Testimony of NYC Council Member Brad Lander
Deputy Leader for Policy
Chair, Committee on Rules, Privileges and Elections

To the New York City Taxi and Limousine Commission
Regarding Proposed FHV Pay Regulations
October 3, 2018

Good morning, Chair Joshi and TLC Commissioners. I am Council Member Brad Lander, prime sponsor of Intro 890-B, Local Law 150 of 2018, legislation which directs the Taxi and Limousine Commission to promulgate these rules to protect driver earnings. I am here this morning to speak in support of the proposed rules, and to make a few suggestions that I believe will strengthen this groundbreaking regulation.

First, I want to thank Commissioner Meera Joshi and the NYC Taxi and Limousine Commission staff for their dedication to improving the lives of taxi and for-hire drivers in New York City. I also want to thank so many drivers for their tireless organizing and for ringing the alarm bell on driver pay. As independent contractors, for-hire drivers are denied many of the rights, protections and benefits of traditional employees, making it difficult to piece together a decent standard of living.

James A. Parrott and Michael Reich’s July 2018 report showed that 85% of app-based drivers earn less than a living wage, (determined to be $17.22 an hour, which is the independent contractor equivalent of $15 per hour plus an allowance for paid time off). Most FHV drivers work full-time hours but suffer from low pay and high company mark-ups that generate huge returns for investors but leave drivers in poverty. Setting $17.22 as the floor will increase driver earnings by about 14 percent, equivalent to about $6,345 a year for those currently under the proposed threshold.

In addition to ensuring drivers can earn a decent living and fair compensation for the hours they work, a secondary goal of Intro 890-B is to provide drivers with more predictable compensation. Most drivers in the sector, like those who drive for Uber and Lyft, are paid on a per-trip basis that is determined by complex and opaque algorithms. Supply and demand, time of day, upfront fare estimates, per-mile cost, per-minute cost, 

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shared rides, promotions, incentives and surcharges all factor into driver compensation per trip, with no guaranteed floor for earnings.

I support the TLC’s minimum per-trip payment formula, which will help take some of the guesswork out of drivers’ lives and ensure drivers receive a fair and dependable share of each and every trip they complete. Driver pay at peak demand periods should not be used an offset to allow companies to pay subminimum pay when demand is low. The minimum pay requirement should be a floor for all trips, on top of which incentives can be added; it should not be an average that allows subminimum pay at some times to offset incentives at others.

I also support the reporting requirements that will require base owners to provide the TLC with detailed trip data, including gross and net driver earnings, to insure the TLC has reliable and accurate data to inform its future policymaking around this issue.

However, some app-based companies, particularly Via, compensate drivers on an hourly basis, which I believe meets the standard of fair and dependable compensation and fulfills the spirit of Intro 890-B, so long as drivers are making at least the equivalent of a living wage. The Parrott and Reich report showed that during the study period, Via paid a net hourly median of $20.99 and a mean of $21.73, well above other industry players and the $17.22 goal. Via combines its hourly payment approach with an emphasis on shared rides, resulting in model which is good for both driver pay predictability and for reducing solo rides (thus hopefully contributing to a reduction in congestion).

I therefore suggest creating a second path for compliance that would allow for companies to pay drivers on an hourly basis, so long as they demonstrate that drivers are paid at least $17.22 per hour at all times, after expenses. For this compliance path, it would appropriate to review their pay records on a weekly or monthly basis, rather than per-trip. However, it should still be the rule that every hour must be compensated above the minimum.

For companies that opt for an hourly pay compliance path, I would support waiving the shared-ride bonus for drivers. In this narrow slice of the sector where workers are paid an hourly payment equivalent or above a living wage, this waiver of the shared-ride bonus would help keep the cost of shared rides low, while ensuring drivers earn dependable and fair payments for each hour they spend on the road.

Back in the arena of per-trip compliance, I support the Driver Utilization model proposed by the TLC, which will provide an incentive for the high-volume app companies to achieve less time for on the road without passengers, and will ultimately will help curb congestion. Doing this right is a challenge. We want to give incentives to each company to improve their utilization rate. However, at the moment, company-based utilization rates raise very real concerns about monopolization in the sector.
As Parrott and Reich’s report notes, Uber alone would be the largest for-profit private employer in NYC if Uber drivers were classified as employees rather than independent contractors. Uber accounted for 92% of drivers and 72% of trips in the high-volume sector as of June 2018. At the current moment, given Uber’s near monopoly status in this sector, a company-specific utilization rate may increase Uber’s share of this market even further in the short-term, creating a monopoly that will drive out competitive compensation and fare for drivers and riders, alike.

Uber’s use of cash bonuses and driver incentives may inflate their utilization rates in the short-term and crowd-out competitors in the sector that cannot compete or sustain their business while providing comparable incentives. While this would have a short-term positive impact on Uber drivers’ take-home pay, it would likely drive long-term inequities in the market. I would therefore support the the TLC’s initial use of an industry-wide utilization rate, with the understanding we will learn much more about competition and utilization in the industry as a result of TLC’s forthcoming study and data collection, as required by the proposed rules.

The initial combination of an industry-wide utilization rate with an additional (optional) compliance path for companies to pay their drivers hourly (especially given the current reality that this is most likely in the sector of the market where the utilization rates tend to be highest) would support the diversity and competition that is critical to creating a healthy market in the for-hire vehicle sector, while achieving the goal of more stable, predictable, and adequate driver pay.

While Intro 890-B did not address this issue, I also want to express full support for the TLC’s proposal to reduce the daily credit card surcharge limit that can be charged by taxi cab owners from $11 to $7, which will save a full-time taxi driver more than $1,000 per year. I also look forward to working with the TLC as you move forward in your studies pursuant to the other bills in our recent legislative package, including my bill to consider the relationship between FHV and taxi fares, so that we can better achieve the goals of more stable, predictable, and adequate driver pay for taxi drivers as well.

As the regulating agency for private transportation in NYC, the TLC has demonstrated a commitment to ensuring a more equitable, fair market for drivers and consumers alike. I appreciate the work the TLC has done to create a more fair playing field in the sector and ensure drivers earn a decent living. I look forward to working closely with the agency as it continues to collect data and study the issue to improve drivers’ lives. Thank you for the opportunity to testify on this proposed rule.

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2 High-volume for-hire services are companies dispatching more than 10,000 trips per day (Uber, Lyft, Juno, Via).
Nora, Tom and Ken --

Thank you very much for meeting with us yesterday. On the question whether the rule should apply to a driver's weekly earnings or to each trip, I think Ian and Jessica made the strongest point: by requiring a flat rate (or closer to a flat rate) for app-service cars, you would be recreating the taxi situation in which cars congregate in the central business district, worsening congestion.

But I also want to return to the key question asked by Tom -- would Lyft pay drivers less under the weekly method than under the per-trip method? The answer is: the weekly method means Lyft would pay drivers less on average for each trip, but more overall because there will be more trips.

In other words: the weekly method is better for Lyft economically, but NOT because it splits the pie more in favor of Lyft than the per-trip method – it is better because it yields a bigger pie, with more revenue both for Lyft and for drivers. (Ken, you weren't there for this discussion but I'm including you as well.)

I need to see a numerical example to understand this stuff -- I've attached an example that works through it step by step. Please take a look -- it is hard to walk through something like this in a large meeting, and I'm hoping to clarify by putting it on paper.

Thanks,
David
Nora and Tom –

Thanks again for taking the time to meet with us yesterday.

On the weekly-vs-per-trip issue, Tom asked a key question: Would Lyft pay drivers less under the weekly method than under the per-trip method. The answer is: the weekly method means Lyft would pay drivers less on average for each trip, but more overall because there will be more trips.

In other words: the weekly method is better for Lyft economically, but NOT because it splits the pie more in favor of Lyft than the per-trip method – it is better because it yields a bigger pie, with more revenue both for Lyft and for drivers.

I understand this stuff best by walking through examples – we tried to do that yesterday, but it is hard in a large meeting. So let me put it on paper:

- Let’s say that an app (“App”) sends a driver 150 trips a week. (I’m using round numbers to make the arithmetic easier, but they are realistic.) To keep it simple, all of the trips are the same distance and time.
- Of those 150 trips, 60 are in high-demand areas (eg., midtown), 50 are in medium-demand areas (eg, Jackson Heights) and 40 are in low-demand areas (eg, Flatbush)
- Here’s the first key point: Today, those trips are priced differently. The algorithms used by the companies figure out (as best they can) the passenger fare level that will result in the greatest total revenue – i.e., the fare at which the combination of fare and number of trips yields the most revenue. To keep it simple, let’s say the fare in the high-demand areas is $25, in medium-demand areas it is $20, and in low-demand it is $15.
- Yesterday, we said that drivers generally get 75% of a fare. Let’s keep that assumption.
- So here’s the current situation:

<table>
<thead>
<tr>
<th>Current SITUATION</th>
<th>High-demand areas</th>
<th>Medium-demand areas</th>
<th>Low-demand areas</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current number of trips</td>
<td>60</td>
<td>50</td>
<td>40</td>
<td>150</td>
</tr>
<tr>
<td>Current passenger fare/trip</td>
<td>$25</td>
<td>$20</td>
<td>$15</td>
<td>n/a</td>
</tr>
<tr>
<td>Current driver revenue/trip</td>
<td>$18.75</td>
<td>$15.00</td>
<td>$11.25</td>
<td>n/a</td>
</tr>
<tr>
<td>Total driver revenue from this type of trip</td>
<td>$1,125</td>
<td>$750</td>
<td>$450</td>
<td>$2,325</td>
</tr>
</tbody>
</table>

Overall average driver revenue per trip: $15.50
Ok, now let’s assume that under the formula in the proposed rule, the “required minimum payment” for each of these trips is $17 (that’s the “final” RMP, using time, distance and utilization rate). (Since we kept it simple by saying that all the trips are the same time and distance, all the trips have the same RMP under the formula.)

Under this rule, App will have to pay drivers more than it currently does for medium-demand ($17 vs. the current $15) and low-demand ($17 vs. the current $11.25) trips.

App will NOT change the passenger fare for the medium-demand trips – because the algorithm has determined that $20 is the fare (price) that brings in the greatest amount of revenue in these areas, and those trips are still profitable even at a $17 driver payment (albeit less profitable than they are today).

However, App WILL change the fare for low-demand trips, because it would lose money on those trips if they collect only $15 (the current fare) and pay drivers $17.

Let’s say App raises the fare just to $17 (or I guess $17.01, so there’s some reason to keep doing those trips). A price increase of that magnitude would reduce demand by about 25% -- so now there would only be 40 trips per week in low-demand areas. Here’s what that would look like:

<table>
<thead>
<tr>
<th></th>
<th>High-demand areas</th>
<th>Medium-demand areas</th>
<th>Low-demand areas</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of trips</td>
<td>60</td>
<td>50</td>
<td>30</td>
<td>140</td>
</tr>
<tr>
<td>Passenger fare</td>
<td>$25</td>
<td>$20</td>
<td>$17</td>
<td>n/a</td>
</tr>
<tr>
<td>Driver revenue</td>
<td>$18.75</td>
<td>$17.00</td>
<td>$17.00</td>
<td>n/a</td>
</tr>
<tr>
<td>Total driver</td>
<td>$1,125</td>
<td>$850</td>
<td>$510</td>
<td>$2,485</td>
</tr>
<tr>
<td>revenue from this</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>type of trip (TLC)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Overall average driver revenue per trip: $17.75

The rule does increase both the driver’s average earnings per-trip and the driver’s total earnings for the week (the more important number), compared to the present situation. That’s good. But it does so at the cost of losing 10 trips in low-demand areas. These are 10 passengers who are currently getting service they value who will lose that service.

Now look at what happens if you make the change that we have requested, and the rule applies to a driver’s weekly earnings rather than to each trip.

That will allow App to continue pricing trips in low-demand areas at $15, so as to generate the optimal number of trips in those areas.
Now, if App continued to pay drivers the current rate for those trips ($11.25), the drivers would not be paid enough under the rule. So App will have to increase the driver’s total weekly payment to meet the requirements of the rule – the “top-up.” I show this step-by-step in the table below. The upshot is that the driver earns MORE in total for the week than under the TLC’s proposed rule – AND you are not eliminating any passenger trips – because we are allowing the algorithm to work its magic and produce the maximum amount of passenger revenue.

**PROPOSED RULE APPLIED TO DRIVER’S WEEKLY EARNINGS**

<table>
<thead>
<tr>
<th></th>
<th>High-demand areas</th>
<th>Medium-demand areas</th>
<th>Low-demand areas</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of trips</td>
<td>60</td>
<td>50</td>
<td>40</td>
<td>150</td>
</tr>
<tr>
<td>Passenger fare/trip</td>
<td>$25</td>
<td>$20</td>
<td>$15</td>
<td>n/a</td>
</tr>
<tr>
<td>Driver revenue/trip (before top-up)</td>
<td>$18.75</td>
<td>$17.00</td>
<td>$11.25</td>
<td>n/a</td>
</tr>
<tr>
<td>Total driver revenue from this type of trip (before top-up)</td>
<td>$1,125</td>
<td>$850</td>
<td>$450</td>
<td>$2,425</td>
</tr>
</tbody>
</table>

Total weekly payment required by rule ($17 x 150): $2,550

Top-up amount: $125

Total driver weekly revenue: $2,550

**Increased driver revenue compared to TLC rule:** $65

Overall average driver revenue per trip: $17.00

So to return to Tom’s original question: In this example--
- Under the weekly version, the driver earns $17 per trip as opposed to $17.75 in the per-trip version.
- BUT looking at total earnings, the driver earns an ADDITIONAL $65/week IN TOTAL under the weekly version -- $2,550 per week in the weekly version as opposed to $2,485 per week in the per-trip version.

Obviously these numbers are illustrative (and the total driver earnings are too high throughout the example) – but the principle is the same if we were to substitute “actual” numbers.

I hope this is useful!

David
Lyft
31-00 47th Avenue, 4123A
Long Island City, New York 11101

November 19, 2018

Commissioner Nora C. Marino
Commissioner Thomas Sorrentino
Commissioner Kenneth C. Mitchell
Commissioner Bill Aguado
Via email

Re: Taxi and Limousine Commission’s proposed Driver Income Rules

Dear Commissioners,

Thank you for taking the time to meet with us and hear our concerns about the proposed driver income rules. To briefly recap, we are totally committed to ensuring that drivers earn the living wage that the TLC has proposed. We are simply requesting two minor amendments to the proposed rules, which will more effectively secure $17.22 per hour for drivers, while avoiding unintended consequences that would potentially destroy industry health and competition. First, we believe there should be one, industry-wide utilization rate for all companies. Second, we believe that the industry should be able to offer a weekly or per-trip earning option to drivers.

There should be one, industry-wide utilization rate for all companies.

- **Company-specific utilization rates hurt competition.** The TLC’s proposal allows companies with higher utilization to spend less on driver pay. Companies with lower utilization rates will need to charge more than their competitors for the same rides, or eat the additional cost. This creates a winner-take-all market where the company with the highest utilization today will have the lowest costs, allowing them to under-price every competitor.

- **Company-specific utilization rates are inaccurate.** The study on which the TLC has based its proposed rules admits that it does not account for the 45% of drivers who drive for multiple companies and use multiple apps. This means that a driver may be online with one company, while giving a ride for another. The TLC’s proposal has no way to account for these drivers, whom we believe provide the majority of all trips in New York. This means that the TLC cannot accurately calculate any company’s specific utilization rate.

The industry should be able to offer a weekly earnings pay standard to drivers.
A weekly pay standard ensures that drivers will earn at least the minimum earnings set by the TLC, whether it comes from ride fares, or in the form of incentives and bonuses received for driving at the times and places of greatest need.

A weekly pay standard better incentivizes borough trips. By focusing on drivers’ weekly income, companies can spend more on incentives and bonuses to encourage driving in the boroughs and at times of high demand. On the other hand, a per-ride minimum pays relatively more for time than distance compared to today’s rates, which would make driving in traffic in Manhattan more attractive and profitable than trips servicing boroughs or the airports.

A weekly pay standard ensures that companies can keep rides affordable. A per-trip minimum would require companies to either raise prices on rides, especially in the boroughs and low income communities, or continuously spend on subsidizing the cost of those rides to keep them affordable. If companies raise prices, we strongly believe that passengers will stop taking those rides, and drivers' income could decrease as a result.

I have attached a document showing these proposed amendments. We thank you again for your time and consideration, and invite you to reach out to us with any questions.

Sincerely,

Sami Naim
Senior Public Policy Manager

Cc: Meera Joshi, Chairwoman
Below are Lyft’s suggested changes to the TLC’s Minimum Driver Payment rules. **New material** is underlined, [deleted material] is in brackets.

59B-24 Minimum Driver Payment Requirements
(a) A Base that, on average, dispatches ten thousand or more trips per day, or a Base that is part of a group of Bases operating under the same public-facing trade, business or operating name that collectively dispatches more than ten thousand trips per day, must pay Drivers, at a minimum, the following amounts either for each trip dispatched by the Base, or on average across trips dispatched by the Base during the preceding week:

(1) Per Mile Rate. Beginning January 1, 2019, for each mile a Driver transports a Passenger on a trip dispatched by the Base, the Base must pay the Driver no less than $0.580 per mile for a trip dispatched to a non-Accessible Vehicle and $0.803 for a trip dispatched to an Accessible Vehicle, divided by the [Base’s] Common Utilization Rate;

(2) Per Minute Rate. Beginning January 1, 2019, for each minute a Driver transports a Passenger on a trip dispatched by the Base, the Base must pay the Driver no less than $0.287 per minute, divided by the [Base’s] Common Utilization Rate, and

(b) Common Utilization Rate: The Commission will assess, and post on its website, the Common Utilization Rate for [each] all Bases subject to this section every six months. [A group of Bases operating under the same public-facing trade, business, or operating name] The Common Utilization Rate will be [assessed one Utilization Rate, applicable to each individual Base in the group,] calculated using the collective deduplicated Driver availability and passenger trip times for all Bases [in the group].
BEFORE THE NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Driver Earnings and Vehicle Lease Transparency Rules

Public Hearing: October 3, 2018

COMMENTS OF
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

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”): 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 standard.

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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 base’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.”

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

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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. 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

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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.

II. 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, and suggests that “companies could [increase utilization] by limiting the number of new drivers they recruit.” However, increasing rider wait times and

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6 See id. at 13.
7 Id. at 11.
limiting new WAV driver-partners are in stark contrast to 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.” 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

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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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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
September 27, 2018

Meera Joshi  
Commissioner  
New York City Taxi & Limousine Commission (TLC)  
33 Beaver St.  
New York, NY 10004

Dear Commissioner Joshi,

I appreciate the opportunity to write to you regarding the TLC’s regulation of the taxi and black car industry. As the executive director of One Hundred Black Men of New York (OHBM), I kindly urge you not to add additional fees on shared-ride services like Via, Lyft Line, and Uber Pool. Increase in prices will likely cause other concerns in New York City, already one of the most regulated markets for Uber and Lyft. These increases in price would be most harmful to lower-income populations who rely on the cheaper option of sharing rides, rather than using private taxis or owning a car. Our parents choose the shared ride option over regular rides because of the lower prices. For OHBM this is a significant matter. Having founded the first Eagle Academies for young men in the Bronx, we are acutely aware of the struggles that our parents—the vast majority of whom are low income single heads-of-household—face getting students to school and then commuting to work, daily. Many have to rely on taxis and car services for at least part of their journey. This is the same at our Eagle Academies in Brooklyn, Queens, Harlem, and Staten Island as well as the other 1,800 schools in the NYC public school system. Over the course of a month, these additional fees can negatively impact the ability to pay rent, feed a family or keep the lights turned on.

Moreover, pooled services are part of the solution to congestion, not the problem. Riders will opt to use single-passenger rides if shared rides are as expensive, causing more traffic and environmental harm. The increase in fares will not necessarily increase the use of the subway system. Public transit, which already has ongoing problems with delays and disruptions, is not easily accessible to all communities. When faced with situations where they cannot walk or take public transportation, people prefer the discounted fares of carpooling. An additional fee on carpool rides will penalize thousands of New Yorkers who depend on such services for reliable, affordable transportation. I urge you to reconsider.

Founded in 1963, One Hundred Black Men (OHBM) of New York is the Founding Chapter of an international network of 97 chapters (over 10,000 men) and has been the preeminent civic not-for-profit organization providing leadership in the African American community. Through decades of engaged partnerships, development of educational institutions, community activism and focused philanthropy, OHBM and its influential membership, have become the voice of black business, social justice and community leadership.

Warm regards,

Mr. Courtney A. Bennett, Executive Director
Comments of 32BJ SEIU

Taxi and Limousine Commission Proposed Rules

October 3, 2018

On behalf of our 85,000 New York City, 32BJ SEIU thanks the Commission for the opportunity to provide comments for this process and acknowledges the efforts of the Commission in seeking to create an industry that works for drivers, base operators, medallion owners and passengers alike.

Our members in the City work in residential buildings, commercial spaces, airports, and major stadiums and arenas. Our members work closely with taxi and app based drivers helping to hail cabs, load trunks and keep passengers safe as they wait for a ride. Everyday countless passengers start and end their trip with the help of a 32BJ member. Our members also share a common story with drivers. We are a union whose members hail from over 60 countries and speak dozens of different languages. We recognize that drivers’ fight for dignity, respect and a livable income is the same fight as ours.

We were proud to stand with our brothers and sisters who drive for a living when these important reforms passed the City Council in August. We therefore welcome the Commission moving forward with this rulemaking and for proposing language that reflects the intent of the Council’s legislation.

The City has a long history of regulating the Taxi and For-Hire Vehicle market based on its strong interest in maintaining a safe and accessible service for passengers, safe roads for other vehicles and pedestrians, and a stable market place that enables drivers and drivers to earn a fair return on their skills and investment. The City, and its regulatory agency, consistent with the powers it has exercised in relation to Taxi-cabs, is right to act to set minimum driver payments and other standards for For-Hire vehicle market to ensure its interests and those of drivers and the public, continue to be protected now and into the future.

With respect to the proposed rules we emphasize our support for the Commission proposing a minimum driver payment standard that incorporates a number of important aspects:

- Payment on a per trip basis to ensure drivers receive a fair and dependable share of each and every trip they complete. Driver pay at peak demand periods should not be used to offset sub-standard pay when there are fewer passengers looking for rides;
- A multiplier that varies between bases to account for how their drivers are utilized. As this variable increases if drivers are under-utilized, bases will be encouraged to provide adequate work, making it more likely drivers will earn a decent income; and
- Bonuses for shared rides to compensate drivers for the income challenges associated with shared rises, such as additional pick-up and wait time, as well as the additional customer service complexities.

In order to ensure the method for calculating minimum payments meets the objective of providing livable income for drivers, we additionally encourage the Commission to review and revise if necessary, the methodology and formula after the first six months of the laws operation. This review should coincide with the first revision of base utilization.
rates and can be informed by the trip and income data collected by the Commission. Any annual CPI adjustment to occur from January 1, 2020 onwards should therefore be with respect to any revised rates.

We also support the reporting requirements included at proposed section 59B-19(d) that will mandate base owners transmit to the TLC detailed trip data including the commission deducted from each fare and net driver earnings. The availability of this information is essential to creation of a reliable and transparent database that will better enable stakeholders and regulators to understand and assess the economics of the FHV market. We encourage the TLC to prescribe that the required data be transmitted in real time from vehicles – matching the current capabilities and practice of medallion taxicabs.

Finally, we express support for the proposal to reduce the daily credit card surcharge limit able to be charged by taxi cab owners from $11 to $7. This adjustment will ensure that a greater portion of each fare ends up in the hands of drivers.

