A Debate on Funding America's Future Surface Transportation System

By Tollways Editors

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Steve Heminger: We're here for a debate about the future of the American surface transportation system. There is a diversity of views on the dais and we will be giving you that diversity as fully as we can today.

Now, this is a debate, which means we're going to mix it up. What I'm going to present to you are a series of black-and-white, binary oppositions that many would say we could easily resolve; we could easily say "both-and" instead of "either-or," but that wouldn't be much fun to listen to. So, we are going to try to avoid any moments of consensus or compromise until the very end of the discussion, if then, so that we can fully flesh out the nature and the contours of this debate.

Public Versus Private

I'd like to proceed to the first topic. Between the transactions in Chicago and Indiana, the proposals in Pennsylvania and New Jersey, all of them asset leases, the whole debate has set the administration against the Congress, governors against state legislators, and the transportation community to some extent against itself, as this issue has been argued out.

It's always struck me that when you look at Europe – which has very statist economies, I would call them – these kinds of transactions are commonplace, not just in the surface transportation modes, but in air and elsewhere; whereas in the United States, which is the home of the great free market ideal, we are much more cautious about it. And one thing I want to ask our panelists is why they think that is. Let me start with you, Ken, because of your experience both here and abroad, what you think first of all about this general question of public versus private provision of infrastructure and why you think the debate in the United States is so different from elsewhere in the world?

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>
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Ken Daley: Thanks, Steve. I think it is an interesting part of the debate, and one that is uniquely American in some respects. And I think it's an emotional one. My feeling is that this whole debate of whether it should be private or whether it can be private is a non-issue. We don't have an option; we either get on and make the best use of the private sector, or we won't have a system at all. And you just have to look at the convergence of the issues in this country. You've got an aging infrastructure. And whilst everybody heralds what an enormous benefit the Interstate system was, well it's 50 years old; get over it. It's in a massive state of needed repair. Just look at the number of major bridges that need to be replaced. You don't have an option, so get over the public-private debate; everybody get on board and get something done rather than talking about it.

Jack Schenendorf: By and large, I see the systems as being public. I do believe that there is a role for the private sector and certainly private-sector financing is going to be necessary as we move forward in the future, but if you're looking at the overall national system, I think most of that is going to be from the public sector in order to remain under public control.

One of the concerns has been with the nature of the role of the private sector. I think it's necessary to have it, but the idea that we would allow long-range contracts of 75 or 99 years with no cap on the profitability of those contracts, seems to me something that the American people will not tolerate, nor is that in the best interest of transportation. And the use of some of those funds for non-transportation purposes, I think, are issues that are going to hold the private sector back. I think there are ways to have the private sector involved if it's done in a way that aligns itself with the public interest.

Mr. Daley: I'd like to respond if I may. I think the two key issues that Jack raised here are absolutely fundamental: One, the private sector never owns a road. I think there's one exception, the all-mighty Greenway sitting out there in northern Virginia, but every other case, even our concession, we do not own the road; it is always a public road. It is always under the absolute control, in our case of the Virginia Department of Transportation (VDOT), and always should be.

Secondly, the point about private sector returns has been addressed very well in basically all of the deals. There is no super-profit and I think there should always be a mechanism to share any upside. It's interesting, of course, when we do a job we never get an offer from the public sector to share the downside, but we are always prepared to look at reasonable returns. You cannot – and I agree absolutely with Jack – you cannot put a super-profit in place and expect the American public to accept it. It is unacceptable and I think all contracts in that regard should have a profit-sharing arrangement.

Mr. Heminger: Ken, I know there's a legal difference between leasing and owning, but what's the practical difference between a 99-year lease and owning the thing?

Mr. Daley: In a financial sense, there's no difference of course. I think from the private sector's point of view, a long lease really is an opportunity to go through the cycle of the economy and you have less risk overall. But the reality is all the private sector is doing is taking the risk on the future revenue stream. The standards, the operational requirements, and all other elements are determined by the public sector and should continue to be determined by the public sector because they have overall responsibility for the operations of a network. And those of us in the private sector will always just be a partner contributing to that. So, we take the risk on the financing; everything else is determined through the public sector.

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– David Horner

Mr. Heminger: You know, David, I mentioned in introducing the item that this issue has provoked very strong and contrasting opinions from the administration and the Congress. Do you believe Congress is overreacting to these issues because of the two transactions in the Midwest?

