

BEFORE THE NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

**Notice Instituting
Rulemaking on For-Hire
Vehicle Dispatch
Applications**

Public Hearing: May 28, 2015

**COMMENTS OF
THE INTERNET ASSOCIATION
ON
PROPOSED RULES GOVERNING FOR-HIRE VEHICLE DISPATCH
APPLICATIONS**

The Internet Association and its 34 member companies from across the Internet industry are concerned that the TLC's proposed rules governing App-Based Dispatch technology will deter innovation and harm consumers, and urge their reconsideration.

1. THE PROPOSED RULES WOULD DETER INNOVATION

The proposed rules assert new and breathtaking authority to police software code and to review each successive build of software following initial license approval (sec. 77--03(i)1--3 and section 77--16(a)).

The TLC's limited experience in the area of software review and analysis means that Internet Association member companies and future market entrants alike will be delayed in bringing new features to the New York market due to the delay involved in the approval process. Internet companies such as Uber, Lyft, and Sidecar are constantly testing and introducing new app features in response to consumer demand and to opportunities in the marketplace. A new process that requires these and other companies to be subjected to a new review process of indefinite duration each time they make updates or improvements to their applications-- even if limited to the (undefined) "material" changes contemplated by sec. 77-03(i)--will mean that New York lags behind other cities worldwide in enjoying the benefits of this innovation. This will pose particular challenges for smaller, less well-funded companies, which are less able to bear the upfront costs of preemptive and ongoing regulatory review.

Moreover, the rules create an artificial barrier to entry by imposing a \$1,000 technology fee (section 77--07(a)) on any entrepreneur who wishes to bring new products and services to the app-based dispatch market-- over and above the costs of purchasing devices for the Commission to use for testing purposes (sec. 77-17). These burdens will fall hardest on the next generation of tech innovators and entrepreneurs, for whom the incremental development costs represented by a four-figure application fee may well mean delaying or preventing bringing a new product to market.

2. THE PROPOSED RULES IMPOSE ARTIFICIAL BARRIERS TO CROSS-BORDER TECH PENETRATION

Like other technology companies, the Internet Association's member companies compete in a global tech marketplace. While some technology companies choose to offer localized content, there is no public policy rationale for software platforms to make modifications to their underlying code on a city-to-city basis. If bases using software platforms for dispatch purposes are properly licensed and otherwise complying with TLC requirements, subjecting the software licensed to such bases to a separate layer of initial and ongoing regulatory review at the City agency level is needlessly duplicative, without conferring any additional benefits to public safety or consumer protection.

In addition to harming technology companies, this approach would harm technology users. Because companies wishing to offer app-based software platforms would be forced to create (or be prepared to create) New York City-specific versions of their technology to comply with city agency requirements, New York City end users of such platforms will be forced to wait longer than consumers in other markets for the platforms to be made available. Companies choosing where to allocate limited resources may well conclude that these regulatory costs and delays outweigh the benefits of offering their products in New York-- or may choose to postpone such a rollout until its value has been proven in other cities.

3. THE PROPOSED RULE UNDULY RESTRICTS INNOVATION AND DRIVER OPPORTUNITY

The proposed revisions to Section 9., subdivision (c) of Title 35, section 59A-31, limiting For-Hire Vehicles to only one electronic device in addition to that required by the vehicle's

affiliated base, creates an unwarranted limitation on opportunities and choices by current and aspiring FHV drivers.

As in other markets, independent contractor drivers in New York City are free to partner with multiple companies for trip dispatch purposes. A new, arbitrary limit on the number of devices able to accept FHV trips will serve as a barrier to entry for future companies seeking to bring dispatch services to the New York City market. In addition, this restriction will impair the flexibility of drivers, who may wish to partner with several companies in order to broaden the number of potential trips available to them during certain times of day or within certain areas of the city.

In addition, the TLC should not impose arbitrary limits to the functionality of these devices, such as by limiting devices' use to "... either voice or one-touch preprogrammed buttons or keys while the Vehicle is in motion." Many electronic devices currently on the market, such as the Apple iPhone and devices using the Android operating system, contain mapping features, traffic reporting, and other functionality useful to FHV drivers. Future devices, such as wearable technology and future versions of currently-available cell phones, will no doubt contain additional features providing additional benefits to drivers. So-called "velocity gating" and other artificial usage limitations will foreclose future innovation and its deployment in the New York City FHV marketplace, and should be rejected.

The regulatory approach contemplated by the proposed rules appears to be a case of a solution in search of a problem. In view of the threat to innovation and consumer choice it presents, we urge the Commission to reject this approach and to delete the above-cited provisions from the draft rules.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael Beckerman', with a long horizontal flourish extending to the right.

Michael Beckerman

President and CEO