We thank the Commission for their work in overseeing this rulemaking process. These are important reforms for an industry that is essential to the vibrancy of our City and to the thousands of committed men and women who ply their trade on our roads each day. Drivers, regardless of the color of their vehicle, deserve a regulatory playing field that equally affords dignity, respect and the chance build stable and hopeful lives for themselves and their families.
September 26, 2018

Taxi and Limousine Commission
Office of Legal Affairs
33 Beaver Street – 22nd Floor
New York, New York 10004

Dear esteemed members of the Taxi and Limousine Commission,

The proposed rules regarding driver income and vehicle lease transparency have sound objectives. But the mechanisms to address these objectives may do more harm than good by making pooled travel more expensive and therefore less appealing to users.

It is well recognized that vehicle travel, while convenient, results in short-term negative consequences including traffic congestion and air pollution. These in turn contribute to long-term impacts including decreased economic activity and costs to public health. Pooled rides mitigate these problems by reducing the number of cars needed to achieve the same level of travel. When some choose to share, everyone benefits.

If implemented, the “shared ride fee” in the proposed rules would prevent full realization of pooling benefits. Such a fee would increasing the cost of pooling in for-hire vehicles (FHVs), making it more likely that consumers will choose to travel in personally owned vehicles or as single passengers in FHVs instead. This will put more cars on the road, worsen the competition for street space and parking, slow traffic, and increase transportation-related emissions.

Improving transportation in New York City requires policies that make sharing more appealing for consumers without creating challenges for FHV drivers and other road users. Establishing priority lanes for shared vehicles, especially near transit hubs, would encourage consumers to choose pooled rides (and for FHV drivers to offer them). Designating passenger pick-up and drop-off curb zones would enable ride-sharing to happen more smoothly and safely, with minimal traffic disruption. Creating particular incentives for “express shared” rides—i.e., rides that require passengers to walk short distances to and from convenient pick-up and drop-off locations—would make pooling easier for FHV drivers.

The latest research clearly demonstrates the need for and benefits of ride-sharing. We encourage the Commission to reject the proposed shared ride fee in favor of policies that support pooled travel as a key component of a modern transportation system. New Yorkers and the millions who visit the City each year will move faster, healthier, and better as a result.

Sincerely,

Austin Brown
Executive Director, UC Davis Policy Institute for Energy, Environment, and the Economy

Mollie Cohen D’Agostino
Policy Director, 3 Revolutions Future Mobility Program Institute of Transportation Studies at UC Davis
Via’s Comments on the TLC’s Driver Pay Proposal
September 28, 2018

As the industry leader on driver pay and the efficient utilization of vehicles, Via is pleased to submit comments on the TLC’s proposed driver pay rule. The TLC’s recent report on driver pay demonstrated that drivers on the Via platform receive average net hourly earnings of $21.73, much higher than our competitors and well above this proposed rule’s goal of drivers earning $17.22 after expenses. We have done this all while achieving the highest utilization and efficiency in the industry.

We support efforts to make sure drivers across the industry are earning well. However, there are several important changes that we believe must be made in order for Via to keep paying drivers the guaranteed hourly earnings we do today while continuing to increase the efficient use of every single vehicle on our platform. In addition, we believe changes are necessary to ensure that this rule not become the first policy in the nation to explicitly penalize and tax pooled rides, which runs in direct opposition to the City’s goals of reducing congestion and greenhouse gas emissions.

There are four changes we suggest the TLC make: (1) eliminate the “shared ride bonus” which will act as a regressive tax and raise the cost of providing pooled rides; (2) implement the pay standard on a monthly or weekly basis for each driver; (3) allow a company to comply by demonstrating that a driver was paid at least $17.22 an hour after expenses; and (4) make adjustments to the utilization standard so that it more accurately reflects its purpose in the pay formula.

1. Eliminate the shared ride bonus which penalizes pooled rides

Any “shared ride bonus” will make it more expensive for a company to provide pooled rides and is contrary to the Mayor and City Council’s goals of reducing congestion and environmental impacts, as well as the views of experts who recognize that we should seek to increase occupancy in vehicles.

Academic experts, transportation organizations, and environmental groups have all recognized the importance of pooled rides and increasing the occupancy of the vehicles on our streets. In fact, some experts now believe that whether and how we encourage shared rides is the key public policy challenge facing officials today who want to reduce congestion and advance sustainable transportation.

Last year, as part of the discussion around the New York State’s consideration of congestion pricing, we signed a letter that included other companies and various transportation, planning,
and environmental organizations, including the Regional Plan Association, the National Resources Defense Council, the New York League of Conservation Voters, the World Resources Institute, the Rocky Mountain Institute, Transportation Alternatives, ICLEI – Local Governments for Sustainability, the Association for Commuter Transportation, the Institute for Transportation and Development Policy, Transportation for America, and the Transportation Sustainability Research Center at UC Berkeley. In that letter, the signatories stated that in every state and city, public policy “should clearly incentivize multi-passenger pooling options” over vehicles transporting only one passenger.

Professor Dan Sperling, the founding director of the UC Davis Institute of Transportation Studies and one of the world’s leading academic experts for the last several decades on electric vehicles and sustainable transportation, has stated that “[v]ehicle electrification brings important energy and environmental benefits, but the key to sustainable cities and transportation clearly is pooling.” As Professor Sperling has explained, pooling will help reduce climate change, improve social equity, and address traffic congestion to such an extent that it “must be the principal focus of our thinking and actions related to transportation.” Sperling, Daniel; Three Revolutions: Steering Automated, Shared, and Electric Vehicles to a Better Future; 2018.

The proposed shared ride bonus runs directly counter to these expert views, as well to the goals of the recent cap legislation which aims to reduce congestion in the short term and also instructs TLC to set a utilization standard in the future. New York State’s congestion surcharge bill also distinguishes between pooled rides and single passenger rides, by charging pooled trips 75 cents instead of the $2.75 that will apply to private rides. The NYC Department of Transportation recently promoted pooled rides a preferred vehicle alternative during the Gridlock Alert days of UN General Assembly week.

Any “shared ride bonus” will act as a tax on pooled rides – just as any other charge or fee – by raising the cost of providing those rides as compared to private rides. At a moment when we should be encouraging more people to take pooled rides instead of private rides, any bonus would have the opposite effect. By raising the cost of pooled rides, at least some of which would be passed on to riders, the shared ride bonus would also act as a regressive tax and would disproportionately impact users of app-based services that can only afford lower cost pooled rides.

The proposed rule provides two reasons for the shared ride bonus, beginning with the statement that “[d]rivers often do not benefit from providing shared rides; the 40 percent of drivers with lowest estimated hourly earnings disproportionately provide shared rides.” First, this omits the countervailing fact that the company providing the highest earnings by a large margin is a pooled ride service. The vast majority of Via’s trips are pooled and every driver on our platform spends the vast majority of his or her time providing pooled rides. Second, we agree that drivers who provide pooled rides should not be underpaid. Once the TLC sets a driver pay standard, however, it will assure that no longer occurs. The fact that some drivers for other companies are not paid well for pooled rides today is not a reason to suddenly
mandate a bonus that goes beyond the payment for private rides and that will harm those passengers who can only afford low-cost shared rides.

The second justification offered in the proposal is that it takes “additional time” and “customer service” to provide pooled rides. The amount of time a driver spends providing trips will already be accounted for by the proposed formula in which the number of minutes is a key component. In addition, in door-to-door private rides, drivers often wait longer for passengers than they do in our corner-to-corner system in which passengers are typically already waiting at the corner ready to hop in once the vehicle pulls up.

We also do not agree that “customer service” justifies increasing the costs of pooled rides. Every driver who drives with Via is signing up to provide pooled rides since roughly 95% of Via requests are for pooled rides. If a driver does not like providing pooled rides, she or he simply would not choose to drive on our platform. (Conversely, a driver who dislikes pooled rides also has the option of driving with a company that today does not offer that option or with companies that provide a more even mix of both private and pooled rides.) A pay standard will substantially raise earnings across the industry, and the TLC will have addressed whatever issue is causing some drivers to be getting underpaid for pooled rides on other platforms.

Via already takes substantial measures to ensure our drivers are supported and that the pooled ride experience runs seamlessly – for example, we have long offered our drivers 24/7 live support. It certainly does not make sense to unfairly and disproportionately penalize Via – the only company paying its drivers average earnings well above the TLC’s goal – because of the poor earnings or negative experience of drivers on other platforms.

2. **Implement the requirements on a weekly or monthly basis at a minimum**

It is unclear in the proposed rule over what time period the TLC will judge a driver to have been paid sufficiently or not. If literally every individual trip must meet the standard, this would prevent companies from paying on an hourly basis, as Via does today with most of its drivers. This would be inconsistent with Council bill 890-B, which states that “such rule promulgated by the commission shall not prevent payments to for-hire vehicle drivers from being calculated on an hourly or weekly basis.”

In addition to preventing the use of an hourly pay system, a standard applied to every trip would make it difficult to continue to effectively balance high demand areas and times (when drivers get paid more) with lower demand areas and times, which could lead to negative unintended consequences. For example, Via only earlier this year started providing rides in all parts of New York City. With no ability to even out pay across a week or month, it will be difficult for our platform to provide rides in less busy areas at off-peak times.

We also have a number of drivers who over the course of a month earn above the proposed pay standard but who have one week in which they dip below it (which is balanced out by the
other weeks in which they are comfortably above it). Ideally, the implementation of the rule would allow flexibility to allow for some variation week-to-week.

3. **A driver who earns $17.22 an hour after expenses should satisfy the pay standard**

A stated goal of this rule is help drivers earn at least $17.22 an hour after expenses (which the TLC report determined is the equivalent to a $15.00 minimum wage). Therefore, we believe that one way a company should be able to comply with the standard is to demonstrate that a driver in a given week or month earned at least $17.22 an hour after expenses.

Via pays the significant majority of its drivers on an hourly basis. This provides guaranteed earnings to a driver regardless of how many trips are performed, and this stability of pay is a primary reason that drivers choose to partner with Via. It also helps the Via service operate as efficiently as possible through, for example, strategically positioning vehicles even when they are empty, and allow us to pay drivers substantially higher earnings than our competitors while achieving a high utilization rate.

Because of how the per-trip formula works, if that is the only mode of compliance, there will be certain drivers paid well over $17.22 an hour after expenses who will nevertheless be out of compliance because they happened to be particularly efficient that hour, day, or week. In an hourly system, those highly efficient hours get balanced with less efficient hours, with the driver earning guaranteed income regardless of the number of trips they perform. To not allow companies to comply by demonstrating they paid a driver $17.22 an hour after expenses would be bad for drivers who like the stability of a guaranteed pay system, which allows them transparency into their earnings every single hour they are driving. It also would harm our ability to manage vehicles on the Via platform as efficiently as possible with high utilization.

4. **Adjust how the company-specific utilization standard is calculated**

In the proposed rule, the TLC describes the purpose of the utilization standard as being to “offset the time [a company’s] drivers are waiting for a dispatch;” i.e. to account for the time when a driver is not getting paid under a per-trip pay model. In an hourly pay system, however, drivers are paid a guaranteed rate once they are at a Via-designated terminal or en route for pickup, whether or not they have a passenger in the car. If the goal of the utilization standard is to capture the percentage of time a driver is getting paid, that number is 100% (or 1.0 in the formula) when a driver is being paid hourly.

The other potential goal of a utilization standard is to encourage companies to be more efficient in how they use their vehicles. If this is the goal of the utilization standard, then it should reflect when there are multiple pooled riders in a vehicle. At the moment, the standard only reflects the binary question of whether any passenger is in the vehicle without rewarding filling the vehicle's additional seats. Four passengers riding alone in four separate cars is treated the same as four passengers in one vehicle, even though the latter reflects a much higher utilization and efficient use of a vehicle and our streets.
Conclusion

We support the goal of paying drivers well, but we encourage the TLC to allow flexibility in how each company meets the $17.22 an hour minimum pay goal while ensuring the rule does not discourage pooled rides, which are much better for the City and the environment than private rides. Thank you for your consideration of these comments.
Lyft, Inc.’s Comments on the Taxi and Limousine Commission’s Proposed Regulations Regarding Driver Income & Vehicle Lease Transparency

Since launching in New York City, Lyft, Inc. (“Lyft”) has provided valuable and flexible earning opportunities for thousands of drivers. Indeed, Lyft’s entrance into the market positively changed the for-hire industry by providing drivers with increased options for when and how they choose to make money. Given Lyft’s commitment to its New York City drivers, Lyft welcomes the opportunity to submit comments on the rules proposed by the Taxi and Limousine Commission (the “TLC”) pursuant to the mandate established by Intro 890-B and Intro 144-B.

Lyft understands that Intro 890-B requires the TLC to promulgate rules that will establish minimum earnings for high-volume for-hire vehicle drivers, while Intro 144-B authorizes the TLC to establish utilization standards and obtain data from for-hire services (the “Proposed Rules”). Lyft stands ready to work with the TLC to ensure that drivers earn as much as possible.

However, as currently written, Lyft believes that the Proposed Rules will have unintended negative consequences for driver earnings and the health of the high-volume for-hire vehicle market. Specifically, the Proposed Rules will likely increase congestion, reduce valuable earning opportunities for new and existing drivers, and decrease service and access to transportation for passengers. Importantly, the Proposed Rules will severely limit Lyft’s ability to continue building a product that ensures drivers have access to a flexible earning opportunity.

Lyft respectfully urges the TLC to incorporate the following recommendations, set forth in more detail below, to improve the Proposed Rules:

1. Payments should be based on a weekly aggregate, not per-ride. The Proposed Rules require the minimum-pay standard to apply to each trip, regardless of when or where it occurs. This will likely result in increased fares on a majority of rides - even during off-peak hours - which could lead to fewer trips and have the unintended effect of decreasing drivers’ earning opportunities. The per-ride requirement could also encourage drivers to spend more time in areas of greater congestion, thereby decreasing supply in the boroughs where access to transportation is most needed. To address these downsides, Lyft proposes an
alternative that would require the minimum pay standard to apply to drivers’ weekly earnings. This will allow Lyft to continue using incentives and pricing to ensure that driver supply meets passenger demand, and maximize driver earnings in the market.

2. *The TLC should use an industry-wide utilization rate, not company-specific.* Company-specific utilization will allow a single player to dominate the market. This could ultimately result in decreased driver choice, and increased passenger prices. Lyft proposes implementation of an industry-wide utilization rate. This would encourage continued healthy competition in the high-volume for-hire vehicle market, increase incentives for companies to maximize utilization rates, and ensure that both drivers and passengers are still able to exercise choice over the for-hire services they use.

3. *Wheelchair accessible vehicle and shared rides should be promoted, not taxed.* The proposed shared-ride bonus and higher rate card for wheelchair accessible vehicles (“WAV”) run counter to the goal of a less-congested, more equitable future for transportation in New York City. Requiring shared and WAV rides to be more expensive will increase costs for both passengers and companies. This will result in less demand for shared rides, increased congestion, and fewer WAVs available for those in need. Therefore, Lyft proposes removing the additional costs on shared and WAV rides.

I. **Payments should be based on a weekly average, not per-ride.**

The Proposed Rules require companies to ensure that each ride meets a minimum pay standard, regardless of when or where that ride occurs. As an alternative, Lyft proposes that minimum pay should be assessed on a weekly basis. Lyft’s proposal is consistent with the
TLC’s own study,\(^1\) which states that driver earnings should be assessed on a weekly basis, and with the Council’s legislation,\(^2\) which also supports weekly assessments.

**A. Per-Ride Minimums Could Negatively Affect Earning Opportunities for Drivers.**

The high-volume for-hire vehicle market has both peak and off-peak times. During peak times, drivers have higher utilization and earnings per ride. During off-peak times, ride demand is naturally lower. If the TLC requires implementation of a minimum fare across all rides, this will likely increase prices for passengers - particularly during off-peak times - and have the unintended outcome of reducing ride demand overall. Fewer ride requests could result in decreased earnings opportunities for drivers.

A per-ride minimum payment requirement impacts a company’s ability to provide driver incentives. Companies use incentives to entice drivers to give rides during times and in places of high demand, and drivers generally plan the times they will drive based on incentives that companies distribute the week in advance. Companies also use unplanned incentives to encourage drivers to respond to spikes in demand, such as when other modes of transportation becomes unavailable. If companies are forced to meet a per-ride minimum, the money needed to finance these rides will be spent at the expense of incentives and other driver bonuses. Lyft wants to spend its resources in a manner that effectively increases driver earnings, and ensures that passengers have reliable and affordable access to rides. A requirement that essentially forces companies to subsidize rides (or otherwise increase passenger prices) is not a financially sustainable proposal.

Conversely, by using a weekly pay-minimum, companies can maintain the flexibility needed to improve utilization by providing different incentives for different routes and times. Importantly, companies would still be required to meet the pay minimum under this proposal.

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\(^1\) In the report the TLC commissioned to study the economics of New York City’s for-hire vehicle industry (“the Report”), the authors note, “Generally, for a set time period (such as a week or a month), companies will evaluate each driver’s earnings using the total trip mileage and trip minutes for that company.”

\(^2\) Intro. 890-B specifically states that the rules promulgated by the TLC “shall not prevent payments to for-hire vehicle drivers from being calculated on an hourly or weekly basis . . .” (emphasis added)
Lyft’s proposal ensures that drivers will earn the same minimum (or a greater) amount proposed by the TLC, whether it comes from ride fares, or in the form of incentives and bonuses. A weekly review of driver earnings would occur to ensure that fares and incentives meet the required minimum pay standard. Those drivers whose weekly aggregate did not meet the minimum would receive the additional compensation necessary to meet the minimum pay standard. Importantly under this weekly-pay proposal, companies could still react quickly to promote incentives in areas where demand is outpacing supply. Accordingly, Lyft proposes that the TLC employ the following formula to calculate drivers’ weekly minimum earnings:

\[
\text{TripEarnings}_{\text{week}} + \text{IncentiveEarnings}_{\text{week}} \geq \frac{0.580}{\text{Utilization}} \times \text{Miles}_{\text{week}} + \frac{0.287}{\text{Utilization}} \times \text{Minutes}_{\text{week}}
\]

**B. Per-Ride Minimums Could Increase Congestion.**

The Proposed Rules would incentivize drivers to work in areas of traffic congestion, and forego trips farther from the Central Business District ("CBD"). Currently, Lyft’s rate card pays drivers $1.58 per mile and $0.32 per minute, but the TLC’s Proposed Rules would set minimum rates at $0.58 per mile and $0.287 per minute, each divided by a utilization rate. This rate card reflects simply the average cost-per-mile of an average for-hire vehicle, and targeted earnings divided by sixty minutes; it does not account for New York’s geography or traffic, and it is not a measured review of what would benefit New York City’s drivers or passengers. Indeed, this proposed rate card would pay drivers relatively more for time with passengers than for the distance they travel per ride. This means that the Proposed Rules would incentivize driving in high congestion areas, *i.e.*, the CBD, and rejecting quicker rides of longer distances, *i.e.*, in and between the boroughs and airports.

Lyft is concerned that the TLC’s proposal will negatively impact our goal of ensuring New Yorkers have access to reliable and affordable transportation in every borough. Based on Lyft’s analysis, which has been shared with the TLC, the proposed rules will result in drivers taking more trips in the CBD, and fewer trips in boroughs. A significant amount of for-hire rides begin and end outside of Manhattan, by passengers who live further from public transit and have previously struggled to obtain rides. The data shows that this proposal will negatively impact
service for these passengers, with particularly ill effects on lower income neighborhoods and communities of color.

Lyft’s proposal would alleviate the concerns raised above. Basing payments on a weekly aggregate instead of per-ride would ensure that drivers are not forced to seek rides in the heavily-congested CBD, simply because the TLC’s distorted rate cards makes these rides more attractive. By allowing for-hire services to focus on drivers’ weekly income, instead of individual rides, companies can keep rate cards set in such a way that incentivizes drivers to operate in the boroughs, where the need for service is generally greater. Accordingly, Lyft proposes that the TLC revise the relevant provisions of the Proposed Rules to clarify that minimum driver payments will be based on a per-week aggregate, and not a per-ride requirement.

II. The TLC should establish an industry-wide utilization rate, not company-specific.

The TLC’s proposal for company-specific utilization rates will foster a winner-take-all scenario. Under the Proposed Rules, the company with the highest utilization rate is given an immediate and perpetual advantage over companies with lower utilization. This institutional inequality would compound over time, as companies with lower utilization would struggle to improve against a competitor who can charge lower prices or spend more on driver incentives. Given that there are only four high-volume for-hire vehicle companies, the player with the highest initial utilization could quickly monopolize the market.

Encouraging driver and passenger choice should underpin the TLC’s analysis when promulgating rules, and instituting company-specific utilization rates would limit that choice. Therefore, Lyft proposes that the TLC implement an industry-wide utilization rate, which will allow all companies to compete fairly, and preserve diversity in the market. An industry-wide utilization rate will incentivize companies to increase driver utilization, while safeguarding passenger and driver choice. An industry-wide rate has the added benefit of ensuring that no company’s utilization is miscalculated when accounting for the many drivers who provide rides for multiple apps.
Accordingly, Lyft proposes that the definition of “Utilization Rate” in the Proposed Rules be revised to indicate that the TLC will establish an industry-wide utilization rate, and that the calculation of minimum driver payments in the Proposed Rules be revised to indicate that the industry-wide utilization rate will apply.

III. **Shared rides and wheelchair accessible vehicle (WAV) rides should be promoted, not taxed.**

Shared rides are critical to reducing congestion in New York City, and WAVs must be widely available in order to provide accessible transportation. The Proposed Rules run contrary to these goals, as they will likely result in reduced demand for shared rides, increased traffic congestion, and fewer WAVs available for those in need.

A. **The shared ride “bonus” will negatively affect a price sensitive community and reduce demand.**

Lyft is committed to promoting shared rides. Indeed, our goal is that shared trips will account for 50 percent of all Lyft rides by the end of 2020. By default, all Lyft drivers are available to give shared rides, and they cannot “opt-out” of this service. Thus, the proposed “bonus” on shared rides will not incentivize drivers to be available for shared ride requests, as they are all already available to do so. Rather, the bonus will only serve to increase the cost of shared rides for passengers. Those passengers who choose shared rides are some of the most price sensitive consumers, which means that adding additional cost to these rides will only hurt the individuals who most rely on them. The TLC serves the riding public, and must not ignore their needs. Accordingly, Lyft proposes removal of all references to the “Shared Ride Bonus” in the Proposed Rules.

B. **Adding additional expense to WAV rides is contrary to the goal of increasing accessible options.**

Lyft is committed to working with the TLC to provide accessible transportation to all New York City residents and visitors. However, the TLC’s proposal will make it more expensive to dispatch WAV rides, and stands in the way of getting WAVs to the passengers who
need them. The TLC recently amended its rules in order to increase the availability of WAVs, and conceded that WAVs have historically been underutilized because they are more expensive to maintain and operate. Adding an additional cost to dispatching WAVs is contrary to the goal of increasing WAV utilization, and will only serve to make WAVs less-readily available for those passengers who need them.

Increasing the cost of WAV rides will not help increase accessibility for New Yorkers. Accordingly, Lyft believes that the Proposed Rules should be revised to make both the per-mile and per-minute rates for trips dispatched to an accessible vehicle equal to those rates required for a non-accessible vehicle.

IV. Conclusion

Lyft appreciates the TLC’s consideration of these comments. High-volume for-hire vehicle service has brought tremendous benefits to passengers, drivers, and the larger New York community. With Lyft, passengers across all five boroughs can access affordable, reliable rides with the tap of a button, and those who previously struggled to get a ride in their neighborhood are now able to access one within minutes. Additionally, thousands of New Yorkers are earning on their own schedule by driving with Lyft all over the city. Lyft is committed to continuing to provide these transportation solutions and earning opportunities to New Yorkers. We look forward to working with the TLC to craft a workable regulatory framework that addresses driver earnings and high-volume for-hire vehicle service in a sustainable manner.

