




Date: February 26, 2015

To: Members of the Economic Development and Finance Committee

From: Michael Conway, Director of Economic and Property Development 

Subject: **Recommendation to Receive and File a Report on Taxicabs and Transportation Network Companies**

On December 19, 2014, the Economic Development and Finance Committee (Committee) requested that City staff review the City's current regulations regarding taxicabs, existing business models and public policy related to Transportation Network Companies (TNCs), and offer a comparative analysis of the economic parity issues between the two transportation modes. This memorandum provides information in response to the Committee's request.

DISCUSSION

Existing Taxi Regulations

The City Council regulates the taxicab industry under Long Beach Municipal Code Chapter 5.80. This chapter sets forth the permitting process, operating requirements, and driver requirements for the operation of taxicabs in the City of Long Beach. For example, under Chapter 5.80.310 of the Long Beach Municipal Code, applicants must apply for a taxi driver permit. The permit requires a background investigation and LiveScan administered by the Long Beach Police Department. Under Chapter 5.80.050, the City requires that operators file a copy of their insurance with the Director of Financial Management.

In September 1998, after making findings of convenience and necessity, the City granted an exclusive license to Long Beach Yellow Cab Co-Operative (Yellow Cab). In 2002, the City Council increased the original fleet size cap of 125 taxicabs (established in 1998) to 175 taxicabs. Since then, the City has not increased the number of vehicles.

The City Council also determines the Schedule of Rates (Rates). The Council last increased the Rates in November 2008. Currently, these Rates include a base fare of \$2.85 (inclusive of the first 1/9th mile or 30 seconds or fraction thereof) plus \$2.70 per mile and \$0.49 for each minute of waiting time and/or traffic delays.

Existing TNC Regulations

While local governments regulate taxicab services, the California Public Utilities Commission (CPUC) has exclusive regulatory authority over all TNCs per its jurisdictional authority over “charter-party carrier of passengers” under the CPUC Code Sections 5360 and 5360.5. The City is pre-empted by the CPUC’s authority, and the City cannot impose regulations specific to TNCs, except at Long Beach Airport, where the City has the ability to regulate businesses that enter its premises.

On September 23, 2013, after a year-long rule-making process that solicited public comment, the CPUC established rules regulating TNCs. Under these rules, the CPUC created a new transportation category for TNCs, defined as a company or organization that provides transportation services using an online-enabled platform to connect passengers with drivers who use their personal vehicles for transportation. Under the procedures set forth by the CPUC, eight companies have been licensed to operate in the state: Executive Ride, LLC (dba Opoli) Lyft, HopSkipDrive, Inc., Raiser-CA, LLC (dba UberX), SideCar, Tickengo (dba Wingz), RideLabs LLC (dba Summons), and Shuddle. While these eight TNCs can legally operate in the State of California, this memorandum focuses largely on UberX and Lyft, who have the largest presence in Long Beach.

The CPUC requires that TNCs submit annual reports related to various operations, including driver training, an Americans with Disabilities Act (ADA) accessibility plan to allow passengers to input access needs, number of accessible vehicles, hours and miles logged by drivers, and a report on drivers completing driver training. These forms and reports are posted online at the CPUC website.

The CPUC also requires that TNCs ensure that their drivers’ California Department of Motor Vehicles (DMV) records have received no more than three points within the preceding three years, no “major violations” (reckless driving, hit and run, or driving with a suspended license convictions) within the preceding three years, and no driving under the influence conviction(s) within the past seven years.

The CPUC does not require fingerprinting or Live Scan for TNC drivers. Neither Lyft nor UberX run fingerprints against law enforcement databases. These companies instead rely on private companies to search publicly available information—such as a sex offender database, or any local or federal courthouse records, as their background investigation efforts.

Recently, the California State Legislature passed and Governor Jerry Brown signed Assembly Bill 2293 by Assembly Member Susan Bonilla that will require that TNCs extend commercial insurance to their drivers at the time a TNC driver turns on the app in search of a passenger request. Additionally, AB 2293 also authorized automobile insurance companies to create a hybrid personal/commercial insurance option for drivers who drive their personal vehicles for ride sharing. These newly adopted CPUC rules will go into effect July 1, 2015.

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Despite the CPUC's claim to exclusive jurisdiction, case law continues to evolve on TNCs as the district attorneys in San Francisco and Los Angeles have pursued injunctions against TNCs, such as Lyft, for misrepresenting its claims of a comprehensive background check on their drivers.

