years of age (if under 25, the renter must demonstrate two years of driving history).

Renters may not have major driving violations, more than two minor violations in the last three years, or more than one minor violation in the last year.

The owner meets the renter to check his or her driver's license and hand over the keys (in some cases the owner can arrange for the renter to access the car by using his or her smartphone).

RelayRides provides liability insurance for the vehicle owner of $1 million per incident and physical damage protection up to the vehicle's value. Renters can choose one of three supplemental insurance options.

The vehicle owner sets the rental rate, which ranges from $4.50 per hour for a 1997 Honda Civic in the Hartford area to $99 per hour for a 2012 Jaguar in Greenwich. The owner receives 75% of the rental price and excess mileage charges. RelayRides will reimburse an owner who incurs any charges directly attributed to a renter not following policy, e.g., receiving a parking ticket. The renter is responsible for replacing the gas used during the reservation.

According to research conducted by the Transportation Sustainability Research Center at the University of California, Berkeley, as of July 2012, 26 U.S. car-sharing programs claimed 806,332 members sharing 12,634 vehicles. Between January 2012 and January 2013, car-sharing membership grew 24.1% in the United States.

Ride-sharing

Rather than offering vehicles on a short-term basis, firms such as SideCar and Lyft offer Internet applications that connect participating vehicle owners and people who want a ride. For example, with SideCar, a passenger verifies his or her location on the app and enters the destination. A request goes out to nearby drivers who offer rides using the app. When a passenger requests a ride, SideCar sends a photo of the driver and his or her car and tracks the vehicle to its destination. The app indicates a suggested “donation” to be paid to the driver through the app and allows the passenger to rate the driver for future users. The firm currently operates in Boston, Chicago, Los Angeles, San Francisco, Seattle, and Washington, D.C.

SideCar conducts background checks on drivers, including driving while intoxicated (DWI) and other violations and sexual assault and other criminal offenses. It verifies and keeps on file every driver’s insurance information, registration, and driver’s license. Sidecar provides drivers with a $1 million per incident liability insurance policy. It also interviews and trains every driver before they are allowed to pick up rides.

Other ride-sharing firms have similar provisions. For example, Lyft requires drivers to be 23 or older with a U.S. driver’s license for one or more years, with no more than two moving violations in the past three years and no DWI or other drug-related driving violations in the past seven years. Drivers must have valid personal auto insurance that meets or exceeds state requirements. Lyft provides supplemental insurance coverage of $1 million per incident.

To request a car, riders need to download the Lyft app to their iPhone or Android-based phone, sign-in through Facebook, and enter a valid phone number and credit card details. When a passenger wants a ride, he or she opens the app and sees a map displaying the locations of the nearest Lyft drivers. After tapping to request a ride, the app shows the driver’s name, his or her rating by past passengers, and photos of the driver and their car. Drivers receive 80% of the total donations received from passengers and drivers and passengers can rate each other. Lyft drops any driver averaging less than a 4.5 star rating by users. According to an article in the May 23, 2013 edition of Time, the company facilitates over 30,000 rides per week in the four cities where it operates (Chicago, Los Angeles, San Francisco, and Seattle).

A variant of this model focuses on airport parking. RelayRides recently began a service in which car owners can park for free at San Francisco International Airport in exchange for allowing RelayRides to rent out their cars while they are gone. Insurance is included, in much the same way as it works for car-sharing companies like Zipcar. The free parking also comes with a car wash and a full tank of gas.

Bike Sharing

Bicycle sharing systems are a service in which bicycles are made available for shared use to individuals for short periods, often less than one hour. In the United States they are most common in major cities although there are seasonal programs in three Connecticut towns.

Capital Bikeshare, a program owned and sponsored by the District of Columbia and Arlington County and the city of Alexandria, Virginia began operation in 2010. The program, operated by Alta Bicycle Share, Inc., offers short-term use of more than 1,650 bicycles to registered members and day-pass users at more than 175 stations in the three jurisdictions. Users register for an annual or 30-day membership and receive a key that allows them to unlock a bike at any station. Users can return the bike to the same station or to any other station in the network, facilitating return and one-way trips.

In July 2011, Boston launched its 100-station, 1,000-bike Hubway system, sponsored by the shoe manufacturer New Balance and funded in part by a $3 million grant from the Federal Transit Administration. Citi Bike opened in New York City in May 2013, with 6,000 bicycles and 330 docking stations in Manhattan and Brooklyn. As of June 2013, Citi Bike is the largest bike sharing program in the United States. It currently operates in Manhattan and Brooklyn and offers 24-hour, seven-day, and annual passes. Other cities with bike sharing programs include Chattanooga, Chicago, Des Moines, Miami Beach, and Minneapolis.

