



35th Annual Airport Law Workshop

Session #6

GROUND TRANSPORTATION, TNCs, AND OTHER NEW TECHNOLOGY

Jessica Sampson
Uber Technologies, Inc.

David Y. Bannard
Kaplan Kirsch & Rockwell

GROUND ACCESS IS A CRITICAL ELEMENT OF AIR TRAVEL

- Ground access congestion = chokepoint
- Shifts in mode have had a profound impact
- Future trends in ground (and air) transportation => likely radical impact
- Ground transportation revenues: large and important
- Ground transportation law differs from aeronautical requirements

CONGESTION IS WORSE ON AIRPORT ROADWAYS THAN ON RUNWAYS

- Airports seeking innovative approaches to mitigate roadway congestion:
 - Rail at SFO, OAK, MSP, PDX, EWR, IAD
 - LAX LAMP Project
 - The “Big Dig”
 - Creative TNC pick up solutions
 - ConRACs and single busing
 - TPA remote parking – ConRAC – APM project
 - PHX, BOS, DFW, etc. ConRACs

CAUSES OF CONGESTION

- Increases in passengers
- Rapid increase in utilization of TNCs
- “Car sharing” / rentals (e.g., Turo)
- Limited on-airport parking
- Dated airport infrastructure
- AUVs and Uber Elevate are coming

WHAT CAN BE DONE?



- Move cars off curbs
- Increased use of HOVs and remote parking
- Technological solutions – e.g., Uber rematch, preMatch and PIN Dispatch
- Centralized commercial transportation hubs
- Look ahead!

reMatch

What is reMatch?

reMatch is a solution that will match driver-partners who have just dropped off at the airport to receive a pickup request within a short time window after dropping off.

preMatch

What is preMatch?

preMatch is an algorithm that forecasts upcoming demand. Driver-partners receive a request while in the assignment area and are matched with a rider while driving to the terminal.

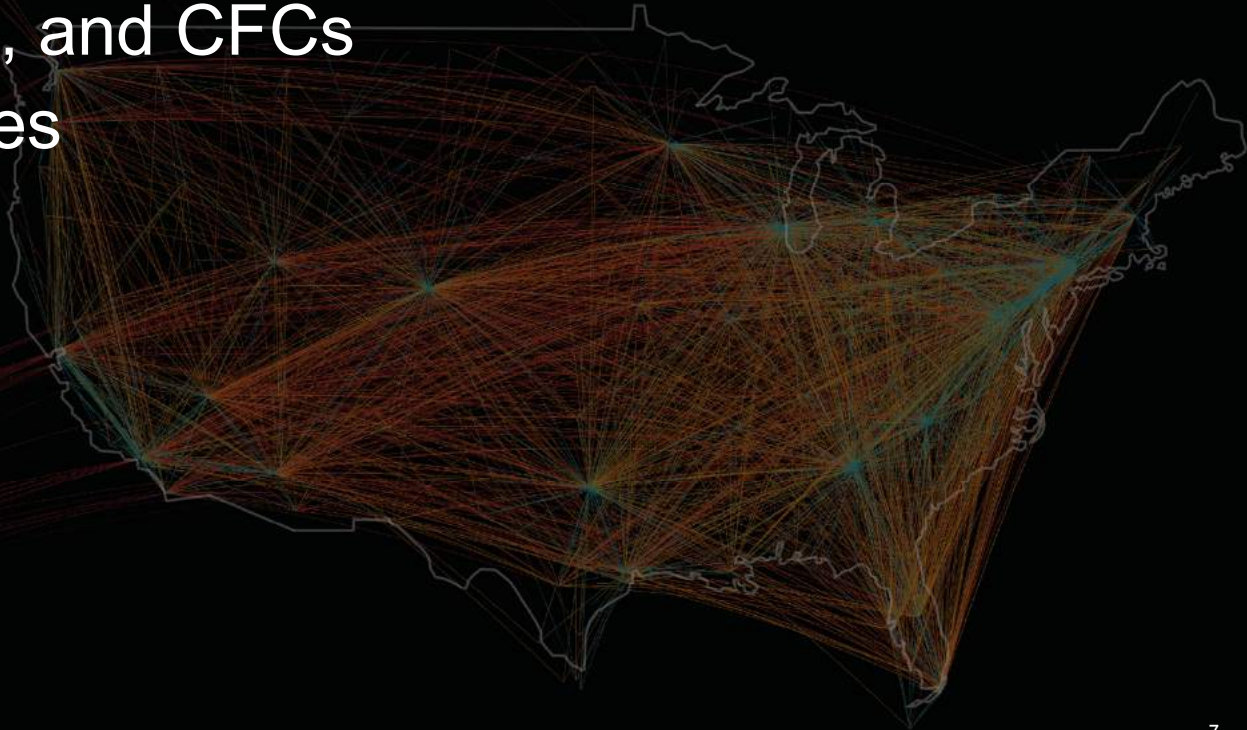
Pin Dispatch

What is Pin Dispatch?