Sincerely,

Temilola Sobowale
Counsel, Regulatory Compliance
September 30, 2018

Commissioner / Chair Meera Joshi  
NYC Taxi and Limousine Commission  
33 Beaver Street, 22nd Floor  
New York, NY 10004

Dear Chair Joshi,

Greetings. Please find submitted our response to the TLC’s proposed rules regarding driver incomes. A real raise for drivers across the industry is long overdue. In April 2017, we testified before you and this Commission that the race to the bottom had produced a crushing economic crisis and we feared for drivers’ health and futures. Bankruptcies, evictions and foreclosures have been at record numbers. Drivers are miserably overworked and underpaid, and we warned of the growing despair. Between November 2017 and July 2018, six drivers are known to have committed suicide, citing the crisis of poverty and the despair of knowing it had risen out of corporate greed remaining unchecked. The rules before the Commission we know are just a start. So much more has to be done. We thank you and your staff for all of the work behind these proposals, and call on you to incorporate our amendments if this rulemaking exercise is meant to produce real change for a workforce in crisis. Please do not waste this opportunity. A failure to pass the right measures will mean a failure to serve your 180,000 licensees in their darkest hour. You can’t get this wrong. Drivers simply can’t afford it.

There are two main gains for drivers in the TLC’s proposed App driver pay regulations. First, the companies will not be able to continuously cut the rates of driver pay. Gone will be the days of bottomless fares at the heart of poverty among App drivers. Second, the Utilization Rate is a significant step toward compensating drivers for cruising time, especially in a business model predicated on saturation. The proposal is a start. However, the proposed rates leave drivers grossing per trip pretty much what they are already being paid on average per trip by Uber and Lyft. Projections for drivers’ take-home pay are further exaggerated given driver expenses are underestimated significantly. The 14% raise which the economists’ project in their report seems to assume a mandatory supplement the companies would have to pay whenever the driver’s fare revenue falls short of leaving them with net $17.22 per hour. While the TLC’s proposed rules do not even mandate the supplement, it should be noted that if fares require a supplement to bring drivers to a minimum wage, then the rates are effectively a ceiling on driver incomes, not just a floor. That’s not acceptable. The main increase per fare for drivers under the TLC’s proposal, compared to their gross earnings per trip now, will really be for shared rides, such as Uber POOL and Lyft Line. While the group rides increase is long overdue, it does not make up for the lack of a meaningful raise for non-shared trips, the majority, or for the drivers who pay much higher expenses than the estimated $20,000 per year. To make the proposal effective at ending poverty wages, more must be done.
We thank you for proposing for action a number of proposals in our Ruelmaking Petition, submitted in April. The FHV transparency rules, and the cap on FHV lease and financing which we confidently expect the City Council will empower the TLC to regulate – were some of our most important demands to both bring drivers out of the crisis, and to protect them against wage theft. We are heartened to see the TLC propose what is currently within your power. We ask you to pass the following proposals from our petition for yellow and greencab drivers:

1. Reduce Credit Card fees for lease AND owner-drivers from $11 per shift to $7
2. Brokers cannot charge a driver the credit card rate for two shifts if they are the only driver
3. Broker must pay back a driver any insurance claim where the driver paid the for repairs
4. Garage must pro-rate lease if car is dispatched late; and can pro-rate if car is brought back early
5. Meter must show total fare end of trip

The road to recovery for yellow and green cab drivers, radio-dispatched livery and corporate black car drivers, will in many ways depend on how you handle App driver payment rules. While the economist study commissioned by the TLC was limited to App drivers, finding that 85% earn below $15 per hour, drivers across this industry are hurting, and the answer is not to hasten monopolization by one sector at the expense of everyone else. Many drivers in the other sectors formerly drove for the App companies and returned when they painfully experienced that the work simply wasn’t there. Many other drivers never transitioned out either because of the working conditions or because they had financial obligations to the medallion or vehicle. The transportation they collectively provide every day is vital. If our unity campaign of the past six months – organizing which the Mayor himself said was of likes never seen before in the city – and City Council leadership has illustrated anything – and did so in vivid color - it’s that we don’t need a Zero-Sum approach. We need transportation options for the public, safety nets for workers caught in the industry transitions, fair and equal regulation, and a viable chance at all drivers to earn more and have dignified days of work – without risking food and shelter or their health or their future. To stop the foreclosures and bankruptcies and evictions; to stop food shortages and early deaths, the TLC must seize the courage to regulate for all drivers during this critical time.

Based on your unprecedented initiative to have the App sector be studied, tireless work with the City Council and continued public role in advocating for drivers, we have confidence that this Commission will meet a historic challenge and put all drivers on the road to recovery.

We call on you to adopt our recommendations to meaningfully lift tens of thousands of families out of poverty.
NYTWA Driver Pay Amendments:

- Increase proposed rates in the current per-mile and per-minute formula to achieve the level of take-home pay proposed by NYTWA, equaling 80% of the taximeter rate of fare.

Companies must calculate Driver Payment per trip using the following rates:

<table>
<thead>
<tr>
<th>Rate Type</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial Flag Drop</td>
<td>$3.30</td>
</tr>
<tr>
<td>Distance</td>
<td>$0.60 per 1/5 mile (Or $3.00 per 1 mile)</td>
</tr>
<tr>
<td>Time</td>
<td>$0.60 per minute (if applied only to stop/slow time; to be adjusted if applied to whole time)</td>
</tr>
</tbody>
</table>

Drivers must be paid 80% of the generated fare.

- Institute a “flag drop” in addition to distance and time rates
- Institute a minimum fare
- Create a standard for out-of-town pay similar to Rate 4
- Evaluate proposed driver take-home pay now and in the future against a real measures of drivers’ maximum expenses, as has been TLC’s practice when establishing taxicab driver pay rates.
- Apply these fare rates to the yellow and green meter so that all drivers can get a raise.

We fully support the per-passenger pay increase for shared rides, a demand we presented in our April Rulemaking Petition to the TLC.

Under our proposal, App drivers will gross 31% more compared to now. If the fare rates are applied to the taxi meter, yellow and green drivers will gross 16% more per fare. With the rates under regulation and no fear of companies dropping out the bottom, livery and corporate black car fares could also be increased by the self-regulating companies to give all drivers a fighting chance at recovery and a path out of poverty. Make no mistake: if the TLC does not regulate these rates to bring App drivers out of poverty, no other sector of drivers will have a chance either. Given that App companies are the dominant market players, their rate of fare becomes the standard for all driver incomes.

Background: App-Based Driver Earnings and How We Got Here

Since its entry into the New York market, Uber has consistently reduced the amount of pay drivers earned per fare. This began through lowering the rate of fare, while increasing the rate of commission, but has culminated in the past year with a formula that pays drivers low fixed rates per minute and mile, while Uber charges passengers at a different rate under Upfront Pricing. At each step As Uber changed its rates, other app-based FHV companies followed suit.
Historical Pricing and Driver Pay Structure- New York City UberX Rates

<table>
<thead>
<tr>
<th></th>
<th>2013 (Pre-Sept.)</th>
<th>September 2013</th>
<th>September 2014</th>
<th>April 2015</th>
<th>January 2016</th>
<th>May 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Fare</td>
<td>$6.00</td>
<td>$6.00</td>
<td>$3.00</td>
<td>$3.00</td>
<td>$2.55</td>
<td></td>
</tr>
<tr>
<td>Per Mile</td>
<td>$3.00</td>
<td>$3.00</td>
<td>$2.15</td>
<td>$2.15</td>
<td>$1.75</td>
<td></td>
</tr>
<tr>
<td>Per Minute</td>
<td>$0.75 (stopped or slow)</td>
<td>$0.75 (stopped or slow)</td>
<td>$0.40</td>
<td>$0.40</td>
<td>$0.35</td>
<td></td>
</tr>
<tr>
<td>Uber % Fee</td>
<td>10% (after sales taxes deducted)</td>
<td>20%</td>
<td>20%</td>
<td>25%</td>
<td>25%</td>
<td>Driver paid set mile/minute rates equivalent to 2016 earnings.</td>
</tr>
</tbody>
</table>

TLC’s Proposal Leaves Drivers Locked into Static Pay while Companies Profit Off of Upfront Pricing

Upfront Pricing is where the company quotes a fare, pre-trip, to the consumer. Once accepted, the rider is locked into that fare amount. Meanwhile, once the trip starts, the cost of the time and distance of the trip is calculated to determine how much the driver is paid. Uber claimed drivers would be paid at the static rate of fare so they wouldn’t have to take the gamble if the quoted Upfront Pricing rate turned out to be lower than the actual distance and time cost of the trip. Of course, what drivers began to discover is that they were getting the short end of the stick, with UP fares being much higher. Lawsuits were filed or amended across the country, including a federal lawsuit filed by NYTWA members in 2016, *Haider v. Uber Technologies, Inc.* Drivers were being cheated out of the opportunity to earn more just as passengers started paying more.

NYTWA had implored the TLC to look into the vast delta between company fare revenue and driver fare pay during the April 2017 public hearing. In late 2017, we started to randomly analyze UberX trips. We presented our dataset to TLC last month. According to NYTWA’s analysis, Uber has significantly increased consumer fare prices under Upfront Pricing, while locking in drivers at static pay rates, leaving them with less take home pay than what they earned before and leaving them with a lower percentage of the fare paid by the passenger than ever before.

NYTWA analyzed 183 UberX fares taken within New York City since 2017 and, in the aggregate, found the following:

1) The current Upfront Pricing fares are 24% higher compared to what Uber charged in 2016, before the introduction of upfront pricing
2) The real commission paid by Uber drivers on these fares would be 29.17%.

3) The current Upfront Pricing fares are 12% higher than the regulated taxi fare for the same trips.

Passengers are paying more but drivers are earning less. And it’s this very practice – separating out driver pay from passenger fares, just as fares have gone up – which the TLC’s current proposal – without having study the impact of Upfront Pricing on driver incomes - seeks to codify.

**TLC’s Proposed Rates Underestimate Driver Expenses**

Drs. Parrott & Reich have proposed a $0.58/mile allowance, as part of the proposed earning standard, to cover driver expenses. This rate falls short as expenses are measured on an average, rather than actual maximum industry expenses.

Any drivers whose expenses are more than the averages used by Parrott and Reich in computing the per-mile reimbursement rate would not even reach the $17.22 minimum wage equivalent. Assuming that average expenses are similar to median expenses, this proposal would seem to allow 49% of drivers to fall below the $15/hour standard, if the formula would otherwise produce $17.22 in hourly pay. The proposed standard here fails to work like a minimum wage in that it does not actually establish minimum take home pay at the rate it purports.

This is significant because large groups of drivers obtain vehicles at prices significantly higher than the average cost assumed by Parrott and Reich. Most significantly, Parrott and Reich assume an average weekly cost for a vehicle and insurance at $239/week. Many drivers are referred by Uber to Uber partner-dealers who charge significantly higher rates. For example, at one such dealer, prices for financed vehicles range from as low as $295/week for a 2015 Hyundai Elantra to $425/week for a used 2015 Camry Hybrid or a 2018 non-hybrid Camry. Rental rates range from $345 a week for the 2015 Elantra to $475/week for a 2015 Camry Hybrid. The website advertises that prices "start as low as" these rates.

For a driver paying $390 a week for a vehicle, the annual difference between their actual expenses and the vehicle expense average baked into Parrott and Reich’s pay formula is $7,852. Assuming a 40-hour, 50-week annual work schedule, paid under the TLC’s proposed driver pay rates, this driver’s net pay, would only be $11.08, not $15, per hour.

**TLC’s Proposed Rates Are Close to What Uber Is Already Paying Drivers, So Where is the Raise?**

While underestimating expenses leaves drivers with lower take home pay, NYTWA’s analysis of standard Uber trips (UberX) show that driver gross fares will, on average, remain close to the same as what Uber is already paying drivers per trip. The 14% raise projected in the report assumes both Pool trips which are affected differently by this formula than non-Pool UberX.
trips, and assumes a mechanism for supplemental hourly pay, something which the TLC’s current rule proposal does not mandate.\(^1\)

In Parrott & Reich’s initial proposal it is unclear whether the projected $17.22/hour in net earnings incorporates the wage supplement required to reach hourly pay, even if their net fare earnings do not rise to that level.\(^2\) Because the TLC’s current rule proposal does not include Parrott & Reich’s hourly pay supplements, if drivers do not organically net $17.22/hr, it is unclear what the true floor for driver take-home pay is under the proposed rule. It is essential to know what drivers would earn organically, before any wage supplement, in order to know the extent to which the $17.22 standard will act as an effective ceiling.

For example, if 50% of drivers will net less than $17.22 per hour through the fare payment formula alone, then the TLC’s minimum pay standard does have the effect of a cap on earnings for that class of workers. More data is needed to understand how drivers would earn under Parrott and Reich’s proposal without wage supplements. The published report, opaque in its discussion of driver revenue and expenses does not provide sufficient background for drivers to feel any confidence that the diluted version of its proposal would produce anywhere near the projected $17.22/hour in net earnings.

**NYTWA’S PROPOSED AMENDMENTS**

NYTWA proposes that the TLC mandate rates similar to what customers are already being charged by Uber so that drivers can benefit from a real raise, and also apply those rates to the yellow and green taxi meter, so drivers across all sectors can earn more and rise out of poverty.

The proposed TLC structure locks drivers into static rates of pay, and the proposed rates will leave a large class of drivers well below the projected $17.22 per hour or lock them into minimum wage incomes while the revenue ceiling grows for the companies. But there is another way which would actually give all App drivers a proper raise, prevent the floor from becoming the ceiling, and allow driver incomes to grow alongside corporate revenue.

We believe drivers’ right to a percentage of the fare should be preserved and protected. TLC should regulate the payment rates to be at nearly what the companies are already charging passengers, and require that companies charge no more than a 20% commission on each fare. Given that the TLC is required by Council legislation to wait for one year before the agency can regulate how much the companies charge passengers, we recognize that, currently, the TLC can only regulate Driver Payment Rates. If the companies continue to quote base fares to passengers at the start of the trip under Upfront Pricing, then the driver should receive 80% of whichever fare is higher, the amount calculated under the Driver Payment Rates or the amount under the pre-trip quoted Upfront Pricing fare.

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\(^1\) Parrott & Reich, at 4, 36.

\(^2\) A chart on page 31 shows anticipated driver earnings as a flat line at $17.22/hour for the majority of drivers it would seem impossible for almost all drivers to earn
Before Upfront Pricing became Uber’s default practice, in May 2017, when Uber was charging passengers by quoted rates of fare, the default UberX charges consisted of a $2.55 base charge, $1.75 per mile, and $0.35 per minute. NYTWA’s review of UberX trips since May 2017 showed that, on average, UberX trips are now 24% higher than these 2016 rates. We would additionally propose a raise in the distance rate from $0.50 to $0.60 per 1/5 mile:

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NYTWA’s proposed rates are only 3.8% higher than what Uber is already charging passengers. Given that drivers are being paid at such a lower rate than their traditional share of what the customer is paying, drivers would actually see an increase of 31% in gross fare revenue under our proposal. Although fare increases typically result in a decrease in the number of trips as some riders opt not to pay higher prices initially, any such impact would be lessened here, because passengers are already paying rates similar to those to be charged under the NYTWA’s proposed rates.

NYTWA proposes amendments to the proposed driver pay standard that would create an immediate and meaningful raise:

- **Increase proposed rates in the current per-mile and per-minute formula to achieve the level of take-home pay proposed by NYTWA, equaling 80% of the taximeter rate of fare.**

Companies must calculate Driver Payment per trip using the following rates:

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</table>

Drivers must be paid 80% of the generated fare.

In the alternative, the TLC can still ensure an equivalent pay metric using the per-mile and per-minute rate, divided by Utilization Rate method applied in Parrott & Reich’s study. The amounts merely need to be adjusted to achieve the same rates of pay that NYTWA proposed, by increasing them to an equivalent of 80% of the metered taxi fare for any given trip.

- **Institute a “flag drop” in addition to distance and time rates**
- **Institute a minimum fare**

The current TLC proposal, which does not include an initial charge for each trip, or a minimum fare payment per trip would lead to significantly lower pay for High-Volume FHV drivers on short trips. By not providing for payment of a “drop,” the formula neglects the significant amount of time and labor that goes into starting a trip. More so
than taxi drivers, FHV drivers currently spend several minutes of uncompensated time driving to the pick-up point from the point of dispatch and waiting for a passenger before the in-app meter starts and compensable time begins. Inclusion of a “drop” that would net $2 in driver pay per trip is essential.

- **Create a standard for out-of-town pay similar to Rate 4**

  The TLC should create a pay structure similar to Rate 4 on the taximeter that provides drivers with additional pay for trips beyond the City limits. App drivers should not be left miles from where they can possibly find another fare, without being compensated for the additional time it will take them to venture back to the city, likely without a fare.

- **Evaluate proposed driver take-home pay now and in the future against real measures of driver maximum expenses, as has been TLC’s practice when establishing taxicab driver pay rates.**

  When the TLC sought to achieve a take-home pay standard of $16/hour in 2004 for yellow cab drivers, the TLC did so by ensuring that even the drivers with the highest lease expenses could do so. The TLC did this by assuming expenses charged at the maximum vehicle and medallion lease rates allowed by TLC rules. Similarly, the TLC must establish driver pay rates by analyzing driver expenses based on a reasonable maximum lease amount, and, after the establishment of maximum FHV lease rates, based on the maximum allowable lease expenses per TLC rules. Such a process would ensure that a minimum pay rate is in fact a floor for driver pay.

- **Apply these fare rates to the yellow and green meter so that all drivers can get a raise.**

  App-based services often advertised UberX as being cheaper than a taxi; after Uber’s 2016 rate cuts, this was certainly the case. However, since the full-scale implementation of upfront pricing, average UberX pricing has surpassed taxi rates by far.

  NYTWA’s review of UberX trips since May 2017 showed that, on average, UberX trips are 12% more expensive than the yellow or green taxi fare for the same trip. The TLC must engage in a study on the impact on taxi fares following the January implementation of App Driver Payment Rules and Congestion Pricing, and determine the impact of essentially a 16% increase from the current metered rates.

**Moving Forward: Codifying Long-Term Fair Pay Standards:**

To properly understand how various, alternate regulatory approaches would affect driver pay, the TLC should immediately begin studying fare data, and applying NYTWA’s initial fare proposal to the data to see how the proposal would affect 1) consumer pricing; 2) driver income as a share of each fare, and; 3) driver take-home pay. If NYTWA’s initial analysis were to be borne out by a more thorough and scientific review of data, driver pay could be raised substantially, and in line with a taximeter fare raise, while keeping app-based consumer pricing static, and reducing
driver commission or “service fee” rates back to the industry standard 20%. This proposal is a win-win for workers and consumers and deserves the TLC’s immediate study and attention.

**DRIVER PROTECTION AND TRANSPARENCY RULES**

*Contracts, Trip Records and Transparency.*

The NYTWA wholeheartedly supports the creation of rules creating transparency in written agreements and pay terms and establishing minimum requirements for both FHV bases and vehicle owners, and we look forward to the expansion of these rules to cover FHV leasing and financing costs, pending legislative action. The NYTWA proposes the following limited amendments to the proposed rules on driver protection and transparency.

Currently, TLC FHV purchasers and lessees are stuck in a regulatory vacuum: not covered by rules that apply to other TLC-licensed vehicles, but also not covered by consumer protection laws that apply only to non-business goods. FHV drivers are left with few of the protections typically associated with vehicle leases and purchases. Over the last few years, NYTWA has seen FHV drivers pay $78,000 for cars that retail for $28,000, with no explanation of the sales price or financing costs. Drivers have been charged numerous fees that would be clear violations of similar rules applicable to TLC licensed taxicabs. Drivers have been charged for owners’ TLC summonses, owners’ legal fees, and signed contracts requiring them to only perform repairs at the owners’ repairs shops. Receipts and payment records provided by FHV leasing companies do not provide lessees with a clear understanding of their account balance, nor do they make it clear what each payment is for.

TLC regulation in this area is crucial and long overdue. Other protections must be added to safeguard driver rights.

**The requirement that owners maintain records for three years should be extended to six years.** This extension would allow drivers access to their contracts throughout the six-year statute of limitations period for breach of contract. Further, as many long-term vehicle lease and conditional sales agreements often extend for three years or longer, mandating TLC and driver access to contracts and records after the three-year period will allow drivers access to their records, even after the end of the longest lease terms. This extension is critical as many drivers hesitate to bring enforcement actions to the TLC during the pendency of a lease for fear of retaliation; a longer record maintenance requirement would allow drivers to access records and make complaints after the end of lease terms, without such fear.

**TLC rules must require that bases provide static and contemporaneous payment statements to drivers, at the time of each payment in PDF or similar format.** The proposed TLC rules must also specify that base agreements be provided in a static form. The proposed rules must be more specific about the form that required documents must take in order to ensure that drivers have access to accurate, original documents. Over the last few years, app-based drivers have not had access to reliable, static versions of their pay documents. While drivers for some of the larger companies have been able to view their per-trip and weekly earnings by logging into online portals, the companies have never provided drivers with a static document describing driver pay at the time of payment. That is, while drivers could go online
and print or save a statement, the companies did not e-mail drivers a permanent and unchangeable statement of earnings at the time of payment. Some drivers who accessed their online earnings statements for the same pay period at various times have found different numbers every time they accessed the statement. Other drivers found that deductions for pay were described one way at the time of payment, and had been re-labeled to represent a different type of deduction when the same record was revisited months later. The same problem applies to contracts or “base agreements.” Drivers for some companies were never provided with copies of their contracts but only told where they could access their contract on the company’s website. When the terms of those contract changed online, drivers had no record of their rights under previous contract terms.

NYTWA supports the proposed rules’ requirement that base agreements must contain all terms. Currently, drivers’ terms may be scattered among several documents, including addenda for pay terms, or pay terms may only be found on a website, where they may change from time to time.

TLC rules should incorporate the relevant provisions of state and local law regarding requirements for valid electronic signatures. While the codification of electronic signatures makes sense in the digital era, the TLC must ensure that safeguards against fraud are in place to ensure that drivers understand which documents they are attaching their electronic signatures to.

**Driver Protection Rules**
The extension of TLC rules that protect driver licensees from the bad acts of corporate licensees is welcome and long overdue, but the TLC must strengthen these rules and penalties to have a greater deterrent effect. In the taxi industry, a thorough regulatory framework exists, but penalties are not severe enough to meaningfully deter violations. The NYTWA has seen the same bad actors commit the same violations time and again, with no fear that the penalties from the few violations that drivers actually report will outweigh the benefit of getting away with wage theft most of the time. In addition to more robust enforcement practices, the TLC must increase fines for corporate respondents to deter unlawful behavior.

To this end, the TLC should take the following steps to create a more robust and meaningful enforcement scheme for violations committed by corporate licensees:

- **The proposed rules for FHV driver pay must prohibit unauthorized charges and not merely prohibit excessive charges or underpayment of driver earnings.**
  - Specifically, this means that the TLC must amend proposed rule 59B-18(f) to include a provision analogous to current Rule 58-21(c)(5), that explicitly limits the types of additional charges a taxicab owner or agent may charge a driver.
  - As written, Rule 59B-18 would require bases to pay drivers, but nowhere addresses what types of deductions would be permitted from FHV driver pay. Both minimum pay standards and protection from unfair or arbitrary deductions are essential to ensuring fair worker pay. As it stands, the integrity of the proposed fair pay rule is compromised by the TLC’s allowance of any deduction that the company would contract for, with few exceptions contained in sub-section (f)(3).
By contrast, TLC’s taxicab owner rules provide more clarity for drivers and owners alike as to what terms and deductions are permissible. More simply, the TLC enumerates which deductions are allowed, and prohibits any other kind.

- **The proposed rules, and any rules related to drivers’ financial loss caused by base/owner/agent rule violations, must provide for restitution for all violations.** For example, currently proposed rule 59B(18)(f)(i) only provides for restitution after a third offense; this must be amended.

- **Provide for double damages in restitution for any willful violation of TLC rules that creates a financial loss for a driver.** As with similar provisions of the New York Labor Law providing for double damages, such a rule would strengthen the deterrent effect of TLC rules.

