Testimony of William Heinzen, Acting Commissioner
New York City Taxi & Limousine Commission (TLC)
New York City Council: Transportation Committee
September 10, 2019

Oversight Hearing: TLC's Implementation of For-Hire Vehicle Growth Restrictions, For-Hire Vehicle Driver Pay Standards, and Other Recent Local Laws

Good afternoon, Chair Rodriguez, and members of the Committee on Transportation. With me today is Rodney Stiles, the head of TLC's Policy & External Affairs Division. We would like to provide an overview of TLC's implementation of several recent pieces of legislation regulating the For-Hire Vehicle (FHV) industry, including the creation of a special license for High-Volume FHV Companies, combating congestion from the FHV industry, protecting FHV driver income, and creating a new Driver Assistance Center. New York City serves as a model for other cities in the US and around the globe struggling to respond to the seismic shifts in for-hire transportation over the last several years. New York City continues to lead the way in developing and implementing smart, data-driven policies that benefit our city, the riding public, and the drivers who transport them.

High Volume For-Hire Service License. A little over a year ago, in August 2018, the City Council passed Local Law 149, authorizing the TLC to issue a "High Volume For-Hire Service License" to companies that dispatch at least 10,000 trips per day. The companies that fall within this definition are currently the four major app-based for-hire service providers: Juno, Lyft, Uber and Via. Local Law 149 established the term of the license as two years and authorized the TLC to set a fee for the license. Based on standard license fee calculation methodologies, the license fee was set at $380,000.

Since then, the TLC has undertaken the rulemaking necessary to implement the legislation and create this new license type. Applications, which included an evaluation of these services' impact on New York City, were due earlier this year from each of the four High Volume Services. TLC is completing our review of the applicants' business plans, impact analyses, as well as reviewing each company's compliance with TLC rules and local laws. Later this fall, we will make a final determination as to the issuance of licenses based on a combination of these factors. The new license category has already been a useful tool, allowing TLC to create more fine-tuned regulations that account for the different impacts for-hire businesses of different sizes have on our city.

Driver Income. In response to widespread concerns that drivers were not earning a fair living, TLC released a report in July 2018, on the economics of the app-dispatching companies. The report found that more than 96% of New York City's 85,000 app drivers were earning less than the equivalent of the minimum wage, driven by a combination of low earnings and high expenses. Drivers take on most of the business costs and risks – particularly the cost of purchasing or leasing a vehicle, maintaining it and insuring it. They had no guarantee of their pay levels or that there would be enough work to cover these high expenses. The companies they worked for were adding more and more drivers to the streets, diluting each driver's opportunity to earn.

Council shared our concern and passed Local Law 150, empowering TLC to pass landmark Driver Pay Protection rules, the first of their kind in the world. After proposing rules and holding a public hearing, these new protections were approved by TLC's board of commissioners and went into effect on February 1, 2019. Today, High Volume For-Hire Service companies must pay drivers enough that they gross at least $27.86 per hour, which translates into taking home $17.22 an hour after covering their average expenses. These rules also for the first time created an incentive for the app companies to stop recruiting more drivers than they need because the rates will automatically increase if they do not keep their existing drivers busy.

The rules are working. Average driver gross earnings per hour are $28, which is slightly higher than the rules require. In the first five months of the program, drivers were taking home an average of more than $750 per month than they would have without the policy. TLC projected that the rules would increase the typical driver's earnings by $9,600 per year. Although we will not know the precise annual impact until the program has been in place for a year, a review of earnings data thus far puts the typical driver on track to receive this nearly $10,000 raise.

Study of High Volume For Hire Services in New York City & Congestion Rules. Also passed in August 2018, Local Law 147 required the TLC and the Department of Transportation to evaluate the impacts of the rapid growth of For-Hire Vehicles in New York and to consider various policy options to address the issues caused by their uncontrolled growth. The Council paused the issuance of new for hire vehicle licenses for one year, and for the first time, the TLC was given the authority to limit the number of for-hire vehicle licenses. Before exercising that power, the Council required the TLC to propose permanent growth-control policies and to ensure that these new policies were in place by August 13, 2019.

The TLC and DOT oversaw a groundbreaking study of how various policy interventions would impact congestion, vehicle utilization, and driver income. The study found that vehicles working for high-volume for-hire services were typically cruising empty 41% of the time. It also found that in the Manhattan Core below 96th Street, For-Hire Vehicles make up nearly 30% of all traffic. Based on the data obtained in compliance with Local Law 147's mandated quarterly studies on the impact of Council's 12-month vehicle license cap on ridership throughout the city, TLC's analysis showed that after a year of the license cap, service levels did not decline, and trips across the city continued to increase, particularly in the outer boroughs, while passenger wait times remained consistent. The quarterly reports show no indication that the license cap had any of the negative impacts predicted by the app companies ahead of Council's vote last summer.

Following the study, the TLC extended the cap on FHV licenses for one year. TLC also created a second cap, which limits how long the High Volume FHV companies can let their vehicles cruise empty without passengers in the Manhattan Core during peak hours. Taken together, these caps should meaningfully impact congestion, increasing speeds in the evening rush hour by up to 10%.

To provide a degree of flexibility consistent with the city's ambitious goals on accessibility and greenhouse gas reduction, the new rules exempt wheelchair accessible vehicles from both the license cap and the cap on cruising and exempt battery electric vehicles from the license cap. Further, we extended the exemption for TLC-licensed drivers who entered into long-term, lease-to-own agreements for a vehicle before the effective date of Local Law 147.

After the first year of the extended license cap, we will evaluate several factors every six months, including but not limited to, congestion levels, driver pay, license attrition rates, and service across the City. Through that evaluation, we will determine whether and how many additional FHV licenses to issue and whether the cap on cruising is set at the correct level.

Office of Inclusion. TLC has also been hard at work this last year making sure the City's for-hire fleets are accessible to all New Yorkers, No one should ever be denied for hire transportation based on illegitimate factors such as their race, religion or disability. In July 2018, Mayor de Blasio and Speaker Johnson announced support for a new Office of Inclusion within the TLC, whose mission is to ensure that all passengers receive the service to which they are legally entitled. The Council then enacted Local Law 219, which empowered the Office to develop anti-discrimination training for drivers, reinforce the zero tolerance discrimination policy, raise awareness about service refusals and streamline the complaint process.

The Office has met with civil rights, disability and driver stakeholder groups including the NAACP, Hispanic Federation, National Action Network and Taxis for All to discuss how we can collaborate and effectively spread awareness on the issue of service refusals and discrimination. Also, TLC has conducted focus groups with drivers from every sector of the industry to discuss the issue of service refusals, discrimination and license penalties for those who illegally refuse to take a passenger. Staff members have also attended outreach events geared towards both the riding public and our drivers. Currently, public service announcements on how to file service refusal complaints are circulating on all 1,785 Link NYC kiosks.

In addition to our print campaign on service refusals, we've created a video that shares stories from two passengers about their experiences with discrimination in the taxi and FHV sectors. It also spotlights two drivers with exemplary service records to tell their stories of how and why they provide service to everyone. The video plays at TLC facilities and is also used at stakeholder and community meetings with drivers and the riding public. We are also engaging marketing experts to design and deploy a passenger awareness campaign, ensuring New York City residents and visitors are aware of their right to for-hire service. We look forward to reporting more progress on our work with the Office in the one-year report to Council that is required by Local 219.

Local Law 148 of 2018: Waiver of licensing fees for accessible FHVs. Last August the Council enacted Local Law 148, which waived the vehicle license fee ($275) for any taxi or FHV that is used as a wheelchair accessible vehicle (WAV). By reducing a financial obstacle to vehicle owners who want to provide accessible service to passengers, the law furthers the City's overarching FHV accessibility policy.

For many years, people who use wheelchairs were not able to access for-hire service. The inequity of that situation became even more dramatic with the introduction of dispatching apps, which were offering passengers who do not use wheelchairs service across the city at the touch of a button. After extensive consultation with disability advocates and industry stakeholders, in 2017, TLC approved rules that made New York City the first in the nation to require FHVs, including app-based services, to provide meaningful wheelchair accessible service.

Implementation was delayed because several members of the FHV industry brought litigation against TLC's FHV Accessibility Rules. After that litigation was resolved, the right to accessible FHV service became a reality on January 14, 2019. Bases must also provide TLC with data on passenger wait times for both accessible and non-accessible trips, complaints and trip costs, as well as fulfillment and cancellation rates. This data enables TLC to measure compliance and learn whether the policy is making the impact we hoped for.

Nine months later we are seeing that the policy is already making a difference. Whereas at the beginning of this administration there were only approximately 50 wheelchair accessible FHVs and people requesting accessible service usually found themselves without a ride—a phenomenon confirmed by TLC testing – there are now over 900 wheelchair accessible vehicles in service. Before TLC's rules, many companies, including the largest services, explicitly restricted their accessible service to individuals who could climb into and out of foldable wheelchairs. Today, they now provide fully wheelchair accessible service and are serving a majority of requests in under 15 minutes. Although work remains to be done on this program – both in continuing to improve wait times and particularly in making sure members of the public know about their right to this service -- we are proud of the significant progress made to date and are optimistic that continued monitoring, enforcement and outreach will further improve service to where it needs to be.

Local Laws 218 & 220 of 2018: Driver Assistance Services. In addition to addressing driver income, congestion, and accessibility, Council also in the last year called on TLC to increase services available for drivers struggling in the changing for-hire industries.

Enacted in December 2018, Local Laws 218 & 220 require the TLC, in consultation with the Department of Consumer Affairs and Worker Protection and the Department of Small Business Services, to provide services and information to assist TLC-licensed drivers and vehicles as well as individuals looking to enter the for-hire industry. The legislation requires services including, but not limited to, financial counseling, mental health services and referrals to non-profit organizations or other entities that may provide additional assistance to such drivers or owners. TLC and our sister agencies brought several services to the drivers directly at dozens of events citywide.

Through this outreach we identified the need to expand beyond the requirements of the legislation to meet the needs of drivers and fulfill Council's goal. As announced in June, the City is creating a new Driver Assistance Center that will have on-site staff offering financial counseling and debt restructuring assistance, financial advocacy, referrals to health services and screening for public benefits. The Center will be located at our Long Island City facility and will be open to all our drivers.

We are also in the process of creating a new Business Practices Accountability Unit. The unit's mission will be to protect medallion owners and TLC drivers from unfair practices by businesses that fall under TLC regulation. The Unit will be tasked with increasing accountability and transparency of business practices in the for-hire transportation sector. To promote sound business practices, the Unit will investigate violations of TLC rules and relevant local, state or federal regulations. It will be fully incorporated into TLC operations, working with other divisions including Licensing and Prosecution, on any necessary revisions to the licensure and renewal process, assisting in investigation of rule violations by TLC-licensed businesses and educating drivers of their rights when working with a TLC-licensed business. We are currently staffing up the Unit and plan to have it fully operational in the coming months.

Local Law 43 of 2019: For Hire Vehicle Leases. In February 2019, the Council directed the TLC to promulgate driver protection and disclosure rules regarding leasing, rental, lease-to-own, and conditional purchase arrangements to obtain an FHV for use with a license issued by the commission.

TLC rules have long included transparency requirements for financial transactions between drivers and yellow taxi owners. These requirements provide yellow taxi drivers the information to understand all charges a fleet may impose and allow TLC to effectively investigate allegations of fleet overcharges. Previously the FHV sector did not have the same transparency requirements as the taxi sector, and TLC's Driver Protection Unit did not always have the legal tools available to address valid concerns brought to them by FHV drivers. Since December 2018, TLC's transparency rules now apply to all FHV bases, regardless of size. As a result of driver complaints received, the Driver Protection Unit has to date helped taxi and for-hire vehicle drivers recover more than 3.2 million dollars.

Even with the added protection provided by the transparency rules, drivers remain concerned about high leasing costs. We have heard drivers' concerns and we are actively investigating this matter. We are directing FHV leasing companies to provide us with information and data to better understand the practices of leasing companies, including the costs and types of arrangements offered. We are particularly interested in finding out whether lease costs have increased recently, and whether the leasing terms that are being offered to drivers are unclear, misleading or unfair. Initial research indicates that weekly lease prices have not increased in the last year, but we are gathering more information and will propose regulation if necessary. It should also be remembered that our driver pay policy is designed to account and adjust for increasing driver expenses. We look forward to sharing our findings with you and other stakeholders.

Working together, the Council and the TLC have achieved real benefits for drivers and passengers. But of course, important work remains. We look forward to our ongoing partnership as we take concrete measures to limit unprecedented growth in the For-Hire Vehicle sector, and as we continue developing long term solutions for issues resulting from that growth.

Thank you for the opportunity to testify.

FOR THE RECORD

City Council Transportation Hearing:

TLC FHV Rules on Congestion

Dr. Richard Lipsky

September, 10, 2019

Why we are here

We are here today because of the crisis that developed ever since NYC allowed Uber and its imitators to enter the for-hire vehicle sector with almost none of the restrictions the city had imposed on taxi medallion owners-restrictions that are part of a quid pro quo between the city and the owners that grants taxis the exclusive right to street hails in exchange for the purchase of an expensive taxi medallion.

These medallion purchases have contributed billions of dollars over the years for the maintenance of vital city services-and, as importantly, created a wonderful ladder to the middle class for tens of thousands of hard-working immigrants.

Uber's entry, however, wasn't accompanied by any of the fees and restrictions required of medallion owners. In effect, the city granted this $60 billion tech giant free rider status to compete against taxis for the price of an admission fee that was less than $300 per year. In addition, the city placed no restriction on the number of these Uber cars who have since metastasized to over 100,000 with little end in sight to the expansion.

In the process, while the city was foregoing any entry fees from Uber and allowing it free reign and street hail privileges throughout some of the most expensive real estate in the world, the value of the taxi medallion-an investment equivalent for its owners to a retirement 401 K account-plummeted.

In exchange for this city largesse, Uber gifted back to the city traffic choking congestion that's costing NY business around $20 billion a year-and that doesn't include the environmental damage to the city that is suffering through a severe asthma epidemic. That, to put it rather mildly, was not a great deal.

We are also here today because the TLC has, and continues to, persistently fail to properly address the basic causal variables that have led us to this point. It accepts the tens of thousands of FHVs on city streets as a given-a baseline figure to be managed not properly controlled. It is a city agency badly in need of an intervention leading to a complete overhaul of its structure and basic mission.

(1) TLC Rules Ignore the Taxi Crisis and Fail to Properly Regulated FHV Proliferation

The NYC Taxi and Limousine Commission-ignoring the admonition of City Council Speaker Johnson-has once again promulgated rules that ignore the NYC Council's clear mandates to address the crisis in the taxi industry that has been generated by the poorly regulated rise of the Ubers. This trend began in November of 2018 when the TLC drafted FHV rules pursuant to the groundbreaking legislation passed by the council and signed into law by the mayor in August of that year.

The trend continued with the congestion study that was conducted in collaboration with the NYC DOT-a study that violated all of the basic CEQR rules that undergird any reputable EIS. Instructively, the TLC study stands in sharp contrast to the last environmental review done in 2012 when the City wanted to simply add an additional 2,000 taxis. For that, a comprehensive EIS was done. Why was this methodology abandoned for the FHV sector?

(2) The TLC's Rulemaking Pursuant to Local Laws 147 & 149: Redolent with Bias. (*Oversaturation is not the same as underutilization*)

We can see how redolent this bias is when we look at the executive summary for the congestion study-a study that clearly tags the FHVs for the congestion, but immediately shies away from the only credible conclusion:

"Though not the only cause, the explosive growth of the for-hire vehicle (FHV) sector, which tripled from fewer than 40,000 vehicles in 2010 to over 120,000 in 2019, is certainly an important factor. As Uber, Lyft, Juno, and Via—app-based, high volume for-hire services—created new, convenient travel options in the outer boroughs, they also added tens of thousands of additional hours of vehicle travel into the Manhattan core (south of 96th Street) each day. ***The companies saturated the market with vehicles to ensure low wait times and spur demand,*** *causing drivers to spend over 40% of total work time empty and cruising for passengers. Combined with decreasing per-trip pay, this underutilization led to significant declines in driver income."*

Too many cars on the street has destroyed the value of the taxi medallion, but that clear conclusion-and the concomitant congestion relief formula-is avoided. Notice how medallion owners have been disappeared in the amorphous cloud of driver incomes!

In an entire study derived from a crisis in the taxi industry there is not a single mention of taxis at all! The TLC's job was not only to address congestion qua congestion; but to examine the impact of this congestion of the decimation of taxi medallion owners. That's what happens when you transpose oversaturation into underutilization-a term that is an FHV derivative.

There is a profound disconnect between what the legislature mandated and what the TLC is doing. City Council in LL 149 was legislating so that this agency would implement rules to address the decline of medallion values and the decimation of medallion owners.

(3) TLC's Congestion study: A flawed methodology

Given its operating bias, it's no surprise that the TLC proposed solution to congestion elides its legislative mandate. Absent is any significant analysis and proposal to reduce the number of cars in the CBD! Take a look at the study's baseline assumption:

"This policy would regulate the number of new FHV licenses issued by TLC. To analyze the impacts, the team modeled a continuance of the number of FHV licenses in use by high-volume FHV companies at the level as of August 14, 2018 (78,530)." (p.29)

If you are facing an oversaturation problem then the simplest solution is to reduce the number of vehicles in the CBD. Instead we get the number of FHVs in place **as of August, 2018** as a **baseline assumption**!

Nowhere do we find any evaluation of the impact of reducing the number of FHVs. In its place is another complex sleight-of hand called a vacancy rule:

The agencies recommend the combination policy of the cap on cruising and regulation of new FHV licenses. The scenario modeling results showed that of the six policies considered, this policy would yield the strongest VHT reduction in the Manhattan core, ***as well as the greatest potential increase in driver wages.*** *Although modeling suggested that holding the number of FHV licenses constant between August 2018 and 2020 could eventually lead to decreases in outer-borough service, in reality, due to the net increase of over 5,000 vehicles since the pause took effect and recent fleet management strategies implemented by high-volume FHV companies to increase driver utilization in response to the TLC minimum pay standard, wait times have continued to decrease across the city."*

(4) **No socio-economic review: It is no accident that the TLC/DOT study avoids a comprehensive EIS. An EIS mandates a socio-economic impact as one of its core features**. Such a review would have forced the Commission to analyze the impact of FHV proliferation on the value of the taxi medallion. Its failure to do so is an indictment of this entire enterprise!

(5) **Proposed Vacancy Rule is Deeply Flawed for the Following Reasons**

(a) Cap on Cruising: Is seen by the TLC as, "the only policy that the modeling predicts will result in significant reductions in FHV Vehicle Hours Traveled in the Congestion Zone without negatively impacting driver pay, passenger fares, or outer borough passenger wait times." Yet, just as with congestion:
***"The TLC will be able to monitor companies' cruising empty data through the same satellite mapping technology used today. The data are collected every two weeks. But it's entirely up to the companies themselves to remodel how they do business in order to meet the threshold, said Anglin..."When asked by Streetsblog how the companies will do it, Anglin pointed out that Uber and Lyft are successful because of their technology*."**
(https://nyc.streetsblog.org/2019/06/12/city-to-app-cab-giants-cut-empty-cruising-or-pay-the-price/(https://nyc.streetsblog.org/2019/06/12/city-to-app-cab-giants-cut-empty-cruising-or-pay-the-price/)

(a) Self-reporting: Uber is self-reporting numbers to the TLC, even while it has been documented that the company has played fast and loose with its numbers. They produced one set of trip numbers on Dec. 2018 trips, which did not agree with the numbers posted on the TLC website. Then the numbers were revised by one million trips. Uber produced driver pay numbers in a recent lawsuit that did not agree with the numbers on the drivers' receipts. Put simply-as Public Citizen has reported-Uber has successfully gamed the reporting systems all over the country (https://www.citizen.org/wp-content/uploads/uber-disrupting-democracy-corporate-power-report.pdf); https://www.nytimes.com/2019/09/04/opinion/uber-driver-pay.html)

(b) Lack of Connectivity: Taxis are all connected to a central TLC computer and all of their trips are monitored as well as the time they spend in the CBD without any passengers. It is inconceivable that the TLC can monitor FHVs in a complex oversight model by simply relying on the companies to self-report. It is also suspect that the TLC can devise a congestion relief formula that reduces the number of FHVs in the CBD without accurate real time data. More simply put: there is no reason why the oversight of FHVs should be less scrupulous than the regime governing the oversight of taxis;

(c) Gaming the system: As transit guru Charles Komanoff has posited: "For example, what's to prevent Uber and Lyft from tweaking their driver-compensation algorithms to load the reductions in cruising rates on overnight hours, when the social and economic gains from reduced cruising are minimal?" (https://nyc.streetsblog.org/2019/06/13/komanoff-de-blasios-good-intentions-wont-cure-uberlyft-gridlock/)

(d) Cross dispatching: The TLC is proposing to allow dispatching across license categories. The TLC originally placed Uber and Lyft into a black car category and then proceeded to allow these companies to ignore all of the black car rules. At the same time, this sleight-of-hand allowed the Ubers to create a lobbying slush fund out of the Black Car Fund that successfully advanced the FHV agenda here and in Albany.(https://www.crainsnewyork.com/features/black-car-fund-may-have-swerved-out-its-lane) Cross dispatching will undermine the council's creation of a separate FHV license category, and at the same time have the potential to undermine the cap on vehicles that was passed into law.

(6) The Need for a New regulatory Model

NYC and the TLC-through malfeasance and nonfeasance-destroyed the value of the taxi medallion and in the process defrauded thousands of immigrant medallion owners. It is now up to the NYC Council to establish a new level playing field by supporting the medallion franchise. As Nicole Gelinas has written:

"*But the underlying need for a regulatory model – too many cars vying for limited street space – remains in place. The city created this regulatory system, and encouraged banks to lend and drivers to borrow in trusting the stability of this model. The city must now deal with the chaos it has caused in effectively abandoning the adherence to the rule of law it had encouraged for so long – not by paying off debt, but by showing exactly what the new regulatory model for for-hire drivers is, and where medallion cabs fit into it.*"
(https://www.cityandstateny.com/articles/opinion/commentary/new-york-city-taxi-drivers-need-debt-relief.html)

Testimony of Brendan Sexton, Executive Director
Independent Drivers Guild (IDG)
Before the City Council Committee on Transportation
September 10, 2019

Good afternoon Chairman Rodriguez, members of the Transportation Committee. My name is Brendan Sexton and I am the Executive Director of the Independent Drivers Guild, otherwise known as IDG. Joining me today are some of IDG's Stewards who will help me tell our story -- the story of app-based drivers who continue to struggle to make a fair and livable wage, continue to be exploited at the hands of app-based bosses and predatory leasing companies -- and while the very agency with the responsibility and power to help, not only fails to act, but takes bizzare, insensitive and arbitrary actions to further worsen driver opportunities.

As you know, IDG is a nonprofit affiliate of the International Association of Machinists and Aerospace Workers (IAMAW), and our organization represents over 80,000 drivers working throughout the for-hire vehicle industry. The IAMAW is the only union to successfully organize black car workers in New York City, and has been doing so for over twenty years.
I want to thank the Committee for all the work you have done and all we have accomplished together over the last few years in providing real relief to 80,000 working families – specifically the approval of landmark driver income and transparency legislation in 2018. And while this has provided some needed relief, the TLC's resulting regulations and their lack of enforcement has caused some real problems whereby the full intent and goal of this legislation has still yet to be realized.

To put it simply, the TLC is failing to do its job and our city's hard-working drivers are paying the price. We are in severe and immediate danger of history repeating itself. We all have heard how TLC's neglect destroyed the medallion sector of our industry, and now their inaction on numerous issues is turning the app-based sector into another failed medallion system. Over the last year and most recently this past Summer, we have repeatedly outlined serious concerns to the TLC and they had every opportunity to address some if not all of our concerns during rulemaking this summer on congestion and utilization. (Attached to this testimony you will find our memos to TLC as well fact sheets and media coverage). We have yet to hear from TLC on any of our concerns.

Not only were we ignored, but the TLC has acted like a deer in the headlights on many fronts, they are overwhelmed, failing to enforce their own regulations, have implemented rule changes which have adversely impacted drivers, and, quite frankly, tolerate and turn a blind eye to the app-based and leasing companies' exploitation of drivers.

Mr. Chairman, Council Members, the more than one hundred thousand hardworking men and women of this city who serve as for-hire vehicle drivers deserve better. It's time for reform, tear it down and start over. The TLC is a failed 20th century model and we need an agency that can meet the needs of the 21st century driver and gig worker. Create a mayoral agency that at least the City Council will have meaningful oversight of. Because clearly, the TLC is lost and accountable to no one. Drivers are dying, families are going bankrupt. How many lives must be destroyed? How many drivers must we lose to suicide before the city takes meaningful action?

As you will hear from IDG's stewards and drivers that have joined us at the hearing today:

- The minimum pay rules are failing to meet their mark leaving more than 80,000 drivers and their families $4000 short of the minimum wage they were promised. Furthermore,
- Lyft is blatantly defying the TLC's rules with no consequence for them but real consequences for our members;
- Predatory leasing companies continue to gouge drivers;
- The cap on vehicles -- rather than drivers -- is further exacerbating the exploitation of drivers by the app-companies;
- In response to TLC regulations on utilization targets Uber removed their "destination filter" features for drivers, a feature that is critical to drivers who use it to get back to their home neighborhood at the end of a shift or to pick up their children from school or daycare;
- And to add insult to injury, TLC recently decided to prohibit app-based drivers from having roof-top advertising, a meaningful opportunity to earn extra income in this extraordinary time of need.

And while we understand some of these issues are complicated, we believe certain things, like roof-top advertising and destination filters are "no brainers" and the TLC or the Council should act on them right away to provide immediate relief to drivers and show them that you are listening, while we work together over the next few months to address the rest. Please Mr. Chairman, members of the Committee, our drivers are desperate for action.

Council Members, we had a problem with predatory leasing companies before Local Law 147 of 2018 established a moratorium on the issuance of FHV licenses and, as we warned, the problem has only worsened over the last year. The vehicle cap means that thousands of existing drivers and all new drivers are stuck leasing TLC vehicles instead of licensing their own vehicle. These drivers pay thousands more to lease than it would cost to own -- and have no vehicle at the end to show for it. Plain and simple, what a cap on FHV licenses has done is establish ***another failed medallion system,*** enabling predatory leasing companies and app-based companies to exploit and worsen the plight of working-class, mostly immigrant, FHV drivers. We need to learn from the mistakes of the past that have given undue power and influence to brokers, agents, owners and bosses and focus on policies that uplift drivers, providing them with the power to control their own destinies. (My colleague Aziz Bah will talk more about this in his testimony).

TLC has not only allowed predatory leasing companies to acquire and control thousands of NYC's FHV licenses, but these greedy companies have taken advantage of this position of power by exploiting drivers through onerous and unfair leasing terms that keeps drivers under their control and in unbearable debt, preventing them from making a livable wage and making their own career decisions. The continuation of a permanent vehicle cap will only force many more low-income drivers into leasing rather than owning.

Most leases are priced way too high and when we limit the supply of vehicles, costs for drivers go up even higher, just as the cost of leasing taxi medallions went up in the 1990s. A poll of our members found that the typical driver who leases or rents ends up paying at least $10,000 more per year for vehicle expenses than a driver who owns their own vehicle. A permanent cap basically wipes out the gains from this Council's driver income law for the thousands of drivers who are beholden to predatory leasing companies. Why is the TLC driving up expenses for the very same low-income workers this council is trying to lift above the poverty line?

Without affordable options, the TLC's own study assumes the number of FHV vehicles shared by drivers engaged in shift work will triple under a continued vehicle cap. A permanent vehicle cap incentivizes a return to yellow taxi-like twelve hours shifts, which would be a huge step backward in working conditions for thousands of the city's professional drivers.

TLC has maintained they do not have the authority to regulate leasing companies. Then why would you allow such companies to obtain thousands of FHV licenses and then turn them into a product whereby they exploit and gouge TLC licensed drivers? If you allow them the privilege to obtain TLC vehicle licenses, why wouldn't the TLC then be able to regulate how they lease their FHV cars to FHV drivers -- to regulate their FHV product? Council Members, enough is enough, please Tell TLC to stop the madness, do the right thing or lets pass a law to specifically require them to do their job. You cannot allow them to continue to take advantage of drivers in the very way brokers, banks and medallion owners have taken advantage of medallion drivers over the years. Here is another simple answer: prohibit any company that leases vehicles to FHV drivers from acquiring FHV licenses. Allow FHV drivers to control the leasing process and have the ability to get into a lease of their choice. Tie FHV licenses with TLC driver licenses.

To make matters worse, the cap on vehicle licenses has also allowed app-based companies to take advantage of drivers and continue their exploitative practices. Since the vehicle cap went into effect last year, the commission has continued to issue thousands of TLC driver licenses You are now in a situation where you have many more FHV licensed drivers (187,000) than licensed vehicles (119,000). With no cap on new drivers entering the workforce, this dynamic has again shifted the power to the app-based companies who view the drivers as expendable. As a result, hundreds of drivers are deactivated every day, without cause and without any due process. This leaves drivers with no way to pay off their investments to enter the industry, their long-term vehicle leases and other debts -- let alone any way to support their families. This has created severe and desperate situations for drivers who have nowhere to turn for assistance. We need the Council or TLC to step in and require app-bosses to provide drivers with a fair arbitration hearing process upon deactivation with union/guild representation.

Without a corresponding cap on drivers, the apps are also empowered to manipulate driver access to their apps for the companies' gains. The TLC's model of the cruising cap and vehicle cap assumes that the app companies first response will be to slash fares and cut their own profits to a minimum before they start restricting driver access. But it comes as little surprise that the apps are protecting profits at the expense of drivers. App companies like LYFT have illegally flouted TLC regulations and began blocking access to the apps for certain drivers, leaving thousands of drivers desperate, behind on bills, and not knowing when they will be able to work next. Lyft has launched this policy but exempted those drivers who rent or lease vehicles through Lyft's own leasing program, incentivizing drivers to pay Lyft upwards of $400 per week and further enriching the company. And once again, the TLC has done nothing.

There is a simple way to flip this dynamic and empower workers instead of empowering app companies, fleet owners, and predatory leasing companies. While a cap on TLC *vehicles* provides more power to leasing and app-based companies, limiting the number of new TLC *drivers* entering the workforce provides power and value to the existing drivers. Limiting the labor pool will require all companies to compete to keep drivers working for them, meaning the competition shifts away from the expendable driver mentality, a race to the bottom on driver pay -- and shifts to providing better working conditions, pay and benefits. At a time when city and state lawmakers continue adding more and more taxes and onerous policies to reduce FHV hours on our streets, it is unfair to both prospective and existing drivers to continue licensing unlimited new TLC drivers. If we need state legislation to accomplish this, then let's work together to make this happen.

And now, to add insult to injury, just a few weeks ago, the TLC has shockingly decided to deprive app-based drivers of an opportunity to earn additional income and make a living wage. Reversing its own rules which would have helped to alleviate some of the pain and allow drivers to earn an additional $3600 a year, the TLC arbitrarily made the decision to ban roof-top advertisements. Without consulting app-based FHV drivers and with absolutely no reasonable policy justification that could outweigh the needs of drivers, the TLC has once again demonstrated their incompetence by reversing this rule, while simultaneously allowing medallion owners to reap the economic benefits of rooftop advertisements. Mr. Chairman, a simple policy change in allowing FHV drivers to engage in rooftop advertising would provide immediate relief and would surely demonstrate that the TLC and the City Council are not only listening to drivers' concerns but are also sincere in their efforts to address the struggles which drivers continue to face. (My colleague Paul Klimas will also touch more on this bizzare TLC decision)

Then, to further undermine the hard-fought activism of drivers, TLC has made repeated claims in the media that there is no evidence to suggest that drivers benefit financially from roof-top advertising. Furthermore, they have claimed that this policy reversal is related to the Vugo internal panel advertising decision. From where we stand, these claims fly in the face of the facts. This is a simple policy decision that is absolutely within the TLC's jurisdiction and allowing app-based FHV drivers to engage in rooftop advertising would provide immediate relief to drivers struggling to make ends meet.

We hereby call upon the Council and TLC to establish an App-based Drivers Bill of Rights:

1. The right to fair and minimum compensation (without any loopholes that Apps can exploit). Cap company commissions to stop the practice of overcharging riders and underpaying drivers. Require "deadhead" pay for all classes of vehicles. Enact higher minimum rates for classes of vehicles with higher expenses. Require apps to reinstate the destination filters and stop other practices designed to get around fair pay rules.

2. The right to due process and job security: Prevent Apps from deactivating drivers without a stated cause, require apps to have a due process structure which includes a fair hearing with union/guild representation.

3. The right to equal protection and enforcement of the laws: We must have a driver cap that provides power to the drivers to control their own destinies, we must have have active enforcement of existing laws and TLC regulations, and new laws and regs that promotes fairness and parity: Must have rooftop ads, predatory leasing regulations.

4. The right to a secure, safe and humane work environment: Rear facing cameras paid for by the apps, active and aggressive NYPD/TLC investigations into assaults on drivers and cooperation with victims families. Require apps to offer one touch or voice activated 911 which sends GPS location to 911 dispatchers. Adequate parking spaces for the city's 80,000 FHV drivers to legally make brief stops and access running water restroom facilities. Require apps to charge a rider fee for safety violations to be paid in full to driver to incentivize drivers to cancel unsafe trips (minors, no child safety seat, too many riders for vehicle), encourage safe ridership, and compensate drivers for their time.

5. The right to pursue reasonable opportunities: Adopt policies that promote driver ownership over leasing, limit new TLC driver licenses rather than vehicle licenses. Allow all TLC drivers the same opportunity to increase their earnings without increasing congestion through rooftop advertising.

As I've mentioned, there exist opportunities to provide immediate relief to drivers: rooftop ads and destination filters. Do it now and let's start working on the rest immediately.

Council Members, we have repeatedly brought these issues to the attention of the TLC, and our pleas continue to fall on deaf ears and our members were crushed when the TLC passed new rules this Summer and failed to address any of our concerns. IDG hears from hundreds of drivers everyday who truly feel as though the TLC, the Mayor and the City Council do not appreciate the real-life, personal effects their inaction has on drivers. This is not just about public policy. This is about economic security. This is about livelihoods. This is about putting food on the table for struggling families. This is about the unfair treatment of the hard-working New Yorkers, immigrants, who keep our city running, without whom much of the city would grind to a halt. To be blunt, this is about life and death.

Make no mistake about it, this as an emergency, the TLC failed to act in a timely manner on the taxi medallion crisis and now they are failing to act with regard to our sector and app-based industry. Because of the TLCs failure to act over the summer (when they had a clear chance to do so) and take app-based drivers and IDG's concerns over failed policies and economic security seriously, because TLC failed to heed the calls of both Chairman Ydanis Rodriguez and Speaker Corey Johnson not to pass more ill-conceived rules without addressing these issues — this Committee and the Council must step in and act. We hope this hearing today is the first step in that direction.

Thank you and I am of course available for any questions you may have.

TO: TLC Commissioners and Policy Staff

FROM: Brendan Sexton, Executive Director, Independent Drivers Guild (IDG)

DATE: August 16, 2019

RE: **Emergency Meeting and Rules Regarding Sub-Minimum Wage Pay**

In light of new and concerning data released by this Commission that indicates that many drivers are still making far less than minimum wage, the Independent Drivers Guild is requesting an emergency meeting regarding the under payment of drivers and calling for emergency rules to increase mile and minute rates to meet or exceed the city's minimum wage equivalent hourly rate.

New TLC Data Shows Pay Nearly 40 Percent Below Minimum Wage Target

A media report published August 6th cites data from the TLC that "drivers have received an average pay raise of $500 per month since the minimum-wage regulations went into effect". This falls far short of the Commission's projections. This data indicates that drivers are on track for a raise of $6,000 in the first year, a significant increase but far short of the nearly $10,000 raise that this Commission projected would occur once app companies were required to pay the TLC minimum rates, equivalent to $27.86 per hour before expenses.

TLC Data: Apps On Track To Pay Drivers Nearly $200 Million Less Than Minimum Wage This Year

A July 23rd opinion piece published in the New York Daily News, reported TLC data shows "driver incomes have risen by $50 million per month, increasing driver hourly pay to the equivalent of New York City's $15 minimum wage." However, as we were quick to point out to one of the article's authors, an average raise of $50 million per month falls far short of the earnings projected by this commission and indicates that total driver earning increases are on track to fall $137 million short of the minimum wage projections in the first year of the rules.