A rider is given a random pin that is not issued to a specific vehicle. Once the rider gets into the vehicle of the "nearest Uber driver," that driver types the rider's random pin into his or her driver app. Before the rider gives the driver the PIN, the driver does not receive any information about the rider in the driver app. There is no way that Uber would know with which rider the driver will be linked before the rider gives the driver his or her PIN.

AN IMPORTANT SOURCE OF AIRPORT REVENUES

- Airport parking
- Rental car fees, rents, and CFCs
- Access and permit fees
 - TNCs
 - Taxis
 - Limos, vans, etc.
 - Off-airport parking
 - Hotel shuttles



SHIFTS IN MODES INCREASE THE CHALLENGE

- Impact of TNCs
 - Reduced parking, rental cars = reduced revenues
 - Contribute to congestion at curbs
 - Technological solutions: Geofencing, reMatch
- Near term demand for parking
 - Cost of new facilities
 - More efficient use of existing facilities
- Continuing shifts in the future
 - How will AUVs impact ground transportation?
 - Other disruptive technology
 - Uber Elevate!

ISSUES FOR CONSIDERATION

- Scope of airport's regulatory authority
 - Who regulates TNCs, taxis, and others?
 - Legislative input
 - Are tolling or access fees an option?
- Need to anticipate change
- Cost of / time to build new facilities vs. pace of change
- Need for space – curbs, garages, ConRACs, roadways
- Importance of multi-modal coordination
- Limitations on use of airport funds

POINT - COUNTERPOINT

- How can TNCs and airports work together better?

THE LEGAL ISSUES: AIRPORT ACCESS

- Not an aeronautical activity – little federal input
 - Most grant assurances not applicable
 - FAA has limited jurisdiction; no Part 16 actions
 - Must accommodate intercity buses (GA 36)
- Commerce Clause analysis for fees: *Evansville*
- State and local laws typically control
 - Ability to impose and limitations on CFCs
 - Regulation of TNCs
 - Taxi regulations
- BUT! Use of airport funds highly regulated

LEGAL CONSTRAINTS

- Non-Aeronautical activities
 - The airport and all facilities which are necessary to the aeronautical users of the airport must be operated in a safe and serviceable condition; airport may not cause or permit any activity or action thereon which would interfere with its use for airport purposes.
(GA 19)
 - Equal protection
 - Substantive due process
 - State or local law
- Airport policies and regulations
 - Airport rules and regulations
 - Minimum standards
 - Airport director's directives

LAW REGARDING ACCESS FEES

- Not regulated under FAA *Rates and Charges Policy*
- Federal standard is *Evansville* reasonableness
 - Fee reflects benefit conferred
 - Equal protection claims rejected
 - Access fees not subject to Anti-Head Tax Act
 - Governmentally set fees not a violation of anti-trust law
 - Compare with early Denver ConRAC decision where RACs established fee annually to cover debt service

STANDARDS FOR SETTING GT FEES

- Typically charged for commercial access
 - Fee for privilege of operating at airport
- Differentiate among user types
 - Off airport parking (competitor)
 - Off airport hotel (competitor? provides parking?)
 - Vans with multiple passengers
 - TNCs – pick and/or drop off?
 - Taxis, limos – same or different from TNCs?
- Use of variable fees to influence behaviors?
 - Reduced parking fees in slow seasons
 - Increase GT fees in peak hours?
 - Encourage “up-gauging”?
- Charging non-commercial operators?
 - Is DFW access fee a harbinger?



REGULATION OF SERVICE PROVIDERS



- Issues beyond fees
 - Require drivers to be permitted, background checks?
 - Standards for vehicles, inspections?
 - Staffing concerns
- Scope of regulatory authority
 - Draft regulations to be flexible, anticipate future developments
- Conflicts with state or local laws?
 - What is regulated by others?
 - Service providers' strategy – state level, now national?
 - Airports exempt from state-wide oversight?

