



## ISSUES ON DIGITAL TRANSPORTATION: A COMPARATIVE ANALYSIS IN INDONESIA AND BRAZIL

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### ABSTRACT

Legal gaps cause rejection and conflict in the international transportation industry, primarily regarding online services. This research focuses on how legal regulations in Brazil and Indonesia can accommodate global businesses such as Uber and other online transportation platforms. This research analysis uses qualitative methods, accompanied by comparative and theoretical approaches. For this reason, Posner's Theory of Economic Analysis of Law notices that actors have different strategies to maximize their opportunity costs. Therefore, the legal protection covering international companies such as Uber can differ in each country. This action is based on the rational choice of business actors to obtain legal protection, which is influenced by: (a) the law of demand, (b) opportunity cost, and (c) the free flow of resources. This article's result demonstrates that Indonesia and Brazil have a potential market for digital transportation. Still, every country must settle social friction toward shifting digital civilization through strong and adaptive regulation.

**Keywords:** international business; digital transportation; sharing economy.

### RESUMO

As lacunas legais causam rejeição e conflito no setor de transporte internacional, principalmente em relação aos serviços online. Esta pesquisa se concentra em como as regulamentações legais no Brasil e na Indonésia podem acomodar negócios globais como Uber e outras plataformas de transporte online. Esta análise de pesquisa utiliza métodos qualitativos, acompanhados de abordagens comparativas e teóricas. Por isso, a Teoria da Análise Econômica do Direito de Posner percebe que os atores possuem estratégias diferentes para maximizar seus custos de oportunidade. Portanto, a proteção legal que abrange empresas internacionais como a Uber pode diferir em cada país. Essa ação baseia-se na escolha racional dos atores empresariais para obter proteção legal, que é influenciada: (a) pela lei da demanda, (b) pelo custo de oportunidade e (c) pelo livre fluxo de recursos. O resultado deste artigo demonstra que a Indonésia e o Brasil possuem um mercado potencial para o transporte digital. Ainda assim, todos os países devem resolver o atrito social em direção à mudança da civilização digital por meio de uma regulamentação forte e adaptável.





**Palavras-chave:** negócios internacionais, transporte digital, economia do compartilhamento.

## 1 INTRODUCTION

One of the characteristics of digital civilization is marked by changes in people's lifestyles; one of them is the ease of doing everything with one hand. One of the conveniences of this application is the use of technology-based transportation. Currently, the development of online transportation services is very various, one of which is Uber. Uber is a transnational company providing the first online transportation service, reaching 80 countries in 2017.(Hyun J. Kim & Chan S. Suh, 2021, p. 3) The European Union, through the European Commission, has responded to this phenomenon by issuing supranational regulations on online application platforms. However, the breakdown of these provisions is the authority of each country.(Guido Noto La Diega, 2016, p. 385) The Italian government chose to submit a draft law to support sharing economy activities. Generally, this national-scale regulation ensures transparency, fair competition, taxation mechanisms, supervision, and consumer protection.

Several cities such as Hamburg, Berlin, and Madrid are also experiencing dynamics in welcoming the arrival of Uber.(Alessio Di Amato, 2016, p. 180) These cities have rejected Uber's presence as an application-based transportation service provider. Uber's restrictions in various countries indicate problems such as violations of tax obligations, administrative fulfillment, driver professionalism, and there is no insurance for consumers. The government enforces these provisions for providers of public transportation services to protect the parties. By defaulting on Uber from meeting these requirements, Uber can reduce the cost of producing services, enabling them to lower fares.(Francesco De Masi, 2016, p. 90) The judge considers that the protection of consumers is an important requirement. Based on these considerations, restrictions on the Uber application cannot be said to violate the principle of freedom of trade as regulated by supranational trade law in the European Union.

Indonesia(World Bank, 2022) and Brazil(the Government of Brazil, 1997) are the top five countries with the largest population and areas in the world that are also influenced by the digital transportation mode trend. The number of internet users in Brazil covered





143.5 million in 2019.(Social Statistics IBGE, 2021) Meanwhile, internet users in Indonesia in the same year reached 196 million people.(Arif Z. Djunaedi, 2021, p. 300) This number illustrates the immense market potential for developing internet-based transportation service providers in the two countries. As in other countries, the inclusion of Uber has also generated resistance from conventional taxi drivers.