- **Increase civil penalties for owner/base/agent violations that lead to a financial loss for drivers.**
  - Fines related to non-payment of drivers and transparency in financial relationships must be significantly higher than those for similar violations committed by drivers.
    - For example, the current penalty for a taxicab owner or agent who does not return a driver’s deposit within 30 days is $50. The penalty for not paying a driver’s credit card fares (avg. $~650/week) is only $200.
    - By contrast, the TLC assesses a minimum driver penalty of $500 for any overcharge, and charges drivers $50 for *de minimis* violations such as not having a five-borough map in the cab.
    - The proposed rules for High Volume FHV driver pay perpetuate and magnify this problem; the penalty for a HVFHV base not paying a driver their wages is merely $200 for a first violation. We note here that the TLC assesses a higher fine for drivers who use the wrong “tone of voice” under the TLC’s Courtesy rule.
    - It is simply absurd that driver fines for similar conduct would be less than the fines imposed on multi-million dollar taxi corporations and Wall-Street funded, multi-billion dollar, multinational FHV companies. The TLC can easily correct this.
  - The TLC must address its long-held institutional bias against drivers that affects not only its unwillingness to prosecute owner violations but is even codified in a rulebook that simply doesn’t take owner violations seriously.

The TLC must also correct what appears to simply be an error in the rulemaking proposal. In Section 10 of the rulemaking proposal, in attempting to edit the penalty provision to create mandatory restitution for violations of rule 58-21, the penalty provision box has also been edited to indicate that its language only applies to 58-21(c)(7), without indicating changes from the rule’s current format which seems to apply to all of rule 58-21(c). The current penalty provision box applies to all violations of 58-21(c), except where other penalties within the rule are more particularly specified. By limiting the penalty provision’s application to 58-21(c)(7), the TLC would inadvertently vitiate its authority to provide specific penalties for the main substance of rule 58-21(c), lease overcharges. In any case, it would make little sense to have a penalty provision apply solely to 58-21(c)(7), which does not require any licensee conduct, but merely exempts parties to a collective bargaining agreement from following 58-21(c).
The Collective Bargaining Exemption
TLC rules creating exemptions for parties to a collective bargaining agreement, whether in the
taxi or FHV sector, should be removed. TLC regulation of the taxi and for-hire vehicle industries
creates essential *minimum* standards for the treatment of drivers. In the event that a group of
drivers reaches a CBA with a TLC-licensed employer, TLC regulations should remain the floor
from which parties may begin bargaining, but which cannot be waived.

Cancellation Fees
Proposed rule 59A-21(b) provides welcome clarity to the requirements for for-vehicle leases, and
providing lessees with adequate notice of when specific fees may be charged. Currently, in the
taxicab context drivers often find themselves subject to litigation due to opaque "liquidated
damages" clauses that don't specify the amount of such fee, or clearly explain when such fees
apply. The protections contained in section 59A-21(b) of the proposed rules should be extended
to lessees of taxicabs, under Chapter 58 of the TLC rules as well.

While the TLC has proposed welcome additions to contractual protections for FHV drivers, the
rules should go further to protect drivers from excessive charges. Currently, in the taxicab
sector, agents charge in excess of $5,000 in fees to drivers who have allegedly breached
contracts; this occurs even where the contracts fail to comply with existing TLC rules regarding
cancellation fees and could be on top of damages. Such fees are plainly unreasonable, in
violation of TLC rules and contract law, where the charges bear no relation to a lessor's actual
damages, which are easily determinable. Several of our members have been made to pay $5,000
cancellation fees, even where a lessor re-leases the car two days after the first driver returns it,
the lessor keeps the first driver's deposit, and sustains no actual damages. Both Chapters 58 and
59A should include language that:
- Limits a cancellation fee to $500; and
- Provides that such a fee cannot be charged where the fee amount exceeds a lessor's actual
damages.

We look forward to working with the Commission on this historic rulemaking and the
implementation of the full Council package. Thank you.

Respectfully Submitted:

Bhairavi Desai, Executive Director
New York Taxi Workers Alliance
9/27/18

Dear Taxi and Limousine Commission,

Shared rides like Lyft Shared and UberPool represent one of the best innovations in urban transportation. They encourage riders to make the environmental choice by keeping costs low, and provide a needed resource for service industry and working New Yorkers, many of whom live in the boroughs where transit options aren’t as dense as in the center of the city.

With the recent reduction in availability of ridesharing services in New York, we cannot further hamper access to affordable options for everyday New Yorkers by inflicting additional fees.

As our organization continues to identify and educate our community on new economic development opportunities to help them progress, we cannot stand for anything that will immediately reverse another form of economic support for a Haitian community who is constantly devastated by poverty.

We urge City Council to reject the additional fee on riders who have made the good and necessary decision to share the road.

Sincerely,

Samuel M. Pierre
Executive Director
Haitian American Caucus-US
spierre@hacus.org
347.930.7027
Subject: Re: Comment on driver pay

I agree with Robin!

On Sep 26, 2018, at 9:18 PM, Robin Chase <rchase@alum.mit.edu> wrote:

Hello,

I'd like to weigh in the your driver pay proposal.

The city should be doing everything it can to encourage (and not penalize) the sharing of rides. The addition of a $1 "bonus" for each shared ride passenger runs absolutely counter to the social and environmental good of ride-sharing. The $18 minimum wage requirement covers the driver's time, including any additional effort caused by picking up an additional passenger. The bonus fee reduces the passenger's already limited economic incentives for choosing to share a ride. The city wants more ridesharing! don't make this part of the bill.

I also note that this runs counter to the Shared Mobility Principles for Livable Cities, endorsed by dozens of city and transport NGOs (and for which I was the initiator). I would point you to Principle #3: WE SUPPORT THE SHARED AND EFFICIENT USE OF VEHICLES, LANES, CURBS, AND LAND.

Happy to talk with you further about this,

Best,

Robin

Peer Inc
Hello --

I just received an email from Uber asking me to advocate for ruling against new laws that would require them to add costs to ride sharing...

However, I'd actually like to show that I support regulatory action by our government to ensure that drivers of Uber are given fair wages. In fact, I think employees that are working full time hours should be afforded health care benefits as well.

Uber is trying to manipulate their consumers into thinking TLC is the "bad guy" by using our personal data to paint a biased and untrue picture of what is actually happening. I'd like to share the email I was just sent with you as proof (see attached).

They are trying to portray a scenario in which I am going to be charged an extra $12 per trip, which is not the case at all. My understanding after, after reading the fine-print, is that I would be charged an extra dollar per trip and happened to take 12 trips in the past month. So they are using the aggregate total of Uber pool trips I've taken in the past month and tried to make it seem as though that was the amount I would be charged extra per trip. This is a blatant distortion of the truth and an attempt to abuse the personal data they have on me to negatively influence the wellbeing of their drivers -- which they have a history of doing.

I have a better idea, instead of Uber forcing their customer to incur the cost of the mandatory price cost increase so their drivers can get paid a decent wage, the CEO takes the money out of his own inflated salary.

This email from Uber alone is enough for me to try and limit, if not completely stop, using their service. And I again want to emphasize that I support TLC and am NOT in favor of Uber trying to manipulate my perception of the reality that they are a company that is borderline abusive to their employees.

I would have preferred to send this email to Uber as well, but it came from a "no-reply" address and only linked to TLC's email instead -- again, another attempt to manipulate and silence someone who might stand in opposition to their greed.

Thanks for your time.

Kind regards,

--

Ari Gross

Email: ari13gross@gmail.com
September 26, 2018

Meera Joshi
Commissioner
New York City Taxi & Limousine Commission (TLC)
33 Beaver St.
New York, NY 10004

Dear Commissioner Joshi,

I, along with many in my community, use Via and Lyft Line’s more affordable options to get to work and around our neighborhoods. The people in the village of Harlem use ride-share apps out of necessity for many reasons be it to attend church, doctor’s appointments, visit with family and friends. And while I much prefer to use public transit, often I do not have a choice. And I know many people in a similar position. Using these services is already much more expensive than a bus or subway ride so I hope you will not make them even more expensive. Those living on or next to the margins in our communities certainly do not need another unnecessary tax. It will be harmful to many people who rely on these apps when we have no other choice.

Sincerely,

[Signature]

Dr. Hazel N. Dukes, President
NYS Conference of the NAACP
Comments

Begin forwarded message:

From: "Dave (MetroBuggy)" <dave@metrobuggy.com>
Date: September 14, 2018 at 5:51:35 PM EDT

Here are some additional critical considerations that the TLC should be aware of:

- The proposed Minimum Per-trip Payment Formula will drive out of the market companies with relatively low utilization rates, such as Juno. The demise of a $200 million company, such as Juno, may not be in the best interests of consumers or drivers if only Uber and Lyft remain.
- The Minimum Per-trip Payment Formula may encourage too many pooled rides, which may not be as good as it sounds when viewed in the context of Bruce Schaller's report on the topic of traffic congestion. Furthermore, encouraging such pooled rides can potentially siphon off additional ridership from MTA buses and subways....thereby creating all sorts of issues. In addition, taxicabs will be at a disadvantage as it is difficult for them to coordinate pooled rides and they will likely lose out on price conscious passengers. Price elasticity will become a major issue in January once the new MTA surcharges kick in.
- Despite driver advocate push-back on the notion of a potential earnings ceiling, I am concerned that while some drivers will do very well under the new system others will still find it hard to earn a live-able wage. For instance, what prevents drivers with fancier cars from getting a disproportionate amount of referrals relative to the guy in the five year old camry? In general, wouldn't Uber and Lyft achieve higher ratings and consumer loyalty with dispatching better vehicles?
- What happens to Medallion owners when their drivers opt for the more secure earnings afforded by the Minimum Per-trip Payment Formula?
- I have some concerns about analyzing FHV and passenger data after the industry has been "disrupted" by the proposed Minimum Per-trip Payment Formula.
- This proposed system does not provide for any meaningful way to alleviate traffic congestion.
- As a reminder, some of my other concerns can be found in the email below. This is a very risky strategy, perhaps it would be helpful to share my concerns with Parrott-Reich and see how they envision everything working out as planned.
From: Dave (MetroBuggy) [mailto:dave@metrobuggy.com]
Sent: Thursday, August 30, 2018 2:49 PM
To: Furrey, Charles (TLC) <Furreyc@tlc.nyc.gov>; Stiles, Rodney (TLC)
    <Stilesr@tlc.nyc.gov>
Cc: Joshi, Meera (TLC) <joshim@tlc.nyc.gov>
Subject: Potential Problem with Parrott Reich Methodology

Charles,

Overall, the Parrott Reich concept is brilliant. Nevertheless, there are concerns if it will actually work in NYC. First, the utilization rate concept to derive driver pay will likely result in driver arbitrage whereby drivers will have a preference to drive in higher than average utilization rate areas if driver pay is tied to a single utilization rate for each provider. If the plan is to have multiple utilization rates for different areas then drivers will avoid the stress associated with Manhattan and may gravitate to the outer-boroughs, or the opposite scenario may also be feasible. It all depends on the utilization rates associated in each area. Such driver pay format may cause a huge surplus of drivers in certain areas and a dearth of drivers in other areas. The notion of having the operators incentive drivers to be at the right place at the right time is going to be a challenge in light of the proposed reduction in commissions to keep fares low in light of the price elasticity. In addition, I think the Parrott Reich report omitted, perhaps because it predated, the new $2.75 MTA surcharges which further complicates the price elasticity concerns and underlying assumptions on how this plan will work. There are other risks associated with this concept, but these are the ones that are most obvious to me.

Best Regards,

Dave
Hey all,

Here's the second dataset. This dataset is the most unbiased way I could think of for us to collect this data. We ask everyone to sign in when they enter our office (as long as the person at the front desk remembers to enforce it - which looks like it was only enforced at meetings, 5-star class, and grievance handling meetings not our DDC6 classes because there's another sign-in for that), and added two questions: if they lease or own, and how much they pay if they lease. You can find the sign-in form here. Here were the results:

<table>
<thead>
<tr>
<th>Mean Lease/week</th>
<th>Median Lease/week</th>
<th>Total Sign-Ins</th>
<th># of lease</th>
<th># of own</th>
<th>Own/lease ratio:</th>
</tr>
</thead>
<tbody>
<tr>
<td>$410.38</td>
<td>$400.00</td>
<td>150</td>
<td>57</td>
<td>93</td>
<td>62.00%</td>
</tr>
</tbody>
</table>

This is pretty consistent with all the other data we have collected.

The 60% vs. 80% difference is something we are going to ask for. I do have to ask: Am I missing something on how the report got to $635/mo? Am I just reading the report wrong? Is it not including insurance or something (not sure how you could separate those)? I never went to college, no pride here, just let me know before we say something stupid.

Ryan Price
Executive Director
Independent Drivers Guild

The Independent Drivers Guild is an affiliate of Machinists Union District 15 of app-based drivers. We are Uber, Lyft, Via, Juno workers united for a fair for-hire vehicle industry.

drivingguild.org
facebook.com/DrivingGuild
twitter.com/DrivingGuild
instagram.com/DrivingGuild

On Thu, Aug 16, 2018 at 4:22 PM Heinzen, Bill (TLC) <HeinzenB@tlc.nyc.gov> wrote:

Thanks Ryan (price) and adding tlc team

Begin forwarded message:
Hey Bill,

Please pass this along. The self-reported mean, without weighting, so far is $420.14 per week.

I have attached the preliminary results from the petition. Note that the choice wheel starts at $100-$1000 so the folks that chose the low options likely did not understand how to operate it (some seemed to think it was how much they would prefer to pay as you'll see in the comments). I think both of the extremes would likely need to be cut out — I'm also going to have organizers call the people on the extremes and ask them the question verbally, it's likely a language barrier.

In case you think this is bias based on the language of the petition, I've also added the same question to every driver that enters into our office and signs in, so they would have someone explain the question to them if they are confused, and it's as close to a randomized sample as we can get (they come to our office to get paid for the DDC6 class, to take the 5-star reactivation class, if they were fired or have a grievance, or if they want to become organizers).

That sample will take a few weeks for us to get a decent amount on it though.

I would recommend, if possible, you have a sign-in at the TLC office and administer one or two question surveys from there as well.

Ryan Price
Executive Director
Independent Drivers Guild

*The Independent Drivers Guild is an affiliate of Machinists Union District 15 of app-based drivers. We are Uber, Lyft, Via, Juno workers united for a fair for-hire vehicle industry.*

drivingguild.org
facebook.com/DrivingGuild
twitter.com/DrivingGuild
instagram.com/DrivingGuild
Charles,

Overall, the Parrott Reich concept is brilliant. Nevertheless, there are concerns if it will actually work in NYC. First, the utilization rate concept to derive driver pay will likely result in driver arbitrage whereby drivers will have a preference to drive in higher than average utilization rate areas if driver pay is tied to a single utilization rate for each provider. If the plan is to have multiple utilization rates for different areas then drivers will avoid the stress associated with Manhattan and may gravitate to the outer-boroughs, or the opposite scenario may also be feasible. It all depends on the utilization rates associated in each area. Such driver pay format may cause a huge surplus of drivers in certain areas and a dearth of drivers in other areas. The notion of having the operators incentive drivers to be at the right place at the right time is going to be a challenge in light of the proposed reduction in commissions to keep fares low in light of the price elasticity. In addition, I think the Parrott Reich report omitted, perhaps because it predated, the new $2.75 MTA surcharges which further complicates the price elasticity concerns and underlying assumptions on how this plan will work. There are other risks associated with this concept, but these are the ones that are most obvious to me.

Best Regards,

Dave
From: randy newman <ranewman66@gmail.com>
Sent: Monday, September 24, 2018 3:47 PM
To: 
Subject: Keep fare affordable

Dear, TLC

I rely on the pool system to get back and forth to work. I wouldn't be able to afford your extra fee. Please don't raise prices. Us hard working New Yorkers in the urban areas would not be able to handle it.
I rely on Uber pool heavily for commenting to work at a low rate. Just because Albany cannot allocate taxes appropriately to the MTA doesn't mean commuters who choose an alternative means of transportation should be taxed for their choice.

Sent from my iPhone, so please excuse any misspellings.
Thank you for making the time to speak with us on Wednesday. We appreciate the open dialogue with your team. To recap:

First, we believe that company-specific rates will significantly disadvantage smaller players, and lead to an eventual monopoly in the high volume for hire market. An industry-wide utilization rate will allow fair competition, and the TLC will still maintain the ability to review each company’s data.

Second, pay-minimums should be assessed weekly, and not per-ride. This will allow companies to deploy incentives for particular times, locations, and services, while still ensuring drivers meet the TLC’s minimum earnings requirements.

Lastly, we are committed to increasing accessibility for all passengers, and we believe ride sharing is critical to solving traffic congestion. Therefore, we believe WAV and shared-rides should be incentivized at the weekly level, and not via a different rate card or per-ride fee that will hurt the most price-sensitive customers.

On a different note - I want to reiterate our offer to assist with creative solutions and resources for moving our leasing partner’s vehicles through the licensing process via offsite inspections. Our team is available to answer any questions you may have, and I will send a separate note providing a few more details and potential next steps.

Thanks again!
Jess

Jessica Taylor
Senior Counsel, Regulatory Compliance
929.900.5938

This transmission is intended only for the proper recipient(s). It is confidential and may contain attorney-client privileged information. If you are not the proper recipient, please notify the sender immediately and delete this message. Any unauthorized review, copying, or use of this message is prohibited.
Hi,

This seems like a lot. We already pay taxes and fees now y'all will add a new fee on top of this. The TLC must have the riders in mind too. This is a shame. Y'all didn't do this to yellow cabs. This is a shame. Pleas don't do this.

Sincerely,
Dee

Sent from my iPhone
Dear Sir or Madam,

As CEO of the New York Urban League, I am writing about the proposed driver earnings rule. I commend you for proposing a measure to ensure that all drivers earn more competitive wages. However, I want to point out a concern about a new fee on shared rides on UberPOOL, Lyft Line and the like. People in my community depend on these services when the subway is under construction, when traveling during second and third work shifts and because they simply can’t afford the apps’ regular service. Please do not make these trips more expensive. It will harm many communities around the city.

The New York Urban League, Inc. (NYUL) is a non-profit organization founded in 1919. The mission of the New York Urban League is to enable African Americans and other underserved communities to secure a first-class education, economic self-reliance and equal respect of their civil rights through programs, services and advocacy. NYUL is leading the way underserved African-Americans are educated, employed and empowered across the 5 boroughs.

Please do not hesitate to contact me if you have any additional questions.

Sincerely yours,

Arva R. Rice
September 11, 2018

Meera Joshi  
Commissioner  
New York City Taxi & Limousine Commission (TLC)  
33 Beaver St.  
New York, NY 10004  

RE: Proposed Driver Earnings Rule  

To Whom It May Concern:  

The City has an obligation to make sure the tens of thousands of drivers in New York City are earning a living wage in an expensive city - for that, I commend you. But there are also millions of New Yorkers who depend on new apps and methods to get around New York affordably. A new population of New Yorkers are now able to get a ride in an instant. This used to be luxury only rich Manhattanites enjoyed! More affordable services like UberPOOL have been proven extremely necessary in communities of color around New York and adding any new fees to make it less affordable would be devastating to far too many. We hope you will reconsider as this decision will impact the most vulnerable New Yorkers which I know, is not your intention but will be the outcome.

Sincerely,

Rev. Dr. W. Franklyn Richardson,  
Senior Pastor
Hello,

It seems to me that Uber drivers provide the same service as taxicabs. Accordingly, Uber drivers should receive the same money for trips as New York City yellow taxis.

Sincerely,

Howard Ross
Sent from Mail for Windows 10
From: will bay <willbayc2@gmail.com>
Sent: Monday, September 10, 2018 11:02 AM
To: Subject: Comment on PROPOSED RULES TO EXPAND FINANCIAL TRANSPARENCY FOR DRIVERS

PROPOSED RULES TO EXPAND FINANCIAL TRANSPARENCY FOR DRIVERS

Language states:

-“Where the owner of the vehicle is a different person than the driver of the vehicle, the rules require that the owners pay drivers earnings in a timely manner”

-“Owners provide drivers with receipts itemizing all payments, deductions and charges”

Problem is:

Leasing and rental companies and banks ACTUALLY OWN THE VEHICLES (until the lessee pays it off)

But the leasing and rental companies DO NOT PAY THE DRIVERS — PAID BY BASES OR UBER LYFT GETT VIA

My thought:

I think your intent was to make sure that drivers who own their cars pay the drivers who lease the car from them (like the way yellow medallion owners lease out or rent the cars for shifts) and/or the drivers who are leasing the car from a finance company or a bank who turn around and sublease the vehicle to a another driver (sublessee) gets paid

The TLC rules should exclude banks, leasing/finance companies from the definition of owner for purposes of this section for the reasons noted above.
Lyft Meeting with New York City Taxi and Limousine Commission
September 13, 2018

This memo provides an overview of Lyft’s concerns with the TLC’s proposed rules on minimum earnings, and offers alternatives that remain true to the underlying principles set forth in Intro 890-B. Lyft understands that the TLC must promulgate rules to establish minimum driver earnings. However, we believe that the current proposed rules would have negative consequences for driver earnings and the health of the high-volume for-hire market. While Lyft is committed to investing in its drivers, we seek to do so in a sustainable manner that encourages competition in the market. We look forward to discussing these concerns with you in person, and thank you for taking the time to meet with us.

Lyft has three major concerns with the TLC’s proposed rules:

1. **Payments should be based on a weekly aggregate, not per-ride.** The proposed rules require the minimum-pay standard to apply to each trip, regardless of when or where it occurs. Increasing the prices on all rides, even during off-peak hours, may result in fewer trips and have the unintended effect of decreasing drivers’ earning opportunities. Furthermore, the per-ride requirement could also encourage drivers to spend more time in areas of greater congestion.

   To address these downsides, we propose an alternative that would require the minimum pay standard to apply to drivers’ weekly earnings. Ensuring that supply reflects demand by varying prices during the week is critical to achieving higher utilization rates and increased driver earnings.

2. **The TLC should use an industry-wide utilization rate, not company-specific.** Company-specific utilization rates favor the company with the highest initial utilization rates, and create the likelihood of a market monopoly. We propose an industry-wide utilization rate, which would still incentivize companies to increase utilization, without diminishing healthy competition in the high-volume FHV market.

3. **WAV and shared rides should be promoted, not taxed.** The proposed shared-ride bonus and higher rate card for WAV rides are a setback to the goal of a less-congested, more equitable future for NYC transportation. The taxes on these rides will increase passenger prices, while also reducing demand for shared and WAV rides. We propose removing the tax on shared and WAV rides.
To address these concerns, Lyft proposes three changes, set forth in detail below.

I. Payments should be based on a weekly aggregate, not per-ride.

The proposed rules require companies to ensure that each ride meets a minimum pay standard, regardless of when or where that ride takes place. As an alternative, Lyft proposes that minimum pay should be assessed on a weekly basis. Lyft’s proposal is consistent with the TLC’s own study, which states that driver earnings should be assessed on a weekly basis, and with the Council’s legislation, which also supports weekly assessments.

A. A Per-Ride Minimum Could Negatively Affect Earning Opportunities for Drivers

The high-volume FHV market has both peak and off-peak times. During peak times, drivers have higher utilization and earnings per ride. During off-peak times, ride demand is naturally scarce, making it more difficult for drivers to earn. If the TLC requires that the minimum fare must be implemented across all rides, this will likely increase prices for passengers, and have the unintended outcome of reducing ride demand, particularly during off-peak times. Fewer ride requests could result in decreased earnings opportunities for drivers.¹

Alternatively, by using a weekly aggregate, companies can maintain the flexibility needed to account for both peak and off-peak ride periods. This would allow companies to respond effectively to demand and improve utilization by providing different incentives for different routes. Indeed, Intro 890-B states “such rule promulgated by the commission shall not prevent payments to for-hire vehicle drivers from being calculated on an hourly or weekly basis,” an understanding consistent with our recommendation.