David Horner: I can answer that question at length, but I'll attempt to answer it very briefly by saying that either explicitly or intuitively, certain institutions recognize that their institutional or organizational self-interest is in jeopardy. We now have 50 years of government, public sector-dominated provision of transportation. On the current arrangements there has been erected an enormous system of political patronage and lines of business in the private sector. Any change that is meaningful, that promises to deliver a significant benefit, is always highly disruptive to existing arrangements.

So, I think the alarm expressed by various status-quo stakeholders has to do not only with an altruistic concern for the public good, but also with the uncertainty about how the transportation landscape will look following this change, which we think is inexorable. We think there's really no choice that it will occur; the question is, how quickly?

Why is the public sector entitled to the presumption that it acts in the public interest?

– David Horner

Ed Regan: The public opposition and the differences between the administration and Congress on this issue, I think, relates to the fact that the biggest models out there, the Indiana Toll Road and Chicago Skyway, are both examples of former public-operated facilities that are now privately operated. Along with maximizing the asset valuation comes a series of programmed toll rate increases in the future that, if you do the math and you compound out for 99 years, they look like preposterously large tolls that'll be charged in the future. And that's contrasted to how these facilities have been operated for the past 50 years as public sector facilities with minimal toll changes that haven't kept pace with inflation and have decreased in real terms.

The contrast there of going from the public sector to the private sector, I think, is the big issue. I think the problem that people have is that these roads were built to provide mobility through relatively low toll rates and now they are being used to maximize asset value in a way that was not previously considered. On the other hand, we've reached a point in transportation finance where we need every tool in the toolbox. There are hardly any projects that are financially feasible as traditionally financed toll facilities anymore. So, there's this huge market and opportunity for the private sector to help develop those roads that can be profitable in the long term for the private sector.

So the fact that the biggest transactions on the radar screen influencing public policy right now happen to have been transitions from a public sector to a private for-profit operation has engendered a debate that is perhaps unnecessary.

Mr. Horner: I'd like to supplement that point by asking, why is the public sector entitled to the presumption that it acts in the public interest? I hear chuckles in the audience, but it isn't axiomatic that the public sector acts in the public

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– Tom Skancke

interest. You asked for provocative points. I'm delivering one that is provocative in substance as gently as possible. But I question why we should perpetuate the current arrangements when there has been this astonishing decline in system performance during government stewardship of the transportation network. So we ask rhetorically in these debates, compared to what?

We shouldn't assume that the default is stewardship of the public interest by the public sector because we've seen gross misallocation of scarce transportation resources. We have seen deferral of maintenance for decades. We have seen instances of free ridership across the system; people are not paying the costs that they impose on the system and on other users. We think the private sector can help overcome these weaknesses. The private sector is disciplined; its requirement for a financial return will discipline the operation of these vital systems in a way that is institutionally problematic for the public sector.

Mr. Heminger: Tom, what do you think? You're going to sit there and take that?

Tom Skancke: I think our system needs to be both public and private. I think we need every penny that's available to us to construct the system that this country demands and has built over the past 50 years. I've said this a hundred times: this is the United States of America. We should not be following Europe and China when it comes to transportation infrastructure. And whether it's public or private sector dollars, we have to manage them better and we need more.

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We need private sector dollars; we need public sector dollars. We need every bloody coin out of the fountain at Caesar's Palace in Las Vegas to get us to where we need to be. As a nation, we have been derelict in our responsibility to make infrastructure a priority. You can talk about whether states have been irresponsible or whether the private sector has not assumed enough risk in these 99-year leases. The simple fact is, we as a nation haven't done our job.

My colleagues on the commission have heard me say this a hundred times: The fact that it takes 14 to 20 years to deliver a transportation project in this nation is ridiculous. And so, if the private sector is willing to take on more responsibility up front in a public-private partnership, then I think we should allow that. And I think the deals have to be looked at very closely. I think we need to look very closely at these up-front payments and where those payments are going so that we're not spending the money on prisons or libraries. We should spend those dollars on transportation infrastructure.

A lot of the debate in our politics today is largely about where you draw this line between public and private.

– Robert Atkinson

Mr. Heminger: Rob, I'm going to give you the last word on this and we'll go on; but believe me gentlemen, we'll be cycling back through these issues because every single one of these relates to the other.

One thing that got a lot of attention in the Chicago transaction was the fact that some of the funds went off the transportation system into general government. And again, in other countries, that's not so unusual; but here it is. Does it trouble you that at a time when transportation investment seemingly needs to grow, we're finding a way to put a trapdoor into transportation investment that can extract money from it?