In Connecticut, Mystic, New London, and Simsbury have seasonal bike-sharing programs that operate on a different model. Mystic Community Bikes is the largest of these programs, offering eight locations. Participants must provide a driver's license or other identification and pay a $10 refundable deposit. The rental includes a helmet, lock, and map of the area. Fairfield and Yale Universities also have bike-sharing programs. In addition, in 2012, Bridgeport received a $1.6 million federal grant to create a city-wide bicycle route network and "bike-share" project.

Impacts of Transportation Sharing Programs

In 2011, researchers at the University of California published a study based on a 2008 survey of members of Zipcar and eight other car-sharing organizations, with responses from 6,281 households. The study did not provide data on the representativeness of (1) the respondents to car-sharing organization members or (2) members to the general population. Most (62%) of the respondents previously did not own cars, while 31% owned one vehicle. Similarly, a 2013 survey of participants in Washington D.C.'s bike-sharing program found that more than half of the more than 3,000 respondents, especially younger ones and those with lower incomes, reported that they did not have access to a car.

The California study estimated that between nine and 13 vehicles were eliminated for every car-sharing vehicle. Of those, four to six vehicles were eliminated as a direct result of joining car-sharing and the rest were avoided are not purchased as a result of membership. Five percent of the respondents in the Washington study had sold a household vehicle since joining the bike-sharing program and 81% of those members said the program was a factor in their decision to sell.

Advocates for car-sharing have argued that it not only reduces vehicle ownership, but also improves fuel efficiency, because car-share vehicles tend to be more fuel efficient than the average vehicle. The California study found this was the case with responding drivers trading vehicles with a fuel economy of 23 miles per gallon (mpg) for the use of shared vehicles with a fuel economy of 33 mpg.

The impact of car- and bike-sharing programs on public transit is mixed. Zipcar has worked with New Jersey Transit to establish car-sharing services at five transit stations. Zipcar has a similar partnership with the Metropolitan Atlanta Rapid Transit Authority. Bike-sharing programs routinely locate facilities at or near transit stops. Almost a quarter of the respondents to the Washington survey had used bike-share to get to the bus in the past month, and 17% had used it six or more times to access the metro system. At the same time, transit is the mode most likely to get replaced with bike-share trips: 61% of respondents say they ride Metrorail less often and 52% ride a bus less often. The impact was greatest for regular users; 72% of respondents who made 11 or more trips in the past month said they reduced their use of Metrorail, compared with 47% of respondents who made one or two trips.

Policy Issues

Proponents of sharing services argue that they give people more transportation options, reduce gasoline use and associated pollution, and support "smart growth." Skeptics argue that ride-sharing services are essentially unregulated taxi companies that may jeopardize public safety. Some commentators have also noted that shared transportation services may have negative effects on public transit, as well as the tax revenues that support highways.

Among the questions for policy makers are:

1. whether to promote shared transportation services and if so how,

2. how to regulate these services, and

3. how to treat them for tax purposes.

Policy makers could choose to allow markets to determine which of these services develop and grow. Policy makers who wish to promote shared services could provide funding for bike-sharing programs, designate parking spaces in public facilities for vehicles in car-sharing programs, or provide discounts for these spaces. Massachusetts allocated $3 million in federal transportation funding to help establish Boston's bike-sharing program. The District of Columbia began offering free on-street parking spaces to car-sharing operators in 2005 and later auctioned 86 curbside spots to three operators, generating almost $300,000 in revenue.

Local governments could require or encourage large developers to provide car-sharing parking spaces. For example, San Francisco requires that newly constructed buildings provide permanent car-share parking spaces and that certain nonresidential developments dedicate 5% of their parking spaces for this purpose.

Similarly, policy makers have a range of choices in the regulatory treatment of shared-services firms. They could treat these firms like conventional firms providing comparable services. For example, firms such as Zipcar could be treated like rental car companies and firms such as Lyft like taxi companies. Alternatively, they could be left unregulated, as they largely are under current law. They could also be subject to some, but not all, of the regulations that apply to conventional firms. For example, shared ride firms could be required to carry insurance, have participating drivers subject to the licensing requirements that currently apply to taxi drivers, and have their vehicles inspected, but not be regulated as to the rates they charge.

Policy makers also have choices on how to tax shared services firms. The firms are subject to generally applicable taxes, such as corporate income and property taxes. But the growth of such firms may reduce gasoline tax revenues, which in Connecticut support not only highways but also mass transit. Participation in car- and bike-sharing programs can allow a household to reduce the number of vehicles it owns and use the remaining vehicles less frequently.

While shared services firms primarily operate in major cities, the growth of such firms could reinforce broader trends that have worked to reduce gasoline tax revenues. While vehicle miles travelled had grown consistently for most of the past century, this growth peaked several years ago and has been flat since then. Young people are delaying when they obtain their licenses and first cars. Vehicles are becoming more fuel efficient and this trend will continue into the future as efficiency standards tighten.

