

THE ISSUES FROM THE PERSPECTIVE OF REGULATED TAXI AND LIMOUSINE CARRIERS

I) TNCs: A summary of Top Public Safety & Licensing Concerns

Transportation Network Companies (TNCs) are taxicab companies. TNC's recruit drivers, market for passengers who need immediate transportation service, dispatch drivers to pick up passengers, and charge passengers for rides so the driver and the dispatch service can earn a profit. If that isn't a taxicab company, then what is?

The use of apps by TNCs does not put them in a class by themselves; thousands of licensed taxicab companies across the world use them as well.

As taxicab companies, TNCs should meet public safety and licensing standards already in place for taxicabs. However, if elected officials establish a looser set of standards for TNCs, then licensed taxicab companies should be allowed to follow these new looser rules in order to fairly compete.

The licensed industry is not all against innovation. In fact, most successful companies love innovation, and they love this technology. That's why taxicab companies use their own apps and the Taxicab, Limousine & Paratransit Association (TLPA) recently joined in establishing the Global Taxi Network. **What the regulated industry objects to is allowing TNCs to avoid vital standards of public safety, costs, service, and insurance protections.**

PUBLIC SAFETY CONCERNS

Customer Privacy:

- ▶ The **abuse of private information by TNCs is rampant** and has resulted in a Congressional inquiry and serious concern by consumers. TNCs and the licensed industry must be held to strict standards to safeguard passenger privacy.

Driver Screening:

- ▶ **Taxicab drivers in major fleets are typically fingerprinted and run through police background checks.** Unregulated TNCs do neither.
- ▶ **TNCs use low-cost, third-party background checks** on applicant names and social security numbers to are not thorough enough. Time and time again, felons have been proven to be behind the wheel of TNC vehicles due to these inferior checks.

Insurance Coverage:

- ▶ **Taxicabs are required to carry expensive primary commercial auto liability insurance coverage costing between \$5,000 and \$6,000 per vehicle.** TNCs are evading these costs to maximize profits.
- ▶ New **hybrid policies combine personal and lesser** commercial policies. If unregulated TNCs can use them to cut costs, then so should every licensed taxicab company.
- ▶ Industry transportation companies are required to have **one primary insurance company** resolving all claims to prevent the insurer from dodging or delaying compensation.
- ▶ **Financial coverage should be identical during all periods of driver activity.** The family of someone injured or killed by a driver waiting to be hailed should not receive less compensation than the family of someone killed by a driver ferrying passengers.

Vehicle Safety:

- ▶ Taxicabs must pass one or more annual **independent mechanical safety inspections.** TNC vehicle inspections are conducted by TNC “mentors” or other representatives, if at all, and last about five minutes. There is no “under the hood” inspection done by a licensed mechanic who actually knows how to tell if a car is safe or not. Governments must not allow TNCs to skirt basic safety regulations.
- ▶ Taxicabs are required to have **external markings** to help the public recognize legitimate vehicles and help the authorities regulate for-hire transportation services.

CUSTOMER SERVICE ISSUES

Cost of Fares:

- ▶ **Taxicabs are an extension of public transportation, so, the public has a vested interest in ensuring they are readily available at reasonable prices.** Their fare rates are established by a public agency and are based on time engaged and distance traveled – as calculated by a certified meter.
- ▶ Limousine and livery vehicle fare rates are established in advance based on the amount of time for which the vehicle is hired or are prearranged flat rates.
- ▶ TNCs institute “surge pricing” through an undisclosed algorithm with no apparent rhyme or reason. Industry advocates recommend limiting fare surcharges to no more than 150% to 200% above the regular fare.

Hours and Areas of Service:

- ▶ Taxicab companies are typically required to provide **service 24 hours per day** to all portions of the community, including low-income neighborhoods.
- ▶ TNCs cherry-pick which neighborhoods they want to serve. **This is discriminatory.**

OVERALL PUBLIC INTEREST

Licensing and Inspection Fees and Taxes:

- ▶ Licensing and inspection fees and taxes pay for the regulation, oversight, safety checks and accountability that enhance public safety. **Taxicabs and TNCs should pay identical fees and taxes** before both provide transportation services for profit.

Limiting Vehicles:

- ▶ **The number of taxicabs is capped to balance permits with demand.** Failure to do so means that streets would be clogged with taxicabs, increasing pollution and preventing drivers from earning a decent living due to oversupply.

II) TNCs: TOP PUBLIC SAFETY & LICENSING CONCERNS ALONG WITH THE REGULATED TAXI AND LIMOUSINE POSITION ON EACH ISSUE

Transportation Network Companies (TNCs) are taxicab companies. TNCs recruit drivers, market for passengers who need immediate transportation service, dispatch drivers to pick up passengers, and charge passengers for rides so the driver and the dispatch service can earn a profit. If that isn't a taxicab company, then what is?