Robert Atkinson: Let me respond to David's comment. I don't deny that the public sector may not be as effective in delivering transportation infrastructure as it could be. But I think this debate is really about an intuitive sense on the part of American taxpayers that the road system is a public good that ought to be provided by the public sector to serve the public interest. Now, the public sector may not do it adequately; they may not do it right; but that is their mission. They don't have any other mission than that. So, I think that's really the core of the debate.

Many people ask, "How are we going to trust the market or the private sector to serve the public interest?" Frankly, I don't think the industry's done a good enough job of explaining how that's going to occur. I think a lot of the debate in our politics today, leaving aside international affairs, is largely about where you draw this line between public and private. That's largely the issue in our healthcare debate right now. Should it be public; should it be private? It's the debate about lots and lots of other issues. And I think that is the core right there.

My last point is this: if you look at a lot of the infrastructure we have today, it's provided by the private sector. It's been private-sector provided for 100 years: electricity, gas, cable TV, Internet, telephone. We have private-sector networks that essentially have public-interest attributes. And people are very comfortable with that. By and large, nobody's really calling for nationalizing our telephone system because essentially it's a regulated system. So, it's a public-private mix and I think that's the notion that we have to get out of it.

I don't think anybody really is talking about wholesale privatization of the road system and just let it run wild. We're basically talking about a regulated system where private sector actors can do it better in many cases than the public sector.

I recently spoke at a Reason Foundation conference, and people were saying, "Wouldn't it be great if you could take these toll roads and use the money to cut taxes?" And I was thinking, if you're conservative, you divert to cut taxes; and if you're liberal, you divert for home heating subsidies. What's the difference? It's all diversion.

We have two diversion issues. There's the diversion away from transportation, which is very troubling. And there's a diversion to the present generation in making the future generation pay. I'm quite troubled with the idea that I'm going to get a windfall as a taxpayer because I happen to live now, but my son and grandson, who will be paying these higher tolls in the future, get none of the benefit. The politics are all designed to hurt future generations and benefit ourselves. I think that's very troubling. That's a management issue and a political issue. It doesn't damn public-sector participation; it just says we've got to manage this the right way.

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– Robert Atkinson

Foreign Versus Domestic And Brownfield Versus Greenfield

Mr. Heminger: We're going to move now to the question of foreign versus domestic investment and ownership. This issue has been part of the debate, but I think there is a question about whether it really belongs in it. If you think about it, our debt is owned by the Chinese; our banks are owned by the Saudis; so what's wrong with the Aussies owning some of our roads? In a global economy, is national ownership of infrastructure some kind of anachronism, or does it still have meaning, does it still have value? John, what do you think about that?

John Hastings: From a pure economic standpoint, I don't find a debate about foreign versus domestic to be particularly enlightening. I think the debate is much larger. It's about whether or not the providers are acting responsibly and prepared to provide good service.

The interesting thing about this public-private and foreign versus domestic issue is the notion that there is a fundamental difference between brownfield projects and greenfield projects. I think brownfield projects elicit a lot of the emotional and visceral response that we've touched upon here. Once you've monetized the existing assets what do you do with the money? Those brownfield deals are fundamentally financial transactions designed to repair budgets and fix up declining

infrastructure, while greenfield projects are about building new infrastructure.

If you look at those two sectors somewhat differently, I think there's very little debate that the greenfield side of the business will continue to expand due to the demand, and the brownfield will continue to elicit the types of discussion that we've had today regarding protection of the existing franchise and whether we're getting fair value. Is it a fair idea to sell it for a very long time or lease it for a long time in the future?

Those are the fundamental issues for me. I find the foreign versus domestic debate to be a non-starter. I think it was completely politically motivated when we talked about Dubai Ports World a while ago, and I think there are very competitive international firms that can provide a lot of examples of how to do business that are helpful. To echo the earlier sentiments of others, we need it all. Shutting off the creativity of foreign suppliers is very short-sighted in my viewpoint.

Mr. Heminger: John, I'm glad you brought up that issue of brownfield versus greenfield. I think everybody in the room knows what we're talking about. It's basically the difference between an existing asset and building something new. Our commission heard some fairly candid testimony from a lot of the financial institutions and funds saying that they would much prefer the brownfield deals because they represent a more certain investment.

Mr. Hastings: There's no question that, as a pure investor, brownfield projects are a more attractive investment because they have had historic performance on which to assess value. As an investor, of course you want to buy an existing franchise; it's like the difference between a start-up and an existing business. The existing business is much more predictable. Quite frankly, many of the investors feel that there are significant economies to be gained by private operations in terms of reducing costs, efficiencies in contracting, reducing staff, putting in new technology. So, I think the brownfields are a very attractive opportunity for pure investors. But I'm not sure that brownfields are where growth is going to come in terms of the private sector contributing new infrastructure in the U.S.

