



COUNCIL OF THE DISTRICT OF COLUMBIA
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Ron Linton, Chairman
District of Columbia Taxicab Commission
2041 Martin Luther King Junior Ave, SE
Suite 204
Washington, D.C. 20020

Dear Chairman Linton and Commissioners:

In 2012, the Council passed two significant pieces of legislation to modernize public vehicle-for-hire service in the District and to recognize the emergence of digital dispatch services—companies that connect customers to public vehicles-for-hire and process payments through a smart phone application. By passing these bills, the Council intended to foster innovation in the public vehicle-for-hire industry—an industry in the District that has long fallen below acceptable standards for safe, clean, and reliable transportation.

The Commission is now considering proposed amendments to Chapter 12 of Title 31 of the District of Columbia Municipal Regulations, as well as a proposal to create two new chapters (Chapters 14 and 16) to implement the law.¹ These proposed rules govern the operation of luxury and limousine services (Chapter 12), Sedan-class services (Chapter 14), and dispatch services (Chapter 16). I believe the Commission's rules are well-intentioned and certainly make many important changes to the rules under which public vehicle-for-hire drivers, companies, and digital dispatch services operate. However, after reviewing the proposed regulations, I am concerned that, if adopted, these rules would discourage new, innovative technology companies from operating in the District. Through this letter, I am submitting the following comments to the Commission's proposed rules.

¹ Published on May 10, 2013.

I. Commission Approval of Digital Dispatch Applications

The Commission's proposed rules create an approval process for digital dispatch services in the District. Accordingly, before a digital dispatch service may operate in the District, it must provide "a detailed technical description" to the Commission, including its technical specifications, its software applications, its operating systems and its trade names, all of which are subject to Commission approval.² The Commission also has the option to require an in-person demonstration of the dispatch service, "where the Office's technical staff may examine and test the equipment."³ Additionally, "no substantial change may be made to a DDS's [digital dispatch service] dispatch or payment solution...without written approval from the Office."⁴

Although these rules appear well-intentioned, I question the necessity of such a burdensome approval process. Ultimately, it is the consumer who will decide whether a digital dispatch service and its accompanying smart phone application meets his or her needs. Consumers regularly download and use smart phone applications (for an increasingly wide variety of products and services) that require them to provide personal information—including credit card information, sign user agreements, and otherwise interact with the technology, none of which is subject to the type of approval and review that the Commission has proposed for digital dispatch services. Additionally, this technology changes very quickly; many smart phone applications provide software updates on a weekly or monthly basis, each of which would be subject to a written approval by the Commission. Not only does this add a layer of bureaucracy to digital dispatch services, but it uses precious Commission resources, which diverts time and energy away from more pressing enforcement activities that truly protect consumers. I understand that the Commission wants to ensure customers are protected, but I believe these rules impose significant burdens on digital dispatch services in the District while providing only a marginal (if any) benefit to consumers.

Similarly, the Commission's proposed rules would require a digital dispatch service to provide an inventory of all drivers and vehicles associated with its service,⁵ to produce business records to the Commission over the most-recent five years,⁶ and to provide an annual report of all incidents involving payment disputes of \$50 or more, fraud or criminal activity, and violation of anti-discrimination regulations.⁷ First, the Commission could easily require sedan operators and companies to provide information about which digital dispatch companies they

² § 1604.2.

³ § 1604.8.

⁴ § 1604.4.

⁵ § 1403.3.

⁶ § 1603.17.

⁷ § 1604.7.

affiliate with through the Commission licensing and renewal process. Next, to require a business to periodically turn over business records (including disputes involving customers and drivers) to a regulatory body, absent a pending investigation or subpoena of records is unusual to say the least, and appears to be a solution in search of a problem. Finally, the Commission already has a complaint process in place and the District of Columbia Government, through its office of Human Rights, provides an additional avenue for filing discrimination complaints.