This research focuses on how legal regulations in Brazil and Indonesia can accommodate global businesses such as Uber and other online transportation platforms. Regulations that are not dynamic have created legal issues. Online transportation services are illegal because they refuse to operate like other public transportation services. The perceived horizontal collision contrasts with the support given by consumers to the developments in the field of modern transportation services. To deal with this situation, Indonesia and Brazil have different ways to accommodate the need for legality for online transportation modes. Although both countries have legislative bodies with the authority to make regulations, neither chose that path as the only way to legalize this application. They use alternative methods considered the most efficient to accommodate the parties' interests.

An analysis of best practices in alternative forms of regulation can be seen through an analysis of the courage of the São Paulo government in taking action to resolve disputes between conventional and application-based transportation providers. This regulation has been widely highlighted as a commitment to creating an ideal business competition without leaving the need to accommodate the interests of all parties. Several studies have taken São Paulo policy as the focus of study to look at the security of the service (Barreto et al., 2021, pp. 1–20), the relationship between the government and the Uber company(Rodrigo Navarro, 2016), the development of the actors involved, and the socio-legal aspects.(Rafael A. F. Zanatta & Beatriz Kira, 2018) In addition, the impact of Uber's legality policy on reducing accident deaths has also been analyzed.(Barreto et al., 2021)

Meanwhile, previous studies about Indonesia only explained a series of regulations that would be legal protection for online transportation and asked the government to fill the legal vacuum by making new regulations.(Nur Handayati et al., 2019) Another study only highlights the lack of legal protection for online taxi drivers and inadequate legal





protections protection for consumer protection.(Dian Mandayani Ananda Nasution, 2018) However, unlike this research, the novelty of this research lies in the rationality of the strategy used by the actors to legalize Uber as an international company representing similar companies with enormous and broad economic potential in the future. Exploring this matter can also be considered for other countries facing similar problems.

Strict licensing to provide public transportation services following the laws and regulations has burdened service production costs. That cause the fare of conventional taxis to be higher than online taxis in general. The price competition becomes the initial strategy to attract customers. However, it did not run effectively due to the rejection of the online taxi fleet operations. When observing this issue in both countries, this paper then determines Posner's theory to analyze it. Assuming this theory is based on the reasoning that legal and economic issues should be in a straight line and not on opposite lines. Therefore, Richard Posner's theory, which examines the impact of material contained in regulation (legal realm) to influence ongoing economic activity, is the suitable logic to see this phenomenon.(Sophie Harnay & Alain Marciano, 2009, p. 220) This theory thinks that the relationship between the law of supply and demand is not the only aspect that will affect fluctuations in national economic conditions. Furthermore, it includes activities that will become external factors, such as policy changes and implementing new sectoral laws and regulations. The rational choices made by online transportation drivers who seek to optimize economic potential through legal channels are also inseparable from the following aspects: (a) the law of demand, (b) opportunity cost, and (c) the free flow of resources contained in Posner's theory. Business actors who drive the national economy directly have a significant role in the community's welfare. It has the right to get support from the government in the form of effective regulations that have value and use (value, utility, and efficiency).(Mohamad Yasir Fauzi & Vivi Purnamasari, 2020)

This study is important to provide an overview of strategic steps in responding to legal gaps. This condition may occur in other essential sectors due to the development of industry 4.0 in Indonesia, Brazil, and even other countries. Furthermore, this paper analyzes qualitative research methods with a statutory legal approach. The analysis results combine Posner's theory and related normativity in both countries. This article is divided into four parts. The first part explains the background of the issue. Then the





second part explains Posner's theory. The next sub-chapter describes the legal avenue for legal disparities in digital transportation services. This study continues with the same problem in Brazil, mainly the government's strategy in dealing with the issue of digital transportation services. The last part contains conclusions.