Mr. Heminger: Jack, could I ask you to address either one of those topics, the foreign-domestic debate or brownfield versus greenfield?

Mr. Schenendorf: I basically agree that, from an economic point of view, it doesn't really matter if the money is foreign or domestic. I'm not troubled by that. I do think, though, it is an enormous political issue. As I understand the administration's position, it is basically to not have any limitations on these projects, from the length of time for these concessions or for the use of revenues.

So, if you allow deals where you can have excessive profits without sharing revenues with the public sector; if you have deals that last for 75 or 99 years; if you keep in mind that these companies answer to their shareholders and not to the public good; and if they have the ability to raise rates, then they will raise them; in that case, these companies are basically running monopolies. And if all of this happens on the Interstate system, then motorists don't have a choice. You've got to continue going on that Interstate system, by and large.

So these concessionaires have a captive audience. I think the big problem with foreign investment is that when you talk about long-range deals with unlimited rates of return, then it's going to be very troubling. I think it's going to hurt the ability to bring private money into the system. I think we have to establish some good ground rules to allow private-sector investment, to allow foreign investment, and basically get a good understanding with the American people as to what we're trying to do as opposed to really advocating what I think are far-out types of agreements.

Mr. Hastings: I think your point is well taken; a bad deal is a bad deal whether it involves a foreign corporation or a U.S.-sponsored corporation. When I spend time in Europe speaking to European investors and contractors, I am careful to point out that my own belief is that the U.S. system will be uniquely U.S.; it will not be a foreign model. It will not be an Australian or a European model. We will design our own set of systems.

I think that your concern, which may reflect some of the early deals, is that we need to pay careful attention to the risk transfer. Are we paying careful attention to the value paid for various economic opportunities? Or are we being cavalier about our future such that we're making our kids or future generations pay for things that we were not careful enough about protecting?

So, I do heartily agree that there needs to be an extreme level of scrutiny in the time, the duration, and the profitability of some of these transactions. They need to be better understood and carefully executed. But the things that are going to hurt us would be knee-jerk reactions against foreign investment or privatization in a broad sense.

Mr. Regan: I think the foreign-domestic dichotomy is a lot about nothing. I think foreign ownership is just a trend that emerged because investors outside the United States were better prepared for the movement toward privatization than investors inside the United States. And I think, over time, equity funds that have been established by U.S. firms are going play just as big a role.

I think the public-sector agencies are learning a lot of things from the private-sector proposals, particularly from the Skyway and the Indiana Toll Road. One is that their assets are currently undervalued because their pricing strategies and their own philosophies of public ownership and operation have undervalued those assets.

Several toll agencies, for example, the Harris County Toll Road Authority in Houston, the North Texas Tollway Authority in Dallas, and others have adopted formal policies that will actually adjust toll rates in proportion to economic indices such as CPI. And that's a very significant change. Harris County decided not to lease its existing highly successful system but instead the Harris County Commissioners Court has adopted a policy that mirrors some of the structures of the comprehensive development agreement (CDA) transactions in Texas, which will have automatic toll increases tied to CPI.

Mr. Heminger: So, in that case, it's a way for private sector discipline to influence the public sector?

Mr. Regan: I don't think there is any question that the public sector is trying to leverage the value of its assets by increasing toll rates. You also see examples of that in Pennsylvania where legislation has been proposed to increase toll rates on the Pennsylvania Turnpike by three percent per year over the next 50 years, in addition to the possibility of establishing tolls on an existing untolled Interstate highway as an alternative way to generate money that would have come from leasing the Turnpike.

And in New Jersey, Governor Corzine has basically put his own political future on the line by proposing large toll rate increases over the next 10 years or so and the creation of a public benefit corporation to keep the New Jersey Turnpike in public ownership and significantly leverage the turnpike revenue stream to deal with the state's budget problems. So what you're seeing is the Turnpike may stay in public ownership, but it's going to be a very different public sector in the future.

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> *– John Hastings*

Mr. Schenendorf: I find that very troubling. Here's an example where you're taking a piece of the Interstate system and you're basically saying that they're going to use those funds for other purposes. The users of the New Jersey Turnpike are going to be paying for, maybe, a pension plan bailout, with interest, for many, many years, which is going to hurt our global productivity. And if every jurisdiction along the Interstate system is able to use the Interstate to finance whatever they want for non-transportation purposes, it's going to hurt our global competitiveness, and frankly the American people aren't going to tolerate it.