REVENUE CONCERNS

- At many airports, ground transportation revenues are a significant percentage of non-aeronautical revenues – hard to replace!
- Self-sustaining grant assurance (24)
- Revenue use grant assurance (25) – limitations on use off-airport to improve airport access

USE OF AIRPORT FUNDS FOR ACCESS PROJECTS – SOURCES MATTER

- Airport revenue
- PFCs
- AIP grants
- TIFIA loans
- Multi-modal and multi-source projects
- VALE grants
- State and local coordination



AIRPORT REVENUE – ACCESS PROJECTS



- Airport revenue most flexible, but still limited:
 - Airport
 - Airport system
 - Projects “directly and substantially related to the movement of passengers or property by air”
- FAA has allowed proportional use of airport revenue
 - By projected percentage use by airport passengers
 - By percentage of route used exclusively for airport

AIP GRANTS – ACCESS PROJECTS

- Must *exclusively* serve airport traffic
- Must be located within an airport or ROW owned by airport – “an access road cannot be prorated”
- Roadway standards apply to rail, APM projects

PFCS FOR ACCESS PROJECTS

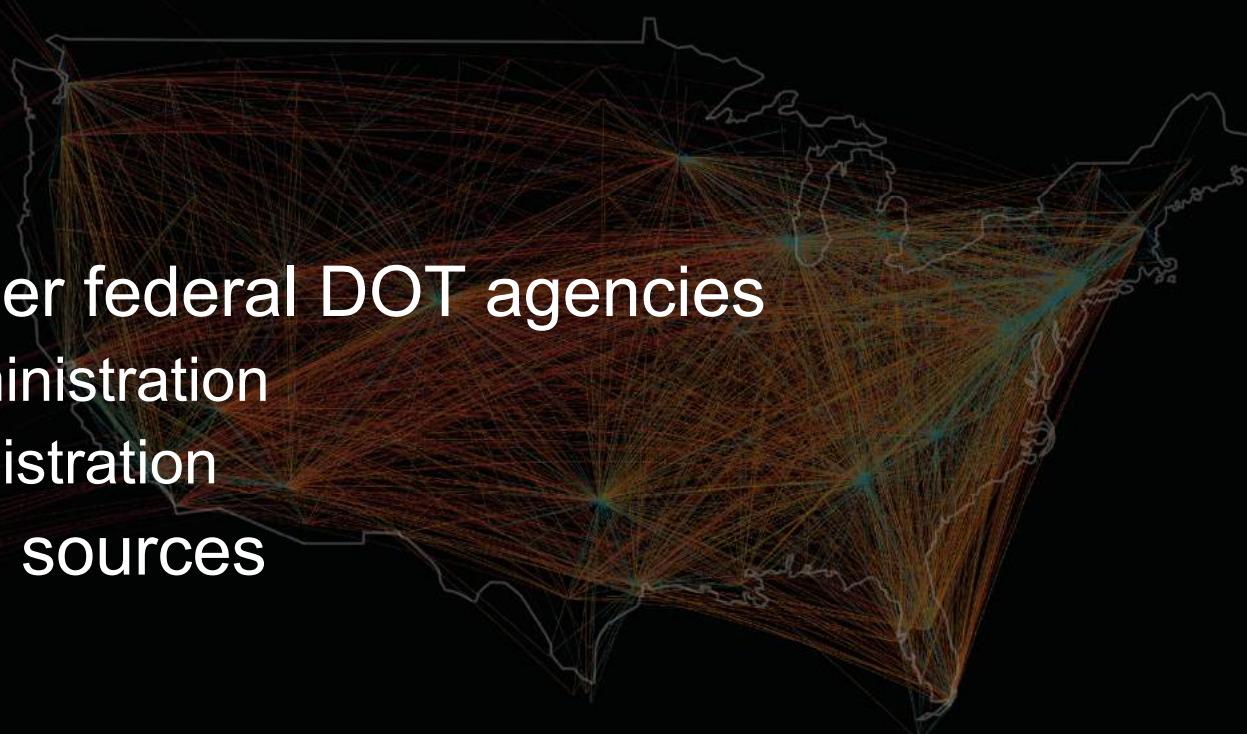
- Generally follows AIP eligibility
- Will project enhance capacity?
- Guidance from Records of Decision
 - EWR monorail (1997)
 - JFK Airtrain (1998)
 - PDX MAX light rail (1999)
 - Dulles FAX (2014)
- *But* see FAA Reauthorization Act, Sec. 123 – Reconsider exclusivity and ownership/operational requirements for rail projects

TIFIA LOANS

- Not available (yet) for airport-only projects
- But – available for multi-modal projects, e.g.:
 - ConRACs
 - Transit connections (rail & bus)
 - Parking
 - Ground transportation center
- Complex application process
- May be deeply subordinated to other debt
- Must receive investment grade rating (BBB)

OTHER CONSIDERATIONS

- Coordination with state and local transportation agencies
 - Municipal
 - Regional (MPO)
 - State DOT
- Coordination with other federal DOT agencies
 - Federal Highway Administration
 - Federal Transit Administration
- Other federal funding sources



WRAP UP AND QUESTIONS

Jessica Sampson, Uber Technologies, Inc.

Senior Counsel, Central Ops & Airport

jsampson@uber.com

Dave Bannard, Kaplan Kirsch & Rockwell

Partner

dbannard@kaplankirsch.com