While a decline in gasoline tax revenue may harm transportation funding, the money not spent on gasoline and other car-related expenses would likely be spent in the local economy. This could increase local economic activity and thus local and state taxes.

Regulatory Actions and Litigation

California. The San Francisco Municipal Transportation Agency, which oversees taxi operations in the city, issued a cease-and-desist order alleging that Uber was an illegal taxi operation. Similarly, the Los Angeles Department of Transportation sent cease-and-desist letters to Uber, Lyft, and Sidecar claiming they were operating unlicensed commercial transportation services. The San Francisco airport also tried to stop ride sharing services from running in its jurisdictions.

In October 2012, the California Public Utilities Commission (PUC), which regulates livery car companies in the state, subjected Uber, Lyft and SideCar each with $20,000 fines and a cease-and-desist letter ordering them to halt operations and stop picking up passengers. It claimed that SideCar and Lyft lacked the required charter party carrier permits that ensured that drivers are properly licensed, screened, and insured to carry commercial passengers.

In December 2012 the PUC agreed to evaluate how to best regulate the services. In September 2013, it issued a rule rejecting Uber and SideCar's argument that they are simply providers of internet-based services and therefore exempt from its jurisdiction. It also rejected their argument that payments for rides arranged through their apps were voluntary and instead found that the companies transported people for compensation and were subject to the PUC's jurisdiction. The PUC also found that the rides the companies provide are pre-arranged and thus they are not taxis.

The rule establishes a new regulatory category of "transportation network company" to cover the companies, thereby legalizing their services. Under the rule, companies that get approved under the new license to operate ride-sharing services would be required to:

1. establish a driver training program;
2. implement a zero-tolerance policy on drugs and alcohol;
3. hold a commercial liability insurance policy that is more stringent than the requirement for limousines, requiring a minimum of $1 million per-incident coverage for incidents involving vehicles and drivers in transit to or during a trip; and
4. conduct a 19-point car inspection.

In addition, drivers would have to undergo a criminal background checks of all drivers. SideCar and Lyft say they already comply with all the proposed new requirements, other than the new licensing that is being instituted.

In September 2013, a class action lawsuit was filed in federal district court in San Francisco. The plaintiffs challenge Lyft's policy of classifying drivers as independent contractors, unprotected by state labor law. It also argues that because the drivers are in fact employees, Lyft's policy of taking 20% of gratuity payments given by riders violates state law that prohibits an employer from taking any amount of gratuity given to an employee. It also challenges Lyft's practice of failing to provide its drivers with wage statements that accurately reflect, for example, their hours worked or rates of pay as well as Lyft's practice of failing to reimburse its drivers for mileage costs in violation of state labor law.

New York City. Historically, in New York City taxis were not allowed to take pre-arranged rides, while livery cars were not allowed to pick up passengers hailing cabs. The livery car companies say that taxi-hailing apps currently on the market would hurt their business because it means taxis would be able to compete with them.

In December 2012, the New York City Taxi and Limousine Commission voted to allow such apps in a yearlong pilot program. The program was expected to go into effect in March but became the subject of a lawsuit filed by livery car companies and others. The suit was dismissed in April 2013 and the commission allowed ride-sharing apps in a pilot program.

Austin. In February 2013, the city's Transportation Department sent SideCar a cease and desist letter that alleged it was violating city code by operating as an illegal taxi company. The city subsequently adopted an ordinance allowing police officers to impound vehicles used to provide the ride-sharing service. In March 2013, Sidecar sued the city. Among other things, it argues that it is not a transportation service, but rather a technology platform that enables peer-to-peer ridesharing. While Austin's city code regulates chauffeured vehicles that charge a fee, SideCar notes that (1) it does not own or operate vehicles, dispatch drivers, or mandate shifts and (2) riders pay what they want on a voluntary basis.

SHORT-TERM HOUSING

Description

According to a 2011 white paper prepared for the National Association of Realtors, short term rental housing differs from other types of lodging by providing independent living facilities for one or more persons, including provisions for eating and cooking. It differs from (1) bed and breakfasts, where the owner or operator often lives on-site and (2) boarding houses, which usually have common kitchen and dining facilities for their occupants.

According to the Short Term Rental Advocacy Center, firms such as Airbnb, FlipKey, and HomeAway have more than 1 million rental listings worldwide. Airbnb hosts over 200,000 listings in over 26,000 cities in 192 countries and has booked over 10 million nights for vacation and business travelers. FlipKey features 160,000 vacation homes in over 7,000 cities throughout the world. HomeAway has approximately 250,000 vacation rental home listings in the United States, of which approximately 700 are in Connecticut. When we were preparing this report, we found 15 available listings on Airbnb in the greater Hartford area, 16 in New Haven, and six in Stamford. In contrast, the Connecticut listings on Flipkey were concentrated on Long Island Sound and Litchfield County.