Mr. Regan: I think that's a good point – not to agree, but I think that's a good point. But it's also the driving force behind the movement toward privatization in the first place. The reason that Pennsylvania and New Jersey have even considered leasing their major turnpikes was because of the ability of Chicago and Indiana to cash in on their asset values. Both of those states have severe financial problems and they're looking for a one-time bailout by monetizing these existing toll assets. In the case of Pennsylvania, it's primarily a transportation shortfall. As you point out in the case of New Jersey, it's for all kinds of shortfalls. That is a very,

very important question. Should one or more facilities in a state be used to solve all of the financial problems of that state, or all the transportation problems of that state? Or should we look at broader application of user fees?

Mr. Heminger: Let me pose a question to David Horner. What role do you think the federal government ought to play as some kind of referee or arbiter of these transactions, or should it play that role at all?

Mr. Horner: I think a minimal one, at least in the near future, because frankly the federal government doesn't know a lot about the subject matter. This is an esoteric subject. State transportation agencies are just beginning to acquaint themselves with the mechanics of these transactions. So, it's a steep learning curve that everyone needs to climb. I think it would be absolutely premature to insist on the application of certain federal requirements before we understand how this market can evolve. I think that we should await the development of the market, allow the innovation that's delivered customarily by the marketplace to address these different issues before we conceive of the national interest in one way and then insist that it's implemented for decades hereafter. I think we would lose the benefit of the creativity of the marketplace if we do so.

Mr. Schenendorf: I'm stunned to hear a federal official say that. The federal government has an enormous interest in the Interstate system. And in railroads. The federal government has preempted local and state jurisdictions from taxing Interstate movements of freight on rail; same with passengers. And the idea that we're going to experiment and let people come in and do 75 and 99 year deals on the Interstate and then 10 years later say, oh my gosh, they didn't do it right but we're stuck with these things for 99 years, I just don't think that's sound policy. The idea that you would take the current Interstate system and turn it over to the private sector in its entirety under deals like the Indiana and Chicago and New Jersey deals, I find very, very troubling.

Mr. Heminger: Well, Jack, a lot of the folks in this room are toll operators, and a lot of the toll roads were incorporated into the Interstate system when it was built, so you can make the financial argument that since federal money wasn't involved in their construction, what is the federal responsibility to them?

On the other hand, the Interstate system is a network and it ceases being a network if elements of it are treated differently than other elements. And so, I think you can raise the question, outside of who paid for the road, is there a national interest in a national network? And how do you protect that given different ownership? Let me get the other members of the panel back into play here. Rob, what do you think about this question?

Mr. Atkinson: I'm more agnostic about what the federal role should be. It's an issue we're going to be looking at in great detail, but one could envision something like what we do in telecommunications where we have a Federal Communications Commission and state public utility commissions that manage this federal-state, public-private system.

I don't think there's anything sacred about the Interstate highway system. And I don't think there's any evidence that a non-federalized system would fail to produce a network. The biggest and most successful network in the world is the Internet; it's a completely private network and it somehow seems to be able to deliver a message. I can send an email to Korea and it gets there and it doesn't ever travel over a public network. It travels over multiple private networks.

I don't see why the road system would really behave any differently than that. I don't think people have an incentive to build a road that stops at a state border and it just stops. Some people believe we built the Interstate and it's sacred and can never change. I'm just not sure that's the right way to think about it.

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> *– Robert Atkinson*

Taxes Versus Tolls

Mr. Heminger: Let me turn the page. Item three – taxes versus tolls. Steve Lockwood reminded us at the outset that tolls are playing a larger and larger role in providing new capacity in many states. The question I'd like to ask the panel is whether tolls are at the point where they can take over the workhorse role that the fuel tax has always played at both the federal and state level in the United States.

Mr. Skancke: I think it's a hybrid. This country is used to the fuel tax. And it's built an incredible system in our country. It's built the preeminent surface transportation system in the world. And for the immediate needs of this nation, the fuel tax is the most predictable highway funding mechanism we have.

Going to a vehicle miles of travel (VMT) fee or initiating tolls across America is going to take time and is going to take a significant amount of investment both in the public sector and in the private sector. I think that, at some juncture we're going to have to rely more upon a VMT. I don't believe that in 2025 or 2030 that the gas tax or the fuel tax will still provide a reliable source of funding.

We have to get back to what's important to our country, and that is our infrastructure; it is the economic lifeline of our country. We have not increased the gas tax since 1993. Having said that, you cannot rely solely upon tolls and the private sector at this juncture, in my opinion, until the country culturally is willing to accept that scheme and make that shift.