## 2 LITERATURE REVIEW: POSNER'S ECONOMIC ANALYSIS OF LAW

Internal and external aspects influence the dynamics of economic conditions in a country. In simple terms, fluctuations in the analysis of macroeconomic conditions appeared because of the demand and supply of goods or services in the market. However, this condition cannot be said to be the only determining factor for the economic theory proposed by Posner. Once again, to consider the potential and risks of an important sector that can affect economic conditions, external factors indirectly have a decisive role in the sustainability of ongoing business activities. (Sophie Harnay & Alain Marciano, 2009) In this context, a study of the future of a business sector is determined and influenced by the contribution of policies taken by the government and is also closely related to social conditions in society.

The government may not fully control what happens in the economic chain. However, the government has a hand in determining the boundaries for the operation of an economic system, as stated in a regulation that regulates economic activity. (Gary Minda, 1978) Hence, it is appropriate that the strategic steps taken by entrepreneurs are not only guided by economic factors that may affect their business journey. However, furthermore, the business strengthening strategy must be able to touch on external factors that have a significant impact. In Posner's theoretical framework, it seems that the role of the government in determining the course of an economic condition contained in the rule of law. It is a reference point for entrepreneurs to maximize the profits they earn.

The government has used the law as a mechanism to exercise control over the market. Efforts made by people to maximize the profits they get as a concrete form of the rational choice chosen to deal with conditions in society are the basic essence of the discussion about the economic sector. The discussion on the economic sector and its





impact on society are not only limited to the high annual inflation rate, a large number of unemployed, the lack of absorption of the labor force, as well as distribution problems in the economic chain. More than that, in this context, it is then seen that the economic sector analysis shows the influence of human desires, which causes resource limitations. This action makes humans carry out their logical thinking to achieve maximum results and personal satisfaction or 'self-interest'. (Agus Riyanto, 2018)

Satisfaction or self-interest is not only in the form of money. The discussion related to the economic scope of Posner's theory does provide a wider limitation related to these economic factors. There is also a broader understanding when discussing an appreciation for a commodity, either goods or services. Although money is one of the main things in economic calculations, in this case, satisfaction and self-interest come from emphasizing the value of a commodity rather than the price. This view becomes one of the points in determining the steps to developing its economic potential. Long-term satisfaction and benefits have provided dynamic boundaries according to the needs and developments of the times.

To fulfill this self-interest, the actions taken to result from thoughts that are not only a form of spontaneity. Furthermore, the action was motivated by the results of the rational choice of conditions that could directly or indirectly affect their business. (Richard Posner, 1986, p. 3) In this case, Posner also emphasizes that this rational action is a logical response to the satisfaction of fulfilling self-interest. The strategy of these business actors depends on three basic principles that are influenced by: (a) the law of demand, (b) opportunity costs, and (c) the free flow of resources. (Richard Posner, 1986, p. 4)

Relating to supply and demand's principle, in this context, the considerations one chooses will also be influenced by the law of demand. Consumers' presence or absence of demand strongly influences the running of an economic cycle. (Rohmat Adi Prasetyo & Riris Rismayani, 2018) This concept emphasizes the importance of certainty for consumers. It is important to make customers believe that whatever is offered by the company is the best choice. Moreover, what they pay for is proportional to the benefits they get. With the guarantee of security for the rational choice of consumers, then the demand will increase according to the supply and demand curves. This concept emphasizes the importance of certainty for consumers. It is important to make customers





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The second principle that will affect the rational choice of an entrepreneur is the utilization of the opportunity cost. In this case, essential production factors must be present but do not require additional costs that will affect the final result of calculating the profit and loss of the commodity offered. Maximizing the utilization of opportunity costs can be a great potential for long-term business development adapted to the needs of the times. Like other production factors, opportunity costs also play an important role in providing an overview of trade competition strategies. That factor must be utilized by parties who want excellent service and superior products.