At the August 7th TLC Commission hearing on proposed FHV rules, Acting Commissioner Heinzen stated that the pay rules had raised driver earnings by $225 million in the first five months. That puts the raise even lower at $45 million per month and increases the projected shortfall to $197 million in the first year. [**See note below for further explanation]

The TLC reports that the number of HVFHV trips has continued to increase, the number of FHV drivers continues to increase and the number of trips per hour has also increased and yet earnings are not on track to meet projections. Such a massive shortfall suggests that the average driver and in fact the majority of drivers continue to earn less than minimum wage.

Vigilant Oversight And Enforcement Is Critical To Protecting Driver Pay
As you know, we led the campaign for a minimum pay standard for drivers and worked closely with this commission toward that end. It is critical for thousands of low income families that this policy succeed and as such we have sought data throughout the past six months so that we may quickly identify any problems and work with this Commission to fix them.

When the rules went into place, we spent countless hours combing through driver receipts to identify and flag for this Commission where apps were failing to pay the minimum rates. After this Commission announced its cruising rate proposal, Lyft announced it would respond by kicking drivers off the app in a way that would allow them to avoid paying drivers fairly. We wrote to this commission calling for enforcement action in June, testified on the issue in July and August, and to our knowledge no enforcement action has been taken. Thousands of drivers are now driving more hours to make the same amount of money because of Lyft's new policies, (policies which by the way exempt drivers who rent their vehicles from Lyft's own leasing program at rates of $425 plus per week). Now Uber is threatening to launch similar practices which would hurt thousands more drivers' ability to make a living.

We raised concerns to this Commission on numerous occasions this year that driver pay continues to fall short of the minimum wage equivalent target set by this Commission. When we pointed out a significant shortfall in the Commission's first update on earnings, the Commission thanked us, advised us the cause was a methodology issue and revised the earnings data upward. Since then, we asked this Commission for specific figures on driver earnings in aggregate and per hour and have yet to receive a response.

Now it is clear that this Commission has critical data that indicates that mile and minute minimum pay rates must be revised upward as soon as possible and we request an emergency meeting and full transparency regarding earnings data and analyses.

In particular, we continue our calls for answers to the following questions regarding the pay rules:

1. Your data indicates that HVFHV drivers are making less than the city projected and therefore less than the contractor equivalent of minimum wage. How much more would you need to increase the minimum mile and minute pay rates to ensure all drivers are making minimum wage of $27.86 per hour before expenses/ $17.22 per hour after expenses? Will you regulate that increase?

2. What percentage of HVFHV drivers have been paid an average hourly wage of at least $27.86 per hour before expenses (the minimum wage equivalent rate) since the new pay rules went into effect?

3. What is the average HVFHV driver's gross hourly pay since the minimum pay rate went into effect? And the median HVFHV driver's gross hourly pay?

4. What is the aggregate HVFHV driver pay in each of the first six months since the pay rules took effect and what was aggregate pay in the six months prior (per your assumptions in the pay standard report if actual data was not yet available)?

5. Why is driver pay failing to meet this Commission's projections?

June 21, 2019

Taxi and Limousine Commission
33 Beaver St
New York, NY 10004

Dear Acting Commissioner and the Board of Commissioners,

As representatives and advocates for more than 70,000 app-based drivers in New York City we are writing to request urgent enforcement action with regard to a high volume for-hire vehicle company in violation of Commission rules.

Yesterday, Lyft informed its New York City drivers that effective June 27, 2019, the company will be subjecting them to new rules that violate the Taxi and Limousine Commission's pay protection rules, which passed in December of 2018 and went into effect in February of this year.

In a message to New York City drivers as well as a blog post, Lyft announced that it plans to eliminate driver access to the app in periods and areas of low demand and will require drivers who wish to access the app to drive to a location of higher demand or wait until demand increases to access the app. By logging drivers off the app and requiring them to travel to an area of higher demand in order to pick up their next trip, Lyft would be shifting the costs of travel and waiting time onto the drivers and in so doing, violate this commission's rules.

In the Commission's statement of basis and purpose for the pay rules, it clearly states that these rules establish a minimum per-trip payment formula that takes into account "drivers' total working time, both time spent driving passengers as well as time waiting for a dispatch and then traveling to pick up passengers." Drivers are paid by mile and minute rates which are determined using a utilization rate which works as a multiplier so that drivers are compensated for the minutes and miles with and without a rider in the vehicle.

If an app company simply stops counting the miles and minutes when a driver is waiting for dispatch or traveling to their next pick up location by logging drivers out of the app, the company is not making dispatch more efficient. The drivers are still driving those miles and waiting those minutes. But now those miles and minutes are not accounted for in the pay formula, so driver pay rates go down. If all of the drivers' miles and minutes are not counted toward the utilization rate, it means drivers aren't getting paid for those miles and minutes.

Given the competitive, race to the bottom nature of the high volume app-based for-hire vehicle services, we urge the Commission to take swift action to stop Lyft and any other app companies tempted to follow suit from enacting policies that manipulate access to the app in a way that would obscure and fail to account for the "drivers' total working time, both time spent driving passengers as well as time waiting for a dispatch and then traveling to pick up passengers."

Furthermore, we call on the commission and city leaders to switch the power dynamic that enables app companies to manipulate thousands of hard working drivers in our city. By limiting new TLC drivers' licenses instead of limiting vehicles, the city can empower the more than 70,000 New Yorkers who drive for-hire vehicles for a living. Instead of having app companies kick excess drivers off their apps, companies would have to compete for workers with better pay or policies. Amending the cap policy in this way would also give workers the option of ownership rather than being beholden to predatory leasing companies.

Thank you in advance for your swift attention to this issue as it serves all parties to ensure there is a universal understanding of the app companies' obligations not to obscure drivers' working time in a way that will reduce drivers' rightful compensation.

Sincerely,

Brendan Sexton

Brendan Sexton
Independent Drivers Guild

Roof-Top Advertising Fact Sheet

For-Hire Vehicle drivers are struggling to make a living wage in New York.

- More than 80,000 FHV drivers are struggling to make ends meet across the city and the Taxi and Limousine Commission (TLC) has failed to address some basic concerns of drivers.
- Our paychecks are getting smaller and smaller, but we are working longer and longer hours.
- The TLC reported that 65% of all rideshare drivers in New York drive full-time and half of the drivers support children and provide the bulk of their family's income.
- 49 % of drivers have no savings
- 26% have no health insurance at all while 50% are on free public health insurance.
- 66% of drivers have household incomes below $50,000
- Despite passage of new Minimum Driver Pay Rules, the TLC's lack of enforcement against unscrupulous app companies means the promised pay increases have not materialized for many drivers.
- The city's own figures show average driver pay is on track to fall nearly $4,000 below the minimum pay target set by the TLC.

The Taxi and Limousine Commission (TLC) has just decided to block rideshare drivers from earning $300 per month in extra income from rooftop advertising.

- Since February 2018, rideshare and other FHV drivers in New York have been allowed to earn supplemental income from rooftop advertising on their vehicles, just as medallion taxis have for decades.
- The first rooftop advertising company for rideshare vehicles was approved by the TLC in April and drivers quickly started signing up.
- That opportunity abruptly ended when the TLC recently issued an Industry Notice that it would be reinstituting a ban on exterior advertising on For-Hire Vehicles (FHV) that took effect on August 31st.
- The TLC has already stopped accepting applications for rooftop advertising permits from qualified FHV owners.

This ban is an attack on drivers' right to earn a living wage, further weakening promised gains from the driver minimum pay rules.

- The $300/month from rooftop ads would increase a typical driver's income by about 10%.
- This supplemental income would cover:
  - Three-quarters of a driver's costly insurance required by the TLC, or
  - All of a driver's fuel expenses.

The TLC is favoring taxi drivers and imposing a double standard in policies.

- The TLC ban only applies to FHV drivers, while medallion taxicabs continue to have full exterior advertising approvals. <u>All drivers deserve the same opportunities to provide for their families.</u>

- Already, the labor of app-based drivers is taxed much more heavily than taxis, with the average $20 app-based trip taxed over $5, while the same taxi trip is taxed $3.

This ban would undo much of the benefit to drivers from the Minimum Driver Pay Rules.

- The TLC recently passed the FHV Driver Minimum Pay Rules, that they claimed would increase driver income by an average of $10,000 per year. In reality, driver incomes are falling well below this promise.
- This ban prevents drivers from earning $3,600 a year that would help low-income families offset the minimum wage shortfall.

The TLC has the power to change their mind and extend the current permits.

- The TLC can, and must, initiate a rulemaking to amend the rules and lift the ban.
- Drivers with permits that expired on August 31st must be extended until one year after the date the permits were issued to prevent loss of income to drivers.

Responding to the TLCs Baseless Arguments for the Ban

Every day the TLC seems to throw out a new, unsubstantiated argument for why they are banning rooftop advertising on Uber and Lyft for-hire vehicles. We can easily refute these arguments for this ban because they are not based on reality and this ban is indefensible in light of the financial crisis facing hard-working New York drivers in the for-hire industry.

TLC False Claim #1: "Drivers will not directly benefit from the advertising income because licenses are issued for a vehicle rather than for a driver." This implies that most FHV drivers do not own their vehicles.

FACT: The TLC's own data says that 81% of FHV drivers own or lease to own their vehicles.

- If there has been a sudden decrease in that figure, then the TLC has been hiding it to defend their cap on FHV vehicles against accusations that the rule created a "new medallion system."

TLC Claim #2: Only a small number of for-hire vehicles have permits, so drivers aren't interested.

FACT: The TLC only approved the first rooftop advertising company in April and the first permit was issued in June.

- Drivers have been largely unaware of advertising income opportunities because it was new and the TLC made no announcement of the rule change.
- Despite the court enjoining the rule banning advertising, the TLC never notified drivers or published updated rules online. This led many to believe that the rule was still in place.
- The TLC only approved the first rooftop advertising company in April and deployed the first signs in June.
- Hundreds of drivers are on waitlists and we believe many more of our members would be interested if informed of the supplemental income opportunity.
- Drivers with devices have already seen direct benefits from the program, the TLC must not be listening.

TLC Claim #3: This ban is necessary to protect the city landscape.

FACT: This is New York, the media capital of the world.

- The TLC has always allowed the roughly 14,000 medallion taxis to display rooftop advertising and yet not all taxis have rooftop advertising signs.
- The TLC contradicts itself by both arguing that not many drivers took advantage of rooftop advertising while it was allowed and then saying that every vehicle would have signs.

CRAIN'S
NEW YORK BUSINESS

Uber and Lyft drivers lose their rooftop billboards

It was nice while it lasted

By: Matthew Flamm

For-hire vehicle drivers are giving their rooftop billboards one last ride this week. The money-making signs, which have been the subject of a long-running legal battle, have been ordered off of cars, to the dismay of a small group of drivers that had them installed.

The Independent Drivers Guild, which represents Uber and Lyft drivers, is still hoping to sway the Taxi and Limousine Commission, which recently reinstated a longtime ban on advertising by for-hire vehicles.

The TLC's action came after a federal appeals court ruling last month reversed a lower court decision that had gone against the ban. Drivers have until Aug. 31 to take down the digital signs.

The city has opposed interior, video advertising systems on the basis that they would pose an annoyance to passengers. It considers the exterior advertising—rooftop digital billboards—a form of visual clutter, a position in line with a recently enacted state law that has banned floating billboards from New York waterways.

The Drivers Guild argues that the ban hurts drivers, whom it says are still struggling despite a minimum wage law and other regulations aimed at improving their finances.

"Drivers can make about $300 a month from the signs, which is about 10% of their salary," said Brendan Sexton, executive director of the Drivers Guild. "The TLC is worried about the landscape of Manhattan, which is fine and nice, but I'm more concerned with my members being able to buy health insurance or back-to-school supplies for their kids with this extra income."

Drivers have also used the extra income to drive a little less.

“It added time to my life as well as money,” said Paul Klimas, a driver for Uber and Lyft, who has had a digital billboard atop his car for the past three months and was on his way to have it removed.

He contracted with the digital advertising firm Firefly after he gave a ride to one of its executives. Klimas liked that the Firefly billboard did not carry ads for strip clubs, which might offend some of his passengers.

Advertising is allowed in yellow cabs because it helps defray the costs of technology that they are required to have. Taxi technology systems facilitate credit card payments and collect data on each trip. FHVs do not carry the systems.

A spokesman for the city agency noted that the TLC had always prohibited the display of advertising by for-hire vehicles, and that even during the period when the rule was not enforced drivers did not flock to the technology.

“We’ve seen no evidence of drivers benefiting from advertising, and only 70 out of 120,000 for-hire vehicles have permits for exterior ads, which they received while our rule was temporarily enjoined in February,” the spokesman said in a statement. “Both the city and state have also taken steps recently to rein in advertising in the public sphere. Billboards on the roofs of 120,000 for-hire vehicles would negatively impact the city landscape in a dramatic way.”

There may only have been 70 FHV drivers with billboards, but according to San Francisco-based Firefly, there was a waiting list of more than 500.

“We had just started on outreach,” said Pete Gould, the company’s national policy advisor. “Word had spread very quickly among drivers.”

Patch

Revived NYC Ban On Uber Car Ads Rankles Drivers

For-hire drivers could earn thousands of dollars a year if not for NYC's ban on rooftop advertisements, the Independent Drivers Guild says.

By Noah Manskar, Patch Staff

NEW YORK — A recently revived New York City rule barring advertisements from the rooftops of Uber and Lyft cars has rankled drivers who argue the measure limits their earnings.

A federal appeals court last month upheld the Taxi and Limousine Commission rule banning ads from the inside and outside of for-hire vehicles. In an Aug. 9 notice, the TLC said it would resume enforcement of the rule and that all ad permits would expire Aug. 31.

Drivers could earn thousands of dollars each year from the advertisements if not for the longstanding rule, which would be a boon for the struggling workers, according to the Independent Drivers Guild, a labor group representing more than 70,000 drivers working for Uber, Lyft, Via and Juno.

"We're talking tens of thousands of drivers that were going to have the ability to increase their pay," guild Executive Director Brendan Sexton said. "It was going to allow them to not drive as many hours a week where they'd be able to come off the road and be with their families."

But the TLC has seen "no evidence of drivers benefitting from advertising," commission spokesperson Allan Fromberg said. Only 70 of the 120,000 for-hire vehicles on the road got permits for exterior ads, and their owners were told they may only be temporary as a challenge to the rule proceeded through the courts, according to the TLC.

"The TLC had always prohibited advertising in for-hire vehicles, and this was upheld in a federal court decision last month," Fromberg said in a statement. "... Billboards on the roofs of 120,000 for-hire vehicles would negatively impact the city landscape in a dramatic way."

The nearly 20-year-old TLC rule says owners of for-hire vehicles cannot put advertisements on the inside or outside of their cars, including rooftop ads like those seen on yellow taxis. Violations come with a $50 fine.

Yellow cabs with medallions are regulated differently to other for hire vehicles.

Vugo, a company that feeds digital ads to tablets in for-hire cars, challenged the rule in federal court. The firm argued the policy violates the First Amendment and pointed to the "Taxi TV" system that plays ads in yellow and green cabs.

The TLC temporarily issued ad permits after a federal district court sided with Vugo in February. But a three-judge panel in the U.S. Second Circuit Court of Appeals reversed that decision July 16, finding that the rule furthered the TLC's interest in "improving the passenger experience."

While their potential was never fully realized, advertisements could have earned drivers as much as $400 a month, the equivalent of about 10 percent of their yearly take-home pay, according to Sexton.

Uber and Lyft driver Paul Klimas said the advertising firm Firefly pays him $300 a month to carry a digital screen on top of his Toyota Camry. That money covers most of his steep monthly insurance premium, he said — but it's set to disappear now that the TLC is enforcing its rule again.

"Any professional driver in general has to work long hours just to stay afloat, so any added income really helps," said Klimas, who lives in Borough Park, Brooklyn. "It helps in both time and money."

Both Klimas and Sexton said the TLC should consider changing its rule so drivers can make some extra cash.

But the TLC noted that the permits were held by the vehicles' owners, who are in most cases not the drivers themselves. The agency also pointed to its landmark minimum-pay rules, which it says have given drivers $225 million in additional income since they were approved last year.

"Both the City and State have also taken steps recently to rein advertising in the public sphere, such as unauthorized billboards and floating billboards, to protect our city landscape," Fromberg, the TLC spokesperson, said in a statement.

CBS New York

Ride-Share Vehicles Banned From Adding Advertisements To Their Cars

NEW YORK (CBSNewYork) – There's a battle brewing between ride-share drivers and the Taxi and Limousine Commission over advertising.

The TLC recently banned advertising on for-hire vehicles, making it illegal for ride-share drivers to have billboards on their cars.

In the spring, the TLC temporarily allowed drivers to obtain permits for ad space, but rescinded those permits after a federal court decision last month.

The Independent Drivers Guild says app-based drivers could earn up to $400 in additional revenue per month with ads, which many used to make ends meet.

"This extra revenue allowed app-based drivers to spend more time with their families. Now that they're taking away this source of revenue, app based drivers have to stay on the road longer, causing more congestion on the streets of New York City," a ride-share advocate said.

The TLC says only 70 out of 120,000 drivers had advertising permits and it claims they haven't seen evidence of drivers benefiting from that advertising.

Brooklyn Daily Eagle

Digital ad ban on for-hire vehicles sparks outrage among app drivers

By: Meaghan McGoldrick

After months of legal proceedings, a ban on display advertising both inside and outside for-hire vehicles is back in effect starting Saturday, Aug. 31.

Drivers of ride-share services, such as Uber and Lyft, were notified by the Taxi and Limousine Commission on Aug. 9 that they must get rid of any digital ads on their vehicles. The announcement has triggered backlash among drivers and advocates, who say the financial loss will hurt those who are already struggling.

The switch-up comes just months after the TLC permitted Firefly — a San Francisco-based startup that allows drivers to make money off digital advertising — to canvass for New York City participants. The company, which launched a pilot program on the West Coast late last year, offers drivers roughly $300 a month to affix a digital screen to the roof of their car, which then displays ads from paying clients.

Drivers who partner with Firefly can end up taking home close to $4,000 extra a year for little to no extra effort. According to Brendan Sexton, executive director of the Independent Drivers Guild, that's 10 percent of some drivers' annual pay.

"I know the city tries to make it out like it's not that much money, but I'll challenge anyone to take a 10 percent pay cut," Sexton told the *Brooklyn Eagle*, denouncing the swift change in directive so soon after the program's expansion to the East Coast.

“Drivers are struggling to get by and they’re still making less than minimum wage,” he said. “The fact that the city is taking these extra steps to block these drivers from a revenue source to supplement their earnings when people all across the country are trying to figure out how to help — to me, that’s punitive.”

The advertising landscape

TLC spokesperson Rebecca Harshbarger contends that the rule isn’t a new one. “The TLC had always prohibited advertising in for-hire vehicles, and this was upheld in a federal court decision last month. We’ve seen no evidence of drivers benefiting from advertising, and only 70 out of 120,000 for-hire vehicles have permits for exterior ads (which they received while our rule was temporarily enjoined in February),” Harshbarger told the *Eagle* via email.

She compared the ads to those displayed on the floating billboards recently bannedfrom city waters. “Both the city and state have also taken steps recently to rein advertising in the public sphere ... to protect our city landscape.” she said. “Billboards on the roofs of 120,000 for-hire vehicles would negatively impact the city landscape in a dramatic way.” Vehicle owners would face a $50 summons for each instance of prohibited advertising.

Paul Klimas, a driver for apps like Uber and Lyft, is still ticked.

“I honestly feel like I’m being wronged,” he told the *Eagle*. “I feel like it’s unfair treatment. Advertising is everywhere, especially in New York City. One of the TLC’s excuses is that it’s ruining city landscape but how is it ruining city landscape when every other city bus or car has a sign?”

The rule — which goes into effect Aug. 31 — applies only to non-medallion vehicles, meaning the city’s yellow and green cabs are not impacted and may continue to display digital advertising.

Harshbarger said that’s to balance out the cost of those cars’ evolving tech.

“Yellow cabs are permitted to have advertising because of the technology that taxis are required to have,” she explained, noting that taxis themselves currently facilitate credit card payments and collect data on each trip to help with enforcement, finding lost property and studying traffic patterns. “Advertising helps to defray the cost of the technology system in taxis. For-hire vehicles, such as black cars and livery cars, are not required to have this technology.”

Demands for equal treatment

Medallion drivers make a profit from those ads, Harshbarger confirmed, leaving for-hire drivers like Klimas wondering why they aren’t afforded the same opportunity.

“I feel like we’re being singled out when we didn’t do anything to deserve it,” he said.

For Klimas, who was one of the first drivers to sign up for Firefly in April, the decision was a no-brainer — even after ride-share drivers got a new minimum wage earlier this year.

"Back in February, some laws changed that were supposed to help us but really made earning harder," he told the *Eagle*. "I find myself working longer hours to pay the same bills."

It also helped Klimas — a Queens resident who makes the bulk of his trips in Brooklyn and Manhattan — score some of his free time back.

"As someone who's working an average of 50-plus hours a week, [working with Firefly] not only helped me monetarily but it also allowed me to take some more time for myself," he said.

Now, less than five months after he first had the advertising screen installed, Klimas has to take his car back to Firefly's Williamsburg shop and have it removed. "It's like the TLC came in and suddenly said, 'Okay, party's over.'"

"We as a society should not be figuring out ways to stop low-wage immigrant workers from making money," Sexton said. "We should be organizing and figuring out ways that these people can be making more money."

Klimas is also hopeful the commission will change its mind. "I have to be," he said. "It's really hurting my pocket."

Firefly did not respond to a request for comment.

Testimony of Aziz Bah, Steward
Independent Drivers Guild (IDG)
Before the City Council Committee on Transportation
September 10, 2019

Good afternoon Chairman Rodriguez, members of the Committee. My name is Aziz Bah, I am a Steward with the Independent Drivers Guild and I am an app-based driver, currently driving for 5 years. I want to note that as Stewards, my colleagues and I field hundreds of calls and complaints from drivers a week. We do our best to help but we are all beyond frustrated by the inaction and inability of TLC to help us. As Brendan has explained, one of the biggest problems we face is the issue of Predatory Leasing.

I am a driver that has been leasing and unable to get my TLC FHV plates, coming before you to share my story and the story of thousands like me. This is not a request for mercy but a cry for fairness and common sense. Drivers are often scared to come forward due to many factors : language barrier, fear of losing their vehicle -- and even retaliation -- even though they clearly know they are being taken advantage of. And when they hit the brinks, suicide can feel like the only option left.

Let's be clear: The vehicle cap DID NOT WORK. It did NOT stop the flood of excess FHV drivers and vehicles - the TLC kept licensing thousands of new TLC drivers since the cap. It did NOT help existing drivers make a better living. The TLC has not only allowed predatory leasing companies to acquire and control thousands of NYC's FHV licenses, but these greedy companies have taken advantage of this position of power by exploiting drivers through onerous and unfair leasing terms that keeps drivers under their control and in unbearable debt, preventing them from making a livable wage and making their own career decisions. The continuation of a permanent vehicle cap will only force many more low-income drivers into leasing rather than owning.

Most leases are priced way too high and when we limit the supply of vehicles, costs for drivers go up even higher, just as the cost of leasing taxi medallions went up in the 1990s. A poll of our members found that the typical driver who leases or rents ends up paying at least $10,000 more per year for vehicle expenses than a driver who owns their own vehicle. Drivers who lease often pay the value of the car two and three times over, up to $75,000 for a $24,000 car. And no vehicle at the end to show for it. A permanent cap basically wipes out the gains from this Council's driver income law for the thousands of drivers who are beholden to predatory leasing companies. Why is the TLC driving up expenses for the very same low income workers this council is trying to lift above the poverty line?

Without affordable options, The TLC's own study assumes the number of FHV vehicles shared by drivers engaged in shift work will triple under a continued vehicle cap. A permanent vehicle cap incentivizes a return to yellow taxi-like twelve hours shifts, which would be a huge step backward in working conditions for thousands of the city's professional drivers.

TLC has maintained they do not have the authority to regulate leasing companies. Then why would you allow such companies to obtain thousands of FHV licenses and then turn them into a product whereby they exploit and gouge TLC licensed drivers? If you allow them the privilege to obtain TLC vehicle licenses, why wouldn't the TLC then be able to regulate how they lease their FHV cars to FHV drivers -- to regulate their FHV product? Council members, enough is enough, please Tell TLC to stop the madness, do the right thing or lets pass a law to specifically require them to do their job. You cannot allow them to continue to take advantage of drivers in the very way brokers, banks and medallion owners have taken advantage of medallion drivers over the years. Here is another simple answer: prohibit any company that leases vehicles to FHV drivers from acquiring FHV licenses. Allow FHV drivers to control the leasing process and have the ability to get into a lease of their choice. Tie FHV licenses with TLC driver licenses.

We have contacted TLC on behalf of many drivers and had several meetings in search of a solution to ease drivers pain and was met with indifference. The only way this horrible worker exploitation will stop is to end predatory leasing and put the drivers back in control and allow them to thrive.

I do not want to spend 14-18 hours on the road because my American Lease needs to get paid, I shouldn't sleep in my car because Buggy might tow my vehicle when I am a few dollars short of my payment. I will miss my kid's soccer game because Tower Auto Mall decided to overdraw my account due to Ezpass and ticket violations I did not know about. Just to name a few, these fleet owners literally own the drivers and TLC is allowing it.

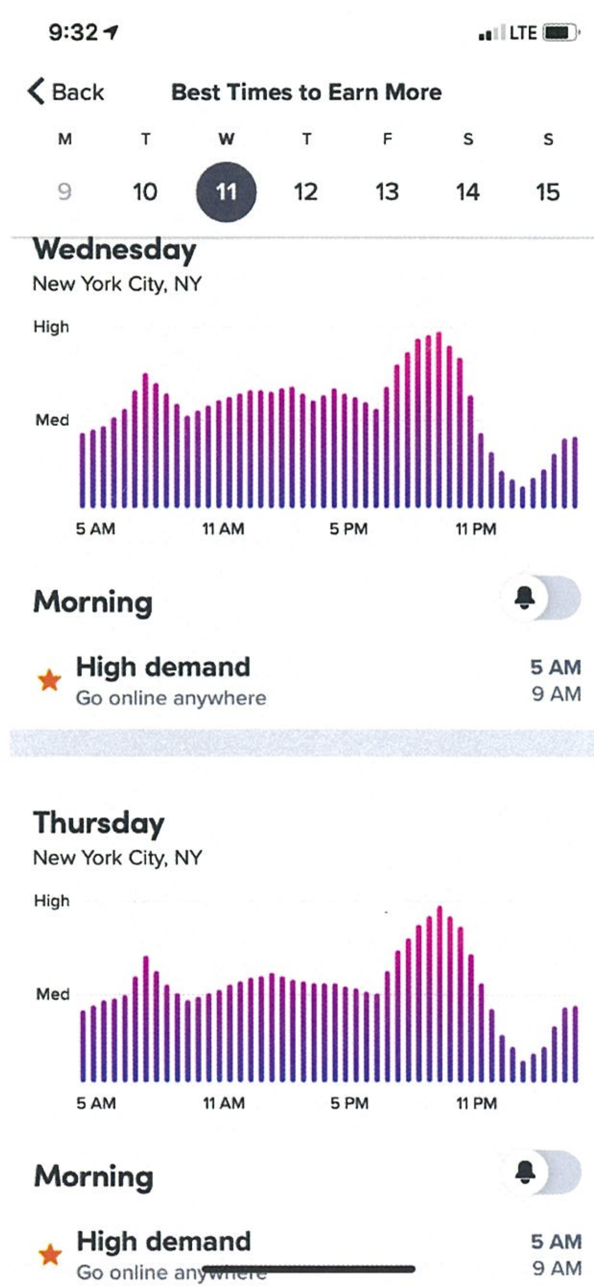
IT'S TIME TO END PREDATORY LENDING - GIVE DRIVERS OWNERSHIP OF THEIR VEHICLES AND THEIR LIVES.

Thank you.

Testimony of Tina Raveneau, Steward
Independent Drivers Guild (IDG)
Before the City Council Committee on Transportation
September 10, 2019

My name is Tina Raveneau and I am a member of the Independent Drivers Guild. I live in Brooklyn and I have been a TLC driver for two and a half years. Today, I speak from my own experience and on behalf of other drivers in this industry.

My first issue to address is with the App-based company Lyft, in the recent months, Lyft has had me on a scheduled shift, only allowing me to work from 5 am to 9 am Monday to Thursday.
I also drive for Uber who also forces me to drive without control of my time. I entered this industry because of its flexibility and destination filter options. A feature which allowed me to pick my son up from school on time. The removal of this feature also affects my take-home pay, my son is 10 years old and so this controlled schedule by Lyft does not allow me to take home a livable income. I urge you to give this crucial problem your undivided attention as many Drivers like me are falling into poverty lines.



Making matters worse, the TLC just extended the so called "vehicle cap". Instead of limiting new drivers as IDG called for, the cap limits new vehicles which doesn't reduce congestion, it just blocks thousands of drivers like me from owning their vehicles and costing us thousands of dollars per year in the additional expense of renting vehicles from leasing companies.

Last August when this rule passed I had already been driving full time for well over a year driving rented TLC vehicles while I saved up to purchase my own vehicle. By blocking me from ownership you are not reducing congestion. You are making me a slave to the big fleet owners and app companies.

I am also extremely concerned that the pay rules are not meeting the wage increase we were promised. As a steward with IDG, I spent month after month organizing with my fellow drivers to fight for a livable wage. We made countless phone calls and lobby visits, hundreds of IDG members rallied right here at City Hall and spoke at hearings like this one to win the nation's first law requiring the apps to increase pay. The TLC told us we would make $10,000 more per year, but so far their data shows the pay raise is barely half that. That missing $4,000 would make a huge difference for the more than 80,000 New Yorkers who are struggling to get by. That $4000 could cover a down payment on a new electric car so I could finally stop being a slave to the leasing companies. It could pay most of the cost of our yearly TLC insurance.

I have brought my concerns to the TLC many times again and they have continued to ignore me. I'm coming to you as my last resort, for help, and as a struggling single mother in hopes that you help put an end to this inhumane behavior by app companies and the TLC. All we drivers ask is for us to be able to provide for our family Thank you.

Testimony of Paul Klimas, Driver
Member of Independent Drivers Guild (IDG)
Before the City Council Committee on Transportation
September 10, 2019

Thank you Mr. Chairman and members of the Committee. My name is Paul Klimas and I am proud to be a full-time Rideshare driver. I am a native New Yorker who was born and bred in Queens. I know that it is drivers like myself, and my colleagues at this table, who service the transportation needs of New Yorkers 24 hours a day, 7 days a week.

I love to drive and that's why I made this my career. I love meeting new people every day, and I love making sure my riders get to their destination quickly and comfortably. Most importantly, this is my livelihood and it pays my bills.

Unfortunately, it's getting harder and harder to survive in this business, with rate cuts, gas prices, tolls, increased competition, and all of the costly insurance and other requirements just to get on the road.

That's why it's so frustrating and disappointing that the Taxi and Limousine is not helping, and in fact has gone out of it's way to make it harder for me. I work more and more hours, and I often don't even make minimum wage – a benchmark we were promised and one that we deserve.

The latest slap in the face over Labor Day when the TLC decided to abruptly ban digital rooftop advertising on for-hire vehicles and forced me to take the sign off my car -- which lost me an afternoon of income and stopped me from making extra money every month.

That rooftop advertising opportunity helped me and other drivers earn additional income while spending less time on the road. I was earning at least $300 a month by just having the digital rooftop ads on my car. That equals approximately 10 percent of my salary. I had plans for that money.

With the additional income from the digital rooftop ads, I was planning to pay for my TLC-mandated insurance. I even started to look for health insurance, because I was finally able to afford it.

What has been most insulting is that the TLC is going around in the media and saying that they haven't seen any evidence that drivers benefited from the money from rooftop ads. *Well, here I am, have you seen any evidence yet? Or do you just not care?*

Drivers are struggling to make ends meet. We are working longer and longer hours, spending more time on the road, and our paychecks are getting smaller and smaller. I had multiple drivers ask me how they can also sign up because they too needed the additional income.

Now that the program is over, drivers will have to spend more hours on the road to support themselves and their families, and for all the TLC's talk about cracking down on congestion, this ban on ads will have the exact opposite effect.

I want to continue doing what I enjoy and serving this city, but I *need* the TLC to stop taking money out of our pockets and stop implementing policies that hurt drivers.

I strongly urge the Committee and the City Council to pass legislation that overrules this awful and harmful decision by the TLC to ban us from making money with rooftop ads.

Thank you for listening.

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TESTIMONY OF PETER M. MAZER

General Counsel

METROPOLITAN TAXICAB BOARD OF TRADE

City Council Transportation Committee Oversight Hearing

September 10, 2019

Good afternoon Chairman Rodriguez and members of the Committee. My name is Peter Mazer and I am General Counsel to the Metropolitan Taxicab Board of Trade (MTBOT), a sixty-eight year old association representing the owners and operators of approximately 5,000 licensed medallion taxicabs. For the past four years we have also operated a drivers' resource center that provides a variety of services to licensed taxicab drivers, from assistance in obtaining and retaining licenses, to training in safe driving practices, to free legal representation before OATH, Traffic Violations Bureau and Criminal Court. We have represented drivers in over 10,000 matters and provided more than a million dollars' worth of free services to our drivers.

This afternoon, you are reviewing the effect of recent changes in local laws regulating high volume for-hire services. In particular, legislation has imposed a vehicle cap to limit the proliferation of these vehicles and also has created a compensation formula in an attempt to ensure that drivers of these vehicles earn a living wage. Furthermore, the TLC has recently supplemented these laws with a set of regulations designed to limit the amount of time these vehicles can cruise without fares in the central business district (CBD), with the intent of reducing traffic congestion.

First, let us consider the effect of the vehicle cap. As of today, Uber has 82,778 affiliated vehicles; Lyft has 4,594, Juno 217, and Via 1,964. Other Black Car bases have an additional 15,887 affiliated vehicles, so there are a total of 105,440 black cars licensed by the TLC. This is 10,000 more vehicles than were licensed when the temporary vehicle cap was first introduced little more than a year ago. The number of licensed black car and high-volume for-hire vehicles has never been greater. Contrary to the statements made by the owners and operators of these businesses that they lose a significant number of drivers each month, there appears to be little or no attrition in the number of licensed vehicles.

These 105,000 vehicles perform about 700,000 recorded trips per day, or an average of about seven trips per licensed vehicle. At the same time, licensed medallion taxicabs average more than twenty trips per day. Yellow cabs are simply more efficient at moving large numbers of passengers with fewer vehicles. There are eight times as many black cars as yellow cabs, yet they move only about three times as many passengers. This is because the high-volume for-hire industry works on a different business model, one which by necessity floods the streets with as many vehicles as possible so that whenever a passenger needs a car, there is an empty one waiting just seconds away. This is something their customers have come to expect. But this business model is not without serious consequences.

This business model adds to congestion since far more vehicles than necessary occupy scarce street space. It also by its very nature ensures that drivers cannot earn a sustainable income because their requires that drivers spend a large portion of their time without passengers, so they are available for the prospective customer who demands instantaneous service. The city has attempted to ensure that drivers earn a sufficient income while working. But since the city cannot compel passengers to use their services or to pay the fares required to support an adequate drivers' income, the only way high-volume for hire vehicle services can meet these mandatory earnings requirements is to limit the hours that their drivers are allowed to work. We have already experienced some changes: some services are not accepting new drivers; others are requiring their drivers to log off so they will not be required to compensate them during periods with less demand. These drivers want to work, but are not allowed to. As drivers are unable to work the hours they want or earn the income they need, they often resort to accepting unlawful street hails, further adding to congestion and depriving licensed drivers of these fares. This creates a breakdown in the regulatory system and undermines confidence in the TLC's ability to regulate its licensees and protect the public.

At the same time, limiting cruising time in the CBD may have a slight effect on congestion in this area, as the TLC/DOT report indicated. However, it will create other problems, such as increasing congestion in other areas of the city, particularly areas near the congestion zone as vehicles will tend to hover just outside the congestion zone as they wait for fares. Furthermore, drivers may very well log off while in the congestion zone and engage in unlawful street hails without the TLC having any record of their activities. Congestion will not be mitigated, and the TLC will not have accurate data regarding fares, trips or driver income.