Accordingly, Lyft proposes that the TLC employ the following formula to calculate drivers’ weekly earnings:

\[
\text{TripEarnings}_{Week} + \text{IncentiveEarnings}_{Week} \geq \frac{0.580}{\text{Utilization}} \times \text{Miles}_{Week} + \frac{0.287}{\text{Utilization}} \times \text{Minutes}_{Week}
\]

B. Per-Trip Minimums Could Increase Congestion

As proposed, the current rules would incentivize drivers to work in areas of traffic congestion, and forego trips farther from the Central Business District. Currently, Lyft’s rate card pays drivers $1.58 per mile and $0.32 per minute, whereas the TLC’s proposed rules would set minimum rates at $0.58 per mile and $0.287 per minute. This shift means that drivers would be paid relatively more for time with passengers, than for the distance they travel per ride.

¹ See Appendix A for more details on the effects of the minimum pay standard on the market and the difference between applying the standard by ride versus across the week.
Accordingly, the proposed rules would incentivize driving in high congestion areas, *i.e.*, the Manhattan Central Business District, and rejecting quicker rides of longer distances, *i.e.*, in and between the boroughs and airports.

Below, we show the potential impact of two types of rides (one in an area of congestion, and one on an open road) under Lyft’s current rate card, and under the TLC’s proposed rate card.\(^2\)

<table>
<thead>
<tr>
<th><strong>Congestion Trip</strong></th>
<th><strong>Open Road Trip</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Distance: 2 miles</td>
<td>Distance: 2 miles</td>
</tr>
<tr>
<td>Duration: 15 minutes</td>
<td>Duration: 8 minutes</td>
</tr>
<tr>
<td>Avg. Speed: 8 mph</td>
<td>Avg. Speed: 15 mph</td>
</tr>
<tr>
<td>Current Rates: $7.96</td>
<td>Current Rates: $5.71</td>
</tr>
<tr>
<td>Proposed Rates: $9.42</td>
<td>Proposed Rates: $5.96</td>
</tr>
</tbody>
</table>

An increase of 18.4%  
An increase of 4.4%

In this example, drivers would earn more under the proposed rules by driving in heavy traffic zones, as compared to rides on the open road and in the boroughs. This outcome is counter to the goals of a city striving to address congestion and transportation equality.

Lyft’s proposal would alleviate the concerns raised above. Basing payments on a weekly aggregate instead of per-ride would ensure that companies maintain the ability to respond efficiently to supply and demand at all times of day, and would not further incentivize drivers to seek slow rides in the heavily-congested CBD.

II. The TLC should establish an industry-wide utilization rate.

Company-specific utilization rates hurt competition by fostering a winner-take-all scenario. Under the proposed rules, the company with the highest utilization when the rules take effect is given an immediate and perpetual advantage over companies with lower utilization rates. At the outset, the company with highest utilization will need to spend less than their competitors to meet driver earning minimums. This institutional inequality would be compounded over time, as companies with lower initial utilization would struggle to increase against a competitor who can charge lower passenger prices, or spend more on driver incentives. Given that there are only four high-volume FHV companies, the player with the highest initial utilization could quickly monopolize the market.

\(^2\) The TLC rate card assumes that Lyft has the 58% utilization rate calculated in the TLC’s report on minimum pay by Parrott and Reich.
It goes without saying that a monopoly in the high-volume FHV market would lead to negative consequences. Not only would passengers see higher fares and limited options, but drivers would no longer be able to choose to drive for the company that treats them best. Without robust competition, the company with a monopoly on high-volume FHV service will no longer have to provide driver support, incentives, or the other services that companies use to set themselves apart. Conversely, an industry-wide utilization rate would allow companies to compete fairly and preserve choice in the market.

An industry-wide utilization rate has the added benefit of addressing multi-app drivers. Consider a driver who is on both Lyft’s and a competitor’s platforms for ten minutes waiting for a dispatch. If both companies send the driver a dispatch at the same time, and the driver chooses to give a 10 minute ride for the competitor, Lyft will have provided the driver with the exact same opportunity as the competitor, but Lyft’s utilization would be measured as 0%, compared to the competitor’s 50% utilization. While reasonable and educated opinions differ on how to account for multi-app drivers where company-specific utilization applies, an industry-wide utilization rate ensures that no company is disadvantaged under this scenario.

Company-specific utilization rates would create an anti-competitive environment, and prevent companies with lower utilization from improving. An industry-wide utilization rate allows companies to fairly compete and improve their utilization, while preserving a healthy market for passengers and drivers. Lastly, an industry-wide utilization rate is the simplest and most equitable way to address drivers who provide rides for multiple apps.

**WAV and shared rides should be promoted, not taxed.**

Shared rides are critical to reducing congestion in New York City, and in order to provide accessible transportation, WAVs must be widely available. The TLC’s proposed rules would effectively tax these important services. Placing undue expense on both shared and WAV rides will result in increased costs for both passengers and companies.³ This runs contrary to the TLC’s stated goals, as it will likely result in reduced demand for shared rides, increased traffic congestion, and fewer WAVs available for those in need.

**A. The shared ride “bonus” could negatively affect a price sensitive community and reduce demand.**

Growing shared rides is critical to reducing congestion in NYC, and the TLC should not penalize this product by making it more expensive for passengers. All high-volume FHV companies already make all drivers available to accept shared rides. Instead, the “bonus” will only increase the cost of shared rides for passengers, which will likely decrease the demand for this service. Passengers who opt-in to shared rides are the most price sensitive consumers, which means that adding additional cost to these rides will hurt the people who most rely on them.

³ See Appendix D for more details on the effect of a tax on the market.
B. Adding additional expense to WAV rides is contrary to the goal of increasing accessible options.

Lyft is committed to working with the TLC to provide accessible transportation to all New York City residents and visitors. However, the TLC’s proposal will make it more expensive to dispatch WAV rides, and stands in the way of getting WAVs to the passengers who need them. The TLC recently amended its rules in order to increase the availability of WAVs, and conceded that WAVs have historically been underutilized because they are more expensive to maintain and operate. Adding an additional cost of dispatching WAVs is contrary to the goal of increasing WAV utilization. If companies are financially taxed for dispatching WAVs, it will only serve to make WAVs less-readily available for those passengers who need them.

Taxing shared rides and WAV rides will not help to reduce congestion or increase accessibility for New Yorkers. Instead, it will have the opposite effect by reducing demand for drivers, and increasing costs for passengers and providers. The TLC should prioritize shared rides and the availability of WAVs, and remove the additional fees on these services from the proposed rules.
APPENDICES
APPENDIX A: THE EFFECT OF PRICE FLOORS ACROSS MARKETS VERSUS IN AGGREGATE

The per-ride minimum payment standard effectively creates a price floor in the market. Rides now need to pay above a certain price no matter the market conditions. Price floors have well understood consequences -- they decrease quantities of rides, decrease value created by the market, and can decrease driver earnings.

To understand the effect of a price floor, consider a simple supply and demand model for rideshare rides in Figure A. The green line is the supply curve, which tells us how many rides drivers would supply (on the x-axis) if each ride cost a given price (on the y-axis). The supply curve is upward-sloping: the higher the price, the more rides drivers would supply. The line is particularly steep because in the short run, drivers may have constraints that make it so they need to work a significant amount no matter the price. The blue line is the demand curve which similarly tells us how many rides would be purchased (on the x-axis) for a given price per ride (on the y-axis). The demand curve slopes down because consumers will purchase fewer rides the more expensive they are.

Figure A Supply and demand curves for rideshare rides
In a typical market, an equilibrium price is reached when the quantity demanded equals the quantity supplied, in other words when the number of rides consumers want is equal to the number of rides drivers are willing to supply. In our simple market this happens at $40 and 400 rides are completed. Drivers earn $16,000 in total -- 400 rides multiplied by $40.

Economists typically measure the value created by a market as the difference between what a consumer would have been willing to pay (represented by the demand curve) and what a produce would be willing to accept (represented by the supply curve). Since there is only one price for the market, the difference between the demand curve and market price is value created for a given consumer who would have been willing to pay more, and the difference between the price paid to the producer and the supply curve is extra money for them as they would have supplied the good for less. Figure B shows the surplus generated in our simple market for rides. In this example, the total surplus in the market is $10,667.

The per-ride minimum pay standard distorts this market. Under the policy, every ride needs to pay above a certain minimum, i.e. a price floor. In Figure C we show the effect of a floor at $45 in our simple market, represented by the red line.
Since the market equilibrium price of $40 is below the price floor, supply is no longer equated with demand. Instead, the market price is set at the $45 price floor and the quantity is set by where this price floor intersects the demand curve. This reduces the number of rides purchased to 250 rides, a loss of 150 rides, and lowers total driver earnings to $11,250, a loss of $4,750.

The policy also destroys value created by the market. Whereas before there was $10,667 in surplus, the new market only has $9,167, a loss of $1,500. The triangle represented in Figure D below shows what is referred to as the deadweight loss, i.e., the $1,500 in surplus lost due to the market distortion that prevents the market from reaching its natural equilibrium.
In general, price floors have deleterious effects when they bind, i.e., when the floor determines the final price, or the market equilibrium price is below the floor. Applying the minimum pay standard by ride will cause the floor to bind more often, likely decreasing driver earnings as well as hurting consumers.

Demand varies across time and place. However, the proposed price floor is the same across all times and places. As a result, the floor will likely bind only during periods of low supply or low demand. Trips occurring during rush hour are more likely to already satisfy the minimum pay requirement as they often have Prime Time that raises driver pay.

In markets with higher Prime Time, demand is higher and the price floor will not apply as often. In markets with lower demand, the floor will bind. Consider two markets -- one in the central business district (CBD) and one in the outer boroughs. We plot illustrative supply and demand curves for each alongside an identical price floor in Figure E.
Figure E Supply and demand for rideshare rides in two markets facing the same price floor

The CBD market is unaffected by the price floor, the market price is already above it. There are 500 rides completed at $50 a ride and so drivers earn $2,500. The outer borough market would typically price rides at $35, but it cannot as the price floor is $45. As a result, the market generates only 50 rides instead of 350 and drivers' earnings decrease from $12,250 to $2,250, a loss of $10,000. So while every driver is earning more per ride in the outer boroughs, there are fewer rides to go around, causing utilization and total earnings to fall. There is also a deadweight loss of $6,000 due to the policy.

We propose applying the policy by week instead of by ride. This would lead to the price floor binding less often, which would not decrease driver pay as much. In Figure F below we show what would happen if we applied the policy to the aggregate market for rides (in both the CBD and the outer boroughs).
The price floor still applies, so instead of 850 rides at $42.50 producing $36,125 in earnings there are 700 rides at $45 producing $31,500 in earnings. There is still a loss from the policy, 150 trips amounting to $4,625, but it is smaller than when the policy applies by market (in which case drivers lose 300 trips and $10,000). There is also still deadweight loss coming from the policy, but this time it is only $750 instead of $6,000.

Application of a requirement that focuses on weekly averages instead of individual rides can help to insure drivers against unlucky draws that may happen because of the time they choose to provide a ride. Furthermore, since drivers are already paid weekly, having a weekly minimum pay standard has the dual benefit of likely not hurting riders and drivers as much while also aligning with drivers’ planning horizons.

**Figure F** Supply and demand for rideshare rides aggregated across both markets
APPENDIX B: BERTRAND COMPETITION

Economists have developed many different models for how firms compete in markets with a limited number of firms (i.e., oligopoly models). The NYC ridesharing market mimics a standard oligopoly with three main providers of app-based for-hire vehicle (FHV) services (i.e., Uber, Lyft, Juno; we exclude Via from the example as their product is primarily shared rides). Ridesharing firms essentially provide a homogeneous good (i.e., an identical good), as evidenced by the fact that many of the same drivers provide services to multiple platforms simultaneously. As a result, firms will compete primarily on price. Standard economic theory says that consumers will choose the provider with the lowest price since the goods are identical. This kind of price competition, known to economists as Bertrand competition, has been studied extensively.4

We consider the implications of Bertrand competition in the NYC ridesharing market. In particular, we show how in the case where firms have different cost structures, one firm ends up with the entire market.

First, in the case where all firms have the same marginal cost (i.e., the cost to provide the next unit of the good is the same for all firms), Bertrand competition will result in firms setting prices at their marginal costs. To give some intuition for why this is true, imagine the following scenario with two firms: Firm A and Firm B, both having marginal costs of $30. Suppose now in Case 1 that Firm A sets a price of $45, but Firm B sets a price of $40. Given that consumers prefer the lower price, Firm B ends up with the entire market.

![Figure G Pricing decision in Case 1](image)

To address this issue, in Case 2 Firm A decides instead to undercut Firm B and sets a price of $39. Now Firm A ends up with the entire market.

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4 Note that economists have also extensively studied a different kind of duopolistic competition, quantity competition (known as Cournot competition). Cournot competition assumes that firms have no control over price but full control over the quantities they supply. Bertrand competition, by contrast, assumes that firms have no control over quantity supplied, but complete control over the prices set. Given that drivers are independent contractors, and so ridesharing companies cannot control the hours worked (i.e., ridesharing companies cannot control quantity supplied), we believe it is more sensible to model the NYC ridesharing marking as Bertrand competition rather than Cournot competition. Concretely, ridesharing companies have pricing algorithms, but they do not have ways to directly dynamically change quantity.
Figure H Pricing decision in Case 2

This process continues until the firms set prices at $30 (i.e., their marginal costs). We can assume that when prices are identical consumers flip a coin to choose from which firm to purchase and so the firms split the market. Note that neither firm would set a price below $30 since they would then lose money on every sale of the good, which would not be sustainable.

In the case where firms have different marginal costs, the firms no longer share the market, but instead, the firm with the lowest marginal cost services the entire market. Consider the same example as above except now firm A has a marginal cost of $25 instead of $30. Now, firm A is in principle willing to reduce its price all the way down to $25. Firm B, however, is still unable to go any lower than $30 because it cannot price below its marginal cost. In this scenario, firm A can price just below $30, say at $29, and will get the entire market.

While in our example, we have considered only the case of two firms, our conclusions are readily generalizable to the case in which there are N firms (see the Appendix for a detailed explanation). The important thing in all of these cases is that while firms will share the market when they all have the same marginal costs, one firm will dominate the market when firms have different marginal costs.

While these examples are simplifications of the rideshare market, they are nonetheless illustrative of the dangers of setting a minimum pay standard based on utilization by firm. At present, firms face the same marginal cost, since driver rate cards are identical across the main platforms. The proposed pay standard, however, would create different marginal costs by platform, since platforms have different utilization rates. Our above analysis shows how this would result in the firm with the lowest marginal cost servicing the entire market.
To Whom It May Concern:

Thank you for the opportunity to submit comments on proposed rules regarding driver income and vehicle lease transparency. Regional Plan Association has the following comments on the proposal.

RPA supported many of the provisions in Intro 890-B and Intro 144-B which were signed into law by Mayor de Blasio in August 2018. Intro 890-B reiterates the Agency’s authority to establish a driver pay floor and Intro 144-B provides the same support for the Taxi and Limousine Commission’s (TLC) authority to require the provision of certain data from for-hire vehicle (FHV) service providers.

As we note in our testimony on the legislation, we support the overall goals of the rules to establish a baseline pay for drivers and to require for-hire companies to share data that will help the city better manage congestion on city streets. We applaud the City Council and TLC for taking these steps, and believe the City’s ability to better track so-called utilization rates of vehicles, so fewer cars are driving around without serving passengers.

However, we believe the “shared ride bonus” runs counter to the goals of encouraging shared rides in for-hire vehicles. This will disproportionately raise the cost of providing pooled rides and runs contrary to the goals of reducing congestion and limiting greenhouse gas emissions. This new fee would be the first in the nation to explicitly penalize pooled rides. It runs counter to RPA’s belief that public policy should encourage multi passenger trips to the largest extent possible. Similarly, city and state goals including New York State’s congestion surcharge bill provide incentives for shared rides over trips with only one passenger.

While we support this rule overall, we urge you to eliminate the “shared ride bonus” before the final proposal is adopted. Thank you.
Kate Slevin
Senior Vice President, State Programs and Advocacy
Regional Plan Association
W: 917-546-4323
C: 917-833-9259

www.rpa.org
Afternoon!

Please treat the attached as comments on the proposed income rules.

Thanks.

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From: Alexander Gorelik [mailto:alexandergorelik1963@gmail.com]
Sent: Monday, October 1, 2018 1:21 PM
To: Furrey, Charles (TLC) <Furreyc@tlc.nyc.gov>
Subject: Re: Re Silent Majority

Sent from my iPhone

On Oct 1, 2018, at 1:12 PM, Alexander Gorelik <alexandergorelik1963@gmail.com> wrote:

All medallion taxi and black car drivers-owners, continues rules changes bring uncertainty to the industry, as a result we have all this problems, sanctions from yellow taxis must be lifted, the credit card convenience fee 3.7% cost each taxi $8000, per year. Even when we collect 80cents for tif /mta cost drivers 3cents per transaction, conclusion, credit card fe must be paid by costumer not driver or owner, further more Vera phone the credit card provider charges $60 per month $720. Per year for having their credit card machine in our vehicles, they make money from our vehicles and we pay unfair. 80 cents tif mta many times especially when client pay by cash comes out of drivers tips. Are they so broke they need drivers tips, how das it help people in wheelchairs when vehicle accessible driving passengers that are not in wheelchair, as a result a large number of medallion, are in tlc storage. And medallion owners like me suffering and struggle to meet bank commitments, i bought unrestricted medallion. Based on that I committed to the lender . The law was reversed after we bought medallion. And apply to as in Latin it’s called lex dura non agy, conclusion different methodology must be used don’t forget drivers are self employed. The wheelchair ramps in taxis are heavy and difficult one have to be a mechanic to used it maintenance of this vehicles is expensive, we need additional wave not converting unrestricted. To wav unfair, wav must have use of bus lanes and parking city permits as often drivers receive parking violations while opening wav ramp, who need that stress, next for hire vehicles other than taxis should use yellow green model and split permits to two categories. Restricted and unrestricted, unrestricted should be limited to the same amount of vehicles as yellow taxis besides that was the law. And operate by flat rates not surge pricing, an not by time and mileage under section 4-01 meter is taxis. The restricted should be unlimited as they do not cause traffic the restricted shall not be allowed to pick up in south of 96 on the east and south of 110 on the west same as green the unrestricted shall take some responsibility regarding wav and split wav with yellow50/50 that would be fair besides not every other passenger is in wheelchair, this requires a lot less wav to provide service. It need to be properly organized, we will come to hearing if we will be able to say all this fell free to call 908 692 5181 we need attention not psychological help
Our movement would like to know?? If you agree to have 50/ percent wav. Shouldn't you buy unrestricted medallions. And then sell them restricted rather than converting them in to wav and destroying innocent people's life's. You sold them unrestricted, you change your agreement, people are destroyed. Do you have a hart?

Sent from my iPhone
1. The Rideshare companies make lots of money and while I dont begrudge them profits ,their current modus operandi needs to be looked at closely ,specifically on " shared" or pool rides.

A. The concept of a shared ride is discounting the cost to the passenger in return for sharing the ride and cost with another rider.
However it is unfair if :
1. the two passwngers are not going to similar destinations . Two weeks ago I had one passenegr going from Brooklyn to Queens Center Mall and one going from a similar location in Brooklyn to Washington Heights.
2. The Ride is not close to the cost of two similar rides .Assuming that two passnegers going to the same place should cost doublel or 200% a fair result might be if the driver sees between 145-165% however this is not the case .Lately since the roll out of the NEW driver app. the second trip in a pool is the longest ,so the driver isnt being fairly compensated for the length or time of the trip

3. Pools from the Airports should only be allowed on the basis of whether the application can find another similar ride at the same time and location ( of course allowing for riders from adjacent terminals if neccesary ) of the first ,if no pool can be found the rider should pay the single ride fee. Especially if the trip is 75% or more a highway route. Customers take advantage of the pool price ,which is unfair to both drivers and other passengers.( then demand the fastest route to their location) this should stop.Also Pool passengers ratings (which can affect pay indirectly) should reflect the % of their portion of the ride ,not a full % as a side ride passenger . ( ex three riders each rating equals 33 1/2 %)

B. Ride sharing companies should be strongly encouraged to partner with other firms that offer services to drivers and offer enrollment and discounts .Payroll service companies (ie Surepayroll Paychex ADP ect).
Insurance companies and or agents. While a gas card is fine, it isn't going to help a driver's quality of life as much as knowing his payroll taxes are covered.

C. The ride sharing applications should be limited to a fair new driver rate based on attrition and regulated by the city. They have flooded the city with drivers, and while their profits remain high, each driver struggles.

Respectfully submitted,

David Shaw
S, Ozone Park NY

On Mon, Oct 1, 2018 at 10:53 AM TLC External Affairs (TLC) <tlcexternalaffairs@tlc.nyc.gov> wrote:

Good Morning,

Please submit your comments by replying back to this email.

Sincerely,

TLC External Affairs

From: David Shaw [davegetzoff@gmail.com]
Sent: Friday, September 28, 2018 7:47 PM
To: TLC External Affairs (TLC)
Subject: Re: TLC Hearing on Driver Income Rules

Please provide me with a intake form as I am not able to be in NYC at that time.

Thank you,

David Shaw
DES Transportation

On Fri, Sep 28, 2018 at 6:59 PM TLC External Affairs (TLC) <tlcexternalaffairs@tlc.nyc.gov> wrote:

Hello!
From: Alexander Gorelik <alexandergorelik1963@gmail.com>
Sent: Wednesday, October 10, 2018 4:37 PM
To: TLC Commissioner (TLC)
Subject: Fare increase

Med taxis 16 years no fare increase, yet we need collect 80 cents for mta and tif. Jan 1 even more. Did anyone from tlc or mta did. Not have a increase in 16 years? Do you think we are slaves

Sent from my iPhone
This message is concerning the proposed rules implementation on ride sharing companies, Intro 890-B. One glaring omission I see that needs to be addressed is what ride sharing companies are allowed to take a percentage of. I will speak of uber specifically. Riders are charged for tolls and in turn the driver is reimbursed for providing the convenience of allowing riders to pay for tolls with their credit cards at the reduced price for ez pass holders. It seems Uber considers this reimbursement profit because they take a percentage of tolls. This is outrageous. Uber should not be allowed take a percentage of tolls. Uber also takes a percentage of the tips riders give drivers. This is unfair and should be addressed in the proposed rules implementation on ride sharing companies. Thank you for hearing my concerns.
Testimony of Deputy Commissioner Liz Vladeck
New York City Department of Consumer Affairs
Office of Labor Policy & Standards

Before the
Taxi & Limousine Commission

Hearing on
Proposed Rules Relating to Income and Financial Transparency for Drivers
October 3, 2018

Good morning Chair Joshi and Commissioners. I am Liz Vladeck, Deputy Commissioner of the Department of Consumer Affairs (“DCA”) for the Office of Labor Policy & Standards. On behalf of Commissioner Salas, I submit these comments to the New York City Taxi and Limousine Commission (“TLC”) in strong support of TLC’s proposed rules to provide protections relating to income and financial transparency for app-based For-Hire-Vehicle (FHV) and yellow taxi drivers (“proposed rules”).

DCA houses New York City’s Office of Labor Policy and Standards (“OLPS”). OLPS is charged with enforcing New York City’s workplace laws, developing innovative policies to raise job standards, and providing a central resource to help working New Yorkers assert their rights under local, state, and federal laws. One such example is the City’s Freelance isn’t Free Act (“FIFA”), first of its kind in the country, which OLPS implements. This law seeks to rebalance the economic scales to strengthen standards for the “gig” economy workers who face great difficulty simply making ends meet; the TLC’s proposed rules are another groundbreaking step towards this same goal.¹

In an economy increasingly marked by alternative employment arrangements, “gig” workers—commonly referred to as independent contractors—like FHV drivers, are not afforded the basic protections that come with traditional employment. Legal protections for these workers are sorely needed. As OLPS knows from its FIFA work, the TLC’s proposed rules respond to a problem that is endemic in the broader contingent economy. Frequently, gig workers are not even paid for their work. In a recent national survey, 36 percent of freelancers reported experiencing late payment in the past year, and 27 percent reported being paid less than they were owed. These problems are perpetuated and exacerbated by a legal system that makes a worker’s entitlement to rights contingent upon whether they meet the legal definition of “employee.”