The last factor must be considered the actions that it can use to maintain free-flow market conditions. A potential resource can only be used to fulfill self-interest when the exchange for access to its use can be legally guaranteed. Permits issued by the government will be the basis for someone to take advantage of these commodities so that the hidden potential can be explored and become an opportunity for the existence of an economic chain that occurs voluntarily. Thus, the demand and supply curves will be formed as they should. The curve can be an indicator that shows whether or not there are obstacles to implementing this aspect.

The existence of the development of a resource into a certain activity is enough to show the benefits obtained. However, if the expected profit does not materialize, it can be said that there has been an obstacle in the economic cycle. Things that can trigger these inhibiting factors can be seen in conditions influenced by external factors, a relatively low standard of living, difficulties in accessing the availability of information, and the scarcity of something that has been going on for a long time.

These considerations are the basis for economic actors to seek protection against the applicable law. In Posner's point of view, the norms contained in the law can be a person's behavior when carrying out economic activities. The main purpose of this logical consideration is to obtain an effective, valuable, and utility legal norm. The main goal of





the cross-sectoral analysis proposed by Posner is to obtain a norm that can support economic activity appropriately.

### 3 JUDICIAL REVIEW AS A LEGAL AVENUE FOR RESOLVING ISSUE ON INDONESIAN DIGITAL TRANSPORTATION

The benefit of the sharing economy model adopted by online transportation service providers in Indonesia, such as Uber, Grab, and Go-Jek, is a unique new item. Personal assets can now become a facility that can be used by the public, but also because the e-hailing system that is a feature of this application has marked the entry of a collaboration model for gig workers. (Don Tapscott & David Agnew, 1999) The many modern economic concepts in the digital era that have been developed in this work model have significantly impacted providing excellent service with cost and time efficiency that conventional transportation network models cannot provide. (Görög, 2018)

As a result, these legal voids then impact resistance driven by workers in the conventional transportation sector who feel disadvantaged by the presence of new competitors in their business. Although the government continues to encourage the progress of various sectors to take advantage of information and communication technology to provide progress to the country's economy, (Ministry of Communications and Informatics of The Republic of Indonesia, 2020) legal protection is not an adaptive market competition very limited. The refusal that started in 2017 in several areas was then carried out strikes by conventional transportation drivers and sweeping against online taxi drivers.

Legal action proposes to overcome the rejection through a judicial review procedure. Through a judicial review request submitted to the Constitutional Court (after this referred to as the MK) in 2016, the national online driver legal advocacy team or TIMAH PANAS requested that the Constitutional Court be able to decide on the unconstitutionality of Law Number 22/2009 concerning Traffic and Road Transportation (LLAJ Law). In case number 78/PUU-XIV/2016, the online application transportation







drivers who act as individuals stated that the LLAJ Law had violated their constitutional right to get a job and a decent living.

As stated in Article 27 paragraph (1) of the Constitution and Article 28 paragraph (1), every citizen has the right to the opportunity for protection through legal certainty and access to a job that they use to fulfill their daily needs. However, this provision is hindered by the existence of Article 139 paragraph (4) of the LLAJ Law. The article specifically explains that public transportation can only be provided by BUMN, BUMD, or legal entities under the legislation's provisions.

Article 139 paragraph (4) of the LLAJ Law is seen as only protecting the interests of corporations and cannot reflect the application of the principle of equality before the law. The article can be interpreted that online transportation drivers who use the economy sharing system in providing road transportation fleets that are not on this route can still not be accommodated. The verse has values contradictory to the interests of developing innovations in the transportation sector that rely on online application networks. Nevertheless, through Decision Number 78/PUU-XIV/2016, the Constitutional Court has started rejecting the application.

As an effort to obtain protection through judicial review procedures, online transportation drivers then appoint legal representatives to submit a judicial review application to the Minister of Transportation Regulation (*Permenhub*) Number 26 of 2017 concerning the Implementation of Transportation of People with Public Motorized Vehicles Not on Route to the Supreme Court (MA). The applicants questioned the legal status of the Minister of Transportation Regulation number 35/2003, which should have been revoked by the Minister of Transportation 32/2016. *Permenhub* 32/2016 has not yet been implemented effectively; the regulation has been revoked with the issuance of Minister of Transportation Regulation 26/2017. In addition, the material content contained in *Permenhub* 26/2017 is not much different from what has been stated in *Permenhub* 32/2016.