II. Requirements for Sedan-Class Vehicles

The Commission's proposed rules place significant limitations on the type of vehicles that can be used for sedan-class service in the District, including that the vehicle: (i) weighs at least 3,200 pounds, (ii) is fewer than five years old, (iii) is blue-black or black in color, and (iv) is equipped with luxury features (a premium sound system, reading lights, and aluminum wheels).⁸

If adopted, these rules discourage customer choice. Unlike traditional street-hail service, customers have the ability to know and choose the type and features of a particular vehicle that will provide service before booking a ride. Because sedan-class service operates exclusively through digital dispatch, a customer can always know in advance what vehicles are available to him or her. If a customer does not want a particular type of vehicle, she may choose another type, or another digital dispatch service altogether. Similarly, if a vehicle arrives that is inconsistent with the customer's choice when booking the ride, the customer can choose to no longer book vehicles through that particular dispatch service. Imposing limitations on vehicle types (including, for example, a Toyota Prius, which weighs fewer than 3,200 pounds) does not serve the goal of protecting consumers. Regarding age requirements for vehicles, it seems perfectly reasonable for the Commission to require the same age limits on sedan-class vehicles as it does for taxicabs, including the replacement schedule and waiver process.

Chairman Linton, you have stated in correspondence with me that the purpose of these vehicle requirements is to prevent less-regulated sedan-class vehicles from directly competing with highly-regulated taxicabs. This is not a justifiable reason for imposing such requirements and ignores the public policy reason that taxicabs are more regulated than sedan-class vehicles. Taxicabs are more heavily regulated because they have the ability to accept street-hails, whereas sedan-class vehicles do not. When a customer hails a taxicab on the street, if the vehicle is only lightly regulated, the customer has no guarantee of uniformity among price and quality of service. This uniformity is necessary for street-hails because a customer has no ability to shop around for quality or price: the customer will simply take the first vehicle that comes along. With sedan-class vehicles, because those vehicles are booked exclusively through a smart phone application,

⁸ § 1299.1.

the customer can and should have the ability to shop around for the price, type, and quality of vehicle that suits his or her needs. To add an artificial layer of regulation on a sedan that does not protect consumers (or provide any inherent benefit) simply to avoid competition is not the role of a regulatory body.

The Commission may have concerns that the sort of competition described would lead to a shrinking of the taxicab fleet, which would reduce the number of vehicles available for street hails. However, if the Commission is concerned about an absence of taxicabs on the streets to provide street hails, it would be well-advised to open the license and examination course to license new drivers and vehicles. Additionally, if the Commission believes the marketplace will not provide an adequate supply of street-hail vehicles, the Commission can explore ways to incentivize street-hail service. The solution is not to provide an anti-competitive atmosphere, particularly when that atmosphere comes at the expense of consumer options for a variety of for-hire services.

You have also stated that eliminating a color requirement for sedan-class vehicles will hamper enforcement. I fail to see how enforcement is hampered by eliminating color requirements for sedans. If a Commission hack inspector sees a vehicle accepting a street-hail, and that vehicle does not have all of the markers of licensed DCTC taxicab, the inspector has probable cause to stop that vehicle and ensure that the person entering that vehicle has pre-arranged for the vehicle to pick them up and that the driver is properly licensed to provide such service. Additionally, the hack inspector will be able to tell from the vehicle's license plate what class of service it is registered to provide. This is how enforcement currently works for traditional luxury/black car service, and should not change simply because the vehicle is not black.

III. Collection of Data and Passenger Surcharge

The Commission has the statutory authority to collect a \$0.25 surcharge on each public vehicle-for-hire ride and to collect data for the purposes of studying trends and distribution of public vehicle-for-hire rides in the District. This data is particularly important for addressing what areas of the District are being underserved by public vehicle-for-hire service. Although I do not question the importance of the data or the Commission's authority to collect both data and the surcharge, I would strongly urge the Commission to collect both data and the passenger surcharge at the operator and company level, rather than requiring third party digital dispatch services to transmit such information. Additionally, it is imperative that as the Commission collects this data it ensures that it does not collect any personally-identifying information or confidential business information, and that the pick-up and drop-off location of customers is generalized to the census-tract level as is required by law.

Thank you for your time and attention to these concerns and for all of your work on the regulations. I am available to discuss this and any other matter with you at your convenience.

Regards,

A handwritten signature in blue ink, appearing to read 'Mary M. Cheh', with a stylized, cursive script.

Mary M. Cheh