> There's a disconnect between the public's perception about tolls, pricing, and user fees and elected officials' perceptions of what the public's attitudes are.
>
> *– Ed Regan*

Mr. Regan: I see a future where we do move eventually off of the gas tax and toward a user fee for everything. In effect, all roads become toll roads in one form or another. We won't have toll booths or barriers because it will be completely electronic-toll collection, open-road tolling and so forth.

The transition to a complete user fess system will take 15 to 20 years. Every time I say that, someone will ask "why worry about it now?" You do have to worry about it today because it will take that long to make the transition. Policy makers today need to get serious about the findings from these commissions that say there is a long-term problem with the gas tax. We need to start building consensus and move toward an ultimate solution.

There is a strong and growing public acceptance of tolls that isn't even recognized yet by elected officials. There's a disconnect between the public's perception about tolls, pricing, and user fees and elected officials' perceptions of what the public's attitudes are. I think that's gradually going to change. So there is an acceptance of the inevitability of moving toward user fees and a preference on the part of the public to move toward more user fees and away from increases in taxes.

Over the next 10 years, I see a gradual transition to a growing use of tolls for managed lane projects and congestion pricing projects. But one of the keys is that many of these projects are going to be financed through a combination of tolls and tax dollars. I don't think you're going to necessarily see a dramatic increase in the number of completely self-sustaining standalone toll facilities. There may be hybrid financing, but we'll eventually move toward a user-fee system where all facilities are tolled in one form or another.

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– Ed Regan

Mr. Heminger: And that raises the specter that you hear often – especially from certain interests like the trucking industry – of double taxation. They'll say, I'm paying my gas tax; I'm paying my toll. How many of these fees do I have to pay to get my road? Is that a problem?

Mr. Daley: Look, this is the only country that I know in the world where there's a conflict between freight and tolls. And to be quite frank about it, if a value proposition is created for the freight companies, the truckers, then a toll is not the issue. Just listening to Tom and Ed – they nearly got there. But they're both wrong.

I don't think we should be looking at taxes and tolls in the context of where we are today and where we will be in 10 to 15 years. Look at the largest 15 cities in the U.S. If we don't start managing those networks on the basis of sustainable transportation outcomes, then there is a crisis coming. It is impossible to build out of congestion in our major urban areas, so get on with it.

If it's tax-based, it is perceived as free. You will maximize the number of people on the roads. So don't think of tolls versus taxes as the argument. This is the argument: how do we apply a really simple application which is going to convince people that they cannot drive when they want, where they want, at all times unless they are prepared to pay for it? And that really is where I think the big debate has got to move to. The freight industry has already worked that out. They already schedule so they can do their driver changes, their loading and unloading during peak periods. They try to get as much productivity out of their facilities by avoiding congestion.

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As far as congestion goes, you just need to drive the Capital Beltway today. Rush hour congestion goes on for seven or eight hours; it's a crisis. And this is why I think the argument for tolls is a lot larger than we're perceiving at the moment. Congestion and sustainability have got to be the two keys.

How do we convince people that they cannot drive when they want, where they want, at all times unless they are prepared to pay for it?

– Ken Daley

Mr. Sckancke: I'm going to bring this home to you. I'm not disagreeing with you, but I've got to understand this. I have 400,000 people that work on Las Vegas Boulevard and I can't toll them or price them getting to and from work. I can't do that. I've got 43 million people a year coming to Las Vegas and I can't price a housekeeper going to and from work.

But if, through pricing, we force people to make a decision about getting to and from work, then you're going to lock out 50 to 80 percent of America who have no choice on how they are going to get to work. In my community, we don't have transit. So if you're telling me that we're going to force people to make choices of when they drive, then you'd better reach out to corporate America and tell them when their hours of work are because some people aren't going to make that choice.

Try telling Office Depot or Wal-Mart that your people can't travel between the hours of four a.m. and seven a.m. because that's peak travel hour. And, oh, by the way, increase your salaries because they've got to pay eight bucks to get on the road. What you're talking about is a cultural shift of how Americans use and choose their transportation. This isn't going to happen overnight. People are used to getting in their car and going to work and going to the grocery store whenever the hell they please.

It's a cultural shift of how people change their attitudes and move about the country.