In this case, the applicants act as individuals running micro, small and medium enterprises (MSMEs). This position is based on the understanding of article 3, article 4, and article 5, letter c of Law number 20/2008 on MSMEs. According to articles 28A, 28 C paragraph (1), 28 D paragraph (1) and paragraph (2) and 28 H paragraph (2) of the 1945





Constitution, applicants as MSME actors have the opportunity to gain access to decent work to improve their standard of living. Based on the principle of equality before the law, their basic rights are also protected in Law Number 39/1999, which explains Human Rights, particularly Article 9 paragraph (1), article 12, article 13. With the enactment of Minister of Transportation Regulation 26/2017, the rights owned by the applicants have been harmed.

These provisions have violated the nature of the MSME Law, in particular Article 7 paragraph (1) letters b, d, r, and f, Article 9 letters a and b, Article 11, Article 12, and Article 25, which prioritizes the simplicity of the licensing procedure so that can create a conducive business climate. Based on these various considerations, the Supreme Court then decided to accept the entirety of the submitted application and stated that the articles being tested no longer had binding legal force following the ruling contained in decision Number 37P/HUM/2017.

In Posner's theory, legal norms can bind and coerce factors that affect economic sectors. Furthermore, the analysis conducted on the influence of a legal norm in economic activities is a way to see how the law can influence the actions of business people, who in this case are conventional taxi drivers. As evidence, it can then be seen that there is a change in the behavior of conventional transportation drivers compared before and after the legal protection for the provision of application-based transportation services. Currently, the application service has embraced both types of transportation service providers, those who have just joined as partners in providing online transportation fleets as MSME business actors and those who were previously drivers of conventional taxis and basic motorcycle taxis.

The strategy used by online taxi drivers to take legal action as a rational action as a form of long-term conflict resolution has paid off. It can solve problems that arise as a form of rejection of the presence of a revolution in the field of transportation, but the applications used to provide transportation services are also growing rapidly. Following the economic theory put forward by Posner, in choosing the actions, they will take, business people in the modern transportation sector have made logical choices that can optimize their profits by managing their resources.





In considering this logical choice, business actors must be able to determine actions that can positively impact the long term. (Trinas Dewi Hariyana, 2020) The selection of the method for proposing a Judicial Review application to the Constitutional Court and the Supreme Court has proven to be the right step to support every step of business development in this digital era. This paper assumes that it is necessary to understand and analyze the factors behind a rational choice by considering the basic principles proposed by Richard Posner in the theory of economic analysis of law.

In this context, online transportation drivers are primarily interested in obtaining legal protection when carrying out their profession to meet the needs of a decent standard of living. Furthermore, according to Posner, a law that can be used as a strong foundation must contain material content that is useful, effective, and has clear values and goals. (Murni, 2012) The legal voids that make the application-based transportation driver profession illegal are challenging to resolve. Getting legal protection that suits this urgent interest becomes a logical choice when they submit a material review of the existing legal rules.

This thought is certainly not without economic considerations. For businesspeople, there is often a saying that time is money. In this case, the sooner the rules guarantee their legitimacy in their work, the sooner they will guarantee the benefits they will get. The procedure for submitting a judicial review of statutory regulations, whether carried out through the Constitutional Court or the Supreme Court, will certainly be faster when compared to the procedures required to make regulations through a legislative body. Legislative institutions or the government will not consider the advantages and disadvantages arising due to the duration of policymaking. Therefore, the choice is entirely in the hands of entrepreneurs who need legal guarantees to fulfill their self-interests. (Robert Cooter & Thomas Ulen, 2011)

The struggle to obtain legal protection for the transformation and innovation of business operations in the transportation sector in this digital era is a form of utilization of the opportunity cost aspect described by Posner. The ease of access to information provided by the internet and smartphones is a potential resource that can not be ignored. One example is an online transportation application service that can open its business network to reach other sectors such as food purchases and electronic-based financing.