In the last several years, the FHV industry has experienced accelerated growth in New York City as measured by the increase in the number of trips by FHV since 2015. More than half of drivers

are people of color and almost ninety percent are immigrants. Yet, “[d]espite economic success of [FHV] companies reflected in the massive growth in the number of trips in recent years . . ., the majority of drivers have not seen an increase in income;” indeed, driver income is falling. This is in part due to the drivers’ treatment as independent contractors; instead of the basic guarantees established by a minimum wage, drivers’ pay varies by how much the driver transports passengers and is not always a fixed proportion of the passenger fare.

The proposed rules remedy the legal gap that encourages employers to hire independent contractors, or to misclassify employees as independent contractors, to avoid obligations employers have in traditional employment arrangements. The rules are an innovative strategy to ensure that workers can earn minimum pay regardless of whether they are legally classified as “employees.” The proposed rules address the growing divide between FHV workers’ income and the industry’s profits. They establish a minimum wage equivalent for independent contractors of $17.22 per hour that accounts for allowances for payroll taxes paid by the self-employed, all vehicle expenses, and paid time off. Eighty-five percent of app-based drivers in New York City do not currently earn this amount and the average net hourly earnings for this 85 percent is $14.06. Underscoring the financial instability of drivers, nearly one fifth of NYC’s taxi and FHV drivers receive food stamps, compared to about 10 percent of the overall local workforce. Furthermore, the proposed rules will create a baseline predictable income for workers, while still maintaining flexibility in the work overall; we know from our implementation of NYC’s Fair Workweek laws how critical it is for workers to be able to plan their lives and budgets.

The benefits of earning a livable wage to workers and the broader community are clear. Many of these benefits are seen in the public health arena. An increase in minimum wages is associated with improvements in workers’ mental health, and the increase to $15 in New York City has

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3 Taxi and Limousine Commission, Statement of Basis and Purpose, 35 R.C.N.Y. § 1 et seq. (proposed August 20, 2018).
even been projected to decrease premature mortality by over a thousand deaths per year.\textsuperscript{10} The benefits of increased wages also extend to workers’ families, particularly their children. Increases in household income are associated with decreased reports of child maltreatment,\textsuperscript{11} decreased neonatal deaths,\textsuperscript{12} and improved child mental health.\textsuperscript{13}

Higher minimum wages also benefit local economies. The estimated $335 million in driver income resulting from the proposed rule “will translate into additional consumer spending in the local economy,” with the mostly low-income drivers “spend[ing] almost all their additional earnings on goods and services in New York City, especially in their own predominantly immigrant neighborhood economies.”\textsuperscript{14} Moreover, as is borne out in the TLC-commissioned study underlying the proposed rules, the pay mandate will have a minimal, if any, adverse impact on consumer rates, employment, and business. In fact, “[t]he overall increase in consumer spending would thus mean somewhat more sales for local businesses, greater local employment, and higher local income and sales taxes.”\textsuperscript{15}

The proposed rules represent another step by New York City to tackle worker exploitation that has resulted from a changing economy that relies increasingly on independent contractors and contingent work. In 2017, NYC became the first jurisdiction in the nation to create a statutory right to a written contract and payment for freelance work. FIFA provides key protections to the approximately 400,000 freelancers who work or live in New York City. Critically, in the absence of government oversight to enforce workers’ non-payment claims, FIFA helps workers classified as independent contractors actually get paid for the work they perform. FIFA:

- Requires a hiring party to provide a freelancer with a written contract, ensuring that both parties have clear expectations at the outset about the arrangement.
- Sets a default 30-day payment term so there is no ambiguity about when payment is due.
- Requires that hiring parties pay double damages for nonpayment to deter hiring parties from failing to pay on time and in full.
- Allows for an award of attorneys’ fees, making it more likely that freelancers will be able to obtain representation should they need to proceed to court.\textsuperscript{16}

\textsuperscript{16} N.Y.C. Admin. Code § 20-927 et seq.
As TLC’s proposed rules would do, OLPS’s experience implementing the Freelance Isn’t Free Act show the critical role government can play as a powerful tool with great potential to help New Yorkers get paid what they’re owed, make a living wage, and achieve upward mobility, even in today’s contingent working arrangements. In the first year of implementing FiFA, OLPS’ court navigation program assisted over 250 workers to recover more than $250,000. With its enforcement and monitoring authority, and with the important pay transparency and record-keeping provisions that are included in the proposed rules, along with the substantive pay standard, TLC will be able to make real the new right to minimum pay established by the proposed rules.

Additionally, stakeholders should consider other means to curtail a growing divide between stagnant income and increased productivity. In addition to obtaining minimum pay for work, drivers, and other workers who are classified as independent contractors, do not have access to employer-sponsored health benefit plans, retirement funds, paid leave, unemployment insurance, or other fringe benefits that contribute toward overall compensation and protect against risk. A minimum pay standard is just the beginning in realizing enhanced protections for a growing group of workers that do not fit neatly into the law’s definition of “employees.” About 16 percent of all drivers have no health insurance, 40 percent were covered by Medicaid, 4 percent by Medicare, 25 percent by employer-based coverage and 14 percent purchased their own. Legislation currently being considered in the City Council would establish a program to provide drivers with benefits, such as health care and disability insurance. The combination of a minimum pay standard and comprehensive benefits would be transformative, greatly narrowing the gap in labor standards between drivers who are independent contractors and regular employees.

Furthermore, the proposed rules are precedent for taking a closer look at some of the workplace concerns that have been exacerbated by app-based platforms in other industries. One example is the paid care industry, one of the two industries where job growth has outpaced that in FHV industry and where app-based platforms are increasingly used to connect consumers with workers. Through the work of OLPS’ Paid Care Division, OLPS has a vital window into the too frequently overlooked paid care industry, whose workers are disproportionately women of color. Just as paid care workers are “nearly invisible, laboring out of sight in private homes, 

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18 New York City Council, Int. No. 1052 (August 8, 2018).


and overwhelmingly made up of women of color and/or immigrants”\textsuperscript{23} and have “struggled to be seen as part of the economy at all,” they have similarly “been missing from conversation about gig work.”\textsuperscript{24}

The proposed rules represent an innovative, tailored approach to ensure that workers can earn a living wage, calculated to include payment for fringe benefits and time off. The proposed rules will be an important model to draw from as stakeholders and policy makers continue to craft broader protections for those most vulnerable workers who currently fall through the cracks of workplace rights. The Department strongly supports the adoption of the proposed rules.

Thank you; we are happy to take any questions you may have.


Hello, my name is Edith M Prentiss; I am the chair of Taxis For All Campaign (TFAC). I would like to point out inaccessibility other than in taxis.

When I was invited to testify, I was told the podium was inaccessible but that there would be a separate microphone where I could testify. As the Supreme Court ruled in Brown vs the Board of Education of Topeka Kansas, “separate but equal are inherently unequal and violate the Equal Protection Clause of the Fourteenth Amendment”.

TFAC has been fighting for wheelchair accessible taxis since Margarita Lopez introduced the first wheelchair accessible taxi bill in the City Council when she was the Chair of the Committee on Mental Health, Mental Retardation, Alcoholism, Drug Abuse and Disabilities.

After the New York Taxi Workers Alliance (NYTWA) was established in 1998, we frequently worked together. TFAC supporting driver’s issues including benefits and wages and NYTWA supported our quest for increased numbers of WAVs (wheelchair accessible vehicles). Together we lobbied in Albany against the legislation supported by Uber.

I am speaking in support of the TLC’s Proposed Rule: Intro 144-B to establish a driver pay floor and provides support for the TLC’s authority to require the data from for-hire vehicle (FHV) service providers. The proposed rules would provide protections relating to income and financial transparency to For-Hire-Vehicle (FHV) drivers.
TFAC and wheelchair users have a vested interest. In 2011 when only 3% of yellow taxis were wheelchair accessible, Judge George Daniels ruled that 50% of yellows were to be accessible by 2020. TFAC is concerned by the number of vehicles that are not on the road. We have been told the number has slowly diminished. The question is how many yellow taxis will be on the road in 2020 of which 50% are to be WAVs? The year’s cap on inaccessible FHV will not necessarily impact either the number or percentage of WAVs.

Although many New Yorkers believe buying a taxi medallion is a fiscal decision that like any other investment can go bad. Medallions that were purchased for a million plus dollars are now worth about $200,000, leaving many purchasers owing more than their current.

At that time, medallion owners were promised a monopoly on street hails. When Uber, Lyft and numerous other FHVs entered New York City (with no enforcement of the TLC’s FHV regulations) yellow taxi were competing with what seems to be an unlimited supply of FHV. The number of FHVs increased by 80,000 in the years 2014 to 2017 while the number of trips grew from 42 million to 159 million.

The New School’s Center for NYC Affairs reported The TLC’s proposed policy calls for a minimum pay standard of $17.22 per hour, the independent contractor equivalent of $15 per hour plus paid time off. These pay standard will be the first in the U.S. to apply to independent contractors. The TLC policy would increase driver pay for 85% of drivers currently paid below the $17.22 standard. These drivers would receive an additional $6,345 per year. The net (after-expense) pay increase among these drivers would average 22.5 percent.” For goodness sake, Amazon ‘s pay floor is $15/hour!

One of best features of Intro 144-B is the increased transparency of the financial relationship of vehicle leasing between the App Company, medallion owner, drivers, and lender. The increased transparency of vehicle leases should protect drivers’ incomes.

Thank you for inviting me to testify.
Testimony by
James Parrott, Center for New York City Affairs, The New School
and
Michael Reich, Center for Wage and Employment Dynamics, University of California, Berkeley

Before the
New York City Taxi and Limousine Commission
Regarding the Proposed Driver Income Protection Rule

National Museum of the American Indian
New York City
October 3, 2018

The Taxi and Limousine Commission (TLC) drafted a policy to ensure minimum earnings for FHV drivers. The TLC asked my colleague Michael Reich and I to evaluate and provide feedback on the proposed policy and its likely effects.

Our charge did not include analyzing effects on medallion driver pay. The relative lack of data on the rest of the FHV sector precluded an in-depth analysis beyond the high-volume FHV companies.

We presented our analysis and findings in a report ("An Earnings Standard for NYC App-based Drivers: Economic Analysis and Policy Assessment") released in early July this year. Our study relied on extensive administrative data on all high-volume FHV drivers provided by the TLC and benefitted from assistance by the TLC’s very capable data and policy analysts.

FHV growth has increased convenience for riders and extended transportation services to neighborhoods in the outer boroughs not well-served by mass transit. The industry has also generated high returns for its investors and added many new jobs for drivers. But it has also created several challenges, especially downward pressure on taxi and FHV driver earnings and employment. Rapid FHV growth has contributed to worsening congestion in midtown Manhattan and has diverted passengers from mass transit.

FHV rides are predominantly provided by male immigrants. Half of all drivers have children, and 30 percent have two or more. Forty percent are covered by Medicaid and nearly one in five receive Supplemental Nutrition Assistance, twice the rate among all New York City workers.

Contrary to the popular narrative about gig economy workers, 60-65 percent of NYC app drivers work full-time, without another job, and about 80 percent acquired a car to earn a living by driving. Most drivers undertook significant and risky capital investments in acquiring their vehicles. Once they have committed to acquiring a vehicle, they face high exit costs if they discover that it is difficult to cover expenses and obtain reasonable net after-expense earnings.

The proposed minimum pay standard covers a driver’s expenses, provides a minimum earnings floor, and incentivizes companies to increase utilization. With the companies rapidly expanding
the number of cars on city streets, drivers spend more than 40 percent of each hour without a paying passenger in their car. This limits a driver’s earnings capacity.

The TLC proposed the $17.22 rate as the independent contractor equivalent of $15, including 90 cents for a moderate amount of paid time off. Independent contractors must pay the employer share of federal payroll taxes. The payroll tax rate of 7.65 percent applied to $17.22 equals $1.32, which when subtracted from $17.22 yields $15.90 ($15 plus 90 cents for paid time off.)

To bring the average worker below the standard up to the $17.22 wage floor, gross hourly earnings would need to rise by 14 percent, to $25.76. That gross increase would represent a 22.5 percent increase in net pay, from $14.06 to $17.22.

The driver pay standard formula combines an expense component and a time component, both of which are divided by average company utilization. The expense component was estimated at 58 cents per mile or $1.00 per mile once current average utilization of 58 percent is factored in. The 28.7 cents per minute factor (or 49.5 cents per minute at 58 percent utilization) is intended to compensate drivers at $17.22 an hour.

The pay standard is not meant as the formula companies should use in determining driver pay—rather, companies will continue to pay drivers using a method of their choice, as long as it provides at least the minimum per the pay standard. The policy thus permits companies to pay more than the minimum standard.

The utilization rate is important because drivers are working even when they do not have passengers in their car. Driver working time begins when they log on to a company app, and includes the time they are cruising while waiting for a dispatch or heading toward a pickup location or returning from a drop-off location.

The policy incentivizes each company to raise its company-wide utilization rate from one quarter to the next. A higher company utilization rate lowers the company’s costs for the pay standard’s expense and time components. At the same time, increasing utilization rates benefits drivers because they will have more rides in any given hour. Drivers will earn more on an hourly basis, even though their pay for each trip might be lower. To bolster utilization, companies will have an incentive to limit the number of drivers.

In estimating typical driver expenses we estimated the costs related to the Toyota Camry, a model used by 38 percent of all FHV drivers. Another 24 percent drive models with comparable operating costs like the Honda Accord.

We estimated total annual expenses at about $20,300, including all required vehicle registration, licensing and related costs. For vehicle costs we used monthly lease expenses of $635 from an extensive on-line survey of 3,000 app drivers administered by the TLC. We compared vehicle financing and depreciation cost approaches and found that the three alternative approaches to vehicle acquisition costs—leasing, financing or depreciation—yielded similar results.
In our report, we note that about 25 percent of all app drivers used a car model that would qualify for one of Uber’s premium fare services above the standard Uber X level—many of these are SUVs. Vehicle and gas expenses for these models are significantly higher than for a Camry or similar model. Preliminary TLC data show that the share of more-recently registered FHV’s that qualify for higher fares has dropped to around 20 percent. Still, it appears that many drivers of more expensive vehicles are mainly providing services at standard passenger fares.

The companies, some of which encouraged drivers to buy larger vehicles, need to consider how to adequately compensate premium car drivers since the proposed $1.00 mileage factor will leave drivers short of fully covering expenses. Were the TLC to raise the expense factor, it might encourage drivers to acquire larger and more expensive vehicles, which is not desirable from an environmental standpoint. The TLC will need to monitor the relation between passenger fares, driver pay and expense costs.

Drivers of Wheelchair-Accessible Vehicles (WAV’s) would have a higher expense factor of 80.3 cents per mile ($1.38 at 58 percent utilization.) The higher expense reflects the added costs of modifying vehicles to provide a wheelchair lift.

The pay standard policy also includes a bonus per pickup for shared rides. This bonus is needed to encourage drivers to provide shared rides since many are not now adequately compensated when providing shared rides. Our suggested $1.00 per pickup shared ride bonus represents a first approximation. The optimal value of the shared ride bonus may be higher or lower, or companies could change their compensation policies for shared rides in other ways. Public discussion and input from stakeholders will help better inform the optimal bonus amount and form of payment.

Working with the TLC staff and utilizing extensive administrative data on all app drivers providing over three million trips, we estimated that 85 percent of drivers received less than $17.22 an hour after expenses, and that half of all app drivers earned less than $14.25 an hour.

We also examined incentives provided to drivers. Although our incentive data were not comprehensive, it appears that incentives paid on a weekly basis have declined in importance.

To achieve quick response times, the companies require many idle drivers to be available at any given moment and at many locations. This model creates a conflict between the drivers’ desires to maximize their earnings —by maximizing trips per working hour—and the companies’ desire to minimize response times. In other words, the current app business model works only if it keeps driver utilization low, which then keeps drivers’ hourly pay low as well.

Our pay standard proposal resolves this conflict by incentivizing the companies to increase the proportion of each hour that drivers have passengers in their vehicles. This incentive will increase the average passenger wait time for a ride—from five minutes to five minutes and twelve seconds.
On average, the companies receive a 15 to 20 percent commission on every trip, sometimes more. Amazon also charges a commission of about 15 percent, but Amazon pays 600,000 employees (many of whom are in the U.S.), and maintains a huge inventory and numerous distribution centers. The costs for the app companies resemble more those of credit card intermediaries—who charge merchants only three percent. The app companies do have some corporate overhead and operating costs, including maintaining the app, driver recruitment costs, credit card and bank fees, and advertising, legal and lobbying costs. But these are small relative to their revenues from commissions. The companies could easily lower their commissions and remain highly profitable.

To estimate the likely impact of the pay standard, we modeled the extent to which drivers would increase their working time and how much companies would increase their utilization of drivers’ time. On average, we expect drivers who work part-time to increase their working hours. Drivers working long hours may decide to reduce their hours as pay rises.

We expect an increase in paid rides per driver hour. This increase in driver productivity would absorb a large part of the cost of the driver pay increase.

Our model suggests that the pay increase can be absorbed through a combination of better utilization of drivers’ time, lower commissions and a modest fare increase. For example, an increase in driver utilization of between 2.4 and 3.6 minutes per hour, a 40 to 50 percent reduction in company commission rates, and a fare increase in the 3 to 5 percent range could readily absorb the pay increase. Companies would have an incentive to limit growth in the number of vehicles while average passenger wait times would increase by only 12 to 19 seconds, according to Uber’s own study.

Conclusion

We estimate that the pay standard would entail a 14 percent increase in gross driver pay to $25.76 an hour and a 22.5 percent increase in net driver pay to $17.22. Annual driver pay would rise by an average of $6,345 with drivers getting more trips than at present.

Our analysis of the app-based companies reveals industry inefficiencies and inequities; these include incentives to increase the number of drivers without regard for the consequences on driver pay; low driver utilization per driver working hour; and commissions that generate large mark-ups over local operating costs for the dominant firms.

The proposed pay standard provides an innovative approach to increase driver earnings. It helps reduce congestion without causing a perceptible increase in passenger wait times.

A final point: the pay standard will need to be monitored and administered very closely, and adjustments may need to be made. We applaud the TLC for developing this forward-looking proposal. It may well serve as a model for the industry in other major cities as well.
Chair Joshi, Counsel Wilson and Commissioners.
Comments for the Taxi Earnings and Lease Rules Hearing.
October 3, 2018
Submitted by Richard Thaler
For your consideration is a proposed change in the credit card charges for lease drivers' daily and weekly leases. In the past few years I have requested that the Commission consider a option enabling taxi lease drivers to select to be charged individual interchange and processing charges for each credit card fare payment instead of an average lease total. It is unprecedented for merchant acquirer payment facilitators' credit card "Sub Merchants" to be required to pay a single total "average" charge for a business day. Accordingly I am proposing for your consideration that at the end of each shift, drivers for any reason could request that they be charged the percentage used to calculate the average total charge to be instead applied to each credit card fare payment. Otherwise, the driver would be charged the average total for the shift. For weekly lease credit card charges, the total weekly charge would be reduced by the portion of the total charge applied for each shift that the driver selects for the "single charge" option instead. Or a driver could request a permanent switch to individual credit card charges to replace the shift or weekly total lease average.
My name is Abraham Lobe. I am a proud member of the New York Taxi Workers Alliance.

I entered into a lease-to-own agreement for a used Lincoln MKT, for 3 years of $500 weekly payments. The car was already one year old with 30,000 miles on it. The estimated bluebook value would be around $28,500 while I paid $78,000. I was also required to fix repairs only at their garage.

The company would own the car until the end when they would sell it to me. About a year in, the company failed to renew the FHV license. Because they were the owner they had to do that— they were the only ones who could file the TLC paperwork. With the license expired I couldn't drive for three weeks. They didn't provide me a loaner car. I couldn't work so I couldn't keep up with my bills. No savings, no income, I became homeless.

When the car was ready, they told me to come back and sign on an electronic signature box to get it back. Later I found that they attached this signature to another contract that I had never seen--- this was a contract with a company with a totally different name, for even more payments than I had originally signed up for.

I paid them more than $78,000 but they refused to give me title to the car. They continued to bill for the weeks when I couldn't even use the car. They billed me for summonses that I had never heard of. I did a freedom of information request and found that they were charging for summonses that vehicle owners have to pay. They even charged for a summons related to the driver who had the car before me.

I made a complaint to TLC because they had put my signature on a contract they never showed me, but they took no action. In desperation, I went to the company to try to pay the extra money they wanted, to get the title to my car, even though I knew I shouldn't owe them that, but they wouldn't give it to me. They said they wouldn't let me make those payments because I had made a complaint to the TLC.

Even though they retaliated against me for making a complaint about forging my signature and trying to get me into a longer contract TLC has still done nothing.

We need the City Council to pass this bill, make sure the TLC passes rules that prevent this, and make sure that they actually enforce against violations.
All my asking for is that rules to be applied

1) Breach of contract
2) fraudulent use of my signature
3) the same diamond number was used to register another vehicle from the same title

ILC Rules
59 A 13 (c)
WRITTEN TESTIMONY SUBMITTED ON BEHALF OF THE BLACK CAR ASSISTANCE CORP (BCAC)

TLC HEARING ON DRIVER INCOME AND VEHICLE LEASE TRANSPARENCY – OCTOBER 3, 2018

My name is Ira Goldstein and I am the Executive Director of the Black Car Assistance Corp. (BCAC). Thank you for the opportunity to submit this testimony. Unfortunately, I am out of town for a previously scheduled speaking engagement and unable to present this testimony at the hearing.

The BCAC is the preeminent traditional black car base trade association in New York and has represented its members since 1991.

While the BCAC commends the TLC for tackling the difficult issues of driver income and vehicle lease transparency, there are three sections of the proposed rules which the BCAC opposes.

The BCAC opposes the following three sections:

Section 59B-18 (f) (3) (iii), Section 59B-18 (f) (4) (ii) and Section 59B-18 (f) (5).

Pursuant to Section 59A-03 (c) (2) All Black Car Vehicles are owned by franchisees of the Dispatch Base or are

Vehicles owned by members of a cooperative that operates the Dispatch Base.

In general, we oppose these newly proposed sections because the relationship between a traditional black car dispatch base and its affiliated drivers is governed by either (i) a contract made a part of and explained in an offering circular filed with the New York State Attorney General’s Office and which each driver has ten (10) days to review before he signs or (ii) an agreement between a dispatch base owned by the drivers and each of the owner/drivers.

Section 59B-18 (f) (3) (iii) – A Base cannot require payment by a Driver of a summons not written to the driver.

We oppose this proposed section because this aspect of the driver/base relationship is covered in the franchise and cooperative agreements. The overwhelming majority of these agreements specify that if a driver’s actions result in a summons to the affiliating base, the driver is responsible to reimburse the base. As a matter of fairness, the driver should be responsible for his/her own actions.

Furthermore, while a vehicle may only be affiliated with one base, it may be dispatched by multiple bases. This results in incorrect summonses issued to the affiliated base in error when the driver error leading to a summons may have occurred when the driver was performing services for a dispatch base with which he or she is not affiliated.

Section 59B-18 (f) (4) (ii) – Drivers must be paid earnings for every trip made by the Driver within one week of the trip’s completion.
The BCAC strongly believes this section is the most problematic of all the proposed rules today. If approved, it would have a devastating effect on many traditional black car bases.