The use of apps by TNCs does not put them in a class by themselves; thousands of licensed taxicab companies across the world use them as well.

As taxicab companies, companies like Uber and Lyft should meet public safety and licensing standards already in place for taxicabs. However, if elected officials establish a looser set of standards for TNCs, then licensed taxicab companies should be allowed to follow these new looser rules in order to fairly compete.

The licensed industry is not at all against innovation. In fact, most successful companies love innovation, and they love this technology. That's why taxicab companies use their own apps and the Taxicab, Limousine & Paratransit Association (TLPA) recently joined in establishing the Global Taxi Network. **What the regulated industry objects to is allowing TNCs to avoid vital standards of public safety, cost, service, and insurance protections.**

PUBLIC SAFETY CONCERNS

- ▶ **Customer Privacy**
- ▶ **Driver Screening**
- ▶ **Insurance Coverage**
- ▶ **Vehicle Safety**

Customer Privacy:

Requirements imposed on for-profit transportation services for hire by the public are typically as follows:

- ▶ In limousines and taxicabs in which a technology system, such as a credit/debit card payment system has been installed, vendor must (i) be authorized by the jurisdiction to install the technology systems (i.e., the credit card machines, screens, monitors and/or GPS systems); (ii) adhere to strict security and privacy protocols that require, amongst other things,

that vendors have an established information security policy, prior to developing a system design, and (iii) any data categorized as private or confidential must not be transitioned to removable media without regulatory approval.

Regulated Industry's Position:

Articles have reported that Uber is misusing and possibly exploiting private passenger data. Uber Senior Vice President Emil Michael suggested that his company could spend \$1 million on digging up dirt about unfavorable reporters and threatened the misuse of passenger data in this regard (<http://www.buzzfeed.com/bensmith/uber-executive-suggests-digging-up-dirt-on-journalists>). A day later, a senior editor at *San Francisco Magazine* wrote that she was warned by sources at Uber that executives could be spying on her via her Uber usage (<http://www.modernluxury.com/san-francisco/story/uber-employees-warned-san-francisco-magazine-writer-executives-might-snoop-her>). The editor was cautious to say that she did not know whether her information was accessed or whether her sources were just being overzealous in warning her, but the general sense is that accessing users' private data is fairly easy at Uber, and that "the company stokes paranoia in its employees about talking to the press." Uber has a function that it refers to as "God View," which allows employees to track and share the whereabouts of any user who has ordered a car.

Thus, to the extent privacy measures are currently in place for technology utilized in taxicabs and/or limousines, the regulated industry supports holding TNCs accountable to the same standards. However, if the advent of smartphone applications in the transportation space has not yet been contemplated by a jurisdiction, then the regulated industry urges elected officials to conduct an audit/investigation of TNC privacy policies to determine whether they are sufficient to protect the public. It is completely within the power and authority of elected officials to require, as a condition of the licensure of TNCs, that privacy protections be in place. Such requirements have been developed and imposed in local jurisdictions (e.g., New York City's TPEP regulations) and are being contemplated on a national level. The chairman of a Senate subcommittee that focuses on privacy, technology, and the law, the Federal Trade Commission (FTC), and other regulators have become increasingly concerned with the privacy implications of mobile and geolocation data and mobile app data security

<http://www.buzzfeed.com/bensmith/uber-executive-suggests-digging-up-dirt-on-journalists>).

Driver Screening:

Existing driver licensing and background check requirements imposed on drivers providing for-profit transportation services include the following:

- ▶ **Registration/Licensure as a commercial driver** in recognition of the extra responsibility the driver has when transporting the public for profit. This better enables the public sector to hold drivers accountable.
- ▶ **Pass a biometric (fingerprint) based national background check** through state or local authorities from the FBI. There is no other background check available that comes close to the thoroughness and accuracy of the FBI check.

Regulated Industry's Position:

All drivers providing public transportation service for profit (taxicab/TNC and limousine) should meet the public safety requirements outlined above because drivers are very often alone with a passenger when no one else is around. To allow for a self-administered background check allows for three points of failure: 1) The searching of less comprehensive databases than those accessed by public systems. 2) Whether or not the background check is performed at all, or whether a driver who fails the standard is excluded. 3) Whether or not the name is actually that of the driver being checked.

We strongly recommend against altering these time-tested biometric safety requirements. However, should any or all of these driver safety requirements be deemed no longer needed or safety levels amended by public officials, then those provisions should be deleted or amended for all providers of public transportation service of profit. This will promote a level playing field ensuring equal access to the labor pool of drivers where the cost and speed of processing are equal so that drivers have equally quick access to begin their careers as for-profit drivers for any portion (taxicab/TNC and limousine) of the public transportation for-profit industry.