This rapid development occurred after the main facilities offered had received legal protection and no longer caused horizontal conflicts in the community. Economic resources protected by law are then turned into an economic activity that generates profits for business actors. (Lewis Kornhauser, 2017)

Following the economic analysis of the legal field, the judicial review efforts carried out by online transportation drivers are a form of manifestation of efforts to ensure the free flow of resources. As previously explained, the development of economic sharing that minimizes the production costs of online transportation services has led to resistance from conventional transportation drivers. Ease of access, low cost, wide-coverage, and better performance are the advantages of innovative products in this 4.0 industrial era. The legal gaps in the LLAJ Law and Permenhub 26/2017 have hampered the development of the digital economy potential, which should receive support from the government under the provisions of the MSME Law. (Afifah Kusumadara, 2010)

The legal gaps that gave rise to these refusal actions have also become a barrier to the increasing number of online transportation application users, even though providers have provided various additional incentives and the superiority of the services offered. This condition is enough to indicate a need for conflict resolution efforts that involve elements of conventional transportation drivers to hinder the free flow of resources. In addition, the economic incentives that application service providers have provided cannot provide a sense of security for consumers to use their services. The absence of regulations from the government that can explicitly accommodate the needs of this new type of business model has made transactions in the market unable to run properly.

Based on the law of demand, to make the market balance condition run properly, it is necessary to take legal action so that the regulations that are the basis for the legitimacy of their profession can fully guarantee consumer safety. This guarantee is needed to increase their willingness to choose modern transportation services as the best rational choice in the long term and firmly rooted in the community.

As a form of effort to fulfill the self-interest of applicants, they want to get a legal umbrella for their profession. In line with the basic concept of legal considerations from an economic point of view, the application for judicial review to the Constitutional Court and Supreme Court is a strategic step to carry out long-term conflict resolution. To obtain a





sufficient legal basis, have value and use following economic principles. This effort finally provided a basis for protection for online transportation drivers after the Supreme Court issued decision Number 37P/HUM/2017, which granted their request. This decision has protected MSME actors who have the potential for long-term economic development and provided guarantees for applying the principle of equality before the law to welcome the industrial era 4.0 in Indonesia.

#### 4 DIGITAL TRANSPORTATION: EXPERIENCE IN SÃO PAULO, BRAZIL

The use of the internet data network with all the conveniences it offers has penetrated 92.6% of households in Brazil in 2018.(Haddad et al., 2019, p. 1) From the number of internet users, cell phones are the primary tool used to enjoy information technology facilities.(Social Statistics IBGE, 2021) This number is a potential market consideration for international online transportation platform providers such as Uber. São Paulo, Brazil's most significant metropolitan city, is the world's second most significant Uber user. In 2018 there were at least 600,000 people who worked as Uber drivers, with the number of Uber users reaching 22 million.(Barreto et al., 2021, p. 1) This significant achievement figure is the result of stakeholders' struggle to accommodate Uber as a legal and beneficial form of business for the community.

The negative impact of the increase in the number of private vehicles operating in the City of São Paulo since 2012, such as the lack of parking space and the high risk of death due to road accidents, and the number of drivers who are affected by alcohol can at least be reduced by making Uber services available to the public. In addition, from several projected scenarios of e-hailing development, this application can reduce travel time for people who will travel and affect overall economic effectiveness.(Haddad et al., 2019, p. 6)

As stated by Posner, a market potential that will affect the law of demand is an essential factor in determining strategies for potential businesses. The momentum of Uber's entry into the transportation service provider market in Brazil, which coincided with the 2014 FIFA World Cup, marked the emergence of internet-based innovations quickly





accepted by the wider community. Although Uber offers easy access to services, safe driving, and financial benefits, these advantages have been hampered by a wave of protests and resistance from conventional taxi drivers. The obstacles that arise from conventional taxi drivers have hindered Uber's steps from expanding its business wings at the beginning of its emergence.

