



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Policy Planning
Bureau of Competition
Bureau of Economics

April 15, 2014

Mr. Brendan Reilly
Alderman – 42nd Ward
City Council
City of Chicago
City Hall – Room 200
121 North LaSalle Street
Chicago, IL 60602

Re: Proposed Ordinance O2014-1367

Dear Alderman Reilly:

The staffs of the Federal Trade Commission’s Office of Policy Planning, Bureau of Competition, and Bureau of Economics¹ appreciate this opportunity to provide comments to you regarding proposed Ordinance O2014-1367 (“the ordinance”), in response to your request for an assessment of the ordinance’s possible effects on competition.

Proposed Ordinance O2014-1367 would amend Title 9 of the Municipal Code of Chicago by adding a new Chapter 9-115 to establish a regulatory framework that would provide for the licensing and operation of transportation network providers (“TNPs”), particularly new software applications (“applications”) that are used by consumers to arrange for passenger motor vehicle transportation services using personal vehicles. Staff appreciates that these updates to Title 9 appear designed to facilitate these new forms of competition that are likely to benefit consumers. We are concerned, however, that certain provisions of the ordinance may unnecessarily impede competition from these services, limiting the consumer benefits that such services might otherwise generate. These provisions are discussed in greater detail, below.

I. Interest and Experience of the FTC

The FTC is an independent federal agency that enforces laws prohibiting unfair methods of competition and unfair and deceptive acts or practices in or affecting commerce.² The Commission has wide-ranging responsibilities concerning nearly all segments of the economy. Pursuant to this responsibility, the Commission seeks to identify business practices and regulations that impede competition without offering

countervailing benefits to consumers, and advocates for policies that promote competition and consumer protection.³

Consumers benefit from market competition in a variety of ways. As the U.S. Supreme Court has recognized, the benefits of competition not only include lower prices, but go beyond as well: “The assumption that competition is the best method of allocating resources in a free market recognizes that all elements of a bargain—quality, service, safety, and durability—and not just the immediate cost, are favorably affected by the free opportunity to select among alternative offers.”⁴ The competitive process also creates incentives for producers to be innovative and responsive to consumer preferences with respect to the design and characteristics of products and services, and the business models used to deliver them.

In carrying out its mission, the Commission has developed considerable expertise in analyzing passenger motor vehicle transportation services. FTC staff previously has submitted a number of advocacy filings related to taxicabs with various local and state authorities, including recent comments regarding the regulation of new applications for obtaining passenger vehicle transportation services in the District of Columbia, Anchorage, Alaska, and Colorado.⁵ In addition, the FTC has brought antitrust enforcement actions against two cities relating to taxicab regulation,⁶ and has issued two significant reports on taxi regulation.⁷ The Commission is also knowledgeable in various aspects of competition and consumer protection that are relevant to new passenger motor vehicle transportation applications. For example, the Commission has developed considerable expertise relating to the emergence of new technologies and innovation as a form of competition.⁸ Staff has recently updated guidance on how to make effective disclosures in the online context.⁹ The Commission has also developed consumer protection expertise in data security, privacy, and identity theft issues that applications may raise.¹⁰

II. The Passenger Motor Vehicle Transportation Marketplace

The marketplace for commercial passenger motor vehicle transportation services in the United States remained largely unchanged for decades until the arrival of the smartphone in 2007.¹¹ Historically, commercial services included: cruising taxis that respond to street hails, taxis that wait for riders at taxi stands, radio-dispatched taxis, prearranged limousine and sedan-type vehicle service, and jitney-type service. These services were regulated at the state and local level under a framework that also remained largely unchanged. Common regulatory features included: licensing requirements, formal classifications for various vehicle and service types; entry restrictions such as taxi medallion systems or requirements that new entrants demonstrate a need for service; fare regulation; prescribed methods of calculating fares and fare information; minimum fares and prearrangement requirements for limousines and sedans; safety and liability issues; and handicapped access, universal service, and non-discrimination requirements.

More recently, in response to the introduction of smartphones around 2007, both incumbent passenger motor vehicle transportation service providers and other

entrepreneurs have introduced software applications, sometimes also called digital dispatch services, which allow consumers to arrange and pay for passenger motor vehicle transportation services in a variety of ways.¹² These software applications may make use of technologies such as mobile smartphone applications, Internet web pages, email messages, and text messages.