Insurance Coverage:

Insurance requirements imposed on for-profit transportation services available for hire by the public all for the licensed industry to do the following:

- ▶ **Carry a commercial auto liability policy on any vehicle** that is used to provide public transportation service for profit. This public safety requirement ensures that any vehicle used to transport a passenger for profit has proper insurance to compensate those who suffer any type of injury or property damage caused by the for-hire vehicle.
- ▶ Have **one primary insurance company** be responsible for receiving and resolving all bodily injury and/or property damage claims. This public safety requirement holds providers of for-profit public transportation services accountable and prevents them from dodging and delaying compensation payments to injured parties.
- ▶ The **amount of primary auto liability insurance coverage should be the same at all times**. There is no justifiable reason for the family of a person injured by the negligent act of a driver cruising for a passenger to receive less compensation than the family of a person injured by a driver in-route to pick up a passenger or who has a passenger in his/her vehicle. In all three cases, the family is irreparably harmed and should be afforded the same limits of insurance coverage.

Regulated Industry's Position:

Each vehicle used to transport passengers for hire ***must be covered by a primary layer of insurance on the vehicle itself***. It is the only way to properly protect the public and eliminate coverage gaps. New and untested hybrid insurance policies are being introduced which for the first time combine commercial and personal coverage with limits to when the commercial coverage is in force, even though commercial coverage availability at all times at applicable commercial limits has been relied upon for years to provide maximum coverage for accident victims. Personal injury and wrongful death suits are currently being litigated in state courts around the country that will test the limits of the existing policies of TNCs. The regulated industry supports the longstanding ***rule eliminating coverage gaps and properly protecting the public by ensuring that "the vehicle" being used to offer for-hire services is covered by a primary layer of commercial insurance coverage at all times***.

If, however, the community determines that effective insurance requirements without coverage gaps are no longer needed, then all providers of public transportation for profit should be eligible to employ the same insurance schemes to reduce their cost of operation, limit their liability, and provide for a level playing field.

Vehicle Safety:

Vehicles that provide for-profit transportation services for hire to the public are typically required to:

- ▶ Have **external markings** to help the public recognize legitimate vehicles for hire and to aid the authorities in policing the legitimate and illegitimate providers of for-hire services.
- ▶ Pass an **independent mechanical safety inspection** by a qualified mechanic, which also includes a general vehicle condition and appearance inspection to ensure vehicle safety and appearance.
- ▶ Be **registered/licensed as commercial vehicles** to give the public sector accountability for the number and types of vehicles offering public transportation services and to collect a fee for extra road wear, service policing, and administrative costs involved in public oversight of for-profit transportation services. Additionally, injured parties need to be able to use tag numbers to track liable parties and gain access to their commercial insurance information.

Regulated Industry Position:

All vehicles providing public transportation service for profit (taxicab/TNC and limousine) should continue to meet the public safety requirements outlined above, but should any or all of these safety requirements be deemed no longer needed or safety levels amended, then those provisions should be deleted or amended for all vehicles providing public transportation service for profit. This will promote a level playing field for all service providers in regards to government imposed requirements and costs imposed on private sector service providers for vehicle safety requirements.

CUSTOMER SERVICE ISSUES

- ▶ Cost of Fares
- ▶ Service Hours
- ▶ Service Area

Cost of Fares:

Requirements imposed on for-profit transportation services for hire by the public are typically as follows:

- ▶ For limousines and livery services, the rates of fare are established by each transportation service provider based on the amount of time for which the vehicle is hired or are flat rates and are to be provided to the public before the vehicle is reserved so that the public can make an informed decision.
- ▶ For taxicabs, the rates of fare are to be posted for the public to view, and either the rates are set by a public agency based on time engaged and distance traveled as calculated by a certified meter or they are flat rates.

Regulated Industry's Position:

The current rates of fare policies are reasonable and distinguish between the consumer's ability to shop price when reserving a service in advance (limousine) versus the consumer's inability to shop price for service when the consumer needs immediate service at a stand, from vehicle cruising for service, or from an electronic order for immediate service (taxicab/TNC). Should any of the existing public sector imposed rates of fare requirements be amended for any one segment of the for-profit transportation service for-hire industry (TNC), then the requirements for all segments of the industry (taxicab and limousine) should be reevaluated and most probably amended to ensure equal or very similar fare-setting flexibility or inflexibility with equal levels of administrative burdens and costs.

For example, if a TNC can implement a fare change on a moment's notice and use an uncertified meter that is built into its dispatch device (cell phone) to calculate the fare based on time engaged and distance traveled, then other providers of the same type of immediate-response service (taxicabs) should have that same flexibility. (This allowance for taxicabs to impose surge pricing was incorporated into the Illinois State TNC bill that passed in January 2015). In all cases, we recommend that public authorities limit fare surcharges to no more than 150% or 200% above the regular fare

or establish a flat fee surcharge per trip and allow all types of service providers the flexibility to adopt this type of fare structure to encourage their affiliated drivers to deliver service during surge price times.

Service Hours:

Requirements imposed on for-profit transportation services for hire by the public are typically as follows:

- ▶ For limousines and liveries, which provide advance reservation service to the public, there is typically no need for service-hour requirements as all the trips are prearranged to meet the customer's needs.
- ▶ For taxicabs, which provide an immediate response to an electronic order for service or provide immediate service at a stand, there is typically a requirement in larger communities (whether explicitly required by regulation or understood in practice/implicitly enforced through penalties for trip refusals) that service be available 24-hours per day since the trips are not prearranged and the public needs access to immediate-response public transportation service for profit.

Regulated Industry's Position:

Most communities, for public safety and other reasons, want the public transportation service for-profit providers (taxicab/TNC and limousines) to ensure service is available 24-hours per day. This responsibility and cost burden has focused on providers of immediate response to an electronic order for service providers (taxicabs). The regulated industry supports this customer service requirement, but should a community deem this requirement to no longer be needed for any one immediate-response transportation provider (TNC), then all such providers (taxicab) should no longer be mandated to bear the cost of providing around-the-clock service.

Service Area:

Requirements imposed on for-profit transportation services for hire by the public are typically as follows:

- ▶ For limousines and liveries, which provide advance reservation service to the public, there is typically no need for service-area requirements as all trips are prearranged to meet the customer's needs.

- ▶ For taxicabs, which provide an immediate response to an electronic order for service or provide immediate service at a stand, there is typically a requirement that service be available in all portions of the community, often with emphasis on areas outside the central business districts of cities and on lower socio-economic areas, to ensure community-wide services are provided by those earning a profit from providing transportation service to the public.

Regulated Industry's Position:

Most communities for public safety and other reasons want the public transportation service for-profit providers (taxicab/TNC and limousine) to ensure service is available in all portions of the community, including areas outside the central business district of cities and lower socio-economic areas. This responsibility and cost burden has focused on providers of immediate response to an electronic order for service providers (taxicabs). The Regulated Industry supports this customer service requirement, but should a community deem this requirement to no longer be needed for any one immediate-response transportation provider (TNC), then all such providers (taxicab) should no longer be mandated to bear the cost of providing service to unprofitable areas in the community.

OVERALL PUBLIC INTEREST

- ▶ Limiting Vehicles
- ▶ Licensing and Inspection Fees and Taxes

Limiting Vehicles (Licensing Caps):

Limiting the number of vehicles that provide for-profit transportation services for hire to the public has typically been imposed as follows:

- ▶ The number of limousines and liveries – vehicles available for advance reservation – is often not limited as the luxury nature of the vehicles and the advance reservation requirement has served to limit vehicles from clogging streets and parking spaces in urban areas.
- ▶ For taxicabs, the number of vehicles are limited on what is referred to as a need-and-necessity basis through public hearings as taxi service is ordered for an immediate response, and the lack of vehicle limits for immediate response to an order for service has led to well-documented cases of excessive numbers of vehicles having negative environmental

consequences, such as increased pollution, and clogging streets and parking spaces, as well as causing a decrease in driver earnings in urban areas because the limited demand is disproportionate to the oversupply.

Regulated Industry's Position:

The current process of using public hearings to determine the number of vehicles used to provide immediate-response public transportation service for profit (taxicab/TNC) to help manage traffic congestion, air pollution, and driver earnings is flexible when properly administered, but should a community decide that these public safety features should be amended for any one provider group of immediate response for profit transportation service providers (TNC), then all other immediate-response provider groups (taxicabs) should be given equal access to putting on a limited or unlimited number of vehicles in that community.

Licensing and Inspection Fees and Taxes:

Requirements imposed on for-profit transportation services for hire by the public are typically as follows:

- ▶ **Pay fees that cover the costs** incurred by the public sector in carrying out the registration/licensing process, inspections, and background checks that enhance public safety.
- ▶ **Pay taxes** that are appropriate for public transportation services conducted for profit.

Regulated Industry's Position:

Fees and taxes should be relatively equal for all providers of transportation services for profit (taxicab/TNC and limousine) so as not to favor any one type of for-profit public transportation service provider over any other for-profit transportation service provider.

MORE INFORMATION

TNC public safety and licensing concerns are addressed by the **Who's Driving You** initiative on Facebook (<http://www.facebook.com/whosdrivingyou>), Twitter at @WhosDrivingYou (<http://twitter.com/WhosDrivingYou>), and its website (<http://www.whosdrivingyou.org>).