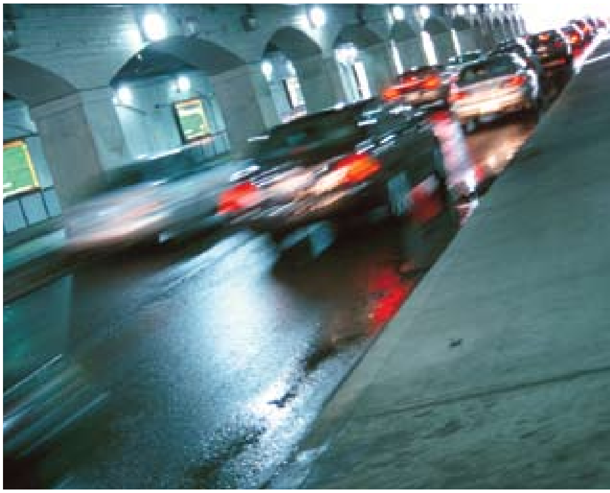
We're nearer to public acceptance of tolling than the panelists may believe.

– David Horner

Mr. Horner: I think we're nearer to public acceptance of tolling than the panelists may believe. Polling data shows that the public prefers tolling over taxes to raise funds for transportation. The public is coming to recognize that tolling is an effective means of managing demand and reducing traffic congestion.

The U.S. Department of Transportation has recently funded five significant, large-scale road-pricing demonstration projects in five, large metropolitan areas around the United States including Steve's hometown. And there are more to come.

In the economic literature we also see an emerging consensus that endorses tolling. Two years ago, the Transportation Research Board, which is the seat of the transportation establishment in the United States, wrote in its report *The Fuel Tax and Alternatives for Transportation Funding* that in 10 years our highway system will be funded principally by road metering. They went on to say that the gas tax will recede into the background. So, while there's a great deal of alarm expressed in this room, I think the public gets it.



Mr. Heminger: Let me give the last word on this particular topic to the chairman and the vice chairman.

When you're talking about freedom, you're largely talking about freedom to do something without paying for it.

– Robert Atkinson

Mr. Atkinson: I think I would have rephrased this as taxes versus user fees versus tolls because at least half of the monies invested in surface transportation don't come from user fees; they come from other taxes. What if we said to all of the hotel owners in Las Vegas we're going to give you a subsidy. You've got to keep your rates the same, but we'll give you a government subsidy for the hotel rooms and you'll charge half of what you charge for your hotel rooms. You know, if they did that, what do you think would happen? There would be massive numbers of people overwhelming the hotels. There would be queues outside the hotels, particularly at Christmas, because there would be so much demand because we're subsidizing this.

That's what we're doing on the road system and I think it has very perverse effects. When you're talking about freedom, you're largely talking about freedom to do something without paying for it, which is a nice thing to do. As an individual, I'd love to have that freedom. As a society, though, we know what happens. And clearly, one of the big results is significant environmental degradation. People are not paying their full cost to the environment when they drive. They are not paying it when they drive on congested urban freeways.

I think aligning benefits and prices is the core of what this should be about.

We pay for many government services – like national defense – using taxes. It's hard to say, for instance, "I'll pay for that Iraqi soldier, but I'm not paying for that other one." But transportation represents a situation where it's easy to price. We have good systems to charge people for what they use in transportation. And we also have very good ways of thinking about equity. So I don't think it's one of those either/or things. I think if we continue doing it this way, we'll continue to get the results we have, which is high levels of inefficiency.

Mr. Schenendorf: I just want to point out that when we talk about tolls and user fees on the facility, I think the public is more supportive when you use tolls to pay for that specific facility. Tolls that are charged because of the cost of that facility are one thing. But when you're talking about paying tolls in order to finance transportation elsewhere in the state, hundreds of miles away; or when you talk about paying tolls to bail out the state pension system, those are completely different things.

I do not think there is support among the American people for paying a toll on a facility where revenues are going off the facility to other purposes, be they transportation 100 miles away or home heating-oil subsidies or whatever. Depending on the use of the funds, it's an entirely different issue as to what the public supports.

The Federal Role

Mr. Heminger: I want to move to the next topic: What is the federal role in transportation? There is one view that the Interstate has been built, we should declare success, and the Federal Highway Administration ought to go home. There is another view that, despite the fact that the Interstate system is complete, there are still challenges that require federal leadership. For example, goods movement, energy, and climate change continue to justify a federal mission. The question to you, David, is really the most pointed. What should the Federal Highway Administration (FHWA) look like five or 10 years from now?

> Aligning benefits and prices is the core of what this should be about.
>
> *– Robert Atkinson*

Mr. Horner: I think before we ask the question, "What should happen?" we might ask a different question. I think this is the more salient question: "Will the federal government do what should be done?" I'll only ask it; I won't answer it, but I think you know what's on my mind. I'll call that a rhetorical question, asked and answered.

There is a problem with the learning curve here. The federal government should not rush to regulate

What should the federal role be? I don't think it should be based on some debatable assumption that the federal government is omniscient and always the champion of the national interest.