From a practical perspective, BCAC members almost exclusively service corporate accounts. All corporate accounts demand payment terms of thirty to ninety plus days. Most black car bases have not been able to implement a rate increase in seven or more years due to the competitive nature of the market. Most credit sources for black car bases have dried up. The same credit unions that financed taxi medallions also financed cooperative shares of the bases. The “radio rights” or cooperative shares that sold on the open market for $75,000 to $200,000 are now virtually worthless. Franchisee rights are almost worthless as well.

Operationally, most black car bases still use paper vouchers. The voucher contains information such as tips, wait time and tolls that cannot be processed until the driver submits the vouchers to his/her base. In the normal course of business, the driver holds vouchers for at least a few days, sometimes a week.

Furthermore, the terms of when a driver gets paid is included in the franchise or cooperative agreement. In fact, in the case of a black car base organized as a cooperative, the driver/owners vote on when to get paid.

In conclusion, since this aspect of the driver/base relationship is either in a contract filed with the Attorney General or part of a contract voted on by the drivers themselves in the case of a cooperatively owned base, and would cause an extreme financial hardship for most of the black car industry, the BCAC believes this section of the proposed rules should be omitted from the final version of the rules as applied to black car dispatch bases.

Section 59B-18 (f) (5) – Written Receipts. For every financial transaction under the Base Agreement or these Rules, the Base must give a written receipt to the Driver or Vehicle Owner, ...

This section requires that a Base give a written receipt to a Driver of every financial transaction between them. It also details the specific information which the receipt must contain.

While the BCAC supports the intent of this section, it too is governed by the franchise and cooperative agreements that are either filed with the New York State Attorney General’s Office or are agreed to between the drivers and the base that is cooperatively owned by the drivers. Furthermore, all of the substantive requirements are already given to a driver by the black car base albeit in a different format.

Copies of all sample documents such as franchise and cooperative agreements and driver payment receipts will be submitted to the TLC’s senior legal and policy staff for confirmation and review.

I am available for any questions at igoldstein@nybcf.org or 212-269-4800. Thank you for your consideration on this matter.
Testimony of Michael Replogle  
Deputy Commissioner for Policy, New York City Department of Transportation  
New York City Taxi and Limousine Commission Public Hearing  
October 3, 2018

Good morning Commissioner Joshi and members of the Taxi and Limousine Commission. I am Michael Replogle, Deputy Commissioner for Policy at the New York City Department of Transportation (DOT). Thank you for the opportunity to testify today about TLC’s proposed driver pay standard rules. New York City is bigger and more bustling than ever, and the impact of this growth on our transportation system is evident to all who live and work here. Sidewalks are overflowing, and our streets are full of cars, trucks, FHVs, taxis, and bicycles at all hours. At DOT our mission is to make New York City’s street network as efficient as possible, while increasing safety, expanding mobility choices for all New Yorkers, and reducing environmental impacts.

DOT strongly supports TLC’s proposed driver pay standard. In addition to ensuring that the men and women who work as FHV drivers earn a living wage, the proposal may have the secondary benefit of promoting more efficient use of city streets. The growing congestion on our streets, particularly in the Manhattan core, is due in part to the dramatic expansion of app-based FHV services. Trips across all TLC sectors increased a combined 45% between 2010 and 2017, driven entirely by the growth in app-based FHVs. By incentivizing app companies to increase the utilization rate of vehicles affiliated with their bases, the pay standard could result in reduced congestion.

A company’s utilization rate is the percentage of time a driver spends transporting passengers out of their total work time. Utilization rates vary by company, with the highest rate at 70 percent. This means a driver can expect to be carrying a passenger 42 minutes out of every hour worked. Other companies have utilization rates as low as 50 percent, meaning that the driver spends half of their time waiting for their next fare. Many of these drivers are likely
Department of Transportation

POLLY TROTTERNBERG, Commissioner

cruising in traffic or double parked, potentially blocking a travel lane. By taking into account a
company’s utilization rate when regulating driver pay, TLC has created an incentive for
companies to reduce unnecessary cruising or double parking. We believe that high driver
utilization rates have the potential to increase traffic efficiency, lower congestion and related
air pollution and greenhouse gas emissions, as well as support traffic safety by reducing vehicle
miles and vehicle hours traveled.

The driver pay proposal is also about equity, a key tenet of the Mayor’s vision for New
York City. Over a million people use a taxi or for-hire vehicle to get around New York, with over
60 percent of these people using one of the four main FHV companies. It is important for the
City to ensure that both passengers and drivers reap the benefits of this new mobility option.
When you add in the expensive vehicle costs that most drivers take on, many drivers struggle to
make ends meet. Currently, 85 percent of the 80,000 drivers doing trips with Uber, Lyft, Via,
and Juno make less than $15/hour after expenses. DOT therefore supports TLC’s efforts to
ensure that drivers make a living wage.

DOT believes the driver pay proposal sets an important foundation for sustainability and
equity advances in the taxi and FHV sector, and it helps advance city goals. DOT looks forward
to its continued partnership with TLC as we study the effects of this new policy. Thank you.
October 3, 2018

Gale A. Brewer, Manhattan Borough President
Testimony before the Taxi and Limousine Commission (TLC)
On Changes to Driver Pay Rules

My name is Gale A. Brewer and I am the Manhattan Borough President. First, I would like to thank the City Council and Mayor de Blasio for enacting two new laws, Intro 890-B and Intro 144-B, which direct the Taxi & Limousine Commission to make these badly needed updates to the driver pay rules. I would also like to thank Taxi & Limousine Chair Meera Joshi for overseeing this process and ensuring that it works for all parties involved.

Unfortunately, we are all too aware of the struggles that both taxi and for-hire vehicle drivers have endured in the past several years. As the largest for-hire vehicle companies like Uber, Lyft, and Via have incentivized drivers to flood our streets, we have experienced what some have deemed “a race to the bottom.”

Our taxi drivers, some of whom have staked their entire life savings on their medallions, have watched as their weekly earnings have fallen while their payments have not. Meanwhile, many for-hire vehicle drivers have found that the promises of working for Uber and Lyft in the so-called gig economy have left a lot to be desired. And both groups of drivers are now being forced to compete for passengers amidst rising traffic congestion. This spiral benefits no one, aside from the well-funded transportation network companies whose primary goal appears to be maximizing a loyal long-term market share at the expense of drivers in the present.

But now we find ourselves in a position to address many of these problems and stand up for these drivers who so badly need our help. I fully support all of the rules amendments being proposed today by the TLC. I am especially gratified by the pay rules and financial transparency amendments, which will help to take the brunt of the financial pressure off of drivers and their wallets.

First, the Minimum Per-Trip Payment Formula devised by the TLC represents an innovative method to account for many of the expenses that for-hire vehicle drivers are unfairly forced to pay for out-of-pocket. While the biggest FHV companies have thus far avoided paying for heavy
expenses associated with owning a car, a driver’s health insurance, paid time off, and the time drivers spend looking for rides, the proposed rules would reorient these heavy costs away from the drivers.

If implemented, the new pay structure would lead to an effective raise for over 68,000 drivers working for the largest FHV companies. In 2017, the bottom 25% of drivers earned just $13.16 or less per hour after expenses, meaning a quarter of drivers would receive at least an average of $4.00 per hour raise under this new policy. This policy would result in an average increase in take-home pay of about $6,345 annually per driver, or from $14.06 net per hour to $17.22 net per hour. For comparison’s sake, 85% of app-based drivers currently earn less than $17.22 an hour.

Additionally, this pay structure will help to address traffic congestion. By changing pay structures to incentivize not only that drivers spend less time looking for passengers, but more time with users, this structure may reduce traffic congestion. Moreover, I support the TLC’s decision to utilize this pay structure to try to even out the costs of operating a wheelchair-accessible-vehicle (WAC) instead of a non-accessible one. The Minimum Per-Trip Payment Formula is a better way to address low driver pay, and other challenges, such as traffic congestion and accessibility.

Furthermore, I am excited about the decision by the TLC to expand financial transparency for FHV drivers by requiring that agreements and leases be written in plain language; that leases and agreements specify all costs to drivers, and that itemized receipts of charges and breakdowns of earnings be provided to drivers by owners and bases, respectively. It is harrowing to hear of the some of the predatory behavior that drivers have faced, and I hope these rules bring an end to it.

Rules that more fairly turn the balance of financial responsibility back to the lessor and not the lessees, and rules that provide greater transparency about costs, expenses, and earnings, will all help to relieve the financial burdens that many drivers currently face. At the same time, reducing the maximum amount taxi lessors may charge taxi lessees for credit card processing, and eliminating the prohibition against e-hailing yellow taxis at JFK and LaGuardia airports, will also reduce the difficulties burdening drivers.

Thank you again for holding this hearing. I know that these steps do not represent a cure-all for taxi and for-hire vehicle drivers’ recent woes, but they do represent meaningful and just reforms that will help drivers support themselves and their families and strengthen the taxi, livery, and for-hire ecosystems as a whole.
October 3, 2018

Dear Commissioner Meera Joshi, and Members of the Board of Commissioners:

My name is Jose Altamirano, and I am President of the Livery Base Owners, Incorporated which represents over 150 livery bases in New York City. Our member bases serve approximately 150,000 New Yorkers each day in every borough across the City except for Staten Island. Our organization represents the American Dream - working-class immigrants for whom English is a second language, who pooled their meager resources, opened businesses, and serve their community. We empower approximately 10,000 drivers who are hard-working immigrants themselves.

We have some concerns with aspects of the proposed rules promulgated to enact Intro 144-B. For the reasons detailed below, LBO opposes the following amendments to Section 59B-18 of Title 35 of the Rules of the City of New York: 59B-18(f)(3)(iii); and 59B-18(f)(4)(ii).

Section 59B-18 (f)(3)(iii) states that, “[a] Base cannot require payment by a driver of a summons not written to the driver.” The rule as written seems rather straightforward and fair at first glance. However, the plain language of the rule belies the reality of how summonses are issued. In some instances, a summons may be issued to a base due to the actions of the driver. This may occur in cases where a driver is affiliated with multiple bases and therefore the wrong base can be summonsed. It is only fair and just that a base could recover any fines imposed based
on the actions of a driver, when the base is not at fault. Therefore, this part of the rule should be stricken, or rewritten in a way that is fair to both the driver and the base.

Section 59B-18(f)(4)(ii) states that “[d]rivers must be paid earnings for every trip made by the Driver within one week of the trip’s completion.” LBO agrees that a driver must be paid for trips in a timely manner. For the majority of the trips dispatched by the LBO member bases, the driver is paid by the passenger directly at the time of service. This rule would only apply in those cases where payment is remitted to the base through a voucher or non-emergency medical transportation. In such cases, the base does not receive payment within a week. Rather, payment may take anywhere between 30 – 90 days. Therefore, it is unreasonable to make a rule that would punish a base for paying a driver for a ride before the base has received payment for that ride.

Therefore, we propose that the rule be amended from “one week,” to “within one week after receiving payment.” This amendment would provide bases with much-needed flexibility, and offer drivers the protections they deserve.

Thank for allowing the Livery Base Owners to submit these comments. We are available to you and your staff if you wish to discuss these comments, or require any additional information.

Respectfully Submitted,

Jose Altamirano
President
Gmail

Mathurin Lobe <pastormlobe@gmail.com>

New York Attorney General,
New York State DC,
Manhattan Attorney,
Bronx Attorney,
FTC,
American Lease & mgmt LLC

EZ Livery Leasing LLC,
Uber vehicles solutions program,
Uber-Danach-Ny , LLC ( base).
Mr Jonas

It is a year today I signed a contract to lease & purchase vehicle vin # 2LMHJ5FK7DBL51904.
Lincoln Mkt 2013.
Veh# 1682.

Despite the fact that this was a used vehicle with 35 000 miles on it
Contact prices where way off $ 500 a week for first contact 156 weeks =78 800 .00 ( Seventy eight thousand dollars),
than as if that wasn't enough you fraudulently without any prior mutual agreement with me used a signature box on which
you made a fix my signature during a breach of the same contract on paragraph 4 , stated

" American will register the vehicle with NYSDMV and NYCTLC ( cost of registration & TLC Diamond are covered under
this agreement for the term of the agreement) obviously this term was breached by American Lease & mgmt LLC ( Uber
DANACH-NY LLC) BASE , on July 31 st till August 18th 2016 , the car # 1682 Vin # reference and make above had no
Diamond on it then was at your facility for negligence and failure to keep the diamond that allows me to legally operate
the vehicle for hired purposes in New York city according to the Taxi & Limousine commission laws.
During the entire period in which the vehicle was in your premises, I had no income whatsoever
1/ consequently I was evicted in a single room that I rented in Paterson New Jersey, even found myself homeless few
months later all these facts are well documented & court records show.
2/ As if this wasn't enough you electronically and fraudulently affix my signature, on August 18 th 2016 during the time
where Ms Ana Lois called to come picked up the vehicle and she said to me to signed a release for the picked up ,
previously we had agreed that I will not be responsible of making any payments while the vehicle will be in American
Lease and mgmt possession , for complying with the TLC diamond procedure of renewal.

2nd Contract:
A second false Contract was established this time not by American Lease and mgmt LLC, But by a company that I had
never heard from before & even Intill today one year later I know nothing about called EZ Livery Leasing LLC.
For and additional 65 weeks x $ 500=$ 32 500, ( thirty two thousand & five hundred dollars) for a grand total this time for
one hundred & ten thousand & five hundred dollars for a used vehicle with 35 000 thousand miles on it.
Adding up the 1 st contract in which no signatures of American Lease & Management appeared of 156 weeks at $ 500.00 dollars a week , then as if that wasn't enough since according to either American Lease and mgmt, or EZ Livery Leasing LLC I m so stupid to the point were you can both scammed another $ 32 500 ( Thirty two thousand dollars & five hundred dollars) why is it two contracts ? Can there be two contracts on the same vehicle ?
On two occasions toward the end of last year & the spring of 2018 I met with Mr Jonas Manager at American Lease and
mgmt LLC he said to me since I went to complain to TLC for breaching the contract by American Lease, he will not talk
to me or give me the title but only by a court order ,
During the year I have contacted several attorneys , those who were willing to take case the costs was too high for me or
their lake TLC or vehicles lease purchase expertise.
Uber vehicles solutions program
& American Lease and mgmt LLC

Has violated And Broken several laws, federal laws, Ny state business laws including own TLC laws ,find attached
Relief
Even until this date of February 31 st 2018, American Lease and mgmt has not giving me the title of the said vehicle
mentioned above,
After they own financial records state clearly that American Lease and mgmt

https://mail.google.com/mail/u/0/?ui=2&ik=f28a12ca4&sj=svr=Mm6w0ATNO_o.en.&cb=gmail_fe_180724.14_p4&view=pt&search=inbox&th=164od76...
HAS RECEIVED MORE THAN SEVENTY EIGHT THOUSAND DOLLARS
$ 78,000.00
IF THIS IS NOT PREDATORY LENDING,
DECEITFUL BUSINESS PRACTICES,
FRAUD INCLUDING GREED,
LOST WAGES.
THE ATTORNEY GENERAL
THE TLC
THE DCA
FTC
NEW YORK CITY COUNCIL
MUST INVESTIGATE THIS CASE
BUT SUSPEND AND REVOKED
AMERICAN LEASE AND MGMT, UBER VEHICLES SOLUTIONS PROGRAM.
I PRAY FOR RESTITUTION ACCORDING OF ALL MONEYS RECEIVED BY AMERICAN LEASE AND MGMT LLC. BUT LOST WAGES ALL WELL,
The car has been inactive for exactly a year the amount of income this kind of investment is made to generate is about 25,000.00 a week x 4 x 12 = $ 120,000.00 (one hundred & twenty thousand dollars)
By so doing not only justice is served but lives are saved as this situation has cause me mental anguish sometimes thoughts of unclean acts as such of those others fallen drivers who committed suicide, just because they couldn't stand such injustices in our city
Please I didn't take my live to make a statement but dont take away justice from me.

Marhurin Lobe (Abraham)

New York city
Yellow cab driver,
Green cab driver,
Former Uber black car driver,
Hack license # 5506749.

Marhurin Lobe
Good morning, Commissioner Joshi and members of the Commission. I am Peter Mazer, General Counsel to the Metropolitan Taxicab Board of Trade. We represent the owners of approximately 5,700 taxicab medallions. Our full service drivers’ center has helped over 3,000 drivers with their licensing issues and provided free representation to drivers at more than 6,000 administrative and criminal proceedings, saving our drivers over $900,000 in legal fees.

The rule package under consideration today would establish an important first step in protecting the economic interests of the large number of for-hire vehicle drivers who lease their vehicles. For nearly thirty years, taxicab owners have been required to provide drivers with written leases. TLC rules adopted and amended over the years establish uniform terms for most aspects of the driver/owner leasing relationship. Everything from maximum lease rates to permitted extra charges, to when repairs may be charged, are set by lease. As of today, there are no such requirements in the for-hire industry. While this rule does not establish equivalence within the two industry segments, since specific terms of FHV leases will still not be regulated by the TLC, the rule is an important step in at least creating transparency in the for hire vehicle leasing process. It may even give the Driver Protection Unit some tools necessary to begin investigating some of the predatory practices in the for-hire industry. But the Commission
should take the further step of setting maximum rates and requiring that leases contain specific terms similar to those required in taxicab leases.

The rules also set in place a mechanism to ensure a minimum income for those for-hire drivers who work through the largest FHV companies. However, the rules continue to permit self-reporting by these bases. Unlike the taxicab and street hail livery industries, trips in these FHV industries are not recorded through an LPEP/TPEP system which ensures the accuracy of trip and fare data. Until such time as equivalent technology is required in for-hire vehicles it will be impossible to determine if each base is fully compliant with these rules.

Certain rule changes are proposed that would affect the medallion industry. One significant change would expand the role of the TLC in contractual disputes through the provisions calling for mandatory restitution is cases involving either a breach of contract or where there has been third party reimbursement, as in the case of an accident. The rules do not provide a similar remedy for owners where drivers fail to make all required payments. This rule requires the OATH tribunal to conduct itself as an arbiter of contractual disputes rather than its Charter role adjudicating rule violations. The use of two distinct forums to resolve contract disputes may produce conflicting results. This would also supersede permitted contractual provisions which determine the court of competent jurisdiction designated to review breach of contract claims.

We applaud the Commission for making changes to the Accessible Dispatch Fee to further incentivize drivers to lease and operate accessible vehicles and look forward to working with the Commission to promote accessibility in all segments of the vehicle for hire industry.

The proposed rules on pro-rated leases deal with the option for a lease period of less than 12 hours, which is not specifically authorized by the rules at this time. The rules go further and mandate the pro ration of a lease if the twelve hour period is shortened due to no fault of the driver. This provision, as written, would apply even where the lease rates are already deeply discounted. This mandatory pro ration should only apply if the maximum lease rate is being charged.
Many lease periods are in fact for periods greater than twelve hours. The fatigued driver rules give individual drivers great flexibility in crafting work shifts that span a period of greater than 12 (and in most cases, no more than 24) hours since drivers may work a few hours, take a break, and then resume working later, consistent with these rules. The TLC should acknowledge that whenever a driver has possession of a vehicle for more than twelve hours, the twelve hour maximum lease rate would not apply. It is important that drivers and owners have the flexibility to customize leasing periods, both greater than, as well as shorter than, twelve hours for agreed upon rates within the prevailing lease cap.

Finally, the proposed rules would reduce the credit card surcharge from $11 per twelve hour shift to $7, and make further reductions in the case of longer-term leases. In fact, a $132 surcharge applicable to some weekly leases is reduced to $49. While most garages are not charging maximum lease rates at this time, the reduction in credit card surcharges is relevant because it limits an owners’ flexibility to tailor a leasing structure that works best for both drivers and owners. This surcharge is based on the cost of handling credit card and related transactions, as well as the cost of advance drivers’ credit card revenue prior to receipt. These costs have not gone down. The surcharge was originally a fixed percentage of fares. Fare revenue per taxicab-hour of service has not declined proportionately. The cost of processing transactions has not declined, either. Accordingly, this reduction in the surcharge does not appear to have its basis in any economic analysis of the industry and to that extent is arbitrary. We urge the Commission to not reduce this surcharge.

Thank you for providing me with the opportunity to testify. I would be happy to answer any questions you may have.
Testimony Before the New York City Taxi and Limousine Commission
October 3, 2018

My name is Bryan Lozano and I’m from Tech:NYC. Thank you for the opportunity to testify today and allowing public comment on these proposed rules.

Tech:NYC is a nonprofit trade group with the mission of supporting the technology industry in New York through increased engagement between our more than 650 members, New York government, and the community at large. Tech:NYC works everyday to foster a dynamic, diverse, and creative ecosystem, ensuring New York is the best place to start and grow a technology company.

Over the past several years, New York City has proven itself a welcoming place for tech and, consequently, it has become a top international destination for technology and the companies who build it. Our community has established itself as a top hub for innovation. There are now more than 326,000 tech workers in the city. The best and the brightest tech entrepreneurs are increasingly calling New York home.

Much of the progress is a direct result of meaningful engagement between industry leaders and policymakers. The Taxi and Limousine Commission has enacted a number of smart rules over the years that have allowed New Yorkers to access the transportation services they need. 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. We have been encouraged to see elected officials and the TLC engage with ridesharing companies, attempting to adopt smart policies that benefit drivers, customers, and the public.

We support the goal of today’s proposed rules, namely ensuring that drivers receive a living wage. We are encouraged to see that these rules are aimed at ensuring high utilization. However, we are concerned that these rules fail to account for the various rideshare models. If the rules are overly prescriptive, rideshare companies may be prevented from finding innovative solutions to our city’s transportation issues. Prior to moving forward, we ask the TLC to re-evaluate these rules and to...
develop alternative provisions which simultaneously ensure drivers receive living-wages and all companies can continue to innovate.

We are also specifically concerned with the shared ride bonus stipulated in the proposed rules. Both the City Council and the State have demonstrated that their priority is to increase the efficiency and utilization of for-hire vehicles. Shared rides are a key mechanism for achieving these goals and can also help reduce congestion on streets. Shared rides are something that should be incentivized, however this proposal will have the opposite effect. Under these rules, shared rides will become more expensive and the cost differential with standard rides will fall. Any final rule should not include such a bonus.

We hope that the TLC will reconsider these proposed rules and develop a solution that will support innovation, support drivers, and benefit riders. This is not an easy task, but we are confident that the TLC can find a better solution.
Driver Income Hearing Comments for the Commissioners

Name: Virgilio Carballo

Phone Number: [Redacted]

Email Address: VC1493@optonline.net

☐ Driver  ☐ Other: _______________________

Please add your Comments Below:

Being labeled an independent contractor is the worst that can happen to drivers for hire. Speaker TERRIGERSTEIN laid out the disadvantage of the label.
Driver Income Hearing Comments for the Commissioners

Name: Wu Zheng

Phone Number: [Redacted]

Email Address: WuZheng001@yahoo.com

☑ Driver   ☐ Other: ______________________

Please add your Comments Below:

Raise driver pay. It's very important protection for driver income. Because for-hire drivers have high expenses for vehicle financing and leasing, insurance, gas, and maintenance leading to lower take home pay. Long trips like out of the city always get empty cars going back to the city, spend more gas and miles.
Driver Income Hearing Comments for the Commissioners

Name: Ardian Xhelilaj

Phone Number:

Email Address: ardian.xhelilaj@gmail.com

[ ] Driver [ ] Other:

Please add your Comments Below:

I can email my proposal.

The law as it is proposed will not increase driver's earnings. It will help them make more money. As TLC agrees all boxes have riders schedule rate approved for every city. Bosses abuse a lot with the surge. They change the riders with surge multiplier from what is given to drivers.