Fortunately, we have a model that works efficiently: the medallion taxicab model. Their numbers have been limited since the 1930's, when the city learned that oversaturation of the market is not good for drivers, customers or the overall health of an industry. While other transportation services may be needed to supplement taxicabs in the less dense areas of the city (neighborhood car services and SHL's have been doing this for years), the hail system utilized by the more than 13,000 medallion taxicabs has provided robust service to patrons in the more densely populated and business-intense areas of the city. App services enable yellow cabs to meet the demands of people in less densely populated areas as well. At the same time, the yellow cab industry has provided a sustainable wage to its drivers. Despite competition from Uber, Lyft and the other service providers, and despite a decline in ridership, average hourly earnings for taxicab drivers has remained relatively constant at about $30 per hour, before expenses. Since lease fees have dropped, and gas prices are lower than in the past, a taxicab driver's average net earning has in fact increased.

Given this scenario, is there a solution? We believe that the time has come for the city to seriously consider the transportation needs of all its residents and businesses, and think creatively about the provision of services by each of the various segments of the industry. A complete review of how we regulate is needed, and all reasonable ideas need to be fully explored. This is the conversation we need to have as we look to provide the kind of service the public needs for the next decade and beyond.

Thank you for providing me the opportunity to speak today. I would be happy to answer any questions you may have.

National Federation of the Blind, New York City Chapter
Testimony before City Council Transportation Committee
September 10, 2019

Good afternoon, and thank you for the opportunity to testify here today. My name is Ray Wayne, and I represent the New York City Chapter of the National Federation of the Blind (NFB). NFB is a nationwide organization of blind people speaking for ourselves. We are here today to express our concerns regarding restrictions on for hire vehicle growth.

Many blind and visually impaired New Yorkers, especially those in the outer boroughs, rely on for hire vehicles, including taxis, car services, Uber, and Lyft, as a means of transportation. Restrictions on the availability of these vehicles will invariably adversely affect the ability of these transportation providers to meet increasing demands for their services.

Many blind people do not have computers or other means of communicating in writing. Accordingly, they cannot report problems they are encountering while attempting to arrange for transportation. Thus, there is no statistical data as to the challenges that blind New Yorkers are encountering in securing these services.

We ask that the City Council and the Taxi and Limousine Commission work with elected representatives of the blind community to ensure that the transportation needs of blind and visually impaired New Yorkers are met.

I will be happy to take questions. My contact information is in my written testimony.

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LANY
THE LIMO ASSOCIATION OF
NEW YORK

TESTIMONY BY SCOTT RUTTER, VICE PRESIDENT OF THE LIMO ASSOCIATION OF NEW YORK (LANY), BEFORE THE NYC COUNCIL TRANSPORTATION COMMITTEE OVERSIGHT HEARING ON THE NYC TAXI AND LIMOUSINE COMMISSION

September 10, 2019

Good Morning, my name is Scott Rutter and I am the Vice President of the Limo Association of New York. We represent operators within the "Luxury Limousine Base" classification and very much appreciate the opportunity to speak before you today.

Let me begin by saying we fully support the City's efforts to ensure a viable and sensibly regulated FHV industry. We want to work with the City in any way that we can to help advance this concern. However, we are very concerned over the fact that <u>all initiatives</u> that have been adopted or proposed have not taken into consideration any of the significant differences that exist between the different Base license classifications established by the TLC. I am here today to ask that these significant differences be taken into consideration for existing regulations and any new or proposed regulations.

Let me outline what some of these differences are that I am referring to:

- Luxury Limousine Base drivers are <u>employees</u> of our companies. They are <u>not Independent Operators</u>, or IO's, that are associated with most other Base license types. Just yesterday, Governor Cuomo announced that "more workers should be classified as employees" and we couldn't agree more!
- As our employees, unlike IO's, they have <u>NO</u> expenses: the Base pays them all. This includes all costs of the car they drive, including fuel, insurance, maintenance and even any damage that may occur to the vehicle. This even includes parking tickets!
- As our employees, unlike IO's, they are protected by the federal Fair Labor Standards Act and covered by rules on minimum wage, overtime and paid sick leave,

and they receive other benefits such as unemployment, disability and in many cases health insurance.

- As our employees, unlike IO's, our drivers can earn \$50,000, \$70,000, even \$100,000 in some cases and I want to stress again, without any expenses other than the normal payroll taxes due on these W-2 wages.

So the regulations that have been put in place to ensure that hard working men and women in the FHV industry can make a decent living here in NYC clearly were not needed within the Luxury Limousine segment. And we've been providing these jobs for years!

Another significant difference with the Luxury Limousine segment is that we do not contribute to the Manhattan congestion problem for a couple of reasons:

- First, while the Livery and Black Car segments have grown to over 100,000 vehicles on the streets of NYC, driven largely by the TNC's, the Luxury segment has actually shrunk to about 4,000 vehicles currently.
- Even more importantly though, Luxury Limousine Bases do not offer "on demand" service, which is the issue that has resulted in today's state of affairs. The high majority of all of our business is with established customer accounts that is <u>pre- arranged</u>, usually hours, days and even sometimes weeks in advance. We simply <u>do not cruise the streets looking for passengers.</u>
- We build our business by "selling" new accounts that use our services, rather than cruising the streets looking for fares, as noted. But right now, if I go out and "sell" a new account, I cannot add the vehicles needed to serve those new accounts.

Consequently, the moratorium on new vehicles is significantly limiting our ability to survive in the one FHV industry segment that provides <u>real</u> <u>middle-class jobs,</u> while not contributing to the traffic congestion problem in any meaningful way.

We genuinely hope that you will take these "unintended consequences" of TLC rules into consideration regarding these and other existing regulations, as well as during the adoption of new ones.

We would be pleased to engage in further discussions with you and look forward to the opportunity. Thank you.

Via Transportation, Inc.
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www.ridewithvia.com

Prepared Testimony for New York City Council Committee on Transportation's Oversight Hearing: TLC's Implementation of For-Hire Vehicle Growth Restrictions, For-Hire Vehicle Driver Pay Standards, and Other Recent Local Laws.

Good afternoon Chairman Rodriguez and Council Members. I'm Ya-Ting Liu, Director of Government & Policy at Via. Thank you for the opportunity to address you today regarding various laws and regulations that have been passed and implemented in the for-hire vehicle industry.

Via, a NYC-headquartered company, is the industry leader in driver pay and providing efficient, pooled rides in New York City. Our ability to provide extremely efficient rides while grouping multiple passengers into vehicles is one reason other major cities across the world have selected Via to operate on-demand, dynamic shuttles and buses as part of their public transit networks.

We are working in Los Angeles, Seattle, London, Berlin, Sydney, Austin, Washington DC, and dozens of other cities to solve transit deserts, connect people to transit hubs, improve paratransit services, and extend the reach of public transit. And as members of this Committee know, the NYC Department of Education recently announced that Via's technology will be going into every yellow school bus in the City. School buses will be able to adapt routes to respond to students' needs and our platform will provide GPS tracking and real-time updates to parents and students. This will be the largest effort of its kind in the country.

We believe that the way Via is operating is consistent with what this Committee and other officials in NYC want to see from the FHV industry. Unfortunately, the vehicle cap is operating in such a blunt way that it is having a number of unintended consequences. We do not believe that when it initially passed the cap, the Council intended for it to make it harder to reduce congestion, lower greenhouse gas emissions, improve equity among New York City residents, and increase driver pay -- yet by treating all services and vehicles identically, it is having that effect.

The vast majority of trips on Via's platform are multi-passenger rides, and the recent study by TLC and DOT demonstrated how differently Via operates than other companies. According to that report, vehicles on Via's platform cruise empty in Manhattan only 13% of the time, which is more than three times more efficient than any other company (42%-46%), and substantially better that the TLC's newly created 31% cruising standard.

We were the only company to support the Council's efforts to improve driver earnings and the TLC's driver pay rule. Even before the rule, drivers on Via's platform were earning substantially more than the TLC's standard. On the subject of driver earnings, we believe that if drivers were allowed to advertise inside or on the outside of their vehicles - actions which are prohibited by the TLC today - they could earn even more money. To ensure that drivers benefit from advertising revenue, TLC can require that a minimum portion of advertising revenue go to drivers.

We have also supported other efforts to reduce congestion and greenhouse gas emissions, such as the recent congestion pricing law passed by New York State.

Providing pooled rides in high-occupancy vehicles with capacity for 5-8 passengers is a key part of how Via has achieved the highest driver pay in the industry as well as efficient, sustainable rides. TLC data shows that these vehicles in particular are the most efficient in the FHV industry. They reduce traffic and congestion by displacing vehicles used for single passenger rides and sedans that typically take a maximum of only three passengers.

Unfortunately, the vehicle license cap is inadvertently inhibiting the transition of New York's FHV vehicle fleet towards more use of high-occupancy vehicles used for pooled rides. The use of high-occupancy vehicles – both in raw numbers and as a percentage of vehicles on Via's platform – was growing rapidly prior to the cap's implementation. The cap is not only preventing new licenses from being granted for such vehicles, it is even in practice preventing the transfer of existing licenses from sedans to HOVs because vehicle licenses are often held by leasing companies (and not drivers). Because of the license cap, every week, Via turns away more than 150 drivers who say they want to drive an HOV, including a large portion of whom are currently leasing and driving smaller vehicles that are worse for pooled rides.

We recommend that the City Council or TLC figure out a way to address this issue, and we are open to different solutions to doing so. One such solution would be to grant new FHV licenses to high-occupancy vehicles (HOVs) with capacity for 5 to 8 passengers in addition to the driver, in the limited circumstances that they be dispatched only for pooled rides and/or only on platforms meeting a certain cruising threshold. Such a rule would be consistent with the regulation's stated goal of addressing "traffic congestion," as well as the Mayor and Council's goals of reducing greenhouse gas emissions, improving equity among New York City residents, and increasing driver pay.

There are several important policy reasons to incentivize and support the use of high-occupancy vehicles for pooled rides:

- **Congestion and Greenhouse Gas Emissions:** Transportation is the number one source of greenhouse gas emissions in New York and pooled rides help reduce traffic and greenhouse gas emissions when compared to single passenger trips. By failing to differentiate between pooled rides and single passenger private rides, the cap is failing to achieve its environmental and congestion goals. As New York State debated various congestion schemes, leading environmental and transportation organizations such as the Regional Plan Association (RPA), the New York League of Conservation Voters (NYLCV), the National Resources Defense Council (NRDC), Transportation Alternatives, and many others wrote that any congestion policy "should encourage the use of multi-passenger options and discourage the use of vehicles being driven alone or transporting only one passenger."

- **Driver Pay**: While securing better driver pay is not a stated goal of this rulemaking, allowing the use of HOVs for pooled rides would contribute to that priority for the Mayor, TLC, and Council as well. Via pays drivers of HOVs the highest amount of any driver group in the High volume FHV industry, but because of the cap many drivers are unable to drive an HOV, including many who are existing FHV drivers.

- **Equity**: According to TLC data, pooled rides are requested at higher rates in low- and middle-income neighborhoods in New York City than in affluent ones. We should encourage pooled rides to be accessible to all New Yorkers, not limit their growth as the cap is inadvertently doing today.

We encourage the City Council and TLC to reexamine the unintended consequences of the current vehicle cap and advertising ban. We look forward to working with members of this body to ensure that we continue to improve mobility options for all New Yorkers in a sustainable and equitable way. Thank you.

New York City Council - Transportation Committee
Oversight Hearing, TLC FHV Regulations
September 10, 2019

My name is Bryan Lozano, and I'm the Director of External Affairs for Tech:NYC. Thank you for calling this oversight hearing today and for the opportunity to testify.

Tech:NYC is a nonprofit coalition with the mission of supporting the technology industry in New York through increased engagement between our more than 750 member companies, New York government, and the community at large. Tech:NYC works to foster a dynamic, diverse, and creative ecosystem, ensuring New York is the best place to start and grow a technology company, and that New Yorkers benefit from the resulting innovation.

One innovation that has undoubtedly improved New Yorkers' lives over the past several years is ridesharing. Ridesharing has provided New Yorkers with an affordable and convenient transportation option, and it has provided many with an important source of income. Ridesharing companies like Uber, Lyft, and Via—Tech:NYC members—offer important transportation options to New Yorkers and have been there time-and-time again to fill in public transit's gaps. Today, New Yorkers of all backgrounds, in all boroughs, rely upon ridesharing to get around and to go about their daily lives.

However, over the past year and a half, New York City has instituted a number of regulations which are negatively impacting the services offered by ridesharing companies and are doing more harm than good. We share the goals of many of the recent regulations—like increased driver pay and decreased congestion. Yet unfortunately, several of the regulations are too rigid and don't allow for the rideshare companies to implement innovative solutions. Moreover, by instituting so many new rules in such a short period of time, there are bound to be negative consequences.

In particular, the blunt cap on for-hire vehicle licenses—which was recently extended—has failed to produce any discernible benefits and is likely to have negative long term effects. While congestion is a serious issue that needs to be addressed, the cap on for-hire vehicle licenses is misdirected and incorrectly singles out FHVs.

Further, as currently constructed, the license cap fails to account for the difference between single passenger and pooled rides. The cap will prevent more high occupancy vehicles from coming online and limit the share of pooled rides. Pooled rides are more efficient than single occupancy rides and have been shown to reduce congestion. Pooled rides are also one of the more equitable forms of travel—pooled rides are requested at higher rates in low- and middle-income neighborhoods. Any FHV license cap should exempt high occupancy vehicles utilized for pooled rides.

The cap will also hurt New Yorkers who rely upon ridesharing as a source of income. In the long term, this cap will create a system akin to the taxi medallion system. Recent reporting and investigations by this City Council have demonstrated the folly of this system, and how it imperils drivers. FHV licenses are for particular cars and many of these cars are owned by fleet companies which rent vehicles out to individuals who want to drive. The license cap incentivizes fleet owners to increase prices, taking advantage of people who would otherwise get a license for a car they own.

Another recently enacted rule that will only hurt drivers is the TLC's ban on advertising in or on FHVs. Interior and exterior advertisements are an important source of income for drivers, with many drivers earning an extra $300 a month in income—which amounts to 10% of some drivers' salaries. It is unclear why the TLC decided to restrict this source of driver income and it is a decision that should be reversed.

In order to benefit drivers and combat congestion, New York needs to enact smart, equitable policies. At the same time, we must be careful to avoid using old-fashioned methods to regulate new models and repeating policy failures of the past. We hope City Council continues to look into these issues and we look forward to working together to find more creative ways to regulate, while ensuring New Yorkers have access to affordable, convenient transportation options.

Submitted Testimony of the New York Building Congress
to the New York City Council Committee on Transportation
September 9th, 2019

NEW YORK BUILDING CONGRESS

Good afternoon Chair Rodriguez and Members of the Committee on Transportation. Thank you for the opportunity to testify here today.

The New York Building Congress is a non-partisan coalition of businesses, labor, professional and governmental organizations serving the design, construction and real estate industry. Our association is made up of nearly 550 organizations comprised of more than 250,000 professionals. We're concerned that the proposed rules on for-hire vehicles will hurt New York City's economy and its residents.

The new regulations could hurt growth and economic development in areas poorly served by mass transit. Our research shows that 38 percent of all active building permits for major construction in New York City are within transit deserts – or areas more than a 10-minute walk from a subway station. That translates into hundreds of thousands of new square feet of office, retail, manufacturing and residential space in the service areas of for-hire vehicles. Given the adoption and high use of for-hire vehicles in these areas, particularly outside the borough of Manhattan, many businesses and residents are choosing to continue investing in these neighborhoods.

Under these new rules, it's likely that many drivers will decide to idle in communities close to Manhattan in order to get fares into the Central Business District, which could lead to less reliable service in areas that have a shortage of transportation options.

We support the TLC's efforts to reduce congestion, which is why we advocated strongly for congestion pricing. However, creating regulations that punish hard working New Yorkers, and people without access to mass transit, is too high a cost. We urge you to reconsider the proposed regulations and find a more equitable solution.

FOR THE RECORD

September 10, 2019

Dear New York City Council,

Thank you for calling the hearing today to look into the effects of the TLC's recent rules for the for-hire vehicle industry.

My name is Crystal Ferguson, and I have been driving with Uber and Lyft for about three years. Over the last few months, I've seen a significant difference on the road as a driver due to the new rules.

First, the new cruising rule unintentionally creates an algorithm that puts both passengers and drivers at a disadvantage. My earnings have significantly decreased due to the fact that rideshare companies are forced to log us out of the applications, even when there is demand, to avoid a penalty.

It has been particularly hard to earn money with Lyft. Sometimes, 45 minutes or more go by without being matched for a ride, then I'm forced to log off and relocate to other areas of the city with higher demand. While the effects of the rules aren't quite as bad on Uber, driving with Lyft has been my preference, so I'm disappointed that the TLC's rules are taking away freedom and choice from drivers. On the passenger side, wait times have increased from about five minutes, to upwards of 12 and 15 minutes, causing people to get impatient and frustrated.

Additionally, the vehicle cap has allowed rental companies to charge astronomical amounts, even for small efficient vehicles that should be low-cost. Drivers should be able to maximize their earnings by using their personal car to provide rides in the way that ridesharing was intended. Instead, people are going into debt in order to provide for themselves and their families.

I fear that New York City will put rideshare companies out of business, which ultimately means thousands of drivers will be out of a job. I urge the City Council, the TLC and for-hire companies to come to an agreement that makes sense for everyone involved. New York City has decided to put regulations in place that no other city or state is using and it's not working out. Please reconsider these rules.

Sincerely,

Crystal Ferguson
P.O. Box 70039
Brooklyn, NY 11207

United Spinal Association
www.unitedspinal.org

Testimony of United Spinal Association Before the New York City Council Transportation Committee Regarding the Continuation of the Cap on For-Hire Vehicles

September 10, 2019

Presented by James Weisman, Esq.
United Spinal Association President/CEO

120-34 QUEENS BLVD. SUITE 320 • KEW GARDENS, NY 11415 • 800.404.2898

Thank you for this opportunity to express my support for the continuation on the cap on new For-Hire Vehicles (FHVs) licenses, and the continuation of the exception attached to the cap for wheelchair accessible FHVs—and to express my ongoing concerns about its implementation. I represent United Spinal Association, a national membership organization of 56,000 individuals with spinal cord injuries or disorders. United Spinal has over 50 chapters throughout the United States and Puerto Rico, operates over 150 support groups around the country, and has an active, vibrant New York metro area chapter. United Spinal Association was founded in 1946 by paralyzed veterans. Since its founding as Eastern Paralyzed Veterans Association (EPVA), the Association's goal has been the integration of wheelchair users into the American mainstream.

The Association sued New York City and Metropolitan Transportation Authority in 1979 to make subways and buses accessible. The settlement agreement reached in 1984 with MTA made the city's buses and key subway stations wheelchair accessible, and created the Access-A-Ride program. The Association then sued the City of Philadelphia and its transit system, SEPTA, with similar results. The transportation provisions of the Americans with Disabilities Act are based on the settlement agreements in these two cases.

United Spinal Association strongly supports the Taxi and Limousine Commission's cap on Uber and other rideshare vehicles, unless they are wheelchair accessible. For approximately twenty years, the Taxis for All Campaign (TFAC) has fought for access to the City's taxi system. The Taxis for All Campaign is comprised of many disability groups (including United Spinal Association) and disabled individuals residing in and around the five boroughs.

The disability community, not its elected officials, advocated, lobbied and litigated to achieve a commitment to 50% accessible yellow cabs by 2020, from the Bloomberg administration, despite Mayor Bloomberg's earlier opposition to accessible cabs. This forced the retrofitting of brand-new Nissan NV200s, the ill-fated "Taxi of Tomorrow" chosen by the Bloomberg administration. That's right, an inaccessible taxi was selected as the "Taxi of Tomorrow" by the Bloomberg administration, which then settled a lawsuit with United Spinal Association and other disability groups for 50% access. Brand new Nissan NV200s went from a factory in Mexico to Braun Mobility in Indiana to be retrofitted for accessibility. The result was a marginally-accessible cab that required the wheelchair user to sit in the passenger compartment, which was entirely occupied by the wheelchair user. One companion could ride with the wheelchair user but only in the front seat with the driver. The space was too small for most wheelchair users to ride comfortably. Bad planning, combined with discrimination based on disability, resulted in an expensive boondoggle.

The "50% access by 2020" requirement will not be met. It will not be met because of the devastating effect the previously unregulated rideshare industry had on the financial viability of the yellow cab industry. The Council and the Mayor did little to nothing to protect medallion owners, while they allowed rideshares to exponentially increase their fleets with inaccessible vehicles, choking city streets. When we began asking the Council for relief from rideshare inaccessibility, Uber vehicles numbered 14,000. While the Council did nothing, Uber increased its fleet to 70,000.

When the Di Blasio administration attempted to oppose accessibility requirements on Uber, the company resisted. It is currently providing accessible service, but not as required by law or as desired by the TLC or people with disabilities. Uber has rolled out accessibility in 20 American cities during the past year using its own methodology for providing the service. Uber measures response times for accessible vehicles, a method it chose to assess the adequacy and reliability of service.

Chairman Rodriguez, as the Council has done little to date to ensure the provision of or regulate accessible taxi service, it would be disgraceful for your Committee to do anything other than support the rights of people with disabilities to use taxis and rideshare vehicles. For the Council to reconsider the vehicle cap, Uber's only incentive to provide accessible service, you must provide a viable alternative for wheelchair users.

People with disabilities effectively changed the meaning of "bus" to "accessible bus" by their advocacy. Accessible mass transit buses, now taken for granted in America's urban and suburban communities, were vehemently opposed by transit experts across the United States, including New York City's MTA until transit operators lost lawsuits and public support for maintaining an inaccessible system. Twenty years from now, autonomous, accessible vehicles will be providing transportation services to New York City's residents. As life expectancies continue to increase, so will the mobility-impaired population. Vehicle manufacturers will meet the demand of the riding public. The question before the Transportation Committee today is, "Will you support a future rideshare system that is accessible to everyone, or will you oppose accessibility?" The Council's failure to lead on this issue should certainly not be made more egregious by helping rideshare companies avoid serving New Yorkers and visitors with mobility impairments.

Thank you.

James Weisman
United Spinal Association, President/CEO
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Written Testimony of Jen Hensley, Policy Director, Lyft
NYC City Council - Committee on Transportation
September 10, 2019
RE: Oversight - TLC's Implementation of For-Hire Vehicle Growth Restrictions, For-Hire Vehicle Driver Pay Standards, and Other Recent Local Laws

I am Lyft's newly appointed Policy Director, leading the company's efforts in New York City. I come to Lyft by way of LinkNYC, where I was President of the program to replace the City's payphones with Wi-Fi kiosks. Prior to that, I ran the Association for a Better New York (ABNY), where I led a 300-member civic business association and advocated for the policies and projects that made New York a better place. I'm excited to join the Lyft team, and I share the Company's commitment to working cooperatively with you to ensure the City's rideshare platforms work for passengers, drivers, and the City at large.

Foremost, we are committed to providing fair and transparent wages to those who drive with Lyft, as well as safe, reliable and affordable transportation options to all New Yorkers. This is why we have invested in a Grocery Access Program for low-income families; added public transit information into the Lyft app, and invested in expanding transportation access in the boroughs outside Manhattan. We believe in working in partnership with policy makers to achieve our shared goals of reducing congestion and enhancing access to transportation for all who move throughout our city. I look forward to ensuring that we achieve these ambitions working in close collaboration with you and your staff.

The Committee has convened today to evaluate the TLC's implementation of FHV growth restrictions, driver pay standards, and other recent regulatory changes. While we share the goals of reducing congestion and ensuring fair driver pay, the TLC's approach is creating unintended consequences that work against the interests of drivers and the riding public. Here, I will provide some insight into these effects based on Lyft's operational experience.

Company-Specific Utilization Rates Undermine Driver Pay and Equitable Service

Lyft supports the minimum driver earnings law passed by the Council last August, but we continue to have serious concerns about the unintended consequences of the TLC's approach to implementing the rules. Especially problematic is the TLC's upcoming reliance on "company-specific" utilization rates (the percent of time drivers utilizing a company's platform have passengers in their cars) to determine driver pay.

Starting in February 2020, if a platform's utilization rate is higher than another platform's, then it will be permitted to pay drivers less than other companies - for the exact same ride. A company can then use that leverage created by the TLC to lower prices, gaining an unfair advantage in the market. Thus, the market leader will be able to utilize the advantages created directly by the TLC rules to further drive down their competitor's market share. That outcome could leave drivers and riders subject to the negative earnings and price effects of only one rideshare provider in New York City. We don't believe that outcome, unintended as it may be, is in the best interest of drivers, riders or the City.

The TLC will determine these company-specific utilization rates based on each company's prior six months of operations. Therefore, we believe the TLC began calculating the rates for February 2020 on July 1, 2019. In order to reduce the negative impacts of the rules for drivers and passengers, Lyft had to recently implement unprecedented supply controls. This was the only way to increase our utilization rate and protect our ability to operate in the market, and ensure competitive pricing in the future.

As we address the TLC's regulations by limiting the supply of drivers in lower demand areas, we are seeing trends that run counter to the driver earnings goals set out by the City Council. For some drivers, weekly earnings are falling as access to the platform is limited. Lyft wants to provide drivers with flexibility and the highest total earnings possible. The TLC's company-specific utilization policy is removing that flexibility and hurting overall earnings for a significant portion of the driver population.

Another problematic issue is that the imbalance between rider demand and driver supply that leads to supply controls being needed is often highest in parts of the City that are not well served by taxis and public transit. These are the same neighborhoods that most benefit from the reliable, consistent and equitable service offered by rideshare companies. This trend is especially troubling given the history of redlining and poor service in underserved neighborhoods and communities of color, that Lyft and other rideshare companies have successfully addressed in recent years.

The TLC's impending implementation of company-specific utilization rates has forced Lyft to make stricter operational decisions we otherwise would not have chosen to make. We think the impacts that these rules are having work against the City's interest, both with regard to driver pay, and equitable service for all neighborhoods.

Further compounding this situation is the TLC's lack of response to Lyft's numerous requests for our Utilization Rate, or insight into the method used to calculate our Utilization Rate. The TLC's silence means we have limited visibility into the impact supply controls have on the market.   It is extremely concerning that the TLC will not even provide the companies impacted by these rules with the basic information necessary to comply and make critical decisions.

Recent Additional TLC Regulatory Changes

Despite the absence of accountable leadership at the TLC, the agency has rushed to implement sweeping controls on the industry without understanding the actual or potential consequences. Inexplicably, the TLC plans to implement its most recent utilization controls without taking into account, or even studying, the actual and ongoing impact of its current utilization policy. As we noted above, the TLC has refused to provide data needed to fully understand the rules' impact on the industry and the city. However, based on our internal data, our early experience indicates serious issues with the rules and their implementation, and we believe the Council should be as concerned as we are about the TLC's approach to regulation and its impact on the public and transportation services throughout the City.

The Path Forward

We urge the Council to take action to address the unintended consequences we are seeing as a result of the TLC's rushed rulemaking. As the TLC marches ahead with new regulations, it is especially important to hit the pause button and address the real world consequences of the TLC actions - with the implementation of company-specific utilization rates in only five months, drivers stand to see their pay and earning opportunities reduced, and service in historically underserved communities will suffer. We appreciate the Council's leadership and diligence in calling today's hearing, and its ongoing efforts to serve as a check and balance on the agency's regulations.

I look forward to working with you over the coming weeks and months to further study the impacts of the TLC's rules, and to implement changes to better serve the interests of drivers and riders, and to ensure equitable service for all New Yorkers.

LiveOn NY
Making New York a better place to age

New York City Council
Transportation Committee
Council Member Ydanis A. Rodriguez, Chair
September 10, 2019

LiveOn NY Testimony

LiveOn NY is a nonprofit membership organization representing 100 community-based organizations that serve more than 600,000 older New Yorkers annually through senior centers, congregate and home-delivered meals, NORCs, affordable senior housing and other services. LiveOn NY also administers a citywide outreach program that educates, screens and assists with benefit enrollment including SNAP, SCRIE and others benefits. Our team also administers the Rights and Information for Senior Empowerment (RISE) program to ensure all New Yorkers have the information needed to advocate for themselves and thrive in their later years.

LiveOn NY thanks Chair Rodriguez and the Transportation Committee for the opportunity to testify at today's hearing. LiveOn NY remains committed to supporting a myriad of transportation options that meet the needs of older New Yorkers. We are concerned that the proposed rules on for-hire vehicles will hinder needed transit options for seniors, particularly those in "transit deserts" and we urge the TLC to reconsider these rules.

Research shows that a top concern for older New Yorkers is their ability to access reliable and safe transit. And yet, we know that for many older adults who live in transit deserts getting to doctors' appointments, going grocery shopping or taking advantage of the City's cultural resources is a constant challenge. We also know that transportation experts see ride-hailing as a way to improve mobility and preserve independence for older people who can or should no longer drive, or never did. David Lindeman, who directs health programs at the Center for Information Technology Research in the Interest of Society at the University of California, Berkeley described ride-hailing services for seniors as "game-changers" which have the ability to continue connecting older people with their needs as they age. This will especially be true as older adults increasingly adopt technology usage and new cohorts of individuals reach old age.

Unfortunately, new regulations could limit the availability of for-hire vehicles in areas poorly served by mass transit. More specifically, under new rules, it's likely that many drivers will decide to idle in communities close to Manhattan in order to get fares into the Central Business District, which could lead to less reliable service in areas that have a shortage of reliable transportation options. Given the adoption and high use of for-hire vehicles in these areas, particularly outside the borough of Manhattan, many older adults and caregivers have come to rely on diversified transit options and should not be limited in their ability to utilize this tool.

We support and appreciate the TLC's efforts to reduce congestion. However, we do not believe that the solution to this challenge should place limits on older adults and caregivers in need of more diversified transit options such as ride-hailing technologies.

Thank you for the opportunity to testify and for your continued considerations of the transportation needs of older New Yorkers.

LiveOn NY • 49 West 45th Street • 7th Floor • New York, NY 10036 • 212.398.6565 • www.liveon-ny.org

September 10, 2019

Ydanis Rodriguez, Chair
NYC Council Committee on Transportation
250 Broadway – Committee Rm, 14th Floor
New York, NY 10007.

RE: Internet Association Concerns – Taxi and Limousine Commission's FHV Regulations

Dear Chairman Rodriguez:

Internet Association (IA) is writing to respectfully express concerns over the tone and direction of current policy conversations surrounding the regulation of beneficial app-based for-hire vehicle (FHV) services. IA is particularly concerned with the Taxi and Limousine Commission's (TLC) required "cruising cap" on high-volume FHVs operating in the Manhattan area of New York City below 96th Street and the capping of the new licenses for FHV operators. The Transportation Committee has had little time to appropriately review these sweeping new rules impacting thousands of drivers and millions of residents. These new rules have also been issued at a time of significant uncertainty regarding the leadership and direction of the Commission.

IA represents more than 40 of the world's leading internet companies, and advances public policy solutions that foster innovation, promote economic growth, and empower people through the free and open internet.

FHV services provide real, tangible benefits for drivers, passengers, and the communities they serve. For passengers, FHVs offer affordable prices and higher quality, more reliable transportation choices – such as the option to carpool. For drivers, FHVs offer a flexible option to earn supplemental income based on their schedule. And for the communities they serve, FHVs generate additional spending at local restaurants, bars, movie theaters, etc. This amounts to new economic activity and tax revenues for state and local governments.

As stated in previous testimony to the TLC, IA is concerned at the speed Mayor de Blasio and the TLC prematurely concluded a 12-month study and immediately issued new draft rules regarding an expansion of the FHV licensing moratorium and limiting the time high-volume FHV operators can drive in Manhattan without a passenger. The study was conducted without any public input and relied on faulty and incomplete data. Mayor de Blasio claims the TLC study showed that the FHV cap is working, yet he provided no information on what data has led to this conclusion.

In the study, the TLC writes that a cruising cap and a license cap "is expected to result in high-volume FHV companies assigning trips in such a way as to move FHVs out of the core and into the outer boroughs." From this statement it is clear the TLC believes app companies would direct empty vehicles across the bridges and north of 96th street. In order to achieve the extremely high utilization requirements embedded in the cruising cap, driver access to the Manhattan congestion zone has been restricted. Since the cap has been in effect, evidence suggests that the TLC utilizing company-specific rates is undermining driver pay and equitable service. Many drivers are getting fewer rides and it will be harder to keep service levels adequate in outer boroughs in the months to come. In response to the imposed utilization rates, FHV companies have been forced to implement supply controls to remain competitive in the City.

IA remains concerned that if there is a chance drivers are not allowed back on the app in Manhattan where most fares are derived, they likely will choose to remain in the core zone, thus increasing their incentive to destination discriminate with respect to the outer boroughs and further adding to congestion. The cruising cap would give taxis preferential treatment below 96th Street, ignoring their extensive track record of failing to treat all passengers equally.

The administration's new proposal coupled with existing overly burdensome rules threatens to bring back the days of discrimination against people of color in the outer boroughs. Further, in light of the *New York Times* exposé into the taxi medallion system and the role the City played in causing significant financial hardships for taxi drivers, IA is forced to view these new regulations as an attempt to alleviate the financial burden of taxi drivers at the expense of high-volume FHV operators and the for-hire vehicle apps they utilize.

For these reasons, IA urges the Committee to exercise its authority and encourage the TLC to rescind these new regulations. Please don't hesitate to reach out to me at olsen@internetassociation.org or 518-242-7828 with any questions regarding IA's opposition to these proposed regulations. Thank you.

Sincerely,

John Olsen
Director, State Government Affairs Northeast Region

CC: Transportation Committee Members

MANHATTAN CHAMBER OF COMMERCE

TESTIMONY BEFORE NEW YORK CITY COUNCIL COMMITTEE ON TRANSPORTATION

JESSICA WALKER
PRESIDENT & CEO

TUESDAY, SEPTEMBER 10, 2019

Good afternoon. My name is Jessica Walker and I am the President and CEO of the Manhattan Chamber of Commerce. The Chamber is a community of businesses – including startups, solo entrepreneurs, small businesses and large companies – that help one another succeed.

I ask the Committee on Transportation to consider the impact that recent regulations have had on the for-hire vehicle industry and the New Yorkers that rely on it for dependable transportation. Regulations are being imposed on the for-hire vehicle industry without adequate consideration, and new regulations are being proposed before the impact of existing regulations is understood.

Our worry is that the list of new rules being imposed by the Taxi & Limousine Commission will disproportionately hurt riders in areas least served by mass transit. We are especially concerned about an increase in destination discrimination as a result of the regulations like the cruising cap. Our expectation is that for-hire vehicles will create barriers that limit the number of drivers who can enter Manhattan in order to avoid the significant fines the rule proposes. As a result drivers who take a rider into Manhattan below 96th street will not want to leave out of fear they won't have the opportunity to reenter Manhattan. Drivers will start to decline trips from Manhattan to places like Harlem and Washington Heights and instead look for trips that keep them in the Manhattan core. New Yorkers who travel from Manhattan to areas poorly served by mass transit will feel the impact the most.

For decades, New Yorkers outside of Manhattan below 96th street struggled to hail cabs and access reliable transportation options. Taxis have always left Manhattan only reluctantly. We don't need to return to a tale of two cities when it comes to transportation in New York City.

None of this is conjecture. Only a few months ago, rideshare companies introduced new measures on drivers as a result of the current rules. We should expect similar restrictions in Manhattan as new regulations take effect. It is clear that not enough study has gone into the long-term results of both existing regulations and newly proposed rules.

We need a transportation system that works for all New Yorkers, not just those who live in Midtown Manhattan. I hope we can work together to develop alternatives that work for riders and drivers alike. Thank you.

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WWW.MANHATTANCC.ORG

Submission from Arva Rice

President, New York Urban League

City Council, September 10, 2019

TLC Public Hearing

I am Arva Rice, President and CEO of the New York Urban League. For over 99 years, The Urban League has been helping disadvantaged New Yorkers find humanity in the big city, find ways to connect and help each other, and together gain access to equal opportunity in employment, education, financial and technological literacy, and more. The League has been extremely supportive of the immense benefits that come with ridesharing from unlocking greater mobility to economic opportunity. However, the current regulations threaten to bring New York back to a time when finding a car outside of Manhattan was nearly impossible.

We are all aware that for many, many years, people of color faced real inequity in access to transportation options. And any New Yorker knows that most affordable housing is found in the outer boroughs and transportation deserts underserved by public transportation. Thankfully ridesharing helped fill those gaps and transform communities across the outer boroughs.

People could count on predictable and reliable access to a ride home or to the nearest subway, and the way these platforms operated ensured discrimination or distance couldn't enter into the ability to access a ride.

Unfortunately, all those benefits are at risk as these new regulations being imposed by the TLC continues to be mismanaged.