How TNCs Operate

A potential passenger requests a vehicle through a smart phone app offered by the TNC by inputting their location (typically this is automated through the smart phone's GPS). The app also provides a rate estimate by allowing the passenger to input their destination by either address or intersection. This rate estimate provides information to the passenger prior to confirmation of the request. The TNC app then sends the passenger request to a driver. The driver can choose to accept or decline the request for service. If the driver declines the request, another driver will receive the request. Once a driver accepts, the passenger receives information about the driver including name, a picture, and phone number of the driver, the make of the vehicle, and the estimated time for the driver to arrive. The passenger can also track the driver via GPS through the app.

Passengers pay the TNC driver by using a credit card on file with the TNC app or by linking the passenger's PayPal account to the TNC app. Once the ride is complete, the TNC app prompts the passenger to pay. The TNC's app handles the financial transaction. No cash is handled throughout the process. Passengers on UberX do not tip (Uber actively promotes itself as an all-inclusive fare) and Lyft passengers have the option to tip through the TNC's app. UberX passengers also have the option of splitting the fare by identifying an accompanying passenger who also has the UberX app. Passengers can also dispute a higher fare due to a longer route by filing a complaint with the TNC, who will review the GPS data to evaluate the claim.

Most ride-sharing apps allow drivers and passengers to rate each other on a five star scale. This allows drivers to provide feedback on passengers and passengers to provide feedback on drivers. Future drivers can elect not to pick up a passenger who has been poorly rated. Ride sharing apps remove drivers who fall below a certain rated threshold. In the case of UberX, the threshold is between four and four and a half stars. Additionally, UberX drivers are never matched with passengers with whom the driver previously rated three or lower.

Each TNC has different minimum standards for vehicles. UberX requires a 4-door vehicle with a manufacture year of 2005 or newer. Lyft requires a 4-door vehicle with a manufacture year of 2000 or newer. Additionally, Lyft requires drivers to submit a photograph of the vehicle's license plates and the vehicle's tires to demonstrate current registration and that tires have sufficient tread. A new Lyft driver is also assigned a "veteran" Lyft driver to serve as a mentor. This mentor also examines the tires, inspects the vehicle, and drives with the new driver.

Surge Pricing (Demand-Based Rates)

Some TNCs use surge pricing, or demand-based rates, during periods of high demand in a given area. For example, during a higher demand period (such as during rush hour or New Year's Eve), some TNCs automatically increase fares in response to the demand. This increased fare serves as an incentive to attract additional drivers to the area to meet the demand. (Drivers can view a heat map showing the number of requests for rides.) As the number of drivers increases to meet these requests, the surge pricing rates fall. UberX and Lyft rely on automated algorithms to determine the multiplier on the fare when surge pricing is in effect drawing from the number of ride requests and the number of available drivers.

Even when high demand for UberX or Lyft triggers surge pricing, a user can identify an estimated cost before confirming the ride. For example, on New Year's Eve when high demand triggers surge pricing between the hours of midnight and 3 am, an UberX or a Lyft user would see on their phone the higher fare before confirming the ride.

Some TNCs limit the effects of surge pricing by imposing a price cap. Lyft imposes a maximum cap of three times the non-surge base fare. However, this cap increases to five times the normal fare for special days like New Year's Eve to activate enough drivers to meet the demand. In contrast, UberX does not impose a cap on surge pricing, allowing fares to rise depending on market forces. However, Uber notifies users when surge pricing ends, allowing those users who can wait to be notified once surge pricing subsides.

Long Beach Airport (LGB)

While the City cannot regulate TNCs on City streets, the City can impose requirements on TNCs at LGB for pick-ups. Currently, TNCs can drop off passengers at LGB, but cannot respond to requests for pick-up service. San Francisco International Airport (SFO) first adopted requirements that allowed TNCs to pick up at SFO last year, and the Orange County Board of Supervisors is considering a permitting process for TNCs for John Wayne Airport. Los Angeles International Airport is currently developing policies for TNCs as well.

Airports that have a permitting process in place, or are considering allowing TNCs to pick up passengers, require that, at minimum, TNCs register their operations with the airport, limit the number of vehicles that can enter the airport property, display a unique identifier for the TNC, and pay a fee for the permit.

Economic Parity

TNCs and taxicabs in Long Beach operate on fundamentally different business models with different regulatory oversight. While taxicabs face stricter local regulatory standards, taxicabs also enjoy the ability to pick up passengers on City streets and at Long Beach Airport. In contrast, TNCs operate with less restrictive state regulatory standards, but cannot legally accept a passenger without the passenger pre-arranging the trip through the TNC app, nor can a TNC legally accept a passenger at Long Beach Airport. While lower regulatory standards are a factor that gives rise to the growth of TNCs, their success since 2010 can be largely attributed to targeting an unmet need in the market, particularly with

ease of pay, perceived convenience and reliability, and affordable costs. Issues of economic parity between TNC's and Yellow Cab include rates and surge pricing, driver requirements, and fleet requirements.