Conventional taxi drivers consider that Uber provides illegal public transportation services because it does not meet general administrative requirements for taxi providers. (Rafael A. F. Zanatta & Beatriz Kira, 2018, p. 4) Taxi drivers and taxi associations have even filed a lawsuit to close the Uber app a year later. As a result, judge Luiz Roberto Corcioli Filho briefly ordered the removal of the Uber app and imposed a \$100,000 fine for non-compliance. However, the decision was later annulled because a similar lawsuit had been previously decided because the prosecutor was entitled to file the lawsuit, not the association.

Debate continues to occur between uber supporters and conventional taxis. To produce legal products, the courts in Brazil are not only guided by normative law but also give a large portion of the consideration of legal doctrines presented by experts. (Edilenice Passos, 2005) Based on these principles, it is not surprising that the conflict brought to court has developed. (Rafael A. F. Zanatta & Beatriz Kira, 2018, pp. 4–10) The legal argument initially aimed to determine whether Uber is an illegal activity. However, it later developed to determine the boundaries between individual transport being a public service, the types of regulations that must be formed, and how to accommodate the interests of new players in the transportation world without compromising conventional service providers.

The legal process and refusal by taxi drivers have hampered the principle of free resource flow from the Uber business. The lengthy court process with ongoing debates certainly significantly impacts the running of economic activity. According to the logic of economic analysis of law, Uber and various transportation application platforms need a legal umbrella to be able to explore the potential of the City of São Paulo. Intervention from the government is a way to bridge the interests of the parties so that economic growth is not hampered.





In order to maximize the opportunity cost of these economic activities, alternative ways for the legality of Uber services must still be fulfilled. Representatives of the students then sought the support of the Conselho Administrativo de Defesa Econômica (Brazil's business competition authority) to argue that the lawsuit filed by the taxi drivers was unfounded and market oriented. After approving this argument with bill numbers 349/2014 and 16279/2015, the City of São Paulo took steps to make The Decreto Municipal Number 56981/2016. (Rafael A. F. Zanatta & Beatriz Kira, 2018, p. 7) Through this legal remedy, the municipal government of São Paulo uses the powers granted by Article 18 (1) of the Política Nacional de Mobilidade Urbana to regulate transportation services. (Delphine Aurélie Laurence Defossez, 2017, p. 18) This regulation is not only the legal basis for Uber but also several other types of sharing economy models.

The government has designed a mechanism for registering a digital transportation provider platform through the Operadora de Transporte Credenciada (OTC). This mechanism is the most flexible alternative policy option while still implementing a limited intervention to ensure that the market mechanism can run optimally. This provision is also a way for the government to maximize opportunity costs through sharing user and driver data centered on the technology and protocols Laboratory for urban Mobility (the-Mobilab). With this mechanism, the government can monitor trip map updates, user service evaluations, and driver identity and fare details.

Based on this analysis, it can be seen that the So Paulo City government has taken strategic steps to ensure the effectiveness of the law of demand from Uber users and the sharing economy model in the future through The Decreto Municipal Number 56981/2016. This legal umbrella provides legal guarantees that ensure a free flow of resources from the digital world and São Paulo's social potential. In addition, the government also maximizes the opportunity cost through data sharing in the-mobilab.

## 5 CONCLUSION

As a form of self-interest to be achieved, regulations that legalize the implementation of online transportation modes are proposed based on the factors of





economic analysis of law theory. The theory economic analysis of law realizes that actors have different strategies to maximize their opportunity cost. The most effective way to maximize the free flow of the market is according to the prevailing context. Thus, the legal protection covering international companies such as Uber can differ in each country. The legality of these economic activities is the main objective of each chosen strategy. With the guarantee of security for the parties, the law of demand can run properly. For Indonesia, the actions of online transportation drivers who use the judicial review method as a business strategy are the right things. This effort manifests the need for legal protection that must be met in a short time to reduce losses due to horizontal conflicts. Meanwhile, in the City of São Paulo, Brazil, the municipal government has a vital role in initiating the birth of a legal umbrella for a business activity model in the form of a sharing economy. The government's limited intervention also maximizes the opportunity cost by presenting OTC and Mobilab. Using the theory of economic analysis of law can solve economic sector problems through the law's visions.

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