I propose no minimum payment for rider but max percentage (commission) that bosses should take for every shift.
Driver Income Hearing Comments for the Commissioners

Name: Moussa Diop

Phone Number: [Redacted]

Email Address: mdiopgoby1@yahoo.com

☐ Driver ☐ Other: _______________________

Please add your Comments Below:

I'm here to fight for the rate by same app making more money, sharing the ride, but never sharing their income with the drivers.
Driver Income Hearing Comments for the Commissioners

Name: Claudio Gomez

Phone Number: 

Email Address: 

☐ Driver ☐ Other: 

Please add your Comments Below:

Leasing fees are too high.
I am here to voice my complaint about the nature of the transportation business. As a driver, we invest time and money in order to make a livable wage. However, Uber and other app bases take more percentage than what they should. In a result, drivers have to overwork themselves with little rest to maintain car and fuel.
Driver Income Hearing Comments for the Commissioners

Name: Daniel Valls

Phone Number: [Redacted]

Email Address: danielvalls@gmail.com

Please add your Comments Below:

Pool rides should only be offered if passenger is staying within the Brough they requested. Pool rides must pay more than ten currently, higher rates for Pool.
Driver Income Hearing Comments for the Commissioners

Name: Richard Chow
Phone Number: [Redacted]
Email Address: richardslychow@yahoo.com

☑ Driver  ☐ Other: Owner

Please add your Comments Below:

Some Uber drivers, working night shift and day time, go to garage driving yellow cab. Please TLC commissioner investigate this case. Also a lot of gigycab handout at JFK lay airport stealing our fare. TLC must be cracked down as soon as possible. Thankyou.
Driver Income Hearing Comments for the Commissioners

Name: MEHEDI HASAN

Phone Number: 

Email Address: mehedinyc@gmail.com

□ Driver  □ Other: 

Please add your Comments Below:

For app base or Uber/Lyft, please, not make out of town trips for Uber must be added time and half & rate with return tolls as yellow taxi.
Driver Income Hearing Comments for the Commissioners

Name: Tong Gyi Ho

Phone Number: [Redacted]

Email Address: TongYan1120@hotmail.com

☐ Driver    ☑ Other: Owner

Please add your Comments Below:

YESTERDAY WEATHER BAD I'M CHECK THE UBER APP TO JFK FROM CITY THE PRICE IS $90 - 110. TODAY IN MORNING I'M CHECK UBER APP TO JFK THE PRICE IS $50 - 75. I'M HOPE THE PRICE SHOULD BE THE SAME ALL THE TIME NO MATTER WEATHER.
Driver Income Hearing Comments for the Commissioners

Name: Gose Vadal

Phone Number: [Redacted]

Email Address: Gose33Vadal@gmail.com

☑ Driver        □ Other: ____________________________

Please add your Comments Below:

NOCPOOL AND GOOD PAY
Driver Income Hearing Comments for the Commissioners

Name: Andy Suparman

Phone Number: [Redacted]

Email Address: linchow133@gmail.com

☑️ Driver ☐ Other: ______________________

Please add your Comments Below:

We need to know the passenger destination. We should have the freedom to choose based on destination. (AP Uber, Lyft etc Commission on 20% from driver. They take up to 50% from driver. That's robbery.)
Driver Income Hearing Comments for the Commissioners

Name: Sandra R. Gibson

Phone Number: [Redacted]

Email Address: sandragibson99@yahoo.com

☐ Driver   ☐ Other: 

Please add your Comments Below:

I support the raise for the drivers as a ex-government employee I drove and also recommend that TLC drivers should be armed to protect their funds.
Driver Income Hearing Comments for the Commissioners

Name: Rossini Celeste

Phone Number: [REDACTED]

Email Address: [REDACTED]

☐ Driver  ☐ Other: [REDACTED]

Please add your Comments Below:

Yes about the wheelchair some older drivers not able to do it because they are old.
Driver Income Hearing Comments for the Commissioners

Name: MD H. KABIR
Phone Number: [Redacted]
Email Address: humayun-cndn@yahoo.com

[ ] Driver [ ] Other: _______________________

Please add your Comments Below:

Please reduce Uber Commission up to more than 20% - Increase Fare value $3 per mile. $50 per minute.
Driver Income Hearing Comments for the Commissioners

Name: Avay Dhungel
Phone Number: 
Email Address: avaydc@gmail.com

[ ] Driver  [ ] Other: 

Please add your Comments Below:

We drivers need more wages than they are giving Uber, Lyft, Juno, Via need to manage fare rate high because we invest lot of money by car, but not more Income, we have so many expense such as fuel, insurance maintenance, installment expenses etc. Thank you.
Driver Income Hearing Comments for the Commissioners

Name: Marwan Alawadhi

Phone Number: [Redacted]

Email Address: marwan alawadhi

☑ Driver ☐ Other:

Please add your Comments Below:

Uber and all the app companies should only take 25% and tax is black fund and the rest to the driver. They want to give discount they making a lot of money from them all these company. They make more than 50% and they charge the customers the way they want. I go to the customer 10-15 minutes and almost 45 minutes to make $5 and change cruel of the customer cancel I make $3.57.
Driver Income Hearing Comments for the Commissioners

Name:  Abdur Mohamed

Phone Number: ________________________________

Email Address: ________________________________

☑  Driver    ☐  Other: ________________________________

Please add your Comments Below:

We would like fair pay to apply to all drivers. I've been a driver since Uber and all sharing ride started in NYC and my pay has been cut by 60% which makes it impossible to even enough to support my family. Also to spend more time with my family.
Driver Income Hearing Comments for the Commissioners

Name: Michelle Tillman

Phone Number: 

Email Address: 

☑ Driver ☐ Other: 

Please add your Comments Below:

Minimum $10-12 per ride.
I support the same fare structure for all drivers across yellow taxi and FHVs, Green Cabs, oppose upfront pricing policy of App company, it encourage manipulation of App company, App Drivers should get 80% of the fares. I have friends work for App company. They are starving.
Driver Income Hearing Comments for the Commissioners

Name: Salim Sarder
Phone Number: [Redacted]
Email Address: salim.sarder9000@gmail.com

☑ Driver  ☐ Other: ________________________

Please add your Comments Below:

Sit Belt planking us in the city. No maximum give us ticket. Uber rading our miles and money out of the city for 45 miles like $45.00. Come back to the city again 40 miles every mile like 50% rading fare money from us driver and passengers. Surgeing passengers with out any information.
Driver Income Hearing Comments for the Commissioners

Name: SATISH KUMAR

Phone Number: [Redacted]

Email Address: Kumar2008 USA @yahoo.com

☑ Driver  ☐ Other: ______________________________

Please add your Comments Below:

UBER & Lyft Commission Should be Low I Hope For Change you guys Favour the Driver this Time
Monday, October 22nd, 2018

Meera Joshi
Commissioner
NYC Taxi & Limousine Commission
33 Beaver St
New York NY 10004

Re: Driver Input for October 3rd, 2018, Hearing.

Dear Commissioner Joshi,

Thank you for holding the hearing on Tuesday, October 3rd, 2018, to discuss driver earnings. Currently, I am a professional driver who uses apps such as Lyft and Uber. Drivers and others were asked to provide comments concerning driver earnings either by speaking at the hearing or in writing. Given that, I am providing my related comments in this letter.

Base Earnings

At the hearing, the Taxi & Limousine Commission proposed a gross pay rate for app-based drivers of $25.76 per hour and a net rate of $17.22 per hour.

I am pleased that the TLC and the city’s elected officials have taken an interest in establishing a mandatory minimum base pay for drivers. However, the proposed rate is still much too low. It is clear that the commission has severely underestimated the many business expenses drivers in the profession regularly incur. From these rates, it is also obvious that the TLC overlooked the fact that drivers, like people in all professions, should regularly contribute toward savings accounts and toward their retirement. Further, additional amounts should be set aside so drivers can take some time off for vacations or sick days.

For instance, here are my typical weekly expenses that are directly related to professional driving:

<table>
<thead>
<tr>
<th>Expense</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Car rental</td>
<td>$442</td>
</tr>
<tr>
<td>Fuel</td>
<td>$120</td>
</tr>
<tr>
<td>Parking</td>
<td>$160</td>
</tr>
<tr>
<td>Licensing</td>
<td>$33</td>
</tr>
<tr>
<td>Tickets</td>
<td>$17</td>
</tr>
<tr>
<td>Car wash</td>
<td>$12</td>
</tr>
<tr>
<td>Mobile phone service</td>
<td>$38</td>
</tr>
<tr>
<td>Other</td>
<td>$100</td>
</tr>
</tbody>
</table>

| Total     | $922   |

That comes to $3,688 in business expenses per month. After I add about $2,800 per month in required personal expenses (e.g., food, rent, utilities, etc.), the total expenses reach $6,488 per month.

A total base gross income of $7,500 per month would accommodate some discretionary expenses—though, even then, the portion of necessities would still be considered too high, according to most guidelines.

244 Fifth Avenue, Suite E151, New York, New York 10001.7604. Tel 646.457.678. drive@chernovo.com.
Additionally, most personal finance experts agree that individuals should save at least 20% of their income. Further, a substantial amount should be contributed toward retirement accounts: for this argument, let’s say another 20% (though the ideal amount will vary from person to person). Twenty-six days per year should be allotted for time off (eleven holidays, plus fifteen days that could be used for vacation and sick time). Last but not least, income taxes must be considered. For this argument, I have boosted the gross income by another 20% to cover taxes.

When taking all these facets into consideration, realistically, the total gross pay for drivers who reside in New York City should be at least...

- $10,335.60 per month
- $2,583.90 per week
- $75.83 per hour (35 hours per week)

This assumes a thirty-five-hour workweek (including one unpaid hour-long break per day in a five-day workweek). $75.83 per hour may be far higher than the TLC’s recommendation, but it would actually allow drivers to earn a reasonable income, live good lives and establish nest eggs for the future.

**Cap on the Number of Licensed TLC Drivers**

This year, New York City froze the licensing of additional For Hire Vehicles, or FHVs, reportedly to curb congestion and increase driver pay. A better method to attain the same goal is to limit the total number of drivers with active TLC licenses. Capping the number of drivers instead of vehicles would allow drivers to change the vehicle they drive much more easily and at their convenience. It would allow those that rent vehicles to buy one when they are ready (see below), thereby decreasing their expenses and allowing them to retain more of their earnings.

**Identical Compensation for FHV, SHL and Taxicab Drivers**

The services rendered by drivers of For Hire Vehicles, Street Hail Livery cars and yellow cab drivers are essentially the same, with the only substantive differences being where and how they can pick up riders. Most of them even drive the same car models. Because of these similarities, the drivers should receive the same level of pay from their work, regardless of whether they drive black, green or yellow cars. All drivers should be entitled to receive the same base pay rate, determined by distance driven, time in traffic, time and distance traveled to pickup riders and time otherwise waiting for a rider. Companies, including taxicab bases and those that operate ride hail mobile apps (e.g., Juno, Lyft, Uber, Via, etc.) should be held to that same pay rate standard. However, each company may compensate its drivers more money than that baseline rate.

**Rental Cars**

A substantial number of people who are licensed to drive for-hire vehicles in the city currently rent their vehicles and were planning to purchase one for use as FHVs. I am one such driver. The reason that I would like to own an FHV I drive for my living is that owning a vehicle would lower my expenses substantially. Currently, I pay a rental car company nearly $442 per week to rent a Toyota Camry. That comes out to $1,768 per month—comparable to the rent for my apartment. Further, I do not currently own any vehicle.

At the time New York City imposed the cap on new FHVs, I was in the process of saving money to buy a car that I could register as an FHV. I thought I would have about a month after the bill’s approval to finally buy a car and file a TLC application for that vehicle. Even agents I spoke to at the TLC assumed there would be a reasonable transition period, based on past legislation that impacted the TLC. But the decision to make the cap effective immediately has made my path to FHV ownership extremely difficult and, likely, impossible. Many drivers I have spoken to are in similar circumstances.

Given these circumstances, people who were already licensed as TLC drivers at the time the city imposed the cap on new for-hire vehicles and who currently rent their vehicles should be allowed to license any vehicle they choose as an FHV at any time they wish.
Also, there should be weekly limits on the amount rental car companies can charge drivers for the cars they rent. The limit would depend on the make, model and year of the car. After a driver has continued to rent their car from the same company for a significant time period (e.g., a month or two), the weekly rental amount should substantially decrease.

Finally, after a driver has been renting a car from a rental car company for a long time (about six months) that company should be incentivized—or required—to allow the driver to buy the car they have been renting at a price that is substantially lower than market price.

Driving toward and Waiting at Pickup Locations

Drivers, especially those that use app-based services, spend a large proportion of their workday driving toward the pickup locations of passengers who have requested rides, even when there is no passenger in their car at the time they receive such a pickup request. The time spent driving to a pickup, then waiting at that location for the passenger, can be substantial, even longer than a short ride to a passenger’s destination. Often, passengers cancel their request while a driver is en route to pick them up or while waiting at the pickup location. The companies frequently do not pay for the time the drivers have spent driving and waiting.

Drivers should always be compensated for the time spent driving to pickup locations and waiting at locations or other stops at the same rate as when they are driving or waiting in traffic with a passenger in the car.

Complete Toll Reimbursement

On trips to Staten Island, New Jersey, the Rockaways and other areas that are accessible only by paying tolls, drivers should receive a guaranteed reimbursement of the tolls they pay both to and from such areas, especially if they return from such a destination without a fare-paying passenger. For example, when a driver takes a passenger to Newark Liberty Airport, they pay a toll to cross the Hudson River, then a second toll on the return trip across the Hudson back into New York City. TLC regulations provide for automatic reimbursement of both tolls for taxicab drivers, but ride hailing apps typically do not reimburse toll charges when drivers are returning to the city without a passenger. This is an unfair expense to drivers.

Better Compensation for Long Trips

Drivers, including app-based drivers, often accept long distance trips to destinations outside the city (e.g., from Lower Manhattan to Dobbs Ferry in Westchester County; from the Upper West Side in Manhattan to Jones Beach on Long Island or from Jackson Heights in Queens to Patterson, New Jersey). There are two important concerns about driver earnings from the apps as they relate to long distance trips.

The first is the fare rate, which nearly all drivers agree is, currently, far too low. Please refer to my earlier comments on base pay for an amount that is fair and livable.

The second concern is that many long distance destinations in suburban regions outside New York City (and even some which are within the five boroughs) tend to have low demand for car services, including those that are app-based. The consequence of this is that drivers frequently cannot receive pickup calls at those locations and must return to the city (or their base location) without a passenger. That means they must drive a substantial distance—and spend a huge portion of their working hours—without an income.

TLC regulations mandate, essentially, that all time & distances driven by yellow and green taxis between the New York City border and a destination in Nassau or Westchester County is charged at double the regular rate. As I stated earlier, drivers who pickup passengers using app-based services provide the same service as conventional taxicabs and, therefore, should expect their income to be similar to that of drivers of conventional taxis. To that end, the TLC should expand the out-of-city mandate to include app-based rides. Doing so would help alleviate the financial pressure caused by a long return trip without a paying rider.
Further, TLC regulations provide that yellow taxicab and SHL drivers may decline trips to destinations outside New York City, Nassau and Westchester Counties. According to the TLC, the fare must be a flat fare that is agreed upon between the driver and the passenger. Currently, app-based services set the price on their own and do not allow drivers to set the price. The app companies must be made to comply with all TLC rules & regulations, including fare rates. FHV drivers, including those who use such apps, must be allowed to set the price for these types of trips and decline them, if they so choose, without any kind of penalty.

Percentage of Fare Retained by Companies

App-based rideshare companies, such as Juno, Lyft, Uber and Via, enjoy high earnings coupled with remarkably low overhead. They always retain a substantial portion of the amount riders pay to them. They typically retain for themselves anywhere from twenty to fifty percent (20-50%) of the fares riders pay. Given their low overhead, the amount they retain is exorbitant. Drivers should be able to keep more of their hard-earned income. The companies should be allowed to retain no more than ten percent (10%) of the amount they receive from riders. The remaining ninety percent (90%) should be paid in full to the driver of that trip. This policy should apply to all types of trip options, whether standard rides (e.g., Lyft standard, UberX), shared/budget rides (Lyft Shared, UberPool) or premium options (e.g., Lyft Lux Black; UberBlack). It should also apply to options for SUVs and other larger vehicles (e.g., Lyft XL; Lyft Black XL; UberXL; Uber Black SUV).

Transparent Pay Rates

Taxi companies and ride hail app companies that operate in the city must make their pay rates to drivers easily accessible, straightforward and understandable. Too often, especially with app-based companies, drivers are not clear about what rate they will be paid for a given trip. This must be clarified before any trip is given. For that matter, prices for passengers must be similarly clear.

Flexible Workdays

Currently, most taxicab companies require their drivers to work twelve-hour shifts. The pay from app-based companies is so low that drivers routinely work twelve to fourteen hour days to attain enough income for themselves. All car services, including taxis and app-based services, should be required to allow their drivers to work shorter and/or flexible shifts (e.g., seven hours per day or part time). An increase in the base pay for drivers would help make this more practical. Flexible work shifts would also improve customer service by alleviating the problem of a large number of taxis becoming unavailable during certain hours (e.g., the evening rush period). Drivers should still be allowed to work longer hours if they so choose.

Related to that, the TLC allows drivers to work up to twelve hours per day. App-based services often cap the number at ten hours per day. The app companies should be required to allow drivers to work up to twelve hours per day, per TLC rules. Also, the app companies should be required to allow drivers to refuse long-distance trips to the airports or locations in Nassau and Westchester Counties after they have already driven eight hours per day. This is already a TLC regulation but is not currently an option in driver apps.

One important facet of the apps is the ability of drivers to work, literally, whenever they choose by simply going online. This is a mechanism that is very much suited to contemporary work, including driving. It should definitely be preserved and, even, extended to drivers of more conventional green and yellow taxis and other car services.
Independent Contracting vs. Employment

All car service companies—including app-based services, taxicab bases, car service companies and others in the industry—should allow each driver to choose whether they want to be an employee of the company with built-in benefits or an independent contractor that is compensated well enough that they can afford to obtain similar benefits on their own. Although many people prefer employment, independent contracting offers its own attractive advantages, including the ability to operate as a separate company and the ability to deduct extensive business expenses on one’s tax returns. The choice to either work as an employee or as a contractor should be wholly left up to drivers.

Transparent Policies and Just Cause

Taxicab, car service and, especially ride hail app companies, must be made to realize that their policies and practices affect real people and communities with real world consequences. Too often, for instance, a driver’s ride hail app account can be suddenly deactivated with no warning and no recourse just because of a false allegation from a disgruntled passenger. This could lead to a substantial loss of revenue and severe hardship for drivers. Some examples of unjust reasons for deactivation include...

—The rider alleges—falsely—that the driver was impaired (intoxicated, under the influence of drugs, sleepy, etc.). In fact, the rider was, themselves, intoxicated and was unhappy with the low rating the driver gave the rider through the app because of the rider’s poor behavior during the trip. Despite the fact the allegation was false, the driver’s account at the app was immediately deactivated, pending investigation, and could have remained wrongly deactivated solely due to the app company’s misinformation and misjudgment.

—The passenger, who was running behind schedule due to no fault other than his own, was frustrated because the driver would not drive faster than the posted speed limits nor faster than was safe for road conditions. The passenger filed a complaint with the app company, stating—falsely—that the driver was driving excessively slowly, which is a violation of the app companies policies and could lead to deactivation of the driver’s account.

—The driver discovers that the passenger is an unaccompanied minor. Since the driver would be in violation of New York State law by transporting that passenger, the driver cancels the trip before it begins. The passenger, or their parents, upset or unclear about the reasons for the cancellation, falsely accuses the driver of refusing service based on their destination, which is illegal and could lead to the deactivation of the driver’s account.

Some responsibilities companies should be made to comply with follow.

—Companies, including those that own ride hail apps with a presence in New York, must be made to show just cause, including concrete and incontestable proof of unethical, unsafe or illegal behavior, for suspending or deactivating a driver’s account or otherwise barring them from driving with that company or app, even temporarily. An accusation from a rider is, in and of itself, not adequate grounds to prevent a driver from working. Drivers must be allowed to continue to drive and receive their earnings while any investigation is proceeding.

—When a passenger lodges a serious complaint, the driver must be entitled to know the identity (first name) of the complainer, the specific trip the complaint involves and what the exact complaint was. Therefore, the driver can mount an effective and meaningful defense and explain their own perspective of the incident.
In order to operate in New York City, taxi companies, ride hail apps, car service companies, etc., must have clear and transparent policies and procedures—preferably ones thoroughly shaped, mandated and approved by the TLC, city or state—that are fair to drivers and readily available for review by drivers at all times. Whenever a complaint arises, they must implement those procedures strictly in a consistent and transparent way. All drivers must be presumed innocent and allowed to continue to drive without restriction until proven guilty beyond any reasonable doubt.

Neither app-based services nor other types of car services should be allowed to prevent a driver from driving, withhold payment to a driver, delay payments to the driver or take any other adverse action against a driver...

—Due to an accident
—While checking the driver’s background, if that driver has already started to drive using that app or company.
—While verifying the validity of the driver’s banking or other financial information, if that driver has already started to drive using that app or company.
—Immediately due to any damage to the driver’s vehicle or other property, if that driver has already started to drive using that app or company. Drivers must be given a grace period of at least three months from the date the damage is reported to repair the damage or replace the vehicle.
—Due to any rating or comment given to the driver by a rider or other party associated with an app or company, whether one specific rating, an average rating or any other type of rating.
—Due to the driver’s trip acceptance rate via app or other method.
—During any investigation of alleged misconduct. Adverse action should only be taken after an investigation is concluded, driver misconduct is proven beyond all doubt, and the driver’s appeal is unsuccessful based on undoubtable facts.

Restoration of Medallion Investment

Those who invested in medallions only to see their value decrease should receive reimbursements of at least the value of their loss or some other form of equivalent compensation. However, this should not come at the expense of FHV operators who entered the market just to make a living. FHVs and their drivers should not be blamed for the loss of the value of medallions.

Ability for Drivers to Lodge Complaints About Passengers

There must be consistent procedures, established by the TLC, the city or state, with which a driver can report passengers who are disruptive or abusive toward the driver or who pose safety or security risks. Such a database should be maintained by the TLC. Riding in a taxi, FHV, car service or other mode of transport is a privilege. Passengers who are discourteous or threatening toward a driver or other riders or damage a driver’s car or other property should be barred altogether from using taxis, car services and ride hail apps and forced to pay steep fines.
Use of Multiple Apps

Do not limit the number of ride hail apps a driver may use. There are a variety of valid reasons why a driver may have active accounts on multiple ride hail platforms simultaneously. Imposing such a limit on drivers would do nothing to improve driver earnings, reduce traffic congestion or improve customer service. All it would be is a mean-spirited policy that would prevent drivers from attempting to maximize their income. Curtailing the earnings flexibility and potential in other professions would be considered an unwanted and unjustified intrusion by the government into legitimate business practices. A limit on a driver’s use of ride hail apps should not be considered any differently. The easy access to a variety of apps also increases healthy competition for drivers among those apps, which can lead to better pay for drivers from those apps.

Surge Pricing

Do not eliminate surge, premium or other such pricing from ride hail apps. Such temporary fare rate increases are legitimate as they are based primarily on supply (the number of available drivers within a given area) & demand (the number of requests in that same area). Preventing them would adversely impact drivers’ earnings and simply be mean-spirited and anti-driver.

Congestion Fees

Taxes and other fees to help alleviate congestion can be imposed on taxicabs and FHVs but only if the full costs are passed on to passengers in the form of additional charges to their rides. Drivers and the taxicab and ride hail app companies should never be required to pay those particular fees without passing them on to their passengers.

Please use the policies and ideas detailed above to enact laws, rules & regulations that improve the earnings, working conditions and lives of New York City’s drivers, especially app-based FHV drivers. Many are already active TLC policies that simply need to be extended to cover-based ride services and companies and consistently enforced.

Please also feel free to reply to me with a thoughtful response. My email address is drive@themavo.com.

Thank you.

Regards,

A R Mavero.