Rates: UberX and Lyft use different rates structures, but both are able to offer lower rates than Yellow Cab. The following table displays the rate structure for the Los Angeles area, which includes Long Beach.

	UberX	Lyft	LB Yellow Cab
<i>Base Fare</i>	\$0.00	\$0.80	\$2.85 <i>(includes first 1/9th of a mile and/or 30 seconds)</i>
<i>Per Mile Rate</i>	\$0.90	\$1.10	\$2.70
<i>Per Minute Wait Fee</i>	\$0.18	\$0.21	\$0.49
<i>Safety Fee</i> <i>(funds driver background and motor vehicle checks)</i>	\$1.00	\$1.50	\$0.00
<i>Minimum Fare</i>	\$4.00	\$4.00	\$2.85 <i>(for cash)</i> \$10.00 <i>(for credit card)</i>

In totality, TNC fares are lower than taxicab fares. For example, an UberX fare estimate from City Hall to Long Beach Airport would cost between \$10 and \$14. In contrast, a Yellow Cab fare from City Hall to Long Beach Airport would range between \$31 and \$36, according to the fare estimator provided through Yellow Cab's website.

Surge pricing however, would serve to increase the rates that TNC's charge during high demand periods. Surge pricing serves to match supply with demand by increasing the rate as an incentive for more drivers to provide services. Adding to the supply will eventually reduce the demand and prices would return to normal. However, Yellow Cab cannot offer such flexibility in fleet size as the number of total vehicles is capped by City regulation. This limits the opportunity for Yellow Cab to compete during periods of high demand as additional supply of vehicles cannot be introduced to match the demand, forcing potential customers to seek alternative forms of transportation.

Driver Requirements: Yellow Cab must maintain commercial insurance coverage at all times, even when a taxicab driver is not accepting passengers. AB 2293 does not require similar 24 hour coverage for TNC's, thereby reducing operational costs for TNC's. In addition, the City requires that Yellow Cab defend, indemnify, and hold harmless the City of Long Beach from legal action that may arise as a result of an accident. The City is unable to impose that same requirement on TNCs.

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Vehicles used by Yellow Cab are required to be a vehicle powered by compressed natural gas (CNG) or a hybrid electric vehicle bearing the Yellow Cab yellow and green color scheme. The vehicle is subject to inspection by the City Manager or the City Manager's designee at any time. In contrast, a TNC driver may use their own personal vehicle in the course of the TNC's business, subject to outside limits on age, identifying markings, current licensure, and tire tread.

Yellow Cab requires background checks and Live Scan for all applicants. TNC's do not require fingerprinting or Live Scan, but do require a limited background check based on readily available databases. While this requirement may serve to limit the number of potential Yellow Cab employees, it does enhance the perception by the general public of personal safety when riding in a Yellow Cab.

Fleet Requirements: The size of Yellow Cab's fleet is established by City Council based on findings of convenience and necessity. As a result, the fleet size cannot fluctuate to address increased or decreased demand. While periods of decreased demand would result in fewer taxi cabs offering services, the fixed cost of maintaining the fleet does not decrease.

Unlike the City's green fleet requirement for taxicabs, the CPUC has not imposed green fleet requirements on TNC's. Although the City of Long Beach prides itself on its reputation as a sustainable City, it is unable to apply certain sustainable and green requirements to TNC's.

Summary

From a parity perspective, staff identified the following issues:

- *Fleet Size:* Currently, only 175 taxicabs can operate within the City.
- *Rates:* Because TNCs have lower fares, consequently, price-sensitive riders turn toward TNCs to provide a lower cost trip.
- *Surge Pricing:* TNCs have rate flexibility, and communicates to customers clearly when surge pricing is in effect.
- *Access to Long Beach Airport:* TNCs cannot legally pick up passengers at the Airport.

The popularity of TNCs, the difference in jurisdictional oversight, and the evolving body of law governing TNCs present unique challenges to regulating on-demand transportation within City limits. While the City can address some of these challenges to create a more even playing field, significant changes to the traditional business model will be required to appeal to the evolving needs of the consumer.

TIMING CONSIDERATIONS

On December 19, 2014, the Economic Development and Finance Committee requested a report on taxicabs and Transportation Network Companies from City staff at the first Committee meeting in 2015.

FISCAL IMPACT

There is no fiscal impact related to this report.

IT IS RECOMMENDED THAT THE COMMITTEE:

Receive and file a report on taxicabs and transportation network companies.

APPROVED:



PATRICK H. WEST
CITY MANAGER

Cc: Mayor and Members of the City Council