– David Horner

– to borrow the words of an important congressman – it should not rush into heavy and highly prescriptive regulation of these transactions. I think it's significant that states are beginning to contemplate establishing what are called PPP coordinating agencies, which are public agencies based on models in Canada and the U.K., to advise procuring agencies at the state level about how these P3 transactions work.

Governor Arnold Schwarzenegger is expected to announce in the state of the state address in January that he will propose establishing one such agency for California. I think that many of these issues go away after we have mastered the subject matter. And as with anything, you learn from mistakes; the situation is not static, it's evolving. We're all learning more about it, and I think the more we learn, the better we are able to control for these concerns.

What should the federal role be? I don't think it should be a highly prescriptive, interventionist approach to these transactions based on some debatable assumption that the federal government is omniscient and always the champion of the national interest. I think there's a great deal of evidence and a long record that indicates otherwise. So we need to proceed very carefully here, and not on the basis of unexamined assumptions about the expertise that may reside in the federal government or may not, in this case.

Mr. Hastings: I think there is a danger in rushing into a situation this complex without a tremendous amount of knowledge and vision. On this debate, we may have overlooked some important issues.

Taking massive amounts of what is currently part of the transportation infrastructure and monetizing it seems somewhat shortsighted.

– John Hastings

First, there is a consensus that the transportation infrastructure system is massively under funded. The second point is that the gas tax – which was last increased in 1993 – is not doing an adequate job of funding the system. So it's hard to imaging that the status quo is going to do a good job.

And third, taking massive amounts of what is currently part of the transpor-

tation infrastructure and monetizing it – in order to take the monies out of the already depleted infrastructure – seems somewhat shortsighted in my view. At least it has the potential to be pretty dangerous. So while I am generally not an interventionist, I think there are some pretty serious issues that demand attention.

On the regulatory side, we had a deregulation of the electric utility industry a few years ago and, now, the consensus is coming out that it's a pretty mixed bag in terms of what has happened in terms of service, rates, and consumer benefit. So our unregulated private-sector delivery system hasn't shown that it's the only model that works.

Mr. Daley: I'd like highlight one point in terms of the federal participation, that's not very obvious here. And that is with respect to encouraging some of the reforms that are required in transportation. And I speak, again, of the freight industry. I'm amazed, really, at the lack of real intervention that's given to the road-freight task, and the growth of the road-freight task.

Just look at the changes that are going to come through as a consequence of the loading of the really large ports; Los Angeles, Long Beach and all the West Coast ports. There's enormous change coming through in the freight-task and the road-based freight-task, and that's an area where the federal government must assume leadership and actually put a strategic framework in place because that's an enormous cost-element that flows to everybody in the community.

Mr. Heminger: So, there's one nomination for a federal role on freight. Rob, do you have any more?

Mr. Atkinson: There's no question that the federal role is going to change significantly over the next 10 to 20 years. In the recent past, we've had a system largely where the federal government is much more involved in management and funding, and with very little accountability for real results. They just kind of hand the money out, and states do what they want with it, and as long as they don't violate some environmental laws or procedural rules, they just keep getting more of it.

My view is that the system just doesn't work, and if the federal government is going to play a role, it must be a role that has two key components to it. First, the system must be much more performance based, that's tying money to actual results, not to procedural inputs. And second, I think a lot of states would like to move towards pricing and tolling, but there are huge political barriers to it. There's a political risk to it, so a lot of them take a much more conservative approach. I think one of the key federal roles is to encourage states to take risks and innovate.

The Department's Urban Partnerships Program is a big help to the states. It isn't a lot of money, but it's enough money to get mayors and county officials to do things they wouldn't have done otherwise. And you can imagine a much bigger role for urban partnerships and state partnerships where you're dangling real carrots up there. So, I think a big role for the feds is driving change throughout the system.

Mr. Regan: There is a federal role in the future but it's going to be different. I'd like to return to the theme of user fees and the Interstate system. The reality is that all the money now is going to be spent on rebuilding the Interstate, once and twice and three times in the future, as it continues to be our lifeblood. I believe that states will, in the future, look at putting user fees on Interstate facilities as a way of generating the huge amount of dollars that will be needed to rebuild the Interstate, which will cost many times what it costs to build them in the first place. Right now, the federal government and federal regulations put limitations or prohibitions on tolling the Interstates. So my simply stated proposition is this: if the federal government is not able to provide the solution and the money to rebuild the Interstate system, then it needs to get out of the way and allow the states to do it with user fees.

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– Ed Regan