Firms such as HomeAway, Airbnb, and FlipKey do not own the units that are offered, and the unit owner is responsible for complying with state and local laws. For example, Airbnb warns potential hosts that many cities have restrictions that could prohibit them from renting their space or require them to register or get a license. By agreeing to Airbnb's terms and conditions, hosts agree to follow all relevant local regulations and pay relevant taxes.

Impact

Short-term housing can provide substantial benefits for participating owners and renters. According to a 2013 survey of participants in HomeAway's program, more than half (51%) of responding owners cover at least three quarters of their mortgage payment renting their home to travelers. Short-term rentals can also bring economic benefits to local communities. For example, according to the trade group Austin Rental Alliance, short-term rentals there provided $2 million in annual tax revenue and $10 million in positive economic impact. A 2011 study prepared by the Austin, Texas city auditor estimated that the city could gain $100,000 to $300,000 annually by collecting hotel taxes on short-term rental properties.

On the other hand, short-term housing may not comply with local zoning laws, which often prohibit using homes for commercial purposes. Housing rented on a short-term basis generally does not meet the safety standards of hotels and motels, e.g., by not having fire sprinklers. In addition, renting housing on a short-term basis may negatively affect nearby property owners or tenants in multi-family buildings.

Policy Issues

Among the baseline questions raised by short-term rentals are (1) to what extent should they be treated like hotels or motels, (2) should they be regulated at the state or local level, and (3) should the regulation grandfather existing short-term rental units. Lawmakers may need to address other issues, such as security, liability, and insurance in order to protect the existing housing stock and prevent apartment complexes from turning into hotels.

A recent article by the Pew Charitable Trusts and the National Association of Realtors white paper cite several specific questions that lawmakers may face:

1. what impact do these rentals have on residential neighborhoods and how can negative impacts (e.g., property value, noise, and parking) be mitigated?

2. should guests be charged the hotel occupancy tax?

3. should rented units be inspected and licensed for renter safety and fairer competition with hotels and other licensed lodging?

4. will regulation significantly disrupt tourism?

5. how will conflicts with zoning laws be treated?

As discussed below, many municipalities across the country have begun regulating short-term rentals. But the white paper suggests that regulations that impose high permit and licensing fees, onerous inspection requirements, and performance standards that are difficult or costly for owners to satisfy might create an underground market for short-term rentals, where owners continue to rent their properties without obtaining the required permits.

Legislation and Litigation

In 2010, New York State passed legislation (S. 6873-b) designed to eradicate an underground rental industry of overcrowded single room occupancy units and illegal hotels, as well as internet scams. The law restricts the ability of people to rent their entire home in a Class A Multiple Dwelling for fewer than 30 consecutive days, but does allow people to rent a private room within the home to a "lawful boarder." In a widely-cited case, a judge ordered Nigel Warren, an Airbnb host in New York City, to pay $2,400 in fines under the law. Similarly, San Francisco prohibits the rental of apartments for less than 30 days in buildings with four or more units.

Many municipalities have adopted ordinances to regulate, rather than prohibit, short-term rentals. According to the white paper, almost all short-term rental ordinances require such owners for use as a short-term rental to obtain a license or permit before beginning to rent their units. In general, licensing and registration requirements allow local governments to track dwelling units being operated as short-term rentals for code enforcement and transient occupancy tax collection purposes. For example, Palm Springs, California requires owners to submit a registration form with: (1) the owner's name, address, and telephone number; (2) the address of the vacation rental unit; (3) the number of bedrooms in the unit; and (4) evidence of a valid business license issued to operate vacation rentals or submission of a certificate that the owner is exempt or otherwise not covered by the city's Business Tax Ordinance. The owner must also pay a fee to cover the city's administrative cost.

The ordinance in Cape Elizabeth, Maine establishes a permitting process, requires health and safety inspections, restricts the number of guests, and limits each separate rental period to seven days. The regulations create a detailed complaint process, and include a $50 permit fee. Santa Fe, New Mexico limits short-term rental units to a maximum of 17 rental periods per calendar year and permits no more than one rental within a seven day period. Sonoma County's (California) vacation rental ordinance sets maximum noise levels for daytime (9:00 a.m. to 10:00 p.m.) and nighttime (10:00 p.m. to 9:00 a.m.).

In addition, in 2011 Florida enacted legislation (Fla. Rev. Stat. § 509.032) that limits the authority of local governments to regulate or prohibit short-term rentals. It bars local laws, ordinances, or regulations adopted after June 1, 2011 from restricting the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use, or occupancy.

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