These innovative software applications can spur competition by providing consumers with new ways to more easily locate, arrange, and pay for passenger motor vehicle transportation services, as compared to traditional methods such as street hails or prearrangement by telephone through traditional service dispatchers.¹³ For example, some applications use the Global Positioning System (“GPS”) technology incorporated into smartphones to enable consumers to locate nearby vehicles and track their arrival on an electronic map, thus facilitating matching between customers and service.¹⁴ Some applications also utilize the GPS and computing capabilities of smartphones to enable new methods of fare calculation based on one or more factors, such as distance, time, per trip fees, real-time demand conditions, additional services, or gratuities, which the application can then charge to a credit card on file with the application.¹⁵ Such applications may also use third-party credit card processing and electronic receipts, in lieu of non-electronic payment methods and paper receipts.¹⁶

These technologies and new methods appear to be responsive to consumer demand, and also may promote a more efficient allocation of resources (e.g., vehicles and drivers) to consumers, help to meet unmet demand for passenger motor vehicle transportation services, and improve service in traditionally underserved areas.¹⁷ They also may reduce consumers’ transaction costs in arranging and paying for such services. At the very least, these technologies and methods provide consumers new alternatives to street hailing or telephoning for service.¹⁸

In addition to applications that facilitate the arrangement of passenger motor vehicle transportation services using commercially licensed vehicles and drivers, another model has emerged that allows consumers to arrange, and in some instances pay for or otherwise provide money in connection with, transportation provided by drivers operating their own personal vehicles. This model is sometimes referred to as being an application-based variant of traditional “ridesharing” arrangements or as being a “peer-to-peer” (“P2P”) form of transportation.¹⁹

Software applications that facilitate using personal automobiles to provide transportation services to the public may provide consumers with expanded transportation options, at potentially lower prices, thereby better satisfying consumer demand, and potentially increasing competition and promoting a more economically efficient use of personal vehicles. Staff understands, however, that such applications may raise issues for policymakers not previously addressed in connection with applications that facilitate the use of commercial passenger motor vehicle transportation service. While these concerns may provide grounds for some regulations to protect consumers, as we discuss below, we encourage the City Council to carefully consider the potential competitive effects of such regulations as well as the justifications being urged to support them.

III. General Principles for Regulating Evolving Industries

Transportation services facilitated by software applications and provided by individuals using their personal vehicles appear to be a new phenomenon that lies outside most existing regulatory schemes. The initial question for regulators, therefore, is whether there is a public policy justification for regulating them at all, either through entirely new regulatory mechanisms or expansion of current systems for regulating commercial passenger motor vehicle transportation services. Unregulated markets can be adept at accommodating new and innovative forms of competition, whereas traditional regulatory frameworks may lack the flexibility to do so precisely because they tend to mirror, and even entrench, the business models that have developed in the past.

Regulatory frameworks, when needed, should be flexible enough to allow new and innovative forms of competition. Unless regulation is necessary to achieve some legitimate public interest, markets should be left unfettered to permit competition to flourish. Consumers benefit from competition between traditional and new products and services, and from new business models and methods of delivering services. It is advisable, therefore, that laws and regulations be reviewed and revised periodically to facilitate and encourage the emergence of new forms of competition, sometimes through deregulation and other times through the development of new and adaptive regulations.

As with software applications that facilitate commercial passenger motor vehicle transportation services, any regulations directed at TNP services should focus primarily on ensuring the safety of customers and drivers, deterring deceptive practices relating to fares, safety and liability, and other terms of use, and addressing other consumer protection issues, especially data security and the prevention of identity theft. These might include provisions that relate to ensuring qualified drivers, safe and clean vehicles, sufficient liability insurance, transparency of fare information, and compliance with other applicable laws. Regulations should not in purpose or effect favor one group of competitors over another or impose unnecessary burdens on applications or drivers that impede their ability to compete without any justification that benefits the public interest.