Last year at this time, when the City Council introduced the cap on ridesharing, we were promised a year-long study of the impacts of the cap. Yet less than a year later, the TLC has indicated its intention to extend the cap indefinitely and pass additional regulations to help struggling medallion owners. And there has been no transparency as to the study's findings, the methodology on how its conclusions were reached or the impacts regulatory action has and will have on communities of color or the outer boroughs.

We call on the City Council to urge the TLC to reconsider its current course and slow down, shine some sunlight on their thinking and process, and make sure they aren't swapping equity for expediency, especially when so much is at stake.

STONEWALL
COMMUNITY DEVELOPMENT CORPORATION

Testimony to NYC Council Transportation Committee 9/9/2019

With the burgeoning senior population in New York City, transportation is becoming an increasingly important issue. As you debate new rules and tariffs being promulgated by the New York City Taxi and Limousine Commission, I am writing to provide perspective on what For-Hire Vehicles mean to a very vulnerable segment of the population - older adults, particularly in the outer boroughs. In the first ever citywide survey of LGBTQ older adults' housing needs, which Stonewall Community Development Corporation conducted in May of 2017, 54.7% of respondents named "vehicle with a driver" as the most important amenity for them.

As someone who works to serve seniors, it is particularly important to me that we do everything we can to encourage deployment of more wheelchair-accessible vehicles and that we be very careful not to promulgate policies that inadvertently discourage the expansion of this fleet. There are not nearly enough of these vehicles available between the combined fleets across the industry, and as baby boomers age in and live longer, the need for wheelchair-accessible cabs will expand.

From my understanding, the tariffs imposed for time spent riding to and from pickups runs the risk of making the provision of wheelchair accessible cabs impractical to operate. I say from my understanding, because in truth, there has not been much public discourse about the incredibly challenging issues that the For-Hire Vehicle disruptor industry is facing. I urge the City Council to do what it can to mitigate potential harmful effects from these new rules.

The popularity of these For-Hire Vehicle services speaks to the public's view of them. Understanding all of the implications of this industry and allowing people to speak to the personal and sometimes life-changing benefits they bring should be an important part of the legislative process in deciding how to regulate them, especially where new regulations and tariffs may inhibit the expansion of the availability of wheelchair accessible cabs we have needed for so long.

www.StonewallCDC.org (347) 541-9407 276 First Ave #8G NY, NY 10009

TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

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September 10, 2019

Ydanis Rodriquez, Chair
Committee on Transportation
New York City Hall
New York, NY 10007

Re: TLC's implementation of for-hire vehicles (FHV) restrictions

Dear Chair Rodriguez and members of the Committee:

TechNet is the national, bipartisan network of over 84 technology companies that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50 state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents more than three million employees in the fields of information technology, e-commerce, clean energy, gig and sharing economy, venture capital, and finance. TechNet is committed to advancing the public policies and private sector initiatives that make the U.S. the most innovative country in the world.

TechNet respectfully submits this testimony regarding the New York Taxi and Limousine Commission's (TLC) implementation of for-hire vehicles (FHV) restrictions in New York City. While TechNet and its member companies understand the desire to solve congestion problems in the City, these new rules are not the answer. New York City's cap on FHVs has done more harm than good for New Yorkers. It has made it harder for New Yorkers to get around and hurt drivers who are trying to earn additional income through the sharing economy.

One of the most problematic provisions in the new rules is the inclusion of a cruising cap, which would regulate how often drivers can "cruise" while waiting for a rider. Since last year, the cap has negatively impacted vulnerable communities in the City. Fewer rideshares mean fewer options for New Yorkers who lack adequate access to public transportation which tend to affect people of color in the outer-boroughs. Historically, many individuals in transit deserts have been discriminated against by the taxi industry. Additionally, by tightening the cruising cap, the City is incentivizing app companies to move away from shared rides and try to get less riders in more cars. By having just one passenger in a car, it is being utilized, but this goes against the city's larger goal of trying to reduce the number of vehicles on the road.

Another problematic provision is the creation of a moratorium on new-hire vehicles licenses which will only have a detrimental impact on drivers trying to make a living in the City. The proposed change will block new drivers from licensing a vehicle they already own and prevent

TECHNET
THE VOICE OF THE INNOVATION ECONOMY

residents who have been driving rentals for years from plating their own vehicles. The result will be driver will be forced to rent cars which can often be much more expensive than owning. This will only further hurt residents on New York trying to make a living or supplemental income driving FHVs in the City. New York should be advancing policies that help their residents not hurt economically hurt them.

TechNet and its member companies urge the City Council and the TLC to reconsider these rules and regulations, and we would welcome the opportunity to be a partner in solving the City's transportation and congestion challenges. Thank you in advance for your consideration on this matter and please do not hesitate to reach out if we can be a resource.

Sincerely,

Christina Fisher
Executive Director, Northeast
TechNet
cfisher@technet.org
508-397-4358

The New York City Council Committee on Transportation

Oversight Hearing - TLC Implementation of For-Hire Vehicle (FHV) Growth Restrictions, For-Hire Vehicle Driver Pay Standards, and Other Recent Local Laws

Tuesday, September 10, 2019

Written Testimony of FHV bases using the Uber App[1]

Uber has long supported the New York City Council's efforts to ensure that all full-time For-Hire Vehicle drivers earn a living wage and welcomes a conversation with the Transportation Committee as it reviews the Taxi and Limousine Commission's (TLC) substantial regulatory enterprise.

We believe the TLC has rushed to enact regulations in a closed and opaque manner that will have significant adverse unintended consequences. Uber's written comments, which we provided to the TLC in response to each new proposal, have highlighted these unintended consequences along with other concerns. To aid this Committee in its review of the TLC's actions, we enclose copies of those comments concerning the For-Hire Vehicle License Freeze & Cap on Cruising Rules (Local Law 147), Driver Earnings Rule (Local Law 150), and rules regarding the Licensing and Regulation of High Volume For-Hire Services (Local Law 149).

As we believe that existing regulations are already having negative impacts on riders and drivers, we urge the Committee to engage with Uber and other members of the FHV industry in an open and transparent manner and to work with the TLC to gauge the impact additional regulations will have on drivers and riders. We would be happy to discuss these policies with any member of the Transportation Committee and to answer any questions.

#

[1] Abatar, LLC; Acht-NY, LLC; Achtzehn-NY, LLC; Danach-NY, LLC; Dreist-NY, LLC; Dreizehn-NY, LLC; Drinnen-NY, LLC; Eins-NY, LLC; Einundzwanzig-NY, LLC; Elf-NY, LLC; Funf-NY, LLC; Funfzehn-NY, LLC; Grun, LLC; Kuchen, LLC; Neun-NY, LLC; Neunzehn-NY, LLC; Schmecken, LLC; Sechs-NY, LLC; Sechzehn-NY, LLC; Sieben-NY, LLC; Siebzehn-NY, LLC; Unter LLC, Vier-NY, LLC; Vierzehn-NY, LLC; Weiter, LLC; Zehn-NY, LLC; Zwanzig-NY, LLC; Zwei-NY, LLC; and Zwolf-NY LLC. Note Uber USA, LLC is the parent Company of the TLC- licensed Bases operating under the "Uber" brand. An application for a High-Volume For-Hire Service License has been submitted pursuant to TLC Rule 59D-04 et seq. by Uber USA, LLC, the status of which is pending. These bases are collectively referred to here as the "Uber Bases" or "Uber."

BEFORE THE NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Driver Earnings and Vehicle Lease Transparency Rules	Public Hearing: October 3, 2018

COMMENTS OF
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ON DRIVER EARNINGS AND VEHICLE LEASE TRANSPARENCY RULES

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We support the Taxi and Limousine Commission ("TLC") in its efforts to protect For-Hire Vehicle driver ("driver") earnings. We also appreciate that the TLC has taken into consideration certain special costs to drivers when developing the TLC's proposed minimum per-trip payment standard ("payment standard"), such as the higher purchase and operating costs of wheelchair-accessible vehicles ("WAVs"). We are also supportive of the TLC's intent to create a separate expense formulation for luxury vehicles, because premium trips completed by luxury vehicles allow for-hire bases ("bases") to charge premium prices and pay drivers premium rates. However, we have significant concerns about the general manner in which the TLC proposes to protect driver earnings.

In our comments below, we first address the fact that the TLC should not use utilization metrics from an incomplete segment of the driver population prior to August 14, 2018 to establish a payment standard. Then, we describe the ways in which the TLC may be misinterpreting key findings in the TLC-commissioned economic study of New York City's For-Hire Vehicle industry ("the Report"):[1] first, the TLC's proposed payment standard does not take into consideration multiple earnings sources for drivers, and second, requiring a shared ride bonus fee will not achieve New York City ("City") and New York State ("State") goals.

Then, we request that the TLC adjust its payment standard rules in a number of ways. First, bases should only be required to submit such trip records that are necessary for the TLC to monitor its payment standard. Second, the TLC should refrain from mandating provisions in private contracts between bases and drivers. Third, the TLC should mandate citywide service, should take airport access into consideration, and should exclude WAVs from utilization metrics upon implementing its payment

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[1] James A. Parrott and Michael Reich, *An Earnings Standard for New York City's App-based Drivers, Economic Analysis and Policy Assessment, Report for the New York City Taxi and Limousine Commission*, July 2018, available at http://www.centernyc.org/an-earnings-standard/ ("The Report").

standard. Fourth, the TLC should use a distance-based utilization factor for the per-mile portion of the payment standard. Finally, the TLC's payment standard should include a separate expense formulation for luxury vehicles.

We focus our comments on the driver earnings portion of the TLC's driver earnings and vehicle lease transparency rule proposal.

I. THE TLC SHOULD NOT USE UTILIZATION METRICS FROM AN INCOMPLETE SEGMENT OF THE DRIVER POPULATION PRIOR TO AUGUST 14, 2018 TO ESTABLISH A PAYMENT STANDARD

The TLC should not use utilization metrics prior to August 14, 2018 to establish a payment standard. Importantly, in proposing this payment standard, the TLC is relying on findings from the Report that was completed prior to a 12-month pause on new for-hire vehicle licenses ("12-Month Pause") effective 5:00 PM ET on Tuesday, August 14, 2018. Given the dramatically altered regulatory and competitive landscape between the time frame assessed in the Report and now, data informing any decisions about implementing a payment standard should capture new marketplace dynamics in the new 12-Month Pause environment.

Moreover, the Report excluded earnings information for drivers who complete trips with more than one app-based company,[2] likely because it was unclear how to accurately incorporate such individuals into a payment standard. According to the Report, "in October 2017, 55 percent of app drivers worked only on one platform," and "[t]he TLC reports that utilization is similar for one-app and two-app drivers."[3] However, the Report does not offer evidence to support the TLC's claim. On the contrary, according to an internal consumer research group survey, around 60 percent of our NYC driver-partners identify themselves as completing trips with more than one app-based company. This important and

[2] *See id.* at 22, Footnote 17.
[3] *Id.*

substantial segment of the industry deserves to be studied prior to any proposed payment standard. If the payment standard is based only on the utilization of drivers who complete trips with one app-based company, companies will likely be incentivized to optimize utilization for such drivers, thus causing the utilization amongst such drivers and drivers who complete trips with more than one app-based company to diverge over time.

Therefore, a bases's utilization metrics prior to the 12-Month Pause for an incomplete segment of the driver population should not be used to establish payment standard in an environment where new for-hire vehicle licenses are not being issued. As requested in prior correspondence, the TLC should cover a new data collection period of not less than two quarters, for a total of six months' worth of new data, prior to proposing a payment standard.

II. THE TLC SHOULD NOT MISINTERPRET KEY FINDINGS IN THE REPORT WHEN PROPOSING A PAYMENT STANDARD

A. THE TLC'S PROPOSED PAYMENT STANDARD DOES NOT TAKE INTO CONSIDERATION MULTIPLE EARNINGS SOURCES FOR DRIVERS

The TLC's proposed payment standard does not take into consideration multiple earnings sources for drivers. Though Report suggests that the TLC set a payment standard that companies must meet, every company is different. For example, some companies serve the whole city while others focus on certain neighborhoods, and some companies primarily connect drivers with shared rides while others offer many different product types. The Report suggests a payment standard to ensure that drivers reach a minimum earnings level, but other important considerations such as differing business models, vehicle utilization, rider experience, and driver satisfaction must also be taken into consideration. In order for all such complementary considerations to be taken into account, companies should be responsible for determining how best to meet the payment standard.

Specifically, drivers have the option to derive earnings from a number of sources in addition to per-mile and per-minute trip rates. These additional earnings sources are important in ensuring reliability and high-quality experiences for riders. In order to accurately determine that bases have met the payment standard, the TLC must take into consideration all earnings sources for drivers. In order to do so, the TLC cannot enforce the payment standard on a per-trip basis. Such a method of enforcement would limit a base's ability to use pricing as a mechanism to achieve goals important to both the City and to drivers, such as maximizing utilization rates, maintaining reliable service for riders, and addressing earnings pain points for drivers. Bases use a variety of driver earnings sources to achieve these important goals, such as the balance between time and distance rates, dynamic pricing, incentives, paid wait time, and paying drivers for long pickups. Incentive payments provide a mechanism for bases to maximize utilization rates. Incentive payments also provide a means for drivers to maximize their earnings, if they choose to do so.

To understand the importance of giving companies flexibility to meet the payment standard, consider incentive payments for WAV drivers. The TLC believes that "increasing access to the [TLC's] fleet of over 110,000 licensed vehicles is an important step to make New York City a place that is truly accessible to all of our residents and visitors, including those who use wheelchairs."[4] We agree. Incentive payments are chiefly important for WAV drivers, as increasing WAV access and reliability in all areas of the city is especially challenging and crucial. In order to achieve this goal, companies must continue to experiment and iterate to find the right balance between considerations such as marketplace reliability, rider experience, and driver payments. So, incentive payments and other driving-related earnings sources

[4] New York City Taxi and Limousine Commission, *Notice of Public Hearing and Opportunity to Comment on Proposed Rules, Statement of Basis and Purpose,* (June 28, 2018), 3, available at http://www.nyc.gov/html/tlc/downloads/pdf/accessibility_req_fhv_bases_preliminarily_certified.pdf ("WAV Rule Proposal").

for WAV drivers—such as a bonus for picking up riders in a WAV—should be considered as part of a driver's total earnings when determining compliance with the payment standard.

In fact, incentive payments were included in data analyzed by the TLC—as stated in the Report, the study relied on detailed driver-specific administrative earnings data we previously shared with the TLC, which included incentive payments and other variants of payment.[5] If the TLC misinterprets the Report's goal and attempts to enforce the payment standard on every trip, bases will not, for example, be able to incentivize drivers to complete trips in areas that need trips the most, because incentives have historically been used as a tool to ensure reliability in underserved areas where drivers would organically find less profitable trips. If the payment standard is enforced on an individual trip basis, bases will not be able to determine whether a higher per-mile rate and a lower per-minute rate can achieve higher aggregate earnings for drivers and increased utilization rates. Moreover, attempting to enforce the payment standard on every trip will inflate an unrepresentative short period of data—which is more likely to be affected by seasonality—and will not properly capture incentive structures that cover multi-week periods of time.

Excluding incentive payments from gross earnings when measuring driver earnings would force bases to consider other mechanisms to increase utilization rates, such as shifting to an hourly pay structure or limiting access to their platforms in a way that may negatively impact rider experience. Therefore, the TLC's payment standard should take into consideration multiple earnings sources for drivers by using at least one months' worth of earnings data to inform enforcement of the payment standard.

B. REQUIRING A SHARED RIDE BONUS FEE WILL NOT ACHIEVE THE CITY'S AND STATE'S GOALS

Requiring a shared ride "bonus" fee will not achieve the City's and State's goals. With the City Council's recent passage of Int. 890-B (Local Law 150) and Int. 144-B (Local Law 147), it is clear that

[5] *See* The Report at 80.

the City's intent is to encourage better utilization rates and efficient use of the City's licensed for-hire vehicles. The State's congestion pricing surcharge also demonstrates clear intent: by increasing the cost differential between a standard ride and a shared ride by $2.00, the State is incentivizing riders to choose shared rides. Through their actions, both the City and State are exploring ways to shift consumer behavior to increase shared rides. Increasing costs for shared rides by imposing a shared ride fee would have the opposite effect than what was intended by both the City Council and the State Legislature. Unlike the increase in per mile and per minute rates, the TLC cannot argue that this cost could be born by increased utilization rates or decreased service fees. Rather, any shared ride bonus fee would simply be passed along to riders.

The TLC's payment standard will aim to ensure that drivers earn a living wage, and an additional shared ride fee is not needed to achieve that goal. In fact, the additional fee will only serve to minimize access to affordable options for New Yorkers. Therefore, the TLC should remove the shared ride fee from Section 24 of the TLC's proposed rules, which will achieve neither utilization nor earnings goals.

III. THE TLC SHOULD CONSIDER ADJUSTING ITS PAYMENT STANDARD RULES IN A NUMBER OF WAYS

A. BASES SHOULD ONLY BE REQUIRED TO SUBMIT TRIP RECORDS THAT ARE NECESSARY FOR THE TLC TO MONITOR ITS PAYMENT STANDARD

Bases should only be required to submit such trip records that are necessary for the TLC to monitor its payment standard. Specifically, in order to monitor and determine utilization rates, the TLC needs to understand the total time a driver is available to accept dispatches during a reporting period. Rather than requiring bases to submit the exact dates and times each driver became available and became unavailable to accept dispatches as stated in Section 23 of the TLC's proposed rules, a base should be permitted to transmit to the TLC the total time a driver is available to accept dispatches during a reporting period, which will include all time spent available to accept dispatches and all time between trips and on a way to a passenger, and all time spent with passengers in his or her vehicle. However, without a clear solution for how to account for drivers who complete trips through more than one app-based company, we understand that this may not be possible.

Moreover, the TLC proposes to require bases to transmit the total number of passengers picked up and dropped off during each dispatched call, but such information is not available to bases in the ordinary course of business for rides that are not shared amongst passengers. Bases should not be required to transmit such a data point for rides that are not shared amongst passengers.

B. THE TLC SHOULD REFRAIN FROM MANDATING PROVISIONS IN PRIVATE CONTRACTS BETWEEN BASES AND DRIVERS OR VEHICLE OWNERS

The TLC should refrain from mandating provisions in private contracts between bases and drivers or vehicle owners. While we are supportive of industry efforts to expand financial transparency for drivers, we ask the TLC to avoid dictating the terms that must be included in base agreements, as described in Section 22 of the TLC's proposed rules, especially because the proposed rules lack specifics on how to comply with such requirements. For example, new section 59B-18(f)(2)(v) in Section 22 of the TLC's proposed rules provides that "Base Agreements must be written in clear and unambiguous language," but does not provide an explanation regarding what it means to comply with this provision. Namely, the TLC does not explain what, in its opinion, constitutes a "clear and unambiguous" base agreement. Accordingly, the TLC should refrain from dictating the terms that must be included in a base agreement because the proposed rules themselves lack clear and unambiguous guidance with respect to what those terms should look like, and because companies must have flexibility in drafting such agreements to align with their specific business models.

Additionally, the financial transparency the TLC seeks to guarantee to drivers through Section 22 is already provided to drivers by bases—including a breakdown of the individual amounts and purposes for payments or deductions—on receipts for such financial transactions. Therefore, the TLC should avoid dictating the terms of private contracts in a manner that will only increase confusion without increasing financial transparency to drivers, as that transparency already exists.

C. THE TLC SHOULD MANDATE CITYWIDE SERVICE, SHOULD TAKE AIRPORT ACCESS INTO CONSIDERATION, AND SHOULD EXCLUDE WHEELCHAIR ACCESSIBLE VEHICLES FROM UTILIZATION METRICS UPON IMPLEMENTING ITS PAYMENT STANDARD

Upon implementing the TLC's payment standard, the TLC should mandate citywide service from bases. Manhattan is generally understood to have higher utilization rates and greater density than other boroughs. As such, when faced with a new payment standard, bases may be encouraged to reduce or eliminate ride dispatches in already underserved outer borough communities.

Relatedly, the TLC should take airport access into consideration. Waiting for a for-hire dispatch in airport parking lots is fundamentally different than waiting for a for-hire dispatch within the city or driving to a rider's pickup location. If the TLC does not take airport access into consideration, riders and drivers may face unintended consequences and reduced service quality at airports.

Lastly, the TLC should exclude WAVs from utilization metrics. In order to increase utilization, the Report states that rider wait times will increase,[6] and suggests that "companies could [increase utilization] by limiting the number of new drivers they recruit."[7] However, increasing rider wait times and

[6] *See id.* at 13.
[7] *Id.* at 11.

limiting new WAV driver-partners are in stark contrast to the the TLC's stated policy goal of making sure that the city is "a place that is truly accessible to all of our residents and visitors, including those who use wheelchairs."[8] Excluding WAVs from utilization metrics will promote better reliability for prospective WAV riders, thus increasing WAV service reliability and likely leading to more demand for WAVs by those who use wheelchairs.

Therefore, the TLC should require bases to service all of NYC, and should consider excluding WAVs and time spent waiting for dispatches at NYC airports from the utilization rate included in Section 24 of the TLC's proposed rules.

D. THE TLC SHOULD USE A DISTANCE-BASED UTILIZATION FACTOR FOR THE PER-MILE PORTION OF THE PAYMENT STANDARD

The TLC should use a distance-based utilization factor for the per-mile portion of the payment standard. The expense portion of the formula seeks to ensure that a driver's compensation clearly accounts for per-mile expenses incurred by drivers. As currently drafted, the TLC's payment standard formula divides both the per-mile and per-minute rates by a time-based utilization rate. The utilization rate is time-based because it divides the total amount of time drivers are available to accept dispatches by drivers' time spent transporting passengers.

Because drivers are not paid for one hundred percent of the miles they drive, the per-mile rate is divided by a utilization rate so that drivers are compensated for miles they drive without a passenger. However, the TLC's payment standard uses a utilization rate determined by the time a driver spends with a passenger in his or her vehicle, not the miles a driver spends with a passenger in his or her vehicle. A utilization rate determined by the miles a driver spent with a passenger in his or her car would more accurately reflect that vehicle's utilization per mile. Put another way, when determining pay per-minute, it

[8] WAV Rule Proposal at 3.

makes sense to factor in a time-based utilization rate. However, when determining pay per-mile, it makes sense to factor in a distance-based utilization rate.

There is a strong public policy argument for incentivizing bases to reduce a driver's distance traveled without a passenger, because both reducing "cruising" and reducing distance traveled to pick up a prearranged passenger can have positive impacts on congestion, which is a stated goal of legislation recently passed by the City Council and signed by the Mayor. Therefore, the TLC should use a distance-based utilization factor for the per-mile segment of the payment standard.

E. THE TLC'S PAYMENT STANDARD SHOULD INCLUDE A SEPARATE EXPENSE FORMULATION FOR LUXURY VEHICLES

The TLC's payment standard should include a separate expense formulation for luxury vehicles, involving a separate utilization rate for drivers who chose to only accept luxury dispatches so that such drivers' utilization is not counted in the standard utilization rate used for all other drivers. Premium trips completed by luxury vehicles allow bases to charge premium prices and for drivers to earn premium rates. Therefore, we are supportive of the TLC's intent to create a separate expense formulation for drivers who complete trips with luxury vehicles, as evidenced by the "RESERVED" subsection under Section 24 of the TLC's proposed rules.

IV. CONCLUSION

While we support the TLC in its efforts to protect driver earnings, we urge the TLC to take the time necessary to propose a payment standard that takes the above concerns into consideration, and thus results in increased earnings for drivers without negatively impacting service levels for riders.

Dated this 28th day of September, 2018.

Respectfully submitted,

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BEFORE THE NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Proposed Rules for Governing a New License Class for High-Volume For-Hire Service Providers	Public Hearing: November 28, 2018

COMMENTS OF
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As the Bases operating under the 'Uber' brand who will seek a High-Volume For-Hire Service License, we look forward to working with the Taxi & Limousine Commission ("TLC") as the TLC implements Local law 149 of 2018. We have concerns that some of the rules proposed by the TLC deviate from the local law, are arbitrary, or are inconsistent with similar requirements imposed by the City or State.

§59D-07 Licensing – Fees

The TLC seeks to require that HVFHS pay an annual arbitrary fee of $190,000. We have serious concerns about the lack of transparency as to how the TLC reached this number. The amount is unusually and unnecessarily high, and is unlikely to reflect the administrative cost of issuing an HVFHS license.

- The proposed HVFHS annual fee is 380 times the fee assessed to FHV bases.
- HVFHS are still required to pay base fees for affiliated bases.
- While HVFHS licenses runs for two years, the new, arbitrary fee must be paid annually.

§59D-06 Licensing – Term of License

The TLC seeks to require that HVFHS renew licenses every two years, while FHV bases are renewed every three years. License renewals should match FHV base renewals.

§59D-16(c)(2) Public Access Information

The TLC seeks to require High Volume For-Hire Services ("HVFHS") to file a customer service telephone number or email address with TLC. This differs from current rules for For-Hire Vehicle ("FHV") bases which only require provision of email address/phone number to the TLC if other public-facing customer service information cannot be used for trip-specific complaints. This change is not mandated by local law 149, and it adds costs and customer confusion without serving a legitimate public purpose. Uber can provide the TLC with clear instructions for how consumers contact our support team 24/7 via https://help.uber.com/ and using in-app support functionality.

§59D-18 E-Z Pass Required

The TLC seeks to require that High Volume For-Hire Services ("HVFHS") only dispatch vehicles participating in the E-ZPass program. This is traditionally a requirement imposed on vehicle owners as bases are unable to regularly confirm the existence of an E-ZPass tag in a vehicle. Moreover, we do not see any public safety benefit to imposing this requirement on dispatching bases. We urge the TLC to ask vehicle owners and/or drivers to comply with this obligation.

§59D-14(a) Operations – Trip Record Information - Required Information

Congestion Zone

The TLC should accept the same information required of the State of New York, which collects the congestion surcharge, with regards to when a vehicle enters a congestion zone. For example, the State is not seeking street address for the location where a vehicle enters the zone.

Total Number of Passengers Picked Up

The TLC proposes to require bases to transmit the total number of passengers picked up and dropped off during each dispatched call. As noted to the TLC in our previously-submitted written comments to the TLC's Driver Earnings and Vehicle Lease Transparency Rules in September 2018, such information is not available to bases in the ordinary course of business for rides that are not shared amongst passengers. Bases should not be required to transmit such a data point for rides that are not shared amongst passengers. Any information provided under this requirement will be estimated and should not be used by the TLC or other city agencies when crafting policy or regulations.

§59D-14(b) Operations – Maintenance of Required Information

The TLC seeks to require that HVFHS trips records are "made available for inspection by Commission representatives during regular business hours." While record maintenance is an existing requirement, the additional amount of data the TLC now requires will make it nearly impossible for an HVFHS to comply with requests without ample opportunity to compile data. As such, the rule should allow for an appropriate amount of time for HVFHS to compile data.

BEFORE THE NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Proposed HVFHS Congestion Rules	Public Hearing: July 23, 2019

COMMENTS OF

UBER USA, LLC AND ITS ASSOCIATED BASES ON HVFHS CONGESTION RULES

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INTRODUCTION

The TLC has proposed to (1) continue the cap on for-hire vehicle (FHV) licenses instituted in August 2018; and (2) impose a cruising cap of 36% beginning in February 2020 and 31% beginning in August 2020. The TLC purports to have based its rules on a study using economic modeling.[1]

Uber[2] submits these comments to explain the basis for its serious concern with (i) the TLC's failure to disclose most of the results of the economic model as well as the underlying economic modeling that the TLC says provides the basis for the proposed rule; (ii) its failure to study what the Council required it to study; and (iii) the timing and substance of these proposals as well as the economic model that purportedly provided the basis for its proposed policy interventions. As we demonstrate, even with the limited amount disclosed, it is clear that the rules are likely to lead to significant adverse unintended consequences and the economic analysis claiming otherwise is not credible. Further, the proposed rules fail to account for the impact of existing local and state law, including the incentives that existing rules already impose for increasing utilization. Further, it is not clear whether the cruising cap can be achieved, and the TLC has not accounted for the impacts.

No "cruising" cap should be imposed at this time. We urge the TLC at a minimum to defer these regulations to address various defects identified herein and to examine the impact of industry members' ongoing efforts to improve utilization, to conduct the Council-mandated study, and to disclose the full results of its modeling as well as the modeling itself rather than the selective summary in the report. Once the TLC achieves these baseline requirements, it should consider less-drastic standards only if further

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[1] *Improving Efficiency and Managing Growth in New York's For-Hire Vehicle Sector*, June 2019, available at https://www1.nyc.gov/assets/tlc/downloads/pdf/fhv_congestion_study_report.pdf

[2] "Uber" herein refers to Abatar, LLC; Acht-NY, LLC; Achtzehn-NY, LLC; Danach-NY, LLC; Dreist-NY, LLC; Dreizehn-NY, LLC; Drinnen-NY, LLC; Eins-NY, LLC; Einundzwanzig-NY, LLC; Elf-NY, LLC; Funf-NY, LLC; Funfzehn-NY, LLC; Grun, LLC; Kuchen, LLC; Neun-NY, LLC; Neunzehn-NY, LLC; Schmecken, LLC; Sechs-NY, LLC; Sechzehn-NY, LLC; Sieben-NY, LLC; Siebzehn-NY, LLC; Unter LLC, Vier-NY, LLC; Vierzehn-NY, LLC; Weiter, LLC; Zehn-NY, LLC; Zwanzig-NY, LLC.,Zwei-NY, LLC; Zwolf-NY, LLC; and Uber USA LLC. Please note that Uber USA, LLC is the parent Company of these licensed Bases that operate under the "Uber" brand. An application for a High-Volume For-Hire Service License has been submitted pursuant to TLC Rule 59D-04 et seq. by Uber USA, LLC, the status of which is pending.

regulations appear necessary. Within these comments we offer proposals for modifying (i) how the proposed cruising cap account for dual apping; (ii) the timeline for implementation of any cap on cruising; (iii) additional vehicle types and drivers who should be eligible for a new license; (iv) the proposed fines and threshold for license suspension/revocation and (v) the role that wheelchair accessible vehicles (WAVs) play in the cruising calculation. Finally, we explain that there is no basis for extending the cap on FHV licenses, which is unlawful, unnecessary in light of other regulations, and counterproductive.

EXECUTIVE SUMMARY

The TLC's proposed cruising cap is a policy intervention that is untested and unprecedented (in New York City or otherwise). Rather than permitting existing measures to attach and generate results, the TLC, is rushing to implement this additional measure without disclosing most of the modeling results or the underlying modeling itself. Further, it is doing so without taking into account the impact of recently enacted TLC rules on companies' incentives to improve utilization. This makes no sense when as the TLC is well aware, those efforts are ongoing, specifically intended and predicted by its prior study (but ignored in its most recent economic model as discussed below). Those efforts continue to evolve in real time and are playing out in the marketplace as we speak. The Council itself stated in the Committee Report for Local Law 147 that the formula for the driver earnings rule "incentivizes each company to raise its company-wide utilization rate from one quarter to the next, by increasing the average number of trips per hour."

Moreover, the TLC is attempting to squeeze in the implementation of these standards as the state prepares to implement the third phase of its ongoing phased, comprehensive, and interconnected plan to improve congestion in New York City -- a comprehensive congestion pricing regime for all vehicles. This means both that there is no basis for concluding that the proposed intervention is needed (even apart from the impact of prior rules) while posing the obvious problem of having a local regulator impose new and untested mandates that interfere with the ability to strike the best balance and then study and adjust to the impact of the congestion pricing program regulations as state law requires.

The timing of these proposed rules would therefore be a mistake even if there were a basis for the TLC's conclusions. But as discussed herein, there is not. The TLC properly recognizes that credible economic modeling is required to assess the likely impact of such a rule, but has only justified its rule with an economic model that is not credible and has clear flaws affecting the most relevant outputs. The TLC has failed to disclose most of the results of the model and has failed to disclose any of the underlying modeling itself. What it has disclosed, however, reveals that the underlying economic model is inherently arbitrary in numerous respects that are detailed in the supplemental economic analysis that is provided with these comments. The TLC's study does not actually model anything in the generally understood sense of attempting to derive results from an analysis of market participants and their likely response to particular incentives. Instead, it rests on various assumptions that at best are unsupported and that at worst, the TLC knows are not true. As just one example, the TLC assumes a specific relationship between increased utilization and wait times, which cites to a study, which cites to an article, which does not address the assertion, much less provide empirical support for it. As another, it assumes that companies will only take steps to reduce utilization in response to the cruising cap when the TLC knows that is false.

The points discussed below and in the attached economic analysis that is submitted with and as part of these comments include:

- **The TLC's economic model fails to provide a credible basis for the TLC's proposed policy measures.** Uber requested that economists from Charles River Associates (CRA) analyze the economic model that is used to justify the TLC's proposed policies. As set forth in summary fashion in section I, and detailed in CRA's report (which Uber provides to the TLC for its consideration and which is submitted as part of these comments), the economic model provides no basis for the policy measures the TLC has selected and fails to account for significant downsides that are likely to occur.

- **The TLC failed to do what the Council instructed it to do.** The clear mandate of Local Law 147 was to study various factors, including the impact of FHVs and other categories of vehicles on congestion. The TLC did not comply with its directive, and the

TLC is required by law to conduct and disclose the study the Council required before it proceeds with new rules.

- **The TLC's process has been unjustifiably opaque.** The TLC has failed to disclose to the public the model and its outputs that ostensibly provides the basis for the regulations (either voluntarily or in response to a Freedom of Information Law request filed within days of the release of the TLC's report). It has failed even to disclose any modeling results for all but a four-hour period two days a week. The TLC should disclose all relevant information publicly before proceeding.

- **The proposed TLC regulations fail to account for the impact of its prior rules, which among other things have been leading to concrete steps by companies to increase utilization**. The model used, however, assumes that only the cruising cap will lead to such measures. Its model therefore overestimates the impact of the new rule. The TLC should understand the impact of its prior regulations as well as New York State regulations before layering on new ones.

- **The TLC's efforts interfere with and fail to account for the State's comprehensive anti-congestion plan.** The State of New York has enacted a multi-phased, interconnected, and comprehensive anti-congestion plan designed to reduce congestion in New York City, and FHVs are central to that plan. The TLC should not be making policy in the field that the state has occupied, and its effort to do so will interfere with the state's effort to assess the impact of its own policies, use FHVs as a source of revenue, and strike the right balance with its use of congestion pricing.

- **The TLC should not implement any new policies addressing utilization and congestion until the complete effects of the drivers earning rule are realized.** The driver earning rule implemented in February 2019 incentivizes for-hire bases operating under a High-Volume For-Hire Service (HVFHS) to improve utilization and was specifically intended to do so. However, it remains to be seen how much such bases do so and how, and whether such improvements help reduce congestion. The TLC should not impose a new and untested regulatory regime without understanding the impact of prior rules that were designed to serve the same goal.

- **The proposed cruising cap is likely to lead to greater wait times than anticipated in the TLC's report and depress rider demand more than admitted.** The TLC's model fails to properly assess how marginal decreases in cruising create marginally increasing impacts on wait time. This effect will depress rider demand, making achievement of the targets more difficult and depressing driver earnings. There also is no basis for including en route time in the definition of cruising, and doing so also will likely lead to significant unintended consequences.

- **The TLC has not attempted to determine the feasibility of the cruising cap requirements, the measures that would be required to reach it if feasible, and the impact of those measures**. The TLC Report assumes that for-hire bases will "send[] underutilized drivers to other service areas," or euphemistically states they will "deploy their vehicles more efficiently," after reducing riders fares to increase demand. At the same time the TLC rejected rules like a zone license, fees, and cap and trade. In reality, the cruising cap may result in similar policies with similar downsides and may not stop drivers from entering the core, hoping they can log on to their desired app, or driving between areas. VHT affects congestion, not just VHT while "online."

- **Wheelchair Accessible Vehicles should be excluded from the cruising cap.** To avoid subjecting riders in need of WAVs to the negative impacts of the cruising cap and to further the City's effort to enhance accessible service, WAVs should be excluded from any cruising calculation.

- **The TLC's calculation and apportionment of cruising time across multiple companies discourages city wide service and needlessly and unjustifiably assigns en route time to companies that did not dispatch the trip.** By using total trip volume in the TLC's calculation for allocation of cruising time, companies who serve the entire City will receive a higher percentage than those that centralize their fleets to the Congestion Zone. We believe the TLC can update the factors in the calculation to better identify the time to be allocated across multiple companies.

- **The continued moratorium on new FHV licenses is unlawful and unnecessary. It will hurt drivers and High-Volume For-Hire Services' ability to meet demand in the outer boroughs.** The continued moratorium should not be voted on until the Court determines its legality and would be unnecessary, and counterproductive even if lawful given the existence of other regulations. Further, the method for identifying the combined impact of the license cap and continued moratorium perfectly illustrates the overall arbitrariness of the model.

Uber believes that these regulations are arbitrary and capricious, an exercise of unlawfully delegated authority, preempted by state law, violative of state antitrust law, highly premature given the failure to analyze the impact of prior local and state regulation and the upcoming implementation of the state's plan for comprehensive congestion pricing on all vehicles, and otherwise unlawful and *ultra vires*. Assuming the TLC is determined to continue on its own parallel track, however, Uber urges it to conduct a study that follows the Council's mandate and actually examines how market participants are reacting to the regulations it and the State already enacted and plans to enact (including the incentives already imposed by the TLC to increase utilization and the true impact of the driver earnings rule on price, demand, wait times, and utilization), and that corrects for the numerous methodological and substantive errors that the attached CRA report identifies.

Failing that, the TLC should only impose a more limited cruising cap phased in over a period of years. This will allow the TLC to monitor unintended consequences, given the failure of the model to provide any reasonable assurance that the TLC understands the likely impact of the intervention and given the strong likelihood (in light of all available data) that the TLC has badly underestimated the adverse and unintended consequences of its proposals. Further, there is no basis for including time spent traveling to a dispatch (as opposed to time waiting for a dispatch) within the definition of Cruising.

The TLC also should modify the proposed rules for determining how dual apping is accounted for in determining overall utilization rates. In particular, if it does not exclude time spent between dispatch and a pick-up from the calculation of the utilization rate, in the case of dual apping, it should assign that time to the company that dispatched the trip. There also is no basis for allocating dual apping time based on the percentage of single apping trips that are made using a company's service. Nor is there any basis for allocating dual apping waiting time based on a company's total New York City trips. Instead, dual apping time should either be allocated evenly or should be allocated according to the relative number of dual apping trips made in the Congestion Zone.

COMMENTS

I. THE ECONOMIC MODEL CANNOT REASONABLY BE RELIED ON FOR THE STATED PURPOSE, FAILS TO JUSTIFY THE PROPOSED POLICIES, AND IGNORES LIKELY UNINTENDED CONSEQUENCES

As detailed in the attached CRA report, even with the limited amount that the TLC has disclosed (see Section III below), it is clear that the TLC's economic model cannot provide a reasonable basis for the proposed rules for numerous reasons:

1. **The economic model is not an authentic model of participant behavior, and thus there is no basis for putting any faith in its predictive power.** Instead, the study is a series of assumed mathematical equations with no empirical basis for the relationships. As just one of many illustrations, the economic model purports to model separately the impact of the cruising cap and extension of the license cap on FHV hours. Rather than attempt to create an aggregate model to approximate how the two would interact, the economic model simply multiplies the two together even though this is an inherently meaningless way to assess the combined impact of the two.

2. **The economic model relies on critical inputs that are inadequately supported or entirely undocumented.** For example, the TLC's report asserts a particular relationship between changes in utilization and changes in wait time. It cites as support a prior study, which in turn cites as support an article, which in turn provides no analysis of the issue and cites nothing in support. As a result, nothing supports the assertion, which is critical to the analysis.

3. **There is no evidence that the model contains the standard protections that reputable economic analyses include, such as sensitivity analyses that examine the impact on the total results of errors in assumptions or inputs.**

4. **The combined model claims to take into account the impact of prior policy interventions, but the model's own description of what it does makes clear it does not**. For example, the driver earnings rule, which has been in effect since February 2019, contains incentives to improve utilization. HVFHS and associated for-hire bases have taken specific measures, and continue to implement additional strategies, in response to this rule, and yet the TLC's own description fails to identify anything the model does to account for efforts on the part of for-hire companies to improve utilization. Moreover, the economic model looks at data predating the implementation of the driver earnings rule, making any alleged incorporation of these efforts impossible. Real-world pricing data also makes clear that the TLC has failed to account for the pricing implications (and associated implications for demand) of both the state congestion surcharge and the driver earnings rule.

5. **The TLC's model relies on an unjustified assumption that the relationship between utilization and wait times is linear and thus that it is just as easy to move from 50 to 51% utilization as it is to move from 68-69%.** As explained in the attached CRA report, this assumption is not supportable. The error results in an underestimation of the effect on wait times that will be caused by the cruising cap. The model also underestimates how those increases in wait times will impact rider demand, which in turn requires additional measures to improve utilization that will then have their own effects.

6. **The model inexplicably treats driver en route time and driver wait time equally for purposes of calculating the cruising cap.** This creates two fundamental problems. First, the TLC has never offered any basis for suggesting there has been a market failure with respect to en route time, and there is every reason to conclude otherwise given that companies and drivers have a clear incentive to decrease en route time. The second is that including the two in the same cruising calculation creates perverse and unintended effects because decreasing wait times increases en route time, making it increasingly difficult to decrease cruising.

7. **The model thus offers no basis for concluding that the proposed cruising cap is feasible without either severe unintended consequences for wait times and driver earnings or a fundamental alteration of the ride-sharing model.** Some of the fundamental changes aimed at increasing overall vehicle utilization have already been made in response to the driver earnings rule, including efforts to reduce access to the marketplace as well as limiting the number of new drivers that are able to partner with HVFHS companies. As discussed more fully in the attached CRA report, the proposed

rules are likely to have significant adverse and unintended consequences for riders and drivers alike.

8. **The model provides no basis for continuing the for-hire vehicle license cap either with or without the cruising cap.** The driver earnings rule provides incentives for HVFHS companies and their associated for-hire bases to increase utilization and limit supply; and, the very premise of the cruising cap is for companies to limit supply to achieve the desired utilization. As discussed above, the City irrationally bases its conclusion that the licensing cap would (marginally) reduce hours beyond the purported expected effects of the cruising cap, not through any attempt to actually determine how the two policies would interact, but simply by erroneously multiplying two numbers together.

The clear inadequacies of the model require reevaluation of the TLC's approach.

The report's conclusions are diametrically opposed to the TLC's own prior evaluations of the implications of utilization for determining whether taxis were adequately meeting demand. Specifically, a prior TLC Factbook stated, "During this time when fewer taxis are on the road, those that are active are occupied at a rate between 50% and 67%. This <u>high</u> percentage suggests that the taxi supply <u>is not meeting passenger demand</u>." *See* 2016 TLC Factbook at 8 (emphasis added). In other words, the very utilization percentages that the TLC concluded were *too high* and indicative of <u>inadequate</u> service are the very percentages it now asserts are too low.

It also is noteworthy that those who have previously proposed incentivizing FHVs to reduce cruising time have proposed that it be limited to waiting time and not en route time and recommended similar interventions for taxis. *See* Bruce Schaller, Empty Seats, Full Streets at 14 (defining "excessive" time that would be taxed as "the time greater than needed for driving to the pick-up location"); *see also id*. at 15-16. This combined with the clear inadequacy of its model (see above and attached CRA report), the failure to actually evaluate the impact of prior regulations that it specifically designed to increase utilization and that have had that effect, the lack of transparency (see sections III and IV), and its failure to demonstrate a meaningful improvement in congestion and related failure to conduct the study that the Council mandated (see section II), only further confirm that an alternate approach is required.

II. THE TLC DID NOT DO A STUDY AS REQUIRED BY LAW

The TLC failed to conduct the study required by Local Law 147, which among other things requires the TLC to study "traffic congestion throughout the city" and "the extent to which various categories of vehicles for hire contribute to such congestion." The Committee Report for Local Law 147, under which the TLC proposes these rules,[3] purports to measure congestion through declining vehicle speeds. The modeling, however, purports to identify reductions in only FHV hours, but fails to provide any analysis of such impact on congestion. In addition, whatever type of study the TLC performed inexplicably limited its review to FHVs despite that the Council sought a review of all categories of vehicles and their impact on congestion. The TLC's report notes that it conducted a rudimentary count of vehicles in the street, and that such a count was only a "step" towards understanding contributions to congestion. Thus, the TLC failed to answer the central question posed to it for study. The TLC is prohibited by law from action on the proposed rules unless and until a proper study is conducted using the metrics required by law.

III. THE TLC SHOULD NOT ENACT RULES USING HIDDEN OUTPUTS AND DATA

The TLC has failed to disclose most of the results of its modeling and also has failed to disclose the underlying modeling itself, offering only a brief summary describing aspects of the model. With respect to results, the rule proposes to limit FHV cruising rates for 17 hours per day Monday through Friday and for 15 hours per day Saturday and Sunday. The TLC's report, however, only discloses the results of its analysis with respect to wait times and vehicle hours for the 4PM- 8PM period Tuesday and Wednesday. This is inexplicable and unjustified. All results should be released to enable meaningful comment. The same is true of other results of the model, including the estimated impact that the rule will have on total trips and driver income.

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[3] New York City Taxi and Limousine Commission, *Notice of Public Hearing and Opportunity to Comment on Proposed Rules, Statement of Basis and Purpose,*(June 13, 2019), 3, available at https://www1.nyc.gov/assets/tlc/downloads/pdf/proposed_rules_hvfhs_cruising.pdf

The TLC also has failed to disclose the underlying economic modeling either voluntarily or in response to a detailed Freedom of Information Law request that we submitted immediately following the release of the TLC's report. The request sought the underlying economic modeling, but to date, the TLC has not produced a single page in response to the request. The public is entitled to know the full range of impacts and the basis for the results before a complicated new regime is passed.

IV. THE TLC SHOULD NOT REGULATE PERIODS THAT IT DID NOT MODEL

The TLC seeks to impose the cruising cap for a 17 hour period five days a week and for 15 hours each day on Saturday and Sunday. According to the TLC's report, however, the TLC did not even attempt to model the impact of the cruising cap on weekend days. It should not proceed with a rule that regulates weekend time without disclosing the impact of the rule on that time period.

V. THE TLC SHOULD ANALYZE THE IMPACT OF ALL RECENTLY ENACTED REGULATIONS PRIOR TO ADDING ADDITIONAL COMPLEXITY

The TLC previously implemented rules that were specifically designed to increase both driver earnings and vehicle utilization by making HVFHS companies pay drivers more per trip if there is low utilization. The TLC has no basis for concluding that the incentives included in current regulations are insufficient. The two largest HVFHS companies have taken various measures to increase utilization, including a new "gating" policy imposed by Lyft (which may adversely and directly affect Uber's utilization). But the TLC concedes that it has not assessed the impact of these reactions to its own regulations.

Instead, as discussed above and in even greater detail in section 6 of the attached CRA report, the TLC report's description of its modeling appears to assume that, for purposes of constructing its baseline "no action" scenario, companies would not take any steps to reduce FHV hours online to address utilization and that the only steps to reduce hours would take place in response to the cruising cap. This is directly contrary to the findings of the TLC's report that provided the basis for the driver earnings rule as well as the City Council's recognition that each company will be "incentivized to raise its company-wide utilization rate from one quarter to the next, by increasing the average number of trips per driver hour, since a higher company utilization rate lowers the company's costs for the expense and time components." Further, the TLC's report makes clear that the analysis does not accurately account for the impact of state-imposed congestion pricing.

VI. THE TLC FAILS TO ANALYZE THE FEASIBILITY OF ACHIEVING THE CRUISING TARGETS, HOW THE CRUISING TARGETS MAY BE ACHIEVED, AND THE LIKELY IMPACT OF SUCH MEASURES

The TLC does not disclose how it believes the HVFHS industry will achieve the cruising targets or how it selected the targets, nor does it model the impact of those steps. Further, the TLC has claimed that the targets will be achieved without, for example, adversely impacting driver earnings even as it acknowledges that FHV trips will decrease in the Congestion Zone.[4] The TLC's report provides no basis for that conclusion. Instead, the TLC's report only references modeling exercises where supply and demand is adjusted without discussing *how* it is adjusted and the consequences of such measures. Given that utilization restrictions on drivers that alter supply and demand must be accomplished through real-world interventions rather than a snap of the fingers or altering a spreadsheet, and given that this regulation is unprecedented, the result is that the TLC has done nothing to determine the feasibility of implementing the proposed rules or acknowledged the impacts of potential measures. It is therefore unsuprising that as discussed above, the only support the TLC cites for its assertion of the relationship between increased utilization and wait times is a study that cites an article that does not even address the issue. The TLC has literally no idea what will be required to achieve the stated cruising cap goals and what the real-world results will be.

The TLC's own analysis of other options demonstrates why this policy is so misguided. The TLC proposed to have considered other interventions, such as a per-minute charge for when drivers are logged into their apps and available to receive trip requests during the most congested times or a

[4] The Study at pg. 32.

congestion-zone license for drivers. It rejected the former, in part, because the fare would increase by 100%. It rejected the latter, in part, because it limits the opportunity of drivers who previously had the opportunity to drive in the core. These conclusions, by themselves, should give the TLC pause. If other interventions that are designed to achieve the same goal cannot be achieved without unacceptable cost, the TLC should not impose a mandate without determining whether it is feasible and if the consequences of achieving it will pose unacceptable costs.

As an example, and as stated above, in order to improve utilization as mandated by the driver earnings rule, Lyft has implemented a "gating" feature whereby drivers who attempt to log on either will not be permitted to do so, even if they are already in the Congestion Zone, or will be given information about other areas of potentially greater demand. Such measures by definition limit drivers' opportunity to drive where and when they want, and their impact on driver income and congestion is entirely untested and unexamined both as applied to for-hire drivers who use the Lyft app and as applied to other HVFHS companies to which drivers who are knocked off of Lyft's system will turn. "Gating" policies also raise additional questions and potential unintended consequences, none of which are addressed by the TLC's analysis.

First, Lyft's adoption of such a measure demonstrates that contrary to the TLC's assumption, the prior rules already provide incentives to increase utilization. It therefore raises the question of why additional regulation is necessary when HVFHS companies and associated for-hire bases already are incentivized to minimize driver idle time.

Second, if it *would* achieve greater reduction in the core and *is* feasible, this means that the TLC is interfering with the most efficient utilization of drivers. This in turn means that the assumption that drivers kept out of the Congestion Zone and the associated reduction in trips will simply be absorbed in the outer boroughs is misplaced, because companies are incentivized by the driver earnings rule to minimize idle time. The TLC is therefore forcing companies to keep drivers offline entirely when they otherwise would not be inclined to do so.

Third, the policy will reduce drivers' ability to accurately predict where and when they will be able to maximize earnings opportunities. Even assuming the high utilization rates can be met, drivers will see lower earnings should HVFHS companies need to reduce the number of hours drivers are permitted to access their respective platforms during the regulated periods. Likewise, drivers may enter the Congestion Zone, contributing to congestion and VHT, during times when they are unable to log onto an app. Such a driver would not be "cruising," but the driver would have the same impact as if he or she were. And if those drivers are not permitted or incentivized to drive to another area of high demand, they may choose to wait in the Congestion Zone until they are able to log back into one of the HVFHS apps and receive trips requests.

Further, drivers who enter the Congestion Zone to drop off a passenger may be forced out of the Congestion Zone without a passenger due to the limited number of trips that leave the zone, both reducing their ability to quickly receive additional dispatches (and earnings opportunities) and increasing VHT as they exit the Congestion Zone. Riders seeking to enter or exit the Congestion Zone may also be subjected to increased cancelation from drivers who are reluctant to drive to areas where they may face restricted access to apps.

VII. THE PROPOSED RULES CONTRADICT THE STATE'S EFFORTS TO COMBAT CONGESTION

New York State has launched an initiative consisting of multiple phases each designed to improve transportation options through a reduction in vehicle congestion and improvements to mass transit infrastructure. These phases include: public transportation investment, a congestion surcharge imposed on taxis and FHVs, use of such funds to pay for public transportation improvements, implementation of CBD tolling for all vehicles beginning in 2021, evaluation of the impact of congestion pricing on public transportation, and development of a system of credits for FHVs. Against this evolving backdrop, TLC's proposals seek to impose an unprecedented regulatory regime in a field that the state is already regulating--and does so in a manner that conflicts with the state's aims and methods. For example, the TLC itself acknowledges at page 28 of its report that its regulation will eliminate FHV trips in the Congestion Zone that otherwise would have occurred. This will directly impact revenue that was to be dedicated to public transportation. Further, the imposition of new and untested FHV measures set to go into effect just months before the State is scheduled to implement comprehensive congestion pricing will interfere with the ability to establish the appropriate balance between different types of vehicles and will confound the state's efforts to examine the impact of the new congestion pricing regime.

VIII. THE TLC SHOULD NOT INCLUDE VEHICLES TRAVELING TO PICK UP A PASSENGER IN THE CRUISING CALCULATION

As discussed in section 3 of the attached CRA report, the TLC should not include "en route" time ("Period Two") in the definition of Cruising. En route time is necessary to any for-hire trip. Both for-hire bases and FHV drivers have the competitive incentive to minimize en route time, or rider wait times. The TLC's economic model nowhere asserts, much less justifies the assertion that there has been a market failure with respect to Period Two time. It also is noteworthy that those who have previously proposed incentivizing FHVs to reduce cruising time have proposed that it be limited to waiting time and not en route time and recommended similar interventions for taxis. *See* Bruce Schaller, Empty Seats, Full Streets at 14 (defining "excessive" time that would be taxed as "the time greater than needed for driving to the pick-up location"); *see also id*. at 15-16.; 34 RCNY 4-01 (defining "Cruising" as "the movement of any vehicle on any street in search of prospective passengers who may wish to hire the vehicle.").

Further, by lumping together both Periods One and Two, the TLC ignores the fact that if a vehicle has accepted a dispatched trip and is en route to that passenger, it is **not available** to accept a dispatch from any other HVFHS. Uber believes the TLC should adopt the definition of Cruising found in 34 RCNY 4-01, "'Cruising' means the movement of any vehicle on any street in search of prospective passengers who may wish to hire the vehicle."

Further, as explained in the attached CRA report, including en route time imposes a direct conflict between different elements of the calculation. At the levels called for under this proposal, Period Two time will increase disproportionately as Period One time decreases, making compliance more difficult, if not impossible without substantial operational changes and unintended consequences. For these reasons, the TLC should exclude Period Two time from the cruising calculation. Creating incentives to reduce en route time beyond what the market dictates, may also lead to worsening congestion. For example, HVFHS companies may push pick ups and drop offs to the avenues, where FHVs are permitted to pick up and drop off within bus lanes. As more trips start and end within bus lanes, buses run slower; undermining City and State efforts to make buses more attractive to riders as a means of reducing overall vehicle congestion.

Similarly, a driver's time spent at the rider's pick-up location, but before the trip begins, should be excluded from the TLC's calculation. As with en route time, FHV companies already have an incentive to limit this amount of time. The rules should not create disincentives affecting riders who sometimes require additional time, often because of mobility or out of the desire not to leave their building until the car's arrival due to weather, safety or other reasons.

IX. THE CITY'S GOAL OF INCREASING ACCESSIBILITY IN THE FOR-HIRE INDUSTRY DEMANDS WHEELCHAIR ACCESSIBLE VEHICLES BE EXCLUDED FROM THE CRUISING CALCULATION

As contemplated in the study, under the proposed cap on Cruising, passenger wait times will increase within the Congestion Zone. This increase will apply across all vehicle types including WAVs. Uber believes that this is an unanticipated outcome given the FHV Accessibility Pilot and the TLC's continued focus on improved wait time metrics. In addition to increasing wait times for WAV passengers, in the event that the TLC includes WAVs in the cruising calculation, WAV passengers could be similarly forced to the nearest avenue for pick ups and drop offs, or cancelled on by drivers rather than sit waiting at the WAV rider's pick-up location collecting uncontrollable 'cruising' time. Exempting

WAVs from cruising calculations will enable WAVs to achieve the wait time metrics required under TLC Rule 59B-17(f).

X. THE TLC SHOULD REEVALUATE THE FACTORS USED TO ALLOCATE CRUISING TIME ACROSS MULTIPLE HVFHS COMPANIES

A. The dual-apping should be allocated based on total trips dispatched in the Congestion Zone to drivers who are dual apping

As drafted, 59D-21(b) uses total trip volume to allocate cruising time between vehicles that are available for dispatch, already en route to their passenger, or waiting at their passenger's pick up location, by more than one company. In practice, incorporating city-wide trip volume penalizes companies that provide city-wide service. For example, if company A were to dispatch 100 trips within the Congestion Zone and Company B were to dispatch 100 trips in the Congestion Zone as well as 100 trips outside the Zone, the ratio of applicable cruising time would be 2:1 to Company B, while the contribution to congestion within the regulated area is equal across both companies, 100 trips.

In response to this method of calculation, companies would have an incentive not to dispatch as many requests outside the Congestion Zone during the regulated time period as a way to decrease the apportionment of cruising time for vehicles that provide trips across multiple companies. We believe that this is an unintended result of the proposal and ask that the TLC utilize only the trips that are dispatched within the Congestion Zone for purposes of allocating cruising time across the HVFHS companies.

There also is no basis in calculating a HVFHS company's total trips to take into account trips that are dispatched by companies to drivers who are only using a single app. Instead, the percentage should be calculated based on the relative number of dual apping trips made in the Congestion Zone.

B. Once a vehicle is dispatched any and all cruising time should apply to the company that dispatched the vehicle.

Once a vehicle has accepted a trip request and is en route to the rider's pick-up location, it is no longer available to accept a dispatch (unless, of course, it is a shared [pool] ride). As app based dispatch has grown in the City, many drivers use more than one app-based for-hire service and fail to 'log off' of one platform each time they are dispatched by a different one. If Period Two time remains part of the cruising calculation, which it should not as explained above, the TLC should allocate the Period Two time to the HVFHS company that dispatched the trip. Implementing this minor change recognizes the inability for a vehicle to be dispatched by a second company after accepting a dispatch from the first company.

XI. THE PROPOSED ASSESSMENT PERIOD SHOULD BE EXPANDED TO ACCOUNT FOR SEASONALITY WITHIN THE MARKET.

The proposed one (1) month assessment period fails to account for regular and predictable seasonal changes each year as well as the corresponding impact on the for-hire marketplace. By evaluating vehicle cruising time on a monthly basis, the proposed rule treats each month of the year the same. Doing so ignores predictable changes in supply and demand across the industry. This seasonality can have drastic effects on the average wait time for a trip (increasing the necessary cruising time under the proposed rules). Through the driver earnings rule, the TLC is required to conduct an analysis of the vehicle utilization rates for each HVFHS company every six (6) months. Uber requests the TLC expand the evaluation under the proposed rules to a period of every six (6) months. In addition to achieving parity across the rules, this change will permit each HVFHS company to plan for seasonality.

XII. STREET HAIL LIVERY VEHICLES (SHLs) SHOULD BE EXEMPTED FROM THE CRUISING CAP CALCULATION.

In response to poor service within the outer boroughs, the TLC created the Boro Taxi (SHL).[5] By design, these vehicles accept both dispatched trips and hails in the outer boroughs. Often, these trips end within the proposed Congestion Zone, where SHLs cannot accept either dispatched or hail trips. Therefore, including SHLs in any cruising calculation not only subverts efforts to provide better service in the outer boroughs but also creates guaranteed and unavoidable cruising time following each trip that ends within the zone.

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[5] *Boro Taxi Program Moving Ahead with Accessibility and Outreach as Central Components*, May 16, 2014 (available at https://www1.nyc.gov/assets/tlc/downloads/pdf/press_release_05_19_14.pdf)

XIII. IN RESPONSE TO THE UNCERTAINTY INHERENT IN THE PROPOSED RULES THE TLC SHOULD DELAY ENFORCEMENT, REDUCE THE POTENTIAL FINES, AND INCREASE THE THRESHOLD FOR WHICH A LICENSE IS SUSPENDED OR REVOKED

A. The TLC should delay enforcement if the proposed rules are passed.

If the TLC insists on passing the proposed regulations as drafted, Uber believes substantial operational changes will be necessary to further increase utilization rates. Still, it will be impossible for Uber, or any other HVFHS company, to truly understand the operational changes required to meet the rates required. Therefore, we ask that, should the TLC move forward with implementation, the initial period of February to August 2020 be used as informational only. Delaying enforcement actions related to the cruising cap will also permit the TLC to meaningfully review the impact that the cap has in connection with the driver earnings rule.

B. The TLC should reduce the potential fines due to the complexity of the proposed rules.

Uber requests the TLC reconsider the proposed $350 per 100 hour fine. Here, the cruising cap model anticipates companies will subsidize rides to increase Congestion Zone utilization. Effective implementation of such changes requires the ability to plan ahead and measure the overall advantage of each pricing change. Under the regulatory framework proposed, no company can accurately forecast the potential cruising overage and resulting fine. This in turn, reduces the ability to measure the benefit stimulating rider demand.

C. The TLC should increase the percentage over the cruising cap that triggers suspension and/or revocation of a HVFHS license.

The 64% and 69% utilization rates called for in the proposed rules are extremely difficult if not impossible to achieve. Coupled with the various factors not accounted for within the economic model, it is impossible to accurately predict the number and extent of changes that will be required to achieve the required rates. Moreover, without visibility into the specific data across each HVFHS company, there is no way for any one company to accurately calculate what the TLC will determine is ‘their share’ of cruising time. Therefore, Uber believes the TLC should increase the threshold at which a company's license is subject to suspension and/or revocation from the proposed ten (10) percentage point to twenty (20) percentage points.

XIV. THE CONTINUED RESTRICTIONS ON THE ISSUANCE OF NEW FHV LICENSES IN UNNECESSARY, UNSUPPORTED IN THE ECONOMIC MODEL AND UNLAWFUL.

A. The TLC should not act while a challenge to the legality of the underlying Local Law remains outstanding.

The TLC proposes these rules under the purported authority given to them to study congestion and enact regulations based on that study found in Local Law 147.[6] In doing so, the TLC ignores active litigation aimed at the legality of Local Law 147. The City Council, by passing Local Law 147, attempted to give authority to the TLC to limit the number of FHV licenses. This delegation was unlawful because the Council does not have the statutory authority to grant the TLC this power, the Local Law is preempted by State law, and even if the Council had the authority to pass Local Law 147, its delegation of power to the TLC is an unconstitutional passing of legislative authority. The law also violated the Donnelly Act and the state constitution. The TLC therefore should not vote on these proposed rules until the court issues a decision in Zehn-NY LLC et al. v. The City of New York et. al pending as Index Number 151730/2019 in Supreme Court, New York County.

B. The driver earnings rule incentivizes HVFHS companies to increase utilization without these additional regulations.

If the TLC had conducted a thorough study that incorporated all the ways that the industry is reacting to the driver earnings rule, it would be clear that the proposed rules are unnecessary. The driver earnings rule pushes companies to increase their total utilization thereby reducing the per minute/per mile rates that set a floor on rider prices. As the TLC is well aware, HVFHS companies have limited onboarding of new drivers as a result.

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[6] New York City Taxi and Limousine Commission, *Notice of Public Hearing and Opportunity to Comment on Proposed Rules, Statement of Basis and Purpose,*(June 13, 2019), 3, available at https://www1.nyc.gov/assets/tlc/downloads/pdf/proposed_rules_hvfhs_cruising.pdf

C. **There is no basis for including a continued license restriction with the cruising cap.**

The TLC's report likewise offers no basis for extending the FHV license cap while also implementing a cruising cap, both in addition to and apart from the utilization incentives of the driver earnings rule. The TLC's report asserts at page 3 that an extension of the license cap alone would decrease FHV VHT in the core by 4%. It further asserts that a cruising cap would decrease FHV VHT by 21% without an extension of the license cap, and by 24% when combined with such an extension. Again, there is no support to the conclusion that the continued license cap would add any additional reduction in VHT. Under the cruising cap, there already would be an incentive for FHV companies to limit the supply of FHVs in the Congestion Zone on their own, and so a limit on the number of licenses would not make any difference, except potentially harming residents outside of the Congestion Zone. The TLC's report reached the conclusion that a continued license cap would have an additive effect not through any sound economic analysis that accounts for likely behavioral responses, but instead simply by multiplying the results of the two separately modeled scenarios together -- *i.e.*, 79% (100%-21%) by 96% (100%-4%). The TLC report failed to model the likely impact of a scenario where both are present. Thus, far from identifying benefits from an extension of the license cap, it succeeds only in illustrating the fundamental arbitrariness of the underlying model. Instead, particularly when combined with driver attrition, the license cap will limit service in the outer boroughs where demand growth is greater than in the Congestion Zone. By restricting licenses, HVFHS companies and FHV drivers will be prevented from extending and improving service to the growing markets in the outer boroughs.

D. **The restrictions open the door for current licenses to increase in value, attracting bad actors who will rent/lease current vehicles at ever increasing rates.**

By restricting the issuance of new licenses, the value of licenses currently in the market naturally increases. While these licenses are not easily transferred, and cannot be transferred by a private individual to another private individual, current licensees can monetize this increase in value by renting or leasing licensed vehicles at higher rates. This is supported within the study which assumes the number of vehicles being shared by multiple drivers to increase 10% as a result of the continued restriction on new licenses[7] as well as in the higher renewal rates observed since the license restriction was effective.[8]

Uber is concerned that if the TLC continues the blanket moratorium on issuing new licenses, bad actors will retain and renew their licenses, and charge drivers increasingly high rental and lease rates, further decreasing the amount drivers take home in earnings.

E. **The TLC should consider expanding the lease-to-own exemption to long-term drivers who wish to license their own vehicle.**

We appreciate the TLC permitting drivers with lease-to-own agreements to execute the purchase option and obtain a vehicle license; however it does not do enough to protect long-term licensees who have been saving money to purchase and license their own vehicle. We urge the TLC to permit long-term drivers (those drivers who have maintained their TLC driver's license for a period of 2 years or more) to obtain a vehicle license. Doing so clearly displays an interest in staying in the industry and could not be used by large fleet owners to flood the market with additional vehicles.

F. **Permitting only Battery Electric Vehicles ignores the high cost of entry, limited infrastructure and benefits of new hybrid vehicles.**

We share the TLC's interest in enabling increased usage of a more environmentally friendly vehicles across the for-hire industry. Still, by permitting only battery electric vehicles ("EVs") the proposed rules overlook the high cost of entry -- a currently available EV cost an average of $56,000[9] before any charging infrastructure. The study asserts, without support, that adding an exemption for EVs will "spur the creation of high-capacity, private-sector provided charging infrastructure."[10] There are approximately 230 non-exclusive charging stations within a 15 mile radius of central Manhattan, most of which are located squarely within the proposed Congestion Zone. Adjusting the mapping to within a 10

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[7] The study at pg. 29.
[8] The study at pg. 23
[9] *The Electric Vehicle List*, evrater (2019) https://evrater.com/evs#ev-list (calculated using available 4-door vehicles)
[10] The study at pg. 4.

mile radius of Rockaway, Queens (an area with a higher driver population), the number of charging stations reduces to under 50.[11]

Even if drivers are able to purchase/lease and license a new EV, the limited range would require recharging at a rate 1.5 times the frequency that qualifying Clean Air Vehicles (as defined in TLC Rule 51-03) need to refuel. Likewise, while refueling takes just minutes, most EVs must charge for hours.[12] For drivers who do not live within a 15 mile radius of central Manhattan, finding a charging station could take time and significant planning to avoid being stranded far from home.

We believe the TLC should expand the EV exemption under the proposed rules to allow for the issuance of new licenses to all vehicles that qualify as Clean Air Vehicles as defined in TLC Rule 51-03.

XV. CONCLUSION

We thank the TLC for the opportunity to submit these proposed comments.

Dated this 22nd day of July, 2019

Respectfully submitted,

Nicholas K. Davoli

[11] New York State Electric Vehicle Station Locator - https://www.nyserda.ny.gov/All-Programs/Programs/Drive-Clean-Rebate/Charging-Options/Electric-Vehicle-Station-Locator#/find/nearest (Last accessed July 11, 2019)

[12] See Generally Ivan Penn, *L.A. to Vegas and Back by Electric Car: 8 Hours Driving; 5 More Plugged In*, The New York Times, June 22, 2019, https://www.nytimes.com/2019/06/22/business/energy-environment/electric-cars-charging.html

Regulating New York's For-Hire Vehicle Sector

Economic Analysis of the TLC/DoT's Policy Proposals

Prepared for

Uber

Prepared by

Professor Steve Tadelis, Dr Cristina Caffarra, Dr Oliver Latham, Dr Sam Marden, Dr Hugh Wills

CRA Charles River Associates

22 July 2019

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SUMMARY AND OVERVIEW

1. Uber has instructed Steve Tadelis, Professor of Economics, Business and Public Policy at the Haas School of Business at the University of California, Berkeley, and a team of economists at Charles River Associates[1], to review and comment on proposals by the New York City Taxi and Limousine Commission and Department of Transportation (**"TLC"**)[2] to further regulate the For-Hire Vehicle Sector in New York. The proposals involve adding a further one-year ban on new vehicle licenses, and imposing a cap on "cruising" during the majority of the day in the Manhattan Core. The TLC has issued a document entitled "*Improving Efficiency and Managing Growth in New York's For-Hire Vehicle Sector"*, June 2019 , (**"the TLC report" or "the report"**) which includes a limited set of results of a model (**"the TLC's model" or "the model"**) that is claimed to support the proposed policies. This report contains our economic analysis and criticisms of the proposals and the economic report that purportedly motivates them.

The TLC's proposals

2. The proposals call for a limit on the proportion of time that For-Hire Vehicles (**"FHVs"**) affiliated with High Volume For Hire Vehicle Bases can spend "cruising", defined as the time spent waiting to receive a trip request or travelling to pick up a passenger (or, equivalently, setting a minimum level of "utilization", defined by the TLC as the proportion of time spent carrying passengers to their destination). In particular, they call for a cap on cruising time in the Manhattan core ("**the core**") at peak hours, first at 36% and then at 31% of total time on the app. The proposals also call for the continuation for 12 months of an existing freeze on the issuance of FHV licenses.

3. These proposals are in addition to two other rules that came into effect in February 2019. First, state law imposed a new "congestion surcharge" on FHV riders in the amount of $2.75 for each trip passing through the Congestion Zone. Second, the TLC implemented a Driver Earnings Rule which requires companies to pay drivers minimum "per minute" and minimum "per mile" payments per trip, divided by the company utilization rate. A company's utilization rate is defined as the amount of time drivers dispatched by a company spend transporting customers, divided by the time the drivers are available to accept dispatches. The utilization rate is to be updated every six months, and during the first year, an industry-wide utilization rate is used. The TLC determined the industry utilization rate to be 58%, and thus the "cruising" percentage as 42%, in the first half of 2018. Since February 2019, "per trip" payments are based on those figures. In addition to these recent past policy changes, the State has enacted legislation to impose an expanded congestion pricing plan that would apply beyond the High Volume FHV Sector and cover all vehicles entering Manhattan.

4. To justify its proposals, the TLC relies on an economic model that, according to the TLC, estimates that the policies will result in a *24% reduction* in the number of hours driven by

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1 The CRA team was led by Dr Cristina Caffarra, Head of Competition for CRA in Europe and Dr Oliver Latham, Vice President, and included Dr Samuel Marsden, Dr Pablo Olmos and Dr Hugh Wills. Short biographical notes are provided in **Appendix A**.

2 These were published by the TLC as regulation TLC-109, "Limitations on Cruising and Number of For-Hire Vehicle Licenses for Certain For-Hire Vehicles", 13th June 2019.

FHVs in Manhattan during the weekday evening peak, and a *13% increase* in wait times for FHV riders, relative to a baseline that assumes no further action. According to the TLC report, and the Statement of Basis and Purpose, the cruising cap can achieve significant reductions in total FHV hours in the Core (while increasing average weekday evening peak wait times by 13%) without negatively impacting driver earnings, passenger fares, or outer borough wait times. (In conjunction with the license freeze, the cruising cap is predicted to increase outer borough wait times by 9% during the weekday evening peak.)

The TLC's model is not "fit for purpose"

5. Our assessment is that the TLC's recommendations and analysis are severely flawed. As we explain in Section **[2],** although the TLC's model is poorly documented, what has been disclosed already demonstrates that it lacks any reliable basis for its conclusions and fails to account for the likely negative consequences of its proposed cruising and license caps. The TLC's model fails to follow "best practice" modeling of consumer behavior and market outcomes. It is based on a collection of assumed relationships between variables populated with data taken from questionable sources, or based on no sources at all, which cannot be relied upon to make accurate predictions of ongoing and proposed policy changes. As a result, the analysis on which the TLC relies simply cannot be used reliably to predict the effects of the proposed policy changes.

6. Moreover, even with the limited disclosures the TLC has made, it is clear that the model is unable to account for various ways in which the cruising cap and license cap proposals are likely to have adverse unintended consequences.

Multiple serious flaws in the TLC's analysis and conclusions

7. The TLC's analysis and conclusions suffer from multiple further serious flaws.

8. *First*, as discussed in Section **[3]**, the TLC treats en route time as identical to time waiting for dispatch in the cruising cap calculation. It offers no justification for doing so. It makes no claim that there could be any "market failure" in respect of en route times. Indeed, such time is an integral part of any service that carries riders between the origins and destinations of their choosing. Moreover, FHV services have clear incentives to minimize the time spent en route to pick-up to the extent possible.

In fact, economic logic, modelling and actual Uber data show that, as the level of utilization rises, time spent en route to pick up accounts for a larger and larger share of time spent "cruising", and so the number of drivers available to accept pick-ups shrinks dramatically. This makes further reductions in cruising time incrementally harder and harder to achieve. Our analysis shows that it may be impossible for FHV services to operate at the unprecedented utilization levels proposed in the cruising cap. As such, it threatens the ability for FHV services to exist in their current form. Further, nothing in the TLC's report addresses this issue or provides any reason to believe that the model takes the issue into account. Nor does the report more generally address the question of feasibility.

9. *Second,* as we show in Section **[4]**, as utilization increases, increases in utilization become increasingly costly in terms of rider wait times. The TLC disregards this issue by assuming that higher levels of utilization can always be achieved at modest cost in terms of wait times. This assumption is directly contradicted by the evidence, which shows that at higher levels of utilization – above around 60% - increases in wait times become substantial and are accompanied by declines in service quality (e.g. higher rider cancellation rates) on other dimensions. The source cited by the TLC does not even address the issue, much less provide reliable empirical support for it.

10. *Third*, as discussed in Section **[5]**, due to its reliance on various unsupported assumptions the TLC's model is likely to overestimate the amount of FHV traffic that would occur in the future if the TLC took no further action. The implication is that the TLC overstates the need for, and positive impact of, its proposed policies. In addition to providing no support for the assumed relationship between wait times and utilization, the TLC also provides no evidence in support of its assumed difference in price elasticities between Core and non-Core areas (with a 10% increase in prices resulting only in a 3% reduction in trips in core Manhattan, four times less than the 12% reduction that the same proportional price increase would cause in the rest of New York City).

11. *Fourth*, as discussed in Section **[6]**, the TLC's analysis does not properly capture recent policy changes that are still playing out and which create clear incentives to reduce cruising and increase utilization. In particular, the Driver Earnings Rule provides strong incentives for FHV bases to increase utilization, because doing so allows them to reduce the amount paid to a driver for each trip. Contrary to the assumption in the TLC's 2020 No Action Baseline – which assumed that the driver payment rule would lead to supply increases and made no attempt to build in efforts to increase utilization by FHV companies – we are already seeing services changing their behavior in response to this dynamic. Furthermore, the FHV and taxi congestion charge is already placing downward pressure on demand for FHV services and hence congestion; these effects will only be amplified when congestion charging is expanded to private vehicles as well as FHVs and taxis. It must be the appropriate course of action that these existing policies are allowed to "bed in" before acting further.

12. *Fifth,* as discussed in Section **[7]**, the TLC's own analysis implies that the cruising cap will constrain the supply of drivers and therefore (contrary to the TLC's assertion in the statement of basis and purpose) will decrease aggregate driver earnings in the long-run.

13. As a practical matter, while we understand that discussions are ongoing, we explain in Section **[8]** that the TLC's originally proposed approach to multi-homing appears to be unworkable and generates perverse incentives due to the way waiting time between trips for multi-homing drivers is to be pro-rated between services.

14. *Finally,* as we explain in Section **[9]**, there is also no justification for continuing the FHV license freeze in light of existing regulations that increase incentives to improve utilization, and a congestion tax that reduces demand for FHVs. There is no obvious market failure that is solved by the cap, and hence no reason to expect a cap on FHVs to deliver beneficial effects. Moreover the TLC's analysis of the joint effects of the license freeze and the cruising cap appears to be deeply flawed in that in that (in addition to other flaws already outlined) **the TLC appears to have simply multiplied the individual effect of each policy rather than model the two together.** It thus ignored the likelihood that, by reducing driver hours, the cruising cap is likely to reduce the demand for FHV licenses, and hence the effect the cap has on restricting the number of licenses.

Conclusions

15. **Overall, we consider that the TLC's analysis is simply "unfit" for purpose and does not support the claimed positive impact of its proposed policy interventions, materially understating the likely negative impacts.** We see multiple reasons for these policies to have significant negative implications for New York residents. It would be entirely imprudent to press ahead with such measures when the impact of pre-existing policy interventions is yet to be fully felt – especially as the available data actually *refute* the assumptions of the model from which the policy changes were apparently derived.

16. The report follows the structure of this Summary, beginning with a background discussion of the TLC's current and previous policy proposals.

1. BACKGROUND

1.1. The TLC's Proposed Cruising and License Cap

17. The TLC has provided public notice of proposed rules to be submitted for vote on July 23, 2019. In substance, there are two key proposals which the TLC proposes to adopt together: a cap on cruising and a continued 12 month cap on FHV licenses.[3]

18. **Cap on cruising.** The TLC's proposal is to initially cap "cruising" at 36% in the Congestion Zone throughout the day and most of the evening (6am to 11pm Monday to Friday and 8am to 11pm on Saturday and Sunday) beginning February 2020; with this cap further reducing to 31% from August 2020. Cruising is defined by the TLC as time spent by an FHV either travelling to pick up a passenger or logged into an app waiting for a trip request.[4] Therefore, FHVs will be required to have a paying rider in the vehicle 64 and then 69% of the time. According to this definition, the TLC has calculated that in June 2018, 41% of driver time in the Congestion Zone (Manhattan South of and excluding 96th Street) was spent cruising.

19. Failure to adhere to this cap will result in fines on FHV services. They will pay a fine of $350 for every 100 hours by which the cruising cap is exceeded. If the cap is exceeded by more than 10% (which we understand to mean 10 percentage points: a threshold of 46% or 41% after August 2020) the TLC may seek a license suspension of up to 30 days or revoke the service's license entirely.

20. **Continuation of the license cap.** The proposals call for a continuation of the existing FHV license freeze for at least an additional 12 months, with a review at that time and with reviews to follow every six months.[5]

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3 In addition to the proposals described above, the report considered imposing a minimum fare on FHVs – which was not favored as FHV fares already exceeded those of taxis for most trips and so the policy was not anticipated to have any effect. The report also considered: i) Restricting FHV access to the core area with a special permit. This was rejected because it targeted drivers, rather than high volume FHV companies, and was thought to be more prescriptive than the proposed cruising cap; ii) charging a "Vehicle Hours Travelled (VHT) Fee" for time spent by FHVs in the core area. This was rejected because to achieve the required reduction in VHT, the TLC's modelling suggested that the fee would need to be set at an extremely high level, increasing the cost of FHVs in the core by more than 100%. Moreover, the report also noted that the city does not have the power to impose such a fee. iii) A Cap and Trade system for time spent in the core area, where high volume FHV companies would be required to acquire time-based credits for trips in the core. This policy was rejected largely on the basis of administrative complexity.

4 The proposal states that "Cruising time will be calculated as all the time a High Volume For-Hire Service's Available Vehicles spend in the Congestion Zone without a passenger" while "available vehicles" is defined as a "For-Hire Vehicle that is available to accept dispatched trips from a High-Volume For-Hire Service". We understand from this that a driver will only be considered as "cruising" with respect to a given service if he is logged into the app and available to take a trip.

5 These reviews are to consider "congestion levels, driver pay, License attrition rates, outer borough service, and any other information it deems relevant".

1.2. Recent policy changes and their ongoing impact

21. Two significant regulatory changes occurred in the FHV marketplace in February 2019. First, **the TLC implemented new driver income rules**. These rules require that, for each trip, an FHV base must pay to the driver a minimum amount per trip. The per trip amount is calculated by multiplying the number of minutes and miles in a trip by prescribed rates and dividing the sum by the utilization rate (*i.e.*, the amount of time drivers dispatched by a company are transporting passengers divided by the amount of time they are available to do so). The minimums are set every six months, based upon past utilization rates, such that as utilization increases, the per trip amounts decrease and vice versa. The rule thus provides an incentive for companies to increase utilization while enabling drivers whose personal utilization coincides with the utilization factor used by the TLC to set per minute and per mile rates, in order to earn $15 per hour after expenses, payroll taxes and an allowance for time off. Second, **a congestion tax on FHVs and taxis** entering the congestion zone was implemented. This tax imposes a $2.75 fee per FHV trip and mandates that the fee be charged to the rider. The details of these existing (albeit still very recent) policies are presented in Appendix **[B]**.

22. While the effect of these policies is still playing out, the evidence to date suggests that much of the increase in costs will ultimately be passed through into higher rider side prices, something that in turn will reduce demand for FHV services.

23. In addition to these past changes, the state of New York enacted legislation providing for a broader congestion pricing scheme on all vehicles, including private vehicles, which enter or remain in the Central Business District, This broader congestion pricing scheme is scheduled to come into effect in 2021.

24. Figures 1a to 1d below tell the recent history of ridesharing regulation in New York City:

   a. Figure 1a plots the number of active drivers on the Uber platform. The number of drivers steadily increases up until the pause on the issuance of new FHV licenses in August 2018. The number of drivers dramatically increased immediately after the pause. This is because drivers filed applications at increased rates before the pause;

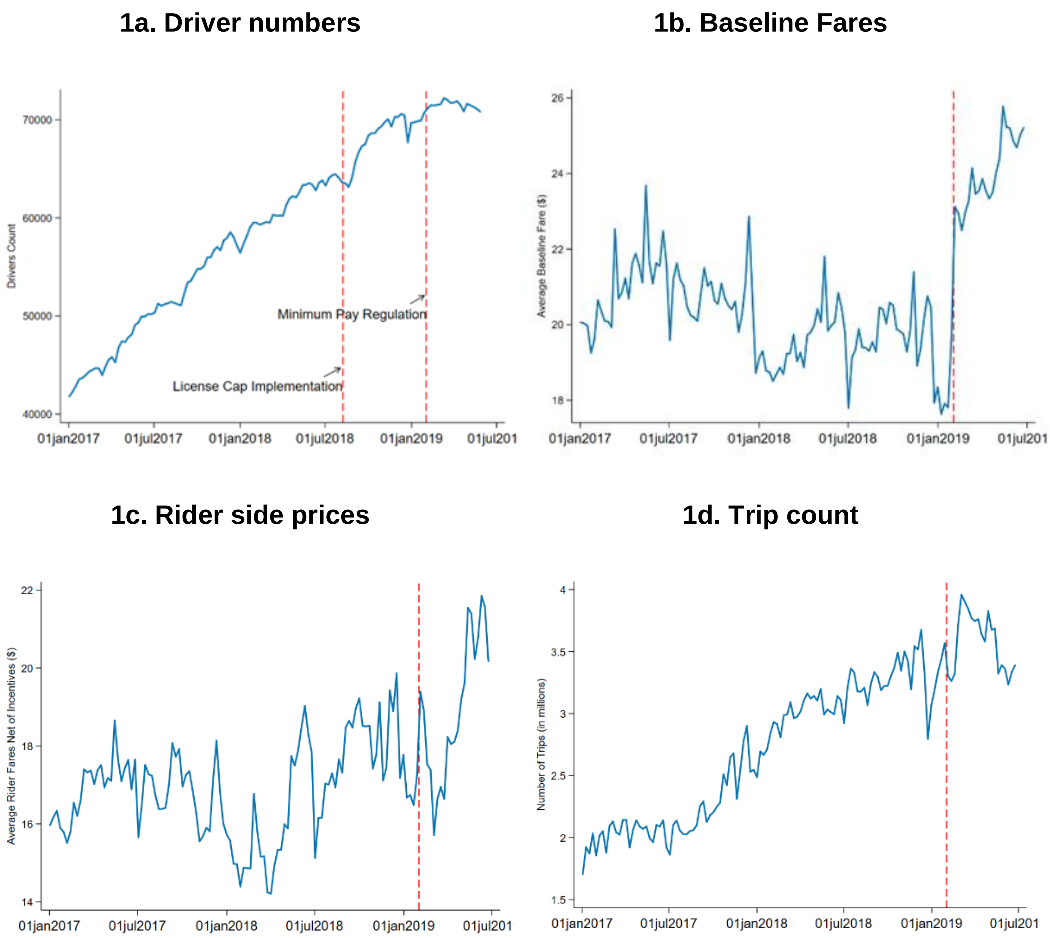
   b. The implementation of the driver income rules immediately increased the baseline fare, effectively increasing the cost of supplying FHV rides (Figure 1b);

   c. Initially rider prices did not rise (figure 1c). As a result, there was no initial effect on the number of trips completed using Uber (figure 1d);

   d. However, during Q2 2019 rider prices were increased substantially, as the increases in costs were passed through to riders (figure 1c);

   e. Following these price increases, the number of trips on the Uber platform has fallen significantly, by around 15% relative to previous levels (figure 1d).

Figure 1: Evolution of the ridesharing market in NYC



Source: CRA Analysis of Uber data

1.3. The TLC's evaluation of the effect of its proposed new policies

25. The TLC Report evaluated the proposed new policies using a model that is claimed to be based on economic principles.

26. The TLC argues that it evaluates the combined effect of the cruising cap and the license cap against a hypothetical scenario it calls the "2020 No Action Baseline", which is supposed to estimate what would happen in 2020 were the TLC to implement no new policies. The TLC says that the 2020 No Action Baseline takes account of the February 2019 Driver Earning Rule and Congestion Surcharge, but *not* the proposed wider congestion charge covering all vehicles.

27. The ultimate prediction of the report is that its favored policy of the Cruising Cap and the License Cap will result in a 24% reduction in FHV vehicle time in the core during the weekday evening peak (modelled based on data for Tuesdays and Wednesdays 4pm to

8pm), a 13% increase in FHV wait times in the core and a 9% increase of wait times outside the core as compared to its 2020 No Action Baseline.[6]

28. Other than the relative changes in weekday evening peak vehicle time in the core and wait times above, no further relevant numeric information is provided on the predictions of the TLC model, either relative to the 2020 No Action Baseline, or in absolute terms. The TLC did not disclose its predicted impact on VHT outside of the narrow hours it did discuss. No information is provided on the estimated effect of the policies on overall supply hours, wait-times, rider side prices, hourly earnings, or utilization outside the core. Similarly, no information is provided for the predictions of the no action baseline.

29. Moreover, as we discuss further below, the model is not publicly available and not presented in any real detail and, as such, its inner workings and assumptions are extremely opaque. Many of the relevant outputs from the model, such as total FHV trips in the Manhattan core, are not disclosed in the TLC's Report. What is clear, however, is that it assumes, rather than derives, a series of relationships between different outcome variables. These relationships are in turn governed by assumed parameter values ("elasticities") taken from a miscellany of sources.[7]

2. THE TLC'S MODEL SUFFERS FROM SERIOUS CONCEPTUAL AND METHODOLOGICAL FLAWS

30. The model which purportedly underpins the TLC's proposals, and is described in the Report, suffers from multiple conceptual flaws which render it "unfit" for the purposes of motivating and evaluating policy intervention.

31. Departing entirely from standard "best practices" in economic analysis and policy evaluation, the description of the model is very opaque. This is a problem in and of itself, as replicability and transparency are key principles of economic research and it is impossible to assess the TLC's findings without access to the underlying methodology. That said, even the brief description of the model which is contained in the Report is enough to show that the model is not up to the task at hand.

32. The basic requirement of an economic model is that it be derived from a rigorous analysis of consumer and firm behavior, in which market participants act optimally in light of the constraints and incentives they face. The TLC's model fails that basic test because it cannot account for the realities of market behavior, the likely strategic response of market participants to policy interventions, and the all but certain "non-linear" nature of the relationships between the variables of interest. It further means that the model's authors have to make a range of ad-hoc assumptions about firm and consumer behavior in order to "close" the model and "balance" supply and demand.

6 TLC Report, p. 3.

7 In economic analysis, an elasticity measures the % change in one variable caused by a % change in another. For example, a price elasticity of demand equal to -2 means that a 10% price increase will reduce consumption by 20%. Similarly, an elasticity of a rider's wait time to changes in utilization of 0.6 means that a 10% increase in utilization will increase wait time by 6%. The TLC's model generally assumes constant elasticities (e.g. that a 10% price increase has the same effect starting from a price of $5 as from a price of $10). We explain in detail below why the TLC's assumptions are in various respects unjustified and often blatantly wrong.

33. The model has several major methodological flaws, which we briefly summarize below and explore further in the rest of the report.

34. **Behavioral assumptions**: First, **the TLC's model makes *assumptions* about market responses to policy changes rather than *deriving* the likely reactions based on economic analysis**. For example, the model assumes that to reach the cruising cap, companies will first reduce prices to stimulate demand at the expense of FHV base commissions, up to 50% if necessary, and then simply invokes a *deus ex machina to* constrain the supply of FHV drivers in the core if utilization targets are not met by lower prices.[8] Conversely, in the 2020 No Action Baseline, FHV bases are assumed to take no action to constrain supply and increase utilization in the wake of the minimum pay rules, despite a clear incentive to do so, with the TLC stating that "increases in driver pay to meet the minimum attracts a slightly larger FHV supply. The increase in supply reduces driver utilization".[9] These approaches ignore the profit maximizing incentives of FHV bases, and replaces them with arbitrary behavioral assumptions.

35. Similarly, the model *assumes* (e.g. p. 17) that demand increases will be met primarily by efficiency improvements, while prices will only rise as a last resort to match supply and demand. *By construction*, this assumption *implies* that policy intervention can be achieved at limited cost: if one *assumes* the solution will come from unspecified changes that improve efficiency, then of course there are limited costs for riders or drivers. But this approach *assumes away* the profit-maximizing incentive of service providers, which is to raise rider prices – as indeed happened after the recently implemented policy changes. The model is silent on whether higher utilization levels are achievable or sustainable at all, and whether services would use other levers to bring supply and demand into line.

36. **Technological assumptions**: Second, the model assumes that ridesharing services are capable of delivering the required level of cruising/utilization with the only impact being a limited and predictable reduction in wait times.[10] As we show in Section **[3]**, this is counter not only to the laws of economics, but also of physics. This is because the cruising cap includes not only true idle time, but *also* the necessary en route time to pick up a customer. This approach necessarily implies that there are "increasing marginal costs" from reducing cruising and that there is an inherent limit on the level of utilization that can be achieved. **As a result, the TLC's analysis drastically understates the scope for unintended consequences from its policies.**

37. **Extrapolation**: Third, the model extrapolates from relationships estimated on current behavior to conditions which are far removed from those currently experienced. To do this, **the model uses mechanical and implausible assumptions to make extrapolations that cannot account for the richness and features of the system being studied.** In particular, the model simply *assumes* that there are fixed relationships between various

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8 TLC Report p. 28.

9 TLC Report p. 27.

10 TLC Report, p.28 "The model adjusted fares and supply until the high-volume FHVs reached the specified cruising targets…"

factors.[11] For example, it *assumes* a relationship between utilization and wait times such that any given increase in the level of utilization can be achieved by simply dialing up wait times a little. As we explain below, this assumption is highly inconsistent with the technology of FHV services. To demonstrate the absurdity of this approach, these mechanical assumptions are akin to assuming that because increasing a room's temperature from 30 degrees to 75 degrees Fahrenheit makes people feel more comfortable, then they should feel even more comfortable if the room's temperature was increased from 75 degrees to 120 degrees. Just as people respond differently to increases in temperature across the range of temperatures, so does an FHV system respond differently in wait times across a range of utilization rates.

38. Further to this, **the model's extrapolations do not appear to account for natural responses to FHV services in response to the TLC's policies.** For example, its analysis of the driver payment rules appears to account for its impact on driver earnings but does not account for the obvious incentive of FHV services to improve utilization so as to reduce their operating costs.[12] These responses by FHV services are ongoing meaning that the TLC's extrapolations cannot be relied upon.

39. These issues of inaccurate extrapolation are more than a theoretical concern. As we show in Section **[6],** New York City is experiencing significant changes as a result of ongoing regulatory interventions. **It is impossible for the TLC's model to accurately predict existing regulatory developments let alone the further impact of its further proposed policies.** (Indeed, the predecessor Parrott and Reich study – which shares many features with the current TLC model – failed to predict the impact of the last round of regulation it was used to support).

40. **Parameter choices:** Fourth, the TLC populates these relationships between variables, such as wait times and demand, with a miscellany of data parameters plucked from a range of very different academic studies which, in some cases, are simply made up based on the views of "subject matter experts". This again is in stark violation of best practices, such as those used in merger analysis by both government economists and private sector firms. Further, as we show in Sections **[4]** and **[5]** of this report, **the TLC relies on data points which are based on unreliable sources, have counterintuitive implications, and are contradicted by the actual data available on Uber's operations in NYC. These inaccurate data points are likely to significantly distort its conclusions.**

41. **Confidence:** Fifth, **the study presents no sensitivity analysis to assess the impact of changes in its underlying assumptions, and presents no confidence intervals.** For example, suppose that the "expert" view on the relevant price elasticities are incorrect, and they may differ by, say, plus or minus 20%. What would be the impact on the predicted market outcomes across this range of elasticities? Similarly, what would happen if the impact of the existing driver income rules is to deliver a greater than anticipated reduction

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11 Indeed, many relationships are assumed to be "log linear". This means that a % change in one variable always delivers the same % change in the other, or that the elasticities are constant. For example, it is assumed that a % change in the volume of vehicles on the road has a constant % effect on the time spent waiting for a vehicle. This assumption is obviously violated by the diminishing returns to adding more vehicles to the current fleet of vehicles in operation.

12 The TLC's descriptions states "In the model, increases in driver pay to meet the minimum attracts a slightly larger FHV supply. The increase in supply reduces driver utilization, but it also lowers passenger wait times, which attracts riders."

in FHV trips? The study is entirely silent on these issues. Furthermore, in contrast to typical analyses that use confidence intervals to assess a range of parameter values that are derived from data, none of the parameters have such confidence intervals, making it impossible to assess the range of outcomes that are likely to occur, or to quantify what likely even means. **Sensitivity testing is standard for any credible economic modelling effort, and is especially critical when what's at stake is modelling the impact of regulatory changes that are entirely novel (not just in New York City but anywhere) and proposed on top of other recent changes whose effects have not yet played out.**

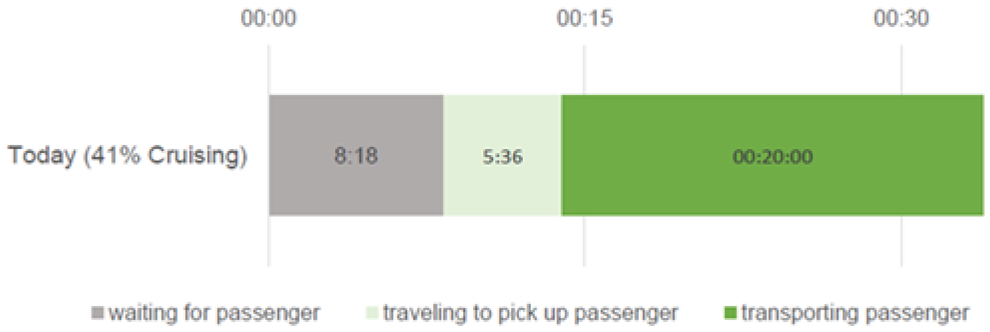
42. **Cost-benefit analysis**: Finally, even if one set aside the issues above, **the TLC does not present a proper cost-benefit analysis of its proposals, conducting no formal "welfare analysis"**. It rather appears to take as axiomatic that if it is possible to reduce FHV VHT without a material increase in wait times it should do so. The objective does not seem to be to provide a decent taxi/FHV service for New York, but to reduce vehicle time in the core and increase the revenues of taxis (which, given restrictions on the number of medallions, is likely to primarily increase the incomes of taxi medallion owners rather than drivers). There is absolutely no discussion of unintended side effects and no acknowledgment of the potential harm from its interventions.

For all of these reasons the TLC's model **just cannot be used to make reliable "general equilibrium predictions**". This means that multiple statements in the text are unsound and in most cases completely unfounded. For example, the authors state that "[i]n general, when driver utilization is higher, drivers' net earnings are higher because they are spending more time driving with fare-paying passengers." While this might be true ***<u>all else equal,</u>*** it does not mean that policies which increase utilization are good for drivers. Higher utilization means longer passenger wait times, and depending on rider demand, this is likely to lower willingness to pay for FHVs, which in turn reduces demand and may reduce equilibrium fees charged by FHV companies, which would in turn reduce payouts to drivers. This complex web of feedback loops is precisely the reason that economic models must be internally consistent and account for equilibrium effects.

3. THE TLC'S CRUISING CAP RULE AND MODEL FAIL TO ACCOUNT FOR INHERENT LIMITS TO DECREASING CRUISING, WHEN "CRUISING" INCLUDES "TIME EN ROUTE"

43. The proposed policy's definition of "cruising" covers not just idle "unoccupied time", where a driver is waiting to receive a trip request (which itself may be spent travelling to areas of higher demand) *but also time en route travelling to pick-up a rider once a driver has accepted a trip request*. As acknowledged by the TLC, around 40% of "cruising time" is currently time en route after accepting a trip request.

Figure 2: A significant proportion of "cruising" time is spent travelling to pick-up a customer



Source: TLC

44. The TLC policies penalize "time to pick-up" equally to "time waiting for a request". However, it is not clear what market failure is believed to motivate the inclusion of "time to pick-up" in the proposed cap: FHV services and FHV drivers have every incentive to minimize time en route, so as to minimize rider-side wait times. Furthermore, for services that pick-up and drop-off riders to the location of their choice, time en route is an integral and inherent component of the overall offer. It is all but impossible for a ride-request to appear at the time and location of a previous drop-off, so it is inevitable that some time will need to be spent driving to pick-up a new passenger after dropping a prior passenger off.

45. The inclusion of time en route to pick-up implies that progressive tightening of the cruising cap will induce increasingly large costs and, beyond some point well below 100% (that nothing in the TLC's analysis can identify) an increase in the level of utilization will not be achievable at all. This follows because as utilization increases, the share of drivers that are free (or about to become free) decreases. Therefore, on average, when a trip request is made, the nearest free driver will be further away from the trip-request when utilization is higher, and en route time will therefore increase. This is a simple logical intuition. The TLC's model however simply *assumes* that its proposed level of cruising cap is achievable with only an incremental increase in rider wait times. In reality, the TLC's cruising and license cap will have impacts on wait times and other features of the service that are far more drastic.

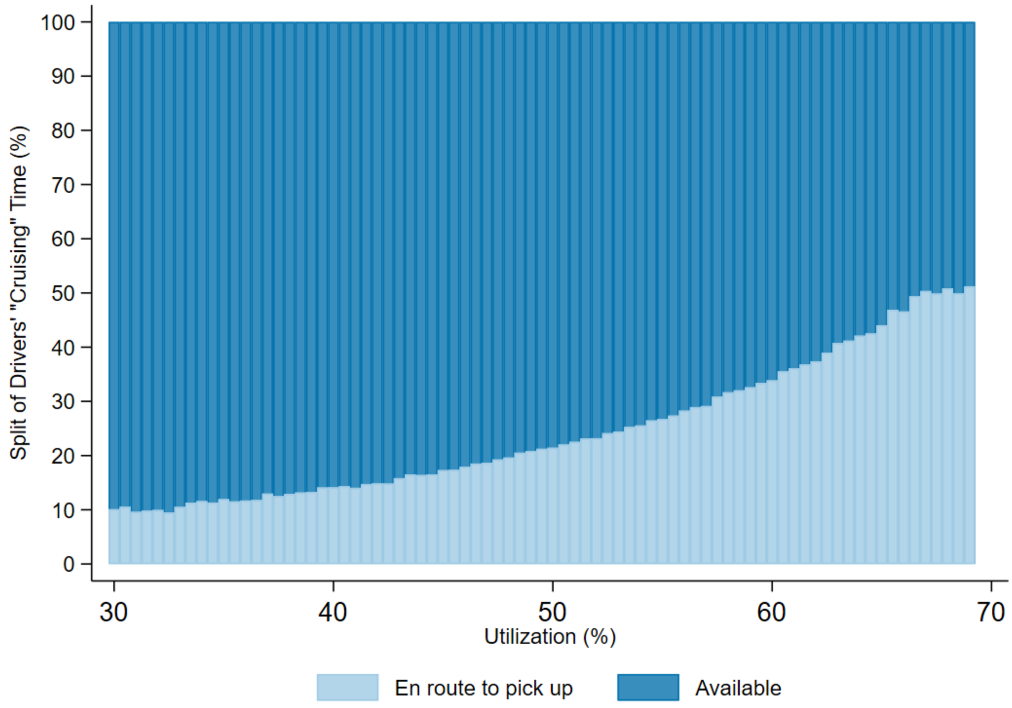
46. A very simple model in Appendix **[C]** illustrates this point. Holding the number of trips served constant, as the number of unassigned vehicles (*i.e.*, vehicles that are neither driving nor en route) declines relative to the current situation, the initial effect is for both utilization and passenger wait times to increase. Reducing the number of unassigned drivers by approximately 50%, relative to the current situation, increases utilization by 3.3 percentage points (or around 5%) and increases wait time by around 2.1 minutes, or nearly 40%.[13] Even if one allows for significant increases in traffic speed as a result of the reduction in the number of FHVs on the road, reducing the number of unassigned drivers by approximately 50% increases utilization by only around 5.4 percentage points (9%) and wait times are estimated to increase by 1.8 minutes, or around one-third. However, beyond

13 See Table 2, in Appendix C, and compare the current situation (3,812 free drivers) with the situation with 2,000 free drivers.

this point, when the number of unassigned drivers falls, *the effect of longer journeys to pick-up dominates, and while wait times continue to increase, utilization actually begins to fall rather than increase further, because time en route increases faster than time driving passengers.*

47. The proposition that time en route to pick-up is an increasing share of driver cruising time as utilization rises, is supported by actual Uber data. Figure 3 below plots the breakdown of "cruising" time between time en route to pick-up and time waiting for a trip. It shows that, as utilization increases, so does the share of cruising time taken up by driving to pick-up.

Figure 3: The share of "cruising" time spent en route to pick up increases as utilization rises



Source: CRA Analysis of Uber data. Each column plots the NYC city-wide average share of time en route to pick-up for hours where utilization is within a 0.5 percentage point window (e.g. the column associated with 30 includes hours where utilization is between 29.75 and 30.25%). Data from hours within the hours targeted by the cruising cap between 1 January 2018 and 30 June 2019.

4. THE TLC'S MODEL DOES NOT ACCOUNT FOR THE INCREASED HARM TO NETWORK PERFORMANCE THAT OCCURS AT HIGHER LEVELS OF UTILIZATION

48. The TLC's model predicts that its cruising caps can be achieved with just a 13% increase in rider wait times in the Core during the weekday peak (no predictions are disclosed on the number of trips, or any other metric of impact). This seemingly minor effect is however *solely driven by the assumption that the relationship between cruising time and wait time is*

fixed. Specifically, that a 1% increase in utilization leads to a 0.6% increase in wait times regardless of the initial level of utilization.[14] But this is not a reliable assumption.

49. First, **there is no underlying source for this elasticity**. The TLC's source for this elasticity is the Parrott & Reich study of the effect of the driver income rules. Parrott & Reich in turn point to a study by Cook et al.[15] However, this study does not provide any information on the relationship between utilization and passenger wait times (the wait times discussed in this study are driver wait times between trips).

50. Second, **this assumption is unsound from both a theoretical and empirical perspective.** While it is reasonable that at current equilibrium levels of utilization, and holding the number of drivers fixed, the trade-off between wait times and utilization is modest, this relationship cannot be assumed to hold in general, and especially not as the market moves from an equilibrium "before" policy changes to a new equilibrium "after" policy changes. Indeed, as one gets further away from the initial equilibrium mix of utilization and wait times, the relationship is very likely to change.

51. To see why, consider the following example. At 58% utilization, a 1% increase in utilization (i.e., from 58 to 58.6%) implies a drop in the proportion of cruising drivers from 42% to 41.4%, which is approximately a 1.4% decline in the proportion of cruising drivers. At 68% utilization, a 1% increase in utilization (i.e., from 68 to 68.7%) implies a drop in the proportion of cruising drivers from 32% to 31.3%, which is approximately a 2.1% decline in the proportion of cruising drivers, a 50% larger decrease in the number of cruising drivers than at 58%.

52. As the analysis of the previous section made clear, in addition to the larger decrease in the number of cruising drivers, the share of cruising drivers available for dispatch would also decline. As a result, the differential effect on the number of available drivers is larger still. This larger reduction would naturally have a much larger adverse impact on wait times. However, the assumption in the TLC's model is that all three changes would result in a 0.6% increase in wait times, an absurd assumption given the differential impact these two changes have on the proportion of free drivers.

53. This undocumented assumption is *crucial* to the TLC analysis because it implies that increases in utilization have little effect on rider side quality, and therefore do not affect the overall demand for rides in a significant way. This likely limits the estimate of the knock-on effect on aggregate driver earnings due to reduced demand because, as quality does not deteriorate much, demand does not fall much.

54. The data are consistent with the logic above: the elasticity of wait times with respect to utilization increases significantly as utilization increases and a constant elasticity of 0.6 is

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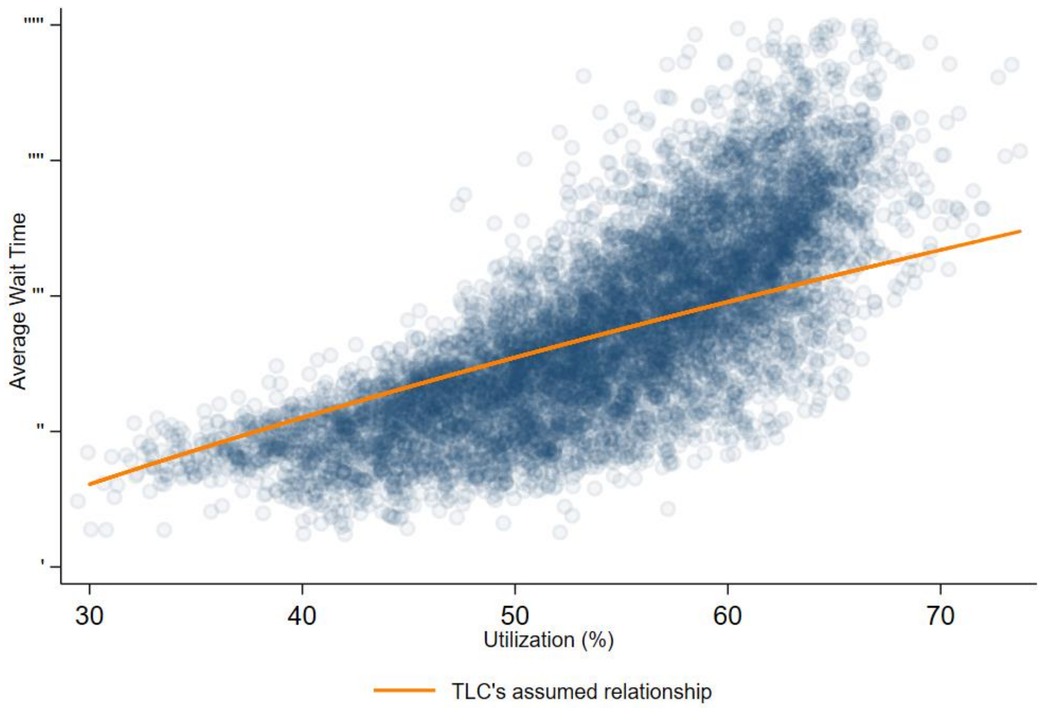
14 TLC Report p.18 states that "Wait time is a function of the utilization rate through a simple elasticity approach (i.e., changes in wait time represent the result of aggregate responses)". The chosen elasticity parameter is presented in Appendix A.

15 See Parrot and Reich at 55, 58, 59, and 72. The study they cite is Cook, C., Diamond, R., Hall, J., List, J. A., & Oyer, P. (2018). *The gender earnings gap in the gig economy: Evidence from over a million rideshare drivers* (No. w24732). National Bureau of Economic Research.

not accurate. Figure 4 below plots utilization against wait times.[16] While wait times increase modestly with increased utilization at low levels of utilization, the trade-off becomes increasingly stark at higher levels of utilization, particularly for levels of utilization above 60%. This relationship follows a clear non-linear pattern which contrasts starkly with the relationship assumed by the TLC (plotted in orange).[17]

55. Note that these increases in wait-times are likely to understate the increase in wait-times presented to drivers because they do not include the wait times for a potentially significant number of trips that didn't take place because riders were shown a wait-time that was too long.

Figure 4: Average wait time increases much faster at high utilization than at low utilization



Source: CRA Analysis of Uber data. Each point plots city-wide driver utilization, on the Uber platform only, against wait time for a one-hour period during the hours targeted by the cruising cap between 1 January 2018 and 30 June 2019. The TLC's assumed relationship is based on a 1% increase in utilization increasing wait times by 0.6%, and the assumption that the curve passes through the mean level of utilization and wait times.

56. Economists would call this effect on time en route (or rider wait time) an "increasing marginal cost of utilization". It means that increases in utilization/decreases in cruising beyond a certain level will be ever costlier and may not be achievable at all.

16 The data used are city-wide data corresponding to the times of day affected by the proposed cruising cap. Note that because these wait-times are city-wide averages, they hide the dispersion in wait times in any given hour. As a result, particularly as wait times increase, each dot will represent a mix of trips with reasonably short wait times and longer wait times.

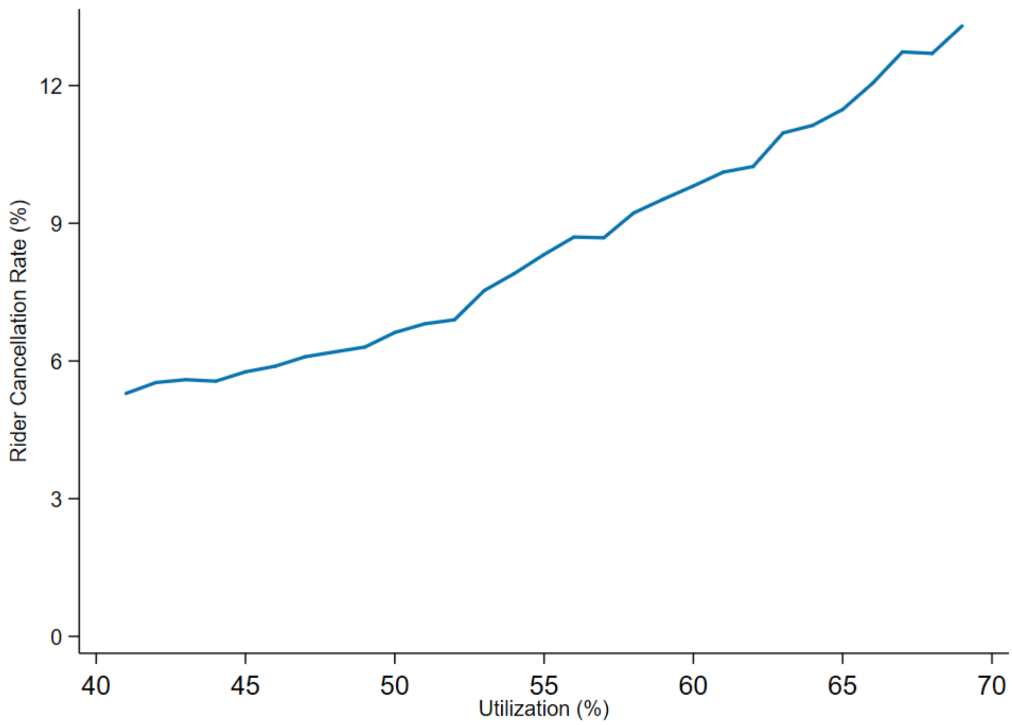
17 Although this relationship appears approximately linear, it actually bends down slightly: in absolute terms, the TLC assume that a 1 percentage point increase in utilization has a smaller impact on wait times as utilization increases.

4.1. Rider cancellation rates increase markedly above a certain level of utilization

57. The logic of the previous two sub-sections is that, at low levels of utilization, improvements in utilization are easier and likely to cause lower costs in terms of other metrics of network performance, but that the trade-offs become increasingly stark at higher levels of utilization. Uber's internal analysis of cancellation rates are consistent with this logic.

58. Figure 5 presents data which compare rider cancellation rates to utilization. These data indicate that increasing utilization initially only has a modest negative impact on product quality in terms of cancellation rates. However, increases in utilization rates above around 50% are associated with larger decreases in cancellation rates, suggesting that riders become increasingly dissatisfied with the service they receive at high levels of utilization.

Figure 5: Rider cancellations begin to increase markedly at utilization levels of ~50%



Source: CRA Analysis of Uber data. Rider cancellation rate is the share of matched trips that are cancelled by riders. Utilization is rounded within a 1 percentage point window (e.g. a level of utilization of 50% includes hours where utilization is between 45.5 and 50.5%). Data from hours within the hours targeted by the cruising cap between 1 January 2018 and 30 June 2019.

4.2. The specified efficiency level may not be achievable without major changes to the services provided to riders

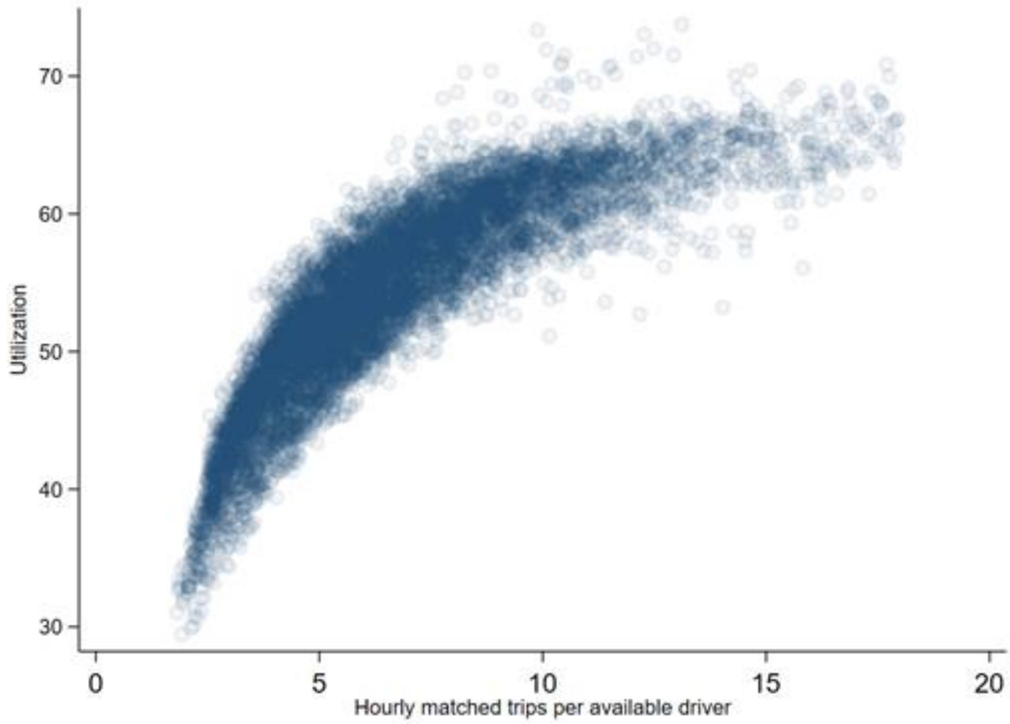
59. The TLC's proposal is that cruising time be limited to a maximum of 31% or, to put it another way, that the Uber platform must average 69% (or more) utilization. The analysis above suggests that increasing utilization above around 50% entails significant trade-offs with rider-side quality, with increasingly deleterious effects as utilization increases.

60. However, even if one is not concerned with service quality, the key issue is that the required level of utilization, based on the TLC's inclusion of en route time in cruising, may simply not be achievable on a sustained basis. The TLC has not disclosed any study of maximum

achievable utilization and there is no indication that it considered the potential impossibility of achieving its proposed caps. As a result, the TLC's proposals threaten the viability of the ridesharing model as it currently exists, jeopardizing the substantial benefits this model has created for both riders and drivers. The quantitative analysis in Appendix C, and outlined above, suggests that utilization rates above 60% are very difficult to sustain.

61. Further supporting evidence for the presence of a technical limit on utilization levels is shown in the Figure below. This shows that, as demand per available driver increases, at first utilization increases significantly but, beyond a certain point, utilization plateaus at about 65%. Again, this is consistent with a physical limit on the level of utilization for a service that picks riders up from the location of their choice.

Figure 6: Utilization and number of trips matched per available driver hour (not on trip nor en route)



Source: CRA analysis of Uber data. Each point plots city-wide number of hourly matched trips per-available driver against driver utilization for a one-hour period during the hours targeted by the cruising cap between 1 January 2018 and 30 June 2019. Hourly matched trips per-available driver is defined as the number of requests that are accepted in a given hour divided by the number of available hours of drivers' time in that hour, where available hours are the drivers time waiting for dispatch (i.e., online but neither on-trip nor en route to pick-up).

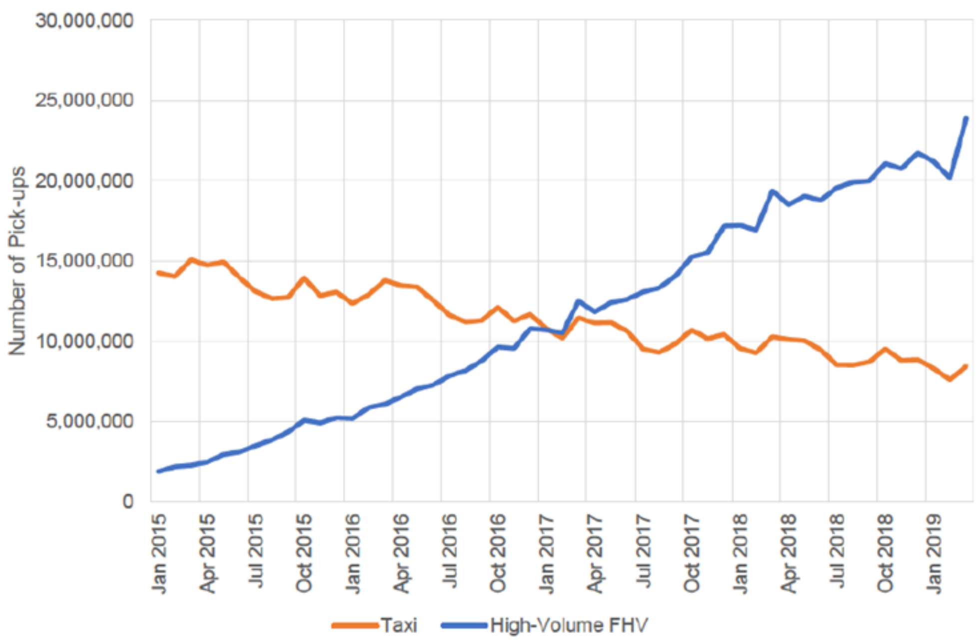
4.3. The cruising cap could act as a de-facto ban on traditional ridesharing platforms, resulting in large welfare losses

62. If the only way to meet the proposed cruising cap is to reduce not just idle time, but also time en route driving to pick up, then it will be necessary to fundamentally alter the nature of the core ridesharing product. In particular, it is likely to be necessary to prevent riders from specifying the time or place of pickup, and most likely both.

63. This harm is not factored into the TLC's analysis and is likely to be substantial. As can be seen in Figure 7 below, point-to-point FHV platforms have grown dramatically since their

introduction in New York and, more importantly, the overall FHV+taxi segment is significantly larger than it was prior to their introduction. Specifically, in January 2015 about 17 million rides were provided, of which about 15 million were taxi rides and about 2 million were FHV rides. By January 2019 about 32 million rides were provided, which is about 88% more than 2015, of which about 8 million were taxi rides and about 24 million were FHV rides. This growth has delivered significant benefits to riders and drivers, and shows that the NYC market was underserved by the taxi sector prior to the growth of FHV services. Indeed, empirical studies have found evidence that the growth of ridesharing triggered a significant competitive response from taxis, leading to better service quality for consumers.[18]

Figure 7: Development of the FHV segment (Figure 1 of the TLC/DoT report)



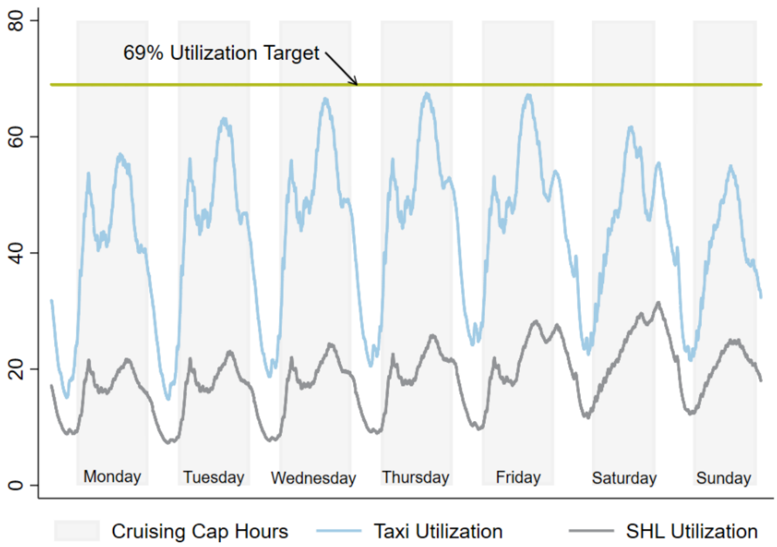
Source: NYC TLC data

64. In these circumstances, it would be inappropriate to introduce a policy which risks acting as a de-facto ban on traditional ridesharing products, depriving New York residents from a service which, by their revealed preferences, offers them significant value. Such a move would require an acknowledgment of the potential risks and a thorough cost-benefit analysis which has not been conducted.

65. This observation also raises the issue of whether a policy intervention against cruising by FHVs should be pursued without considering cruising by other modes. Despite the different business model of taxis, the available evidence suggests that taxis do not adhere to the cruising cap.

18 See Wallsten, S. 2015. “The competitive effects of the sharing economy: how is Uber changing taxis?”.

Figure 8: TLC estimates of taxi occupancy



Source: 2016 TLC Factbook, 2014-2015 Medallion Taxi & SHL trip-sheet data.

66. Figure 8, above is a plot of taxi occupancy by time-of-week from the 2016 TLC Factbook. At no time of the week did the TLC estimate that taxi occupancy exceeded 69%, and at most times occupancy was significantly below. As the vast majority of taxi pick-ups are in Manhattan, taxi utilization in the core is likely to be similar to this. [19] The text accompanying this analysis states that *"During this [peak] time when fewer taxis are on the road, those that are active are occupied at a rate between 50% and 67%. This high percentage suggests that the taxi supply is not meeting passenger demand."* The TLC's own prior analysis thus demonstrates that it has not adequately accounted for the likely strain on the system that its proposed rates will cause.

67. Optimal policy should not favor one business model over another but should rather implement a common policy regime and allow competition between business models.[20] Applying a cruising cap on FHVs, but not on taxis, risks acting as a de-facto ban on FHVs operating on a door-to-door basis and does not meet this basic requirement of policy design.

5. THE MODEL'S QUANTITATIVE ASSUMPTIONS ARE POORLY-FOUNDED

68. We have explained above that the TLC's model is conceptually flawed and makes a range of unreasonable assumptions on the relationships between the variables of interest, some

19 https://toddwschneider.com/posts/analyzing-1-1-billion-nyc-taxi-and-uber-trips-with-a-vengeance/#borough-trends

20 See, for example, the 2011 article of Nobel Prize winner Jean Tirole "Payment card regulation and the use of economic analysis in antitrust" which makes this point in the context of regulation of payment systems stating that "Whatever regulation (or lack thereof) one advocates, neutrality with respect to business organization should be the rule, so as to let the most efficient organizational forms emerge." Professor Tirole was awarded the Nobel Prize in 2014 for his work on optimal regulation.

mechanical, others ad hoc and unfounded. In this Section we focus on the elasticities used to populate this model, and use available ridesharing data to test whether the TLC's chosen elasticities are consistent with the facts. In this section we focus on two key relationships: i) the assumed level of price sensitivity of riders; ii) the TLC's assumptions for sensitivity of riders to increases in wait times. However, it is worth repeating that, as shown in Section **[4]**, the TLC's assumption that the elasticity of wait time with respect to utilization is constant, is also clearly incorrect.

69. If the TLC's chosen elasticities are incorrect then this has important implications for its analysis. For example, if, as we find, the TLC underestimates the level of price sensitivity of riders in core Manhattan, then it is likely to underestimate the role that congestion taxes on taxis and FHVs will play in reducing FHV trip volume in a world without its proposed policy interventions.

70. Our assessment is that the TLC's assumed elasticities are poorly-evidenced (in some cases asserted based on the view of "subject matter experts" and in others contradicted by the cited underlying source). And, the risk of using these assumptions are not properly addressed in a standard sensitivity analysis. As such, the TLC's conclusions would be unsound even if one otherwise accepted the flawed methodological approach behind its model.

5.1. The TLC's Price elasticities are not based on credible evidence

71. The TLC assume that the elasticity of demand for FHV services with respect to price is -0.3 in the core and -1.2 outside the core (i.e., that a 10% price increase would reduce core demand for FHV trips by 3% and non-core demand by 12%). The elasticity for outside the core is based on the elasticity used by Parrott and Reich. The elasticity for the Manhattan Core is attributed to "the Team Subject Matter Experts", but there is no indication of how this estimate was reached.

72. This choice of elasticities means that the TLC analysis assumes that demand is significantly less elastic than was assumed by Parrott & Reich in the previous analysis of the driver income rules. This is true not just for the core, but also for the city as a whole. For Uber, approximately one-third of trips begin in the core, assuming other ridesharing operators have a similar split, this implies that the present study assumes an average elasticity of around -0.9, significantly below the -1.2 assumed by Parrott & Reich.[21] The reason for the departure from previous assumptions is not stated.

73. **Non-core elasticity.** The elasticity for the non-core is based on an ad-hoc adjustment to an estimate of a very short-run elasticity from Cohen et al.[22] This paper estimated short-run elasticities to be between -0.4 and -0.6 (i.e., that a 10% price increase would reduce

21 Based on a simple weighted average of congestion zone and non-congestion zone elasticities.

22 Cohen, P., Hahn, R., Hall, J., Levitt, S., & Metcalfe, R. (2016). *Using big data to estimate consumer surplus: The case of Uber* (No. w22627). National Bureau of Economic Research.

demand by 4 to 6%).[23] The concern with these elasticities is that they do not allow for the more stable responses that consumers would make if there was a more permanent change in pricing. In light of this, Castillo, Knoepfle and Weyl[24] (also cited in Parrott & Reich) assumes the elasticity is twice as large for permanent price changes to give an elasticity of between -0.8 and -1.2. As mentioned above, Parrott & Reich themselves used an elasticity of demand of -1.2 for the whole city, apparently based on a conversation with Glen Weyl.

74. **Core elasticity.** As above, the core area elasticity of -0.3 used by the TLC does not appear to be based on any evidence at all. It is simply asserted and justified based on the view of "subject matter experts". Neither Parrott & Reich, nor Weyl et al., made a distinction between core and non-core areas. Moreover, the TLC provides no information on the logic or data used to justify this assumption.

75. In fact, taking consumer choice seriously implies the contrary; the wider availability of taxis together with the dense network of subways and busses suggest that switching away from ridesharing is easier in the core than in the periphery, which in turn imply that the elasticity in the core should be higher than in the periphery. Indeed, one of the key consumer benefits of app-based dispatch has been to make on-demand rides available in areas where taxis were previously scarce.

5.2. Because price elasticities in the core are likely too low in the TLC's model, congestion in the 2020 No Action Baseline is likely to be too high

76. The assumptions over price elasticities matter. By assuming an unrealistically low elasticity of demand in the core, the TLC report assumes that any increases in price due to the driver income rules and the congestion charge have little impact on congestion in the core. The effect of this is that the baseline level of congestion is very likely to be overestimated, and most likely by quite a lot. The worsening of traffic congestion in the baseline scenario (and the corresponding conclusion that further intervention is required) is therefore likely to be overstated. This is consistent with the emerging dynamics outlined in Section **[6]**, which indicate that the existing policy interventions are likely to have profound effects.

5.3. Elasticity of demand with respect to wait time

77. The TLC's model assumes that the elasticity of demand with respect to wait times is -0.5 in the core and -0.2 in the non-core. These elasticities are apparently calculated as a function of the value of time (based on income levels) and the fare elasticity. Given that the elasticity of demand with respect to fares is assumed to be four-times higher *outside* the core, it is surprising that the elasticity of demand with respect to wait time is simultaneously assumed by the TLC to be two-and-a-half times higher in the core.

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23 The Cohen et al. study used a very short run measure of elasticity. Their approach was to look at the underlying analysis used by Uber to determine surge pricing. They compared individuals whose trips were such that they *just* qualified for surge pricing and received a higher price with individuals whose trips were just below the threshold and did not qualify for surge pricing. This variation was then used to infer price sensitivity. This is a short-run measure of elasticity as it only looks at price responsiveness for a user who had decided to check Uber for a given trip. It does not consider how they might change their broader behaviour if Uber became systematically more expensive.

24 Castillo, J. C., Knoepfle, D., & Weyl, G. (2017, June). Surge pricing solves the wild goose chase. In *Proceedings of the 2017 ACM Conference on Economics and Computation* (pp. 241-242). ACM.

78. It is unclear exactly how the TLC's calculations were made, but these differences suggest that the TLC assumed that time was about 10 times as valuable in the core as in the non-core. While it is true that incomes in Manhattan are higher than in NYC as a whole, they are only around 50% higher.[25] Even allowing for incomes in the core being higher than in Manhattan as a whole, and ignoring that core residents may occasionally leave the core and non-core residents may visit the core, a ten-fold difference in incomes seems unsupportable.

79. While the TLC's calculations appear very likely to be wrong, a more general point is that it is highly unlikely that the elasticity of demand with respect to wait time is constant, just as is the case for the elasticity of rider wait time with respect to utilization. The TLC's assumption implies the same percentage fall in demand from an increase in wait times from 1 to 2 minutes as from 2 to 4, or 5 to 10. However, conventional wisdom and common sense suggest that this cannot be true, as larger absolute changes in wait times will do much more to shift the balance of convenience towards other transport modes (or simply not travelling at all). In this case, the elasticity of demand with respect to wait times is very likely to increase as wait times increase (at least over the range of wait times that are feasible).

80. Based on the data presented in Section **[4]** core wait times will increase materially if utilization is increased to 69% in the core. As a consequence, it is practically guaranteed that demand would decrease by more than implied by the TLC's elasticity. The model's failure to account for the true relationship between wait times and demand, despite the radical change in policy under consideration, means that the model again fails to take into account the most likely changes in behavior, and as a result is very likely to understate the harm done to riders and drivers by the cruising cap.

6. EXISTING POLICY INTERVENTIONS ARE HAVING PROFOUND EFFECTS THAT DO NOT APPEAR TO BE APPROPRIATELY MODELLED

81. Accurately modeling the impact of the February 2019 policy interventions discussed above is an essential part of the TLC's task. This requires modelling the impact of its proposed policies, and correctly incorporating the effect of prior policies which have only been recently implemented.

82. The TLC asserts that its model takes into account the impact of recent policy implications. Specifically, it states that the No Action baseline *"incorporates recently implemented changes to the taxi and for-hire vehicle industry, notably the New York State congestion zone surcharge ($2.75 per FHV trip, $2.50 per taxi trip, and $0.75 per pooled trip that at any point enters Manhattan south of 96th Street) and TLC's driver minimum pay rules, which both went into effect in February 2019*".[26]

83. However, no evidence is put forward to support this claim. Indeed, based on its description the TLC appears to assume away the changes in FHV services' incentives and behavior

25 https://www.baruch.cuny.edu/nycdata/income-taxes/med_hhold_income.htm

26 TLC Report, p. 9.

brought about by its past round of policies. Most notably, the TLC appears to ignore the clear incentives brought about by the driver payment rules.[27]

84. In this Section we set out in more detail how market participants are reacting to the previous round of regulation and assess how well the predictions of the previous Parrott and Reich study, which shares hallmarks of the latest TLC model and was used to support the previous round of regulation, have held up in light of events.

85. Our conclusion is that these previous interventions are still "working through the system" and have important implications for FHV services' behavior which mean they are likely to address many of the concerns motivating the current policy proposals. Furthermore, and more disturbing, the evidence is that the impact of these past policy changes differs materially from those predicted by the TLC at the time. Considering these findings, it seems to us not only that relying on Parrott and Reich-style models is inappropriate to design new policy, but that it is also premature to impose further regulatory changes given that the recent changes are still working their way towards a new equilibrium.

6.1. The driver income rules give strong incentives to improve utilization and reduce cruising, but the TLC's model does not account for them

86. Similarly, the existing driver income rules have already given FHV services further incentives to improve utilization, which is likely to diminish the need for further policies such as the proposed cruising cap. This incentive is ignored in the TLC's 2020 No Action Baseline, which assumes that "increases in driver pay to meet the minimum attracts a slightly larger FHV supply. The increase in supply reduces driver utilization".[28]

87. The reason for this change in incentives is that the level of per trip and per mile payment under the driver income rules is linked to each FHV service's level of utilization.[29] The premise of the policy was that services which could offer more trips per hour to drivers could pay a lower amount per trip while achieving a given hourly earnings level.

88. As a result, a service which improves its utilization will see its driver payments per trip fall. Conversely, a service which fails to improve its utilization risks entering a "death spiral" of the sort illustrated in Figure 9 below: lower utilization means higher required driver payments per trip, which means higher costs per trip, which mean higher prices to riders, which mean fewer riders and less utilization, which means higher prices…

89. It seems likely that the effect of this policy on utilization is yet to be fully felt. This is because there was a surge in vehicle license applications in advance of the August 2018 freeze on new FHV license, so the number of FHV drivers increased sharply. Once again, this seems to us a reason for caution while these policy developments pan out.

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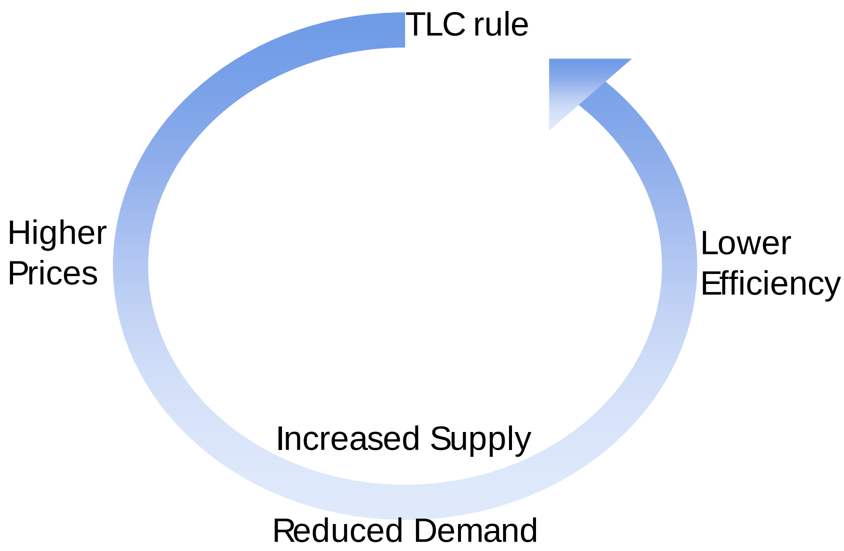
27 The TLC report states that "In the model, increases in driver pay to meet the minimum attracts a slightly larger FHV supply. The increase in supply reduces driver utilization, but it also lowers passenger wait times, which attracts riders." In other words, it allows for the driver payment rules to increase driver earnings, but does not allow for FHV services to make efforts to increase utilization to reduce their operating costs.

28 TLC paragraph 27.

29 In the first year, the level of utilization applied is industry wide.

Figure 9: Two-sided feedback effects resulting from the driver income rules



90. The TLC, in contrast, assumes away these incentives to improve utilization. In its write-up of the baseline scenario it states that “In the model, increases in driver pay to meet the minimum attracts a slightly larger FHV supply. The increase in supply reduces driver utilization, but it also lowers passenger wait times, which attracts riders.” Clearly this analysis is seriously incomplete: it allows for the possibility that drivers will want to supply more hours to receive the minimum hourly payments brought about by the driver payment rules. However, it appears to take no account of FHV services’ incentive to increase utilization to reduce their operating costs. By contrast, in modelling the impact of the cruising cap, the TLC assumes that if “the cruising cap was not yet met, the model constrained the supply of high-volume FHV drivers in the core until it was achieved.” The arbitrary disregard for utilization incentives in one scenario, combined with the assumption that high levels of utilization can be achieved without serious negative consequences in the other, well illustrates the fundamental arbitrariness of the TLC model. This disregard for the driver earnings rule’s incentives to improve utilization is all the more baffling because the study that formed the basis for the rule repeatedly referred to those incentives.[30]

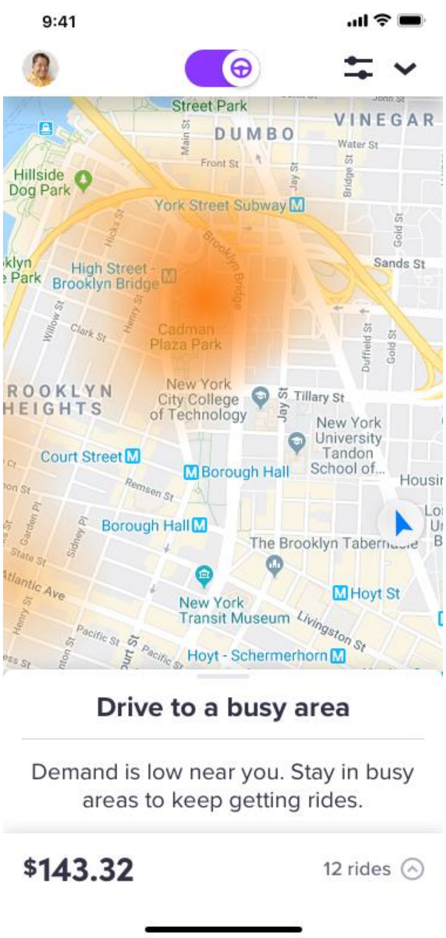
91. As we now explain, these incentives are real and already resulting in significant changes in behavior.

92. **Ridesharing firms are already implementing policies to reduce cruising.** In light of the incentives provided by the existing policy interventions, ridesharing firms are already taking steps to reduce cruising time. Both Lyft and Uber, for example, significantly limited onboarding of new drivers. Lyft subsequently took steps to improve utilization by implementing a gating feature that prevents drivers from coming onto the platform in areas or times of lower demand, with guaranteed access only for drivers with 100 trips and 90% acceptance rates in the last 30 days or who have a rental with Lyft Express Drive. Drivers who are prevented from accessing the platform are shown a screen like that in Figure 10 which explains to drivers that there is insufficient demand at their location to justify bringing

30 See e.g. Parrot and Reich at 5, 35, 39, 53, 54, 57, 58, 60, 61, 70, 72.

them onto the platform and alerts them to areas of higher demand in their vicinity. The TLC's model does nothing to take such efforts into account.

Figure 10: Lyft's new gating approach



Source: Lyft https://help.lyft.com/hc/en-us/articles/115012929447-New-York-City-Driver-Information

93. Policies aimed at increasing utilization, such as Lyft's gating policy, could actually worsen congestion, because drivers who might once have been in a position to accept trips, will now be unable to do so while in a gated area, but will still contribute to congestion while they are in transit. Of course, this also somewhat worsens the service for riders in areas where supply is being restricted. It is also clearly worse for drivers, as it makes it harder for drivers to accumulate hours on the app to generate their desired income.

6.2. FHV taxes have been passed through to consumers and will dampen demand (and hence congestion) over the medium term

94. The evidence in Section **[1.2]** shows that the congestion charge was passed through to riders in the form of higher prices. It shows also that, as one would expect, this price increase has caused a decline in trip volumes relative to pre-existing trends.

95. These facts matter because it means that the existing policies are already having an effect on trip volumes and congestion. Moreover, these emerging trends appear to go against the predictions for the baseline scenario. In particular,

- The baseline scenario appears to pencil in larger increases in volumes than are so far observed. Indeed the TLC acknowledges this noting that "outer-borough growth rates have slowed significantly since the study began […] if this trend of slowing growth continues, actual rates of growth may turn out to be lower than those assumed".[31]
- It appears likely that the 2020 Baseline Scenario also indicates only modest increases in rider prices, given that it assumes that "company commissions are reduced to accommodate the increased pay" due to the driver pay rules. [32]

Perhaps as a result of these changes, the TLC concludes that "[u]nder the baseline scenario, traffic congestion worsens throughout the city compared to today's conditions".[33]

96. If the predictions in the baseline scenario do not reflect the emerging trends in FHV usage, then the need for further policies to target congestion is likely to be less than anticipated by the TLC. And, at the very least, it would seem prudent to assess the scale of these impacts before acting further.

6.3. Future congestion charging will further address the policy concern of the TLC

97. The rush to not let the impact of current regulations play out is additionally puzzling when the State's congestion pricing legislation covering personal vehicles as well as FHVs and taxis is scheduled for implementation in 2021. The need for intervention will be further reduced as New York City moves towards a fuller congestion tax covering private vehicles and FHVs/taxis.[34] The economic rationale for such a tax is clear: private vehicles impose congestion externalities on other road users in the same way as do FHVs/taxis. Experience from other comparable cities such as London and Singapore is that congestion charging on private vehicles has significant effects on trip volumes and congestion.

- In 1975, Singapore introduced a paper system of daily licenses for vehicles entering the central areas during peak traffic periods. The system was overhauled in 1998 with the introduction of the Electronic Road Pricing, under which in-vehicle units communicate with overhead gantries placed on the streets leading to the city centre and immediately execute the payment. The first phase led to a 44% decrease in traffic volume. With the introduction of the electronic scheme, which allowed for flexible fares varying by time of day and area,[35] the level of traffic decreased by an additional 10% to 15%; this was due to there being fewer repeated trips as every entry in the charging area had an additional cost compared to the fixed daily fare of the initial scheme.[36] The initiative was complemented by increased vehicle and parking taxes and improved public transport.

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31 TLC paragraph 27.

32 TLC paragraph 27.

33 TLC paragraph 27.

34 According to the TLC's report private vehicles account for 47% of traffic in core Manhattan.

35 https://theicct.org/sites/default/files/publications/congestion_apr10.pdf

36 https://www.wsp.com/-/media/Insights/Canada/Documents/doc-Congestion-Charging-Report.pdf?la=en-GL&hash=02D0AE5A6578251B20B860563B6FCBBA3485E617

- Congestion Charging was introduced in London in February 2003 with the aim of reducing traffic in the city centre. A daily charge is enforced using Automated License Plate Recognition. The Transport for London Congestion Charge Impact Assessment Report (2014) concluded that the initial implementation resulted in a large (around 30%) reduction in congestion in the first two years, but that congestion subsequently regressed back to pre-Charge levels.[37]

98. Once again, the presence of multiple alternative policy interventions that are either ongoing or in the final stages of development means that the case for further intervention is unclear, and quite possibly unnecessary. This is particularly so given the evidence, set out above, that the cruising cap is likely to have severe unintended consequences relative to more well-targeted policies such as congestion pricing.

7. THE TLC CRUISING CAP PROPOSAL WILL LIKELY ADVERSELY IMPACT DRIVER EARNINGS

99. TLC study does not acknowledge the negative implications of the policy, which flow from its own analysis. Even on the study's own analysis, the proposed increase in utilization is likely to have a significant negative impact on FHV drivers.

100. The study suggests that its policy intervention of limiting FHV licenses will have a positive impact on FHV drivers, and the Statement of Basis and Purpose says that the cruising cap will not have a negative impact on driver earnings. It states that "By constraining the supply of FHVs and thus the number of drivers, holding constant the number of FHV licenses has the potential to increase driver wages citywide. However, this increase would partly depend on companies allocating increased revenue to drivers. Note that the baseline analysis against which the policy options are compared incorporates the driver income rules implemented by TLC in February 2019."[38] Under the TLC's preferred policy intervention, the TLC finds that "Driver earnings increase as a result of higher utilization and constrained FHV supply".

101. But this analysis is likely incorrect as the market settles into its new policy constraints. This is especially likely in light of Section **[6]** above, which shows the inadequacy of the relied upon models to account for changes that occurred after the February 2019 policies were implemented. Note that under the minimum driver pay policy, average hourly earnings are effectively fixed for drivers, independent of the level of utilization. Increasing utilization increases the number of rides per hour for active vehicles, and hence, with a fixed hourly wage, drivers pay per-trip declines. As we demonstrated above, the increased wait times due to increased utilization will reduce total demand, which means that there will be fewer rides in total. For the market to equilibrate, fewer drivers will be needed to supply market demand, which necessarily implies that some drivers will be excluded from earnings as FHV drivers. In other words, the only way driver earnings can increase is if there is more demand for their services, but the cruising cap can only lower demand for these services.

102. This impact on long run earnings and employment in the FHV sector, which is an implication of the TLC's analysis, is ignored. The TLC cannot deny that a necessary implication of its policy is a reduction in ride-hours demanded, which can only reduce the hours that FHV

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37 https://consultations.tfl.gov.uk/roads/cc-changes-march-2014/user_uploads/cc-impact-assessment.pdf

38 TLC Report, p. 26.

drivers provide. This puts the new policy at odds with the TLC's objective of increasing drivers' income, which led to the minimum driver payments implemented in February 2019.

8. THE TLC'S APPROACH TO MULTI-HOMING IS UNWORKABLE AND GENERATES PERVERSE INCENTIVES

103. A challenge with implementing a service-level cruising cap is that drivers are not tied to an individual service. Drivers frequently "multi app" or "multi-home" (i.e. make themselves available to take trips on multiple services simultaneously). If a cruising cap is to be implemented, this time needs to be allocated between services to avoid "double counting" of time spent by drivers waiting for trips.

104. The TLC's proposal in the proposed rule appears to be to pro-rate multi-homing drivers' waiting time between the platforms they are logged into in accordance with the aggregate trip volume of these platforms. For example, if a driver was logged into both Uber and Juno, the wait time would be allocated in accordance with the relative trip volume of these two services. In 2018, this would correspond to around 14 million trips for Uber and 1.2 million trips for Juno, resulting in 92% of this driver's waiting time to be attributed to Uber.

105. It is our understanding that there have been ongoing discussions on this issue and that the rule may be adjusted to account for several issues discussed herein with respect to multi-homing drivers. However, we discuss the issue briefly.

106. An approach based on aggregate data is likely to inaccurately allocate time between services in a way that is contrary to sound economic reasoning.

- First, the allocation mechanism should not include an aggregate trip count that will include trips made by single-homing drivers (i.e., those using a single app). Including such trips will artificially increase the costs for larger services who can be expected to support a larger share of single-homing drivers. For example, imagine that there are 5 drivers, 4 of whom only use the Uber app while one uses both Uber and Juno. Further imagine that each of the single-homing drivers completes 2 trips an hour while the multi-homing driver completes 3 trips an hour, 2 for Uber and one for Juno. Hence, a total of 11 trips were completed per hour, of which 10 (or 91%) were executed on the Uber app and 1 (9%) on the Juno app. However, only one driver is multi-homing, and for this driver the allocation to Uber is only 66% of rides and not 91%, which would be erroneously calculated from the aggregate data.
- Second, the allocation mechanism should not include trips made outside of the congestion zone. Such trips are not relevant to the policy issue at hand (cruising in core Manhattan) and will again act to artificially increase the costs of larger services who are likely to have more presence outside the core.
- Finally en route time should be assigned to the FHV company that dispatched the trip.

107. A failure to correct for these distortions is likely to have negative effects for inter-FHV competition and consumers. First, it gives services a strong incentive to discourage multi-homing behavior, which will lead to them being artificially penalized. Note also that multi-homing itself increases efficiency because drivers can accept rides from more than one app, hence reducing idle time. Second, it reduces the incentive for FHVs to vigorously compete for market share because winning additional trip volume will result in a cost increase via the cruising cap. Third, it particularly penalizes services for competing in non-

core Manhattan because increased market share in these non-core areas arbitrarily increases the costs of operating in the core.

108. In summary, if the cruising cap is to be introduced (and, for the reasons above, we are convinced that it should not be) then it should be implemented in a way that ensures cruising time is allocated accurately across services. The most natural approach would be to proceed on a vehicle-by-vehicle basis, and pro-rata the time spent cruising in the core according to the share of trips made by this vehicle for different services during the time spent multi-homing.

9. AN FHV CAP CANNOT BE JUSTIFIED GIVEN OTHER POLICY MEASURES THAT ARE IN PLACE

109. We have focused above on the implications of the cruising cap as this represents the greater departure from existing policy and the one with the more profound potential for unintended consequences. However, comparable concerns apply also to the proposed continuation of the FHV license freeze.

110. First, in light of existing regulatory interventions such as the congestion tax on FHVs, there is no obvious market failure to be resolved and hence no reason to expect a cap on FHVs to deliver beneficial effects. Indeed, the likely impact would seem to be a reduction in consumer welfare due to reduced availability or higher prices of FHVs.

111. Second, there is evidence that existing policy changes are already having an effect: as documented above, services are already reacting by freezing onboarding and limiting drivers' access to the platform such that imposing a further cap on driver numbers is likely to be unnecessary.

112. Third, we have seen above that license caps are likely to make it more difficult for services to adjust to the new equilibrium brought about by other policy changes, making these policies' impact on the market slower and harder to evaluate.

9.1. The incremental impact of the FHV cap when the cruising cap is present does not appear to have been modelled correctly

113. The effect of the license cap does not appear to have been estimated *jointly* with the cruising cap. Instead, it appears that the TLC combines the two effects "by multiplying the effects for all geographies".[39] This implies that the TLC's analysis assumes that the proportional impact of the license cap on the outcomes of the model is the same with-or-without the cruising cap.

114. There is no apparent basis for doing so. Because the cruising cap is likely to reduce driver hours by constraining supply in the core, with no reason to think that demand outside the core would increase to offset the cap, the effect of the cruising cap itself is likely to be to reduce overall FHV hours and hence the number of FHVs. In this case, the impact of the license cap will be less, perhaps significantly so in the presence of the cruising cap than it would be as a standalone policy.

39 TLC Report, p. 32.

10. CONCLUSIONS

115. Our considered view is that the TLC's "model" and analysis just cannot support its proposed policy interventions, and the proposed policy changes are therefore untested and unjustified.

First, even on the basis of the opaque description provided in the TLC's report, it is clear that at best its economic model falls short of all known economic "best practice"; at worse, is wholly "unfit for purpose". The model is not based on a credible analysis of individual and firm behavior, performs no welfare analysis, and makes sweeping and unfounded assumptions about how services will respond to its proposed changes and about the technical feasibility of its cruising cap.

Second, the TLC's model is populated with data that is most likely incorrect. For example, it relies on price elasticities which are based on nothing more than assertion and are inconsistent with actual evidence of consumer price responses.

Third, the available evidence points to the proposed cruise cap resulting in significant consumer harm, and putting ridesharing at risk of becoming financially unviable. Contrary to the TLC's assumption that the proposed cruise cap can be achieved with modest and incremental increases in rider wait time, the evidence shows that tightening the cruise cap will put severe pressure on network performance and may lead to ridesharing ceasing to be a viable business in its current form. A major flaw in the reasoning and analysis is that the cruising cap covers not just time spent idle, but also time en route spent to pick up a passenger (something which is an inherent "cost of doing business" for a ridesharing service).

Fourth, the proposals are likely to result in extended unintended consequences on other dimensions by reducing driver incomes (a necessary implication of the TLC's analysis, albeit one that is not acknowledged in its report).

Fifth, the TLC's model cannot even capture the ongoing market responses to policy interventions that are already underway. The model fails to capture the incentive to increase utilization under the driver earnings rule. Further, the evolution of the market post the February 2019 policy interventions are already significantly out of line with the policy provisions of the previous Parrott and Reich study. In circumstances where existing policy reforms are already impacting the issues of concern (congestion, and utilization levels) and are yet to fully "equilibrate and where the underlying model does not attempt to take the variables into account, there is no basis for relying on such a model to justify proceeding with a rule of such consequence.

APPENDIX A: SHORT BIOS

Prof Steve Tadelis

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Published several papers in top journals, including *The Journal of Political Economy, American Economic Review*, *The Quarterly Journal of Economics*, and *Econometrica.* Received a best article award and was awarded major research grants, including several National Science Foundation (NSF) grants. Author of two books on game theory and microeconomic theory. Research Fellow at the Centre for Economic Policy Research, Research Network Fellow at the Center for Economic Studies, Ifo Institute, and Research Associate at the National Bureau of Economic Research. Served on the editorial boards of several journals, notably the *Journal of Law, Economics and Organization*, *American Economic Review*, and *International Journal of Industrial Organization*, and accepted an editorial position at the *American Economic Journal: Microeconomics*, in July of 2019.

Dr Cristina Caffarra

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Directed and coordinated empirical and theoretical economic analyses on several cases before the European Commission, the competition authorities across Europe, South East Asia, the Middle East, Africa and Australia. Provided expert economic advice and testimony before the General Court in Luxembourg, the Competition Appeal Tribunal in the UK, the High Court in Dublin, the Competition Appeals Tribunal in South Africa, arbitrators and various other courts in several litigated competition matters.

Lectures in competition economics at UCL, published articles for competition journals as well as presented papers on the economics of competition law at international and academic conferences.

Dr Oliver Latham

Vice President in the CRA team in London. PhD in Economics from Cambridge University. Worked on multiple assignments in digital industries and platform markets, including for

Uber on the economics of ridesharing in multiple settings – including transactions, antitrust and regulatory issues. Published articles in refereed journals on the economics of media and digital markets.

The CRA team also includes:

Dr Sam Marden, who holds a PhD in Economics from the London School of Economics, and has taught economics at the University of Sussex and the London School of Economics;

Dr Pablo Olmos, who holds a PhD in Economics from Yale University, where he also served as a teaching fellow;

Dr Hugh Wills, who holds a PhD in Economics from the University of California at Berkeley, and has held teaching positions at the University of Sussex and the London School of Economics.

APPENDIX B: FURTHER BACKGROUND ON PRIOR REGULATORY CHANGES

116. The TLC's proposal to cap "cruising" to 31% of driving time during the most congested times, comes in addition to multiple previous rounds of FHV regulation in NYC over the past few years. These regulations have put a pause on new FHV registrations; put a tax on taxi and FHV trips in the congestion zone; and implemented driver income rules for FHV drivers. This section provides more background on these regulations.

B.1 Freeze on vehicle registrations[40]

117. In NYC, drivers of FHVs need to obtain a license to operate an FHV before they can accept rides. To obtain a license, drivers must have completed a defensive driving course, taken a medical exam and drug test, completed TLC courses, and obtained a commercial driver's license.

118. Licensed FHV drivers must drive licensed FHV vehicles. To obtain an FHV vehicle license, a prospective driver must obtain a commercial license and a letter from a ridesharing service, pay an application fee and the cost of the plates, and pass a TLC vehicle inspection. Licenses are assigned to drivers and are non-transferable.[41]

119. Following City of New York local law 147, on 14 August 2018 the TLC stopped accepting new FHV applications with the exception of wheelchair-accessible vehicles (WAVs). However, applicants that already: (i) had a taxi and limousine commission issued driver's license; (ii) could provide written proof that, prior to the effective date of this local law, they had entered into a lease for the use of a licensed FHV that contains a conditional purchase agreement for the vehicle; and (iii) demonstrated that the term of such lease is no less than 2 years, were still permitted to obtain licenses from the TLC. The TLC was permitted to continue renewing existing licenses.

120. While the policy was intended to limit the number of FHV licensed drivers, in the short term it did the opposite. The moratorium on new applications was pre-announced so, as one would expect, the volume of applications increased markedly: 15,769 applications were received in the weeks after the announcement. As a result, 5,177 additional vehicles were authorized post the implementation of the moratorium.

121. Similarly, because of the induced scarcity of licenses, existing holders had a greater incentive to renew their licenses. The TLC reports some evidence of increasing renewal rates (of licenses up for renewal between November and mid-February, 74% were renewed, already more than the 68% average renewal rate observed prior to the moratorium). This trend may continue over in future as there is a 60-day grace period after expiry, during which drivers can renew an expired license.

122. In line with the increase in applications and renewals prior to the moratorium period, the TLC observed an increase in the number of average daily FHV trips in the first month and

40 This discussion is based on "first quarter report on impact of local law 147 moratorium" published by the NYC TLC on 4 January 2019.

41 One exception arises when a leasing company transfers its ownership of a license to a driver upon him completing his repayments and purchasing a vehicle outright.

a half following its implementation. Moreover, the TLC itself states that it has not observed an impact on ridership.

B.2 Tax on taxis and FHVs in the congestion zone[42]

123. On 2nd February 2019 the New York State Department of Taxation and Finance (DTF) began collecting a Congestion Surcharge on vehicles entering the New York City Congestion Surcharge Zone (CSZ) – an area of Manhattan south of and excluding 96th Street. Its collection follows a failed challenge to the legality of the charge, which delayed the planned 1st January 2019 start.

124. The surcharge applies to all “transportation in vehicles that carry people for-hire” on all journeys that both begin and end in New York State, and pass through the CSZ. This applies to traditional taxis, vehicles registered with rideshare networks, pool vehicles, and other FHVs.

125. Notably, the fee structure delineates between medallion-holding taxicabs and other forms of FHVs: taxis driving into the congestion zone are charged $2.50 per ride, while ride-hailing services and other FHVs are billed $2.75. FHVs receive a discount for "pooled" rides, which reduces the fee to $0.75 per pooled trip. The law requires that the applicable surcharge amount be passed through to passengers and that it is separately stated on any receipt that is provided.

B.3 Minimum driver pay rules[43]

126. The minimum driver pay rules set pay per-trip as a function of both drivers’ expenses and compensation, as well as how often drivers are on a trip per working hour (“utilization”).

127. This policy establishes the means for determining the minimum amount that the largest FHV companies must pay a driver per trip. The minimum driver payment would be determined using one of the below formulas, which reflect the lower expenses of non-accessible vehicles (non-WAVs) compared to wheelchair-accessible vehicles (WAVs).

$$Non - WAV\ Per\ Trip\ Driver\ Pay = \\ = \left(\frac{\$0.631\ x\ Trip\ Miles}{Company\ Utilization\ Rate}\right) + \left(\frac{\$0.287\ x\ Trip\ Minutes}{Company\ Utilization\ Rate}\right) \\ + Shared\ Ride\ Bonus$$

$$WAV\ Per\ Trip\ Driver\ Pay = \\ = \left(\frac{\$0.818\ x\ Trip\ Miles}{Company\ Utilization\ Rate}\right) + \left(\frac{\$0.287\ x\ Trip\ Minutes}{Company\ Utilization\ Rate}\right) \\ + Shared\ Ride\ Bonus$$

128. According to the TLC, applying these formulas would result in estimated typical gross hourly earnings before expenses of at least $27.86 per hour and net income of at least $17.22 per hour after expenses. This figure is the equivalent of $15 per hour for a regular employee.

42 For more information on the Congestion Surcharge see the New York State Department of Taxation and Finance Technical Memorandum TSB-M-18(1)CS: https://www.tax.ny.gov/pdf/memos/cs/m18-1cs.pdf

43 Parrott J. & Reich, M. (2018) Report for the New York City Taxi and Limousine Commission: http://www.centernyc.org/an-earnings-standard

The additional $2.22 accounts for the 7.65 percent ($1.32 per hour) drivers must pay in payroll taxes (covered by employers for their employees) plus 6 percent ($0.90 per hour) for paid time off (representing the value of compensated time off as a share of a transportation industry worker's overall compensation according to the U.S. Bureau of Labor Statistics).

129. According to a report accompanying the rules,[44] these minimum pay rules are expected to lead to an effective raise for over 77,000 drivers working for the largest FHV companies. It claims that the policy would result in an average 44.7 percent increase in take-home pay or about $9,600 annually per driver.

130. In addition to increasing driver pay, the Report claims that the TLC policy outlined above would correct for "inefficiencies and inequities", would improve driver utilization, encourage shared rides, and would "reduce growth in the number of new app-based drivers".

44 Parrott J. & Reich, M. (2018) Report for the New York City Taxi and Limousine Commission: http://www.centernyc.org/an-earnings-standard

APPENDIX C: A MODEL OF DRIVEN TIME AND UTILIZATION

131. This Appendix sets out a simple model of average utilization to illustrate a critical shortcoming of the TLC's analysis.[45]

132. As discussed in the main text, total drive time can be divided into three components:

- Time spent waiting to be assigned a customer;
- Time spent driving to pick up the customer; and
- Time spent driving the customer to their destination.

133. The TLC defines utilization to be the time spent driving the customer to their destination divided by the total drive time. The remaining time (both time waiting to be assigned a customer and time driving to pick up a customer) is defined as "cruising". The latest proposed regulation mandates a maximum level of cruising or, equivalently, a minimum level of utilization. This section investigates the feasibility of such a regulation.

134. The current situation is shown in Table 1. This implies that on average, at any given time, 24.5% of FHVs are waiting to be assigned a trip, 16.5% are driving to pick up the customer and 59% are driving the customer to their destination. Utilization in the current situation is 59%.

Table 1: Time distribution per trip

	Minutes	**Percent**
Time spent waiting to be assigned to a customer	8.3	24.5%
Time spent driving to pick-up a customer	5.6	16.5%
Time spent driving a customer to their destination	20.0	59.0%
Total	33.9	

Source: TLC report, page 9.

135. Naturally, the time required to pick up a customer would be related to the number of unassigned vehicles. The more unassigned vehicles in a particular area (such as New York City) then the shorter the expected distance to a customer and the shorter the time required for the assigned driver to reach them. Specifically, we would expect that the average distance to a customer would be inversely related to the square root of the density of unassigned vehicles, and that the pick-up time is positively related to the average distance. That is, (pickup time) = $b\,\times$(average distance), and that (average distance) = $a/\sqrt{(\#\text{unassigned vehicles})}$. This suggests the following simple relationship between pick-up time and the number of unassigned vehicles:

$$\begin{aligned}\log(\text{pickup time}) &= \log\left(a \times b/\sqrt{(\#\text{unassigned vehicles})}\right)\\ &= \alpha - 0.5\log(\#\text{unassigned vehicles}),\end{aligned}$$

45 Because this is a model of average utilization, it speaks to the trade-off between utilization and other conditions in the FHV market over a sustained period of time, and not on an hour-by-hour basis.

where $\alpha = \log(a \times b)$.

136. It is possible to calculate α based on the current average number of unassigned vehicles[46] and the average pick-up time of 5.6 minutes.

137. Once we have an estimate of the relation between pick-up time and the number of unassigned vehicles, we can assess the effect of varying the number of unassigned vehicles on pick-up time, the number of vehicles on pick-up and hence the effect on overall utilization. Results are given in Table 2.[47] Figure 11 gives utilization as a function of unassigned vehicles.

Table 2: The effect of varying the number of unassigned vehicles

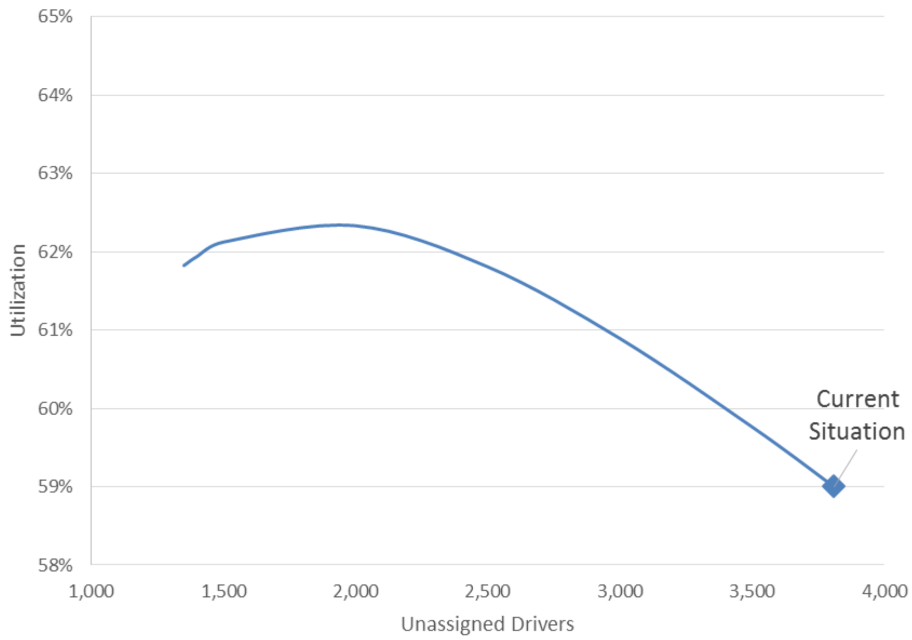
	Current Situation	**Results under alternative assumptions**			
Number of trips per hour	27554	27554	27554	27554	27554
FHV carrying passengers	9185	9185	9185	9185	9185
FHV unassigned	**3812**	**3000**	**2000**	**1400**	**1350**
Time to pick up (in minutes)	5.60	6.31	7.73	9.24	9.41
FHV on pick-up	2572	2899	3550	4243	4321
Total	15568	15083	14735	14828	14856
Utilization	59.0%	60.9%	62.3%	61.9%	61.8%

Source: CRA

46 On average there are 15,568 vehicles operating in New York City of which 3,812 are unassigned (numbers for October 2018 based on 20.50 million trips per month, TLC final report, Figure 1, page 6).

47 We assume the average number of trips per hour of 27,544 (based on 20.50 million trips per month) and an average customer in car time of 20 minutes. We then examine the effect of reducing the number of unassigned vehicles on pick-up time and utilization.

Figure 11: Utilization as a function of unassigned vehicles



Source: CRA calculation

138. We find that as the number of unassigned vehicles falls, pick-up time increases which in turn requires more vehicles to do the pick-ups. As a result utilization initially increases, but after a certain point falls. Maximum utilization occurs at about 62.4% with about 2,000 unassigned FHVs. Operating at this level increases passenger wait time by about 38% from 5.6 minutes to about 7.7 minutes and reduces the average number of FH vehicles operating by about 5%.[48]

139. Overall, this model illustrates that there is a ceiling on the maximum achievable level of cruising and hence that the TLC's assumption that any level of cruising can be achieved is inappropriate. It also suggests that the wait time increases predicted by the TLC are materially understated.

Extension of the model to account for the effect of reducing the number of vehicles on traffic speed

140. The model developed above assumes that traffic speed is constant, and thus ignores the effect of the reduced number of FHVs on traffic speed. We show next that a more complex version of the model that takes this effect into account yields qualitatively the same results.

141. Specifically, we make the following adjustment to the model: now the speed of traffic depends on the number of vehicles circulating on the streets. Assume that – all things equal – the fewer FHVs, the higher the speed of traffic. Let ε be the elasticity of average speed with respect to the total number of FHVs on the streets. Then, if the total number of FHVs decreases by 1%, average speed increases by $|\varepsilon|$%.

48 It is unlikely that outcomes with less than 2,000 unassigned cars will be observed as they generate lower utilization compared to solutions with more unassigned cars and worse outcomes for customers.

142. The speed of traffic influences both on trip and pick-up time. In particular, we will assume that these two variables are inversely related to the average speed of traffic. This means, for instance, that if the speed of traffic doubles, both time on trip and time to pick-up, for a given distance, will halve. Formally, we now assume that (drive time) = $b\times$(average distance) / (speed of traffic).

143. Keeping the number of trips constant, a higher speed of traffic will reduce the number of drivers required both to complete (the constant number of) trips, and to pick up passengers. For the purpose of the analysis, we assume an elasticity of speed of traffic with respect to the number of FHVs of -0.445, which implies that a 1% increase in FHVs reduces traffic speed by 0.4%. Because this elasticity is very likely higher than the true elasticity, this analysis overstates the potential benefits of reducing the number of FHVs waiting for dispatch and is hence conservative.[49]

144. Even under this conservative assumption, we still find that there is a ceiling on the maximum utilization that can be obtained by reducing the number of unassigned drivers. However, not surprisingly given the benefits in terms of increased traffic speed, the maximum attainable level of utilization is higher, at around 64.5%, but still less than that proposed by the TLC. This 5.4 percentage point (9%) increase in utilization leads to an increase in wait times of 1.8 minutes (33%). Figure 12 plots utilization as a function of unassigned vehicles under the assumption that traffic speed is endogenous.

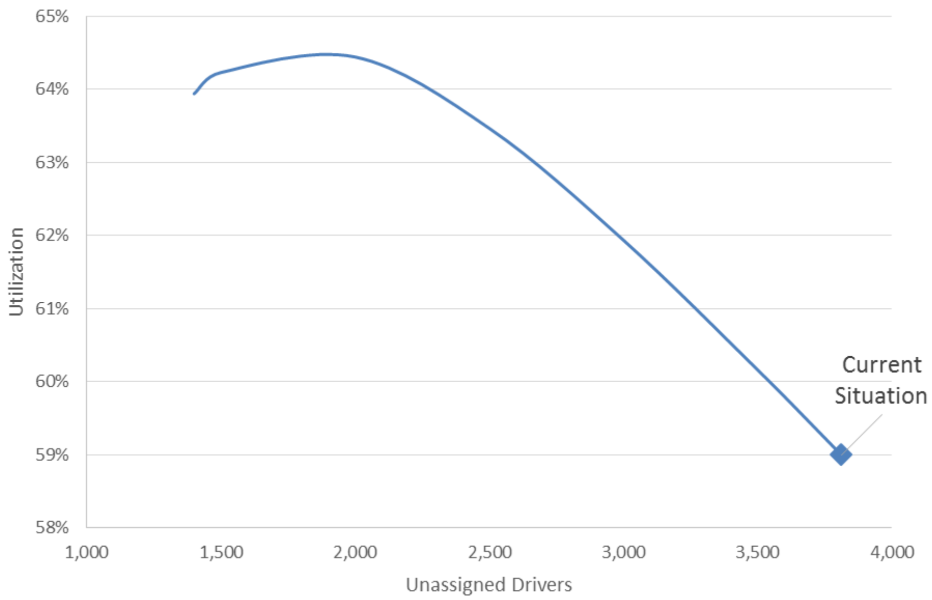
49 An estimate of -0.445 significantly overstates the impact of the number of FHVs, and is therefore conservative. We obtain this estimate for the elasticity for 2014 and 2015 using data from the NYC Mobility Report (http://www.nyc.gov/html/dot/downloads/pdf/mobility-report-2018-screen-optimized.pdf) assuming that *all* the decrease in traffic speed is due to the increase in FHVs. The report itself recognizes that some of the reduction in traffic speed is due to increases in non-FHV traffic.

Table 3: The effect of varying the number of unassigned vehicles with endogenous speed of traffic

	Current Situation	Results under alternative assumptions			
Number of trips per hour	27554	27554	27554	27554	27554
FHV carrying passengers	9185	8991	8836	8867	8879
FHV unassigned	**3812**	**3000**	**2000**	**1400**	**1350**
Time to pick-up (in minutes)	5.60	6.18	7.44	8.92	9.10
FHV on pick-up	2572	2838	3416	4097	4177
Total	15568	14829	14252	14364	14406
Utilization	59.0%	61.9%	64.4%	63.9%	63.8%
Speed (relative to current situation)	1.00	1.02	1.04	1.04	1.03
Time to destination (in minutes)	20.00	19.58	19.24	19.31	19.33

Source: CRA

Figure 12: Utilization as a function of unassigned vehicles with endogenous speed of traffic



Source: CRA calculation

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: GIBBS SERAPHIN

Address: ______

I represent: HAITIAN AMERICAN CAUCUS

Address: 195 FLATBUSH AVENUE BK, NY 11225

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition

Date: September 10, 2019

(PLEASE PRINT)

Name: Anne Bernice B Rosemond

Address: 148 S Munn ave., Apt 201, East Orange, NJ, 07018

I represent: ______

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: Jason Winocour

Address: 68 Bradhurst Ave, Apt 1H, 10039

I represent: IDG

Address: ______

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

of the TLC drivers

Date: ________

(PLEASE PRINT)

Name: Raul Rivera

Address: The Bronx

I represent: #reformTLC

Address: #doitnow

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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☐ in favor ☐ in opposition

Date: 9/10/19

(PLEASE PRINT)

Name: Bhairavi Desai

Address: 31-10 37th Ave. Ste. 300 LIC, NY 11101

I represent: New York Taxi Workers Alliance

Address: ________

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: 09-10-19

(PLEASE PRINT)

Name: ROSSIN F Celestin

Address: 750 OCEAN Ave APT 1F

I represent: TAXI 6B86

Address: 3 Ame

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: Richard Lipsky
Address: 140 Riverside Drive
I represent: Taxi medallion owners
Address: ______

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition

Date: 9/10/19

(PLEASE PRINT)

Name: OSAMA TAWI (with JIMS MEDY)
Address: ______
I represent: self
Address: ______

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition

Date: 9/10/19

(PLEASE PRINT)

Name: JIMS AMEDY (WITH OSAMA TAWEDY)
Address: ______
I represent: self
Address: ______

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THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. N/A Res. No. ______
☐ in favor ☐ in opposition

Date: 9/10/19

(PLEASE PRINT)

Name: Brendan Sexton

Address: 456 Johnson Ave Brooklyn 11237

I represent: Independent Drivers Guild

Address: ______

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. N/A Res. No. ______
☐ in favor ☐ in opposition

Date: 9/10/19

(PLEASE PRINT)

Name: Paul Klinas

Address: 456 Johnson Ave, Brooklyn NY 11237

I represent: Independent Drivers Guild

Address: ______

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. N/A Res. No. ______
☐ in favor ☐ in opposition

Date: 9/10/19

(PLEASE PRINT)

Name: AZIZ BAH

Address: 456 Johnson Ave Brooklyn 11237

I represent: Independent Drivers Guild

Address: ______

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THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. N/A Res. No. ______

☐ in favor ☐ in opposition

Date: 9/10/19

(PLEASE PRINT)

Name: Tina Raymeau

Address: 456 Johnson Ave, Brooklyn NY 11237

I represent: Independent Drivers Guild

Address: ______

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. N/A Res. No. ______

☐ in favor ☐ in opposition

Date: 9/10/2019

(PLEASE PRINT)

Name: Haiting Chen Klinas

Address: 456 Johnson Ave Brooklyn 11237

I represent: IDG (Independent Drivers Guild)

Address: ______

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. N/A Res. No. ______

☐ in favor ☐ in opposition

Date: 9/10/2019

(PLEASE PRINT)

Name: Pedro Acosta

Address: 456 Johnson Ave Brooklyn NY 11237

I represent: Independent Drivers Guild

Address: ______

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THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. N/A Res. No. ______
☐ in favor ☐ in opposition

Date: 9/10/2019

(PLEASE PRINT)

Name: Steven Valenzuela
Address: 456 Johnson Ave Brooklyn NY 11237
I represent: Independent Drivers Guild
Address: ______

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: Nijman John
Address: 118-212 199th Street
I represent: IDG
Address: ______

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. N/A Res. No. ______
☐ in favor ☐ in opposition

Date: 9/10/2019

(PLEASE PRINT)

Name: Michelle Dotton
Address: 456 Johnson Ave Brooklyn NY 11237
I represent: Independent Drivers Guild
Address: ______

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________
☐ in favor ☐ in opposition

Date: 9/10/2019

(PLEASE PRINT)

Name: PETER M. MAZER

Address: 39-24 24th ST, LIC, NY

I represent: METROPOLITAN TAXICAB BOARD OF TRADE

Address: Same

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________
☐ in favor ☐ in opposition

Date: 9/10/19

(PLEASE PRINT)

Name: Cira Angeles

Address:

I represent: Representative Livery Base Owners

Address: 1642 St Nicholas Ave NYNY 10040

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________
☐ in favor ☐ in opposition

Date: ________

(PLEASE PRINT)

Name: SCOTT KUTTER

Address:

I represent: LIMO ASSOC. OF N.Y.

Address:

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: 9-10-19.

(PLEASE PRINT)

Name: DOROTHY Leconte

Address: 3618 Farragut RD.

I represent: taxi medallion

Address: ________

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: ________

(PLEASE PRINT)

Name: PAUL Nagle

Address: 527 W 22nd ST

I represent: Stonewall CDC

Address: 226 1st Ave 8C 10009

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: 9/10/2019

(PLEASE PRINT)

Name: Allison Nickerson

Address: 49 W. 45th St. 7th Fl NYC

I represent: LiveOnNY

Address: 49 W. 45th St. 7th Fl NYC

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________
☐ in favor ☐ in opposition

Date: 9/10/19

(PLEASE PRINT)

Name: Zubin Soleimany

Address: 31-10 37th Ave. Ste 300 LIC, NY 11101

I represent: New York Taxi Workers Alliance

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________
☐ in favor ☐ in opposition

Date: ________

(PLEASE PRINT)

Name: SCOTT RUTTER

Address:

I represent: LIMO ASSOCIATION OF NY (LANY)

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________
☐ in favor ☐ in opposition

Date: 10/9/2019

(PLEASE PRINT)

Name: OSMAN CHOWDHURY

Address: 43-42-45 ST APT# 4G SUNNYSIDE NY 11104

I represent: UNITED TAXI DRIVERS ASSOC

Address:

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: ________

(PLEASE PRINT)

Name: Charles Meta

Address: 975 Montgomery St

I represent: ~~[illegible]~~ Lyft Drivers

Address: ________

*

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: ________

(PLEASE PRINT)

Name: Raymond Wayne

Address: ________

I represent: National Federation of the Blind

Address: ________

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: ________

(PLEASE PRINT)

Name: Bryan Lozano

Address: ________

I represent: Tech:NYC

Address: ________

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: 9/10/19

(PLEASE PRINT)

Name: Ya-Ting Liu

Address: 160 Varick st. NY, NY

I represent: Via

Address: 160 Varick st. NY, NY

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: 9-10-19

(PLEASE PRINT)

Name: WilliAM HeINZEN

Address: Acting TLC COMMISSIONER

I represent: ________

Address: ________

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: 9-10-19

(PLEASE PRINT)

Name: Rodney Stiles

Address: HeAD OF TLC'S Policy & ExterNAL Affairs Division

I represent: ________

Address: ________

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. For-hire vehicle regulations Res. No. ______
☐ in favor ☒ in opposition
Date: 9/10/19

(PLEASE PRINT)

Name: Joseph Colella
Address: 8727th Avenue, Brooklyn, NY 11214
I represent: The New York Building Congress
Address: 1040, Avenue of the Americas

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☑ in opposition
Date: ______

(PLEASE PRINT)

Name: STEPHEN POLLACK
Address: 7119 18TH AVE
I represent: IDG
Address: ______

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition
Date: ______

(PLEASE PRINT)

Name: Steven, Valenzuela
Address: Kings
I represent: IDG (Reform TLC)
Address: ______

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: ________

(PLEASE PRINT)

Name: SAIBOU SIDIBE

Address: 537 TINTON AVE #22 BRONX NY

I represent: NYTWA

Address: 37-10 37 Ave LIC NY.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: ________

(PLEASE PRINT)

Name: SAM PIERRE

Address: 8706 FARRAGUT RD Brooklyn NY 11236

I represent: Haitian American Caucus

Address: ________

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: ________

(PLEASE PRINT)

Name: SAM PIERRE

Address: ________

I represent: Haitian American Caucus

Address: 445 FLATBUSH Ave BK, NY 11225

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________
☐ in favor ☐ in opposition

Date: ____________

(PLEASE PRINT)

Name: NADIA ARISTIDE
Address: ____________
I represent: HAITIAN AMERICAN CAUCUS
Address: 485 FLATBUSH AVE BK, NY 11225

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________
☐ in favor ☑ in opposition

Date: ____________

(PLEASE PRINT)

Name: MUNEEB REHMAN.
Address: 23 MORGAN LANE
I represent: NYC DRIVERS UNITE.
Address: ____________

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________
☐ in favor ☐ in opposition

Date: ____________

(PLEASE PRINT)

Name: Sulma Arzu-Brown
Address: 159 E 116th St. New York, NY
I represent: NYC Hispanic Chamber
Address: ____________

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: Richard Chow
Address: 252 Merrymound ST Staten Island NY 10314
I represent: ______
Address: ______

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: Mohammad Tipu Sultan
Address: NYTWA.ORG
I represent: ______
Address: ______

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: Wair Chin
Address: 8670, 26th Ave 1st FL Brookly 11214
I represent: NYTWA
Address: ______

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☒ in opposition

Date: ________

(PLEASE PRINT)

Name: Matar Seye

Address: 861 E 163rd St.

I represent: IDG

Address: ________

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: ________

(PLEASE PRINT)

Name: Arva Rice

Address: ________

I represent: New York Urban League

Address: 204 W 136th New York, NY 10030

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: 9/10/19

(PLEASE PRINT)

Name: Charles Mitchell

Address: 628 Elderts Lane, Apt 4F Bklyn, NY 11208

I represent: myself (: IDG)

Address: ________

Please complete this card and return to the Sergeant-at-Arms