Staff notes that the ordinance, in principle, provides a pathway to facilitate and promote transportation services using personal vehicles that consumers appear to be demanding and therefore will promote competition. We respectfully suggest, however, that the Chicago City Council carefully consider the potential direct and indirect impacts on competition of some of the proposed ordinance's provisions. Unwarranted restrictions on competition will undermine the potential benefits of the ordinance and should be avoided. Any restrictions on competition that are implemented should be no broader than necessary to address legitimate subjects of regulation, such as safety and consumer protection, and narrowly crafted to minimize any potential anticompetitive impact.

IV. The Proposed Ordinance

Proposed Ordinance O2014-1367 would amend Title 9 by adding a new Chapter 9-115 to establish a license for transportation network providers. Among other things, the ordinance would: require that TNPs meet certain qualifications and maintain certain insurance; set out certain standards for drivers, vehicles, and operation; establish certain pricing parameters and recordkeeping and reporting requirements; and limit transportation network service to prearranged service. It would also prohibit pick-ups and drop-offs in certain airport and convention center areas.

Staff appreciates that by providing for the legal recognition of new software applications to arrange and pay for passenger motor vehicle transportation services using personal vehicles, some of the proposed updates to Title 9 are likely to benefit consumers.²⁰ However, certain provisions, highlighted and analyzed below, may unnecessarily impede competition in these services without providing any apparent consumer protection benefits.²¹

A. TNP License Fee

Proposed Chapter 9-115-030 would require an annual fee for a non-transferable TNP license of \$25,000, plus \$25 for each affiliated driver. These fees would impose an additional cost not currently borne by the TNPs. Although the annual fee may not be substantial enough to inhibit or deter well-established and successful TNPs, it will still raise their costs of operation, and may prove to be a barrier to the entry or expansion of new TNPs. If TNPs, especially smaller start-up TNPs having relatively fewer affiliated drivers, such as a potential local area-only start-up, are forced to incur higher costs than other business models, such costs may put them at a competitive disadvantage. By contrast, an annual taxicab affiliation license fee is only \$500, plus \$15 for each affiliated licensee, and an annual taxicab two-way dispatch license fee is an additional \$500.²² In either event, these costs may also be passed on to consumers. In addition, because the TNPs typically seek to operate in many jurisdictions—a characteristic that can make them attractive to some consumers—the fees could, if replicated elsewhere, collectively become a substantial barrier to entry and operation, even for more well-established and successful TNPs.

Staff, therefore, recommends that the Chicago City Council carefully consider the justification for and effect of these fees on TNPs and competition. If some fee is deemed necessary to cover the costs of administering a regulatory framework for TNPs or for some other public purpose, staff recommends that such fees should be no greater than necessary to cover such costs; staff recommends that any fees should be structured in a way that avoids unnecessarily inhibiting or deterring new entry or further expansion into the marketplace.

B. Pricing

Variation in pricing models has been one of the most innovative and defining characteristics of software-based applications for arranging transportation services. Instead of leaving the method of calculating fees to the TNPs, however, proposed Chapter 9-115-170 would permit TNPs to calculate fees for transportation network services in only three ways: (1) distance travelled or time elapsed during service, (2) a flat prearranged fare, or (3) a suggested donation. This specification of fee structures seems overbroad and likely to restrict one of the most important competitive tools of the applications. It would also specifically prohibit fares using a combination of distance and time, which might potentially benefit consumers and competition. More broadly, it locks in specific fee structures, precluding future evolution of new or different methods of calculating value for services using personal vehicles.

In addition, proposed Chapter 9-115-170 does not expressly recognize or permit demand-based pricing. Demand pricing is a mechanism by which resources are allocated to their most highly valued consumer uses. Demand pricing directly responds to the level of consumer demand: when demand increases, prices increase and when demand falls, prices fall. It can be an efficient way to allocate resources (e.g., vehicles and drivers) to consumers, particularly during times of peak demand (e.g., during particular times of day, periods of traffic congestion, around the time of special events), because it provides incentives for increased supply to serve increased demand.²³ Demand pricing also may result in lower fares during off-peak times, which may potentially result in an overall increase in the quantity of service utilized by consumers. Demand based pricing, therefore, can be more responsive to consumer preferences than fixed pricing models.

Staff recommends that, absent some specific evidence that a particular pricing model will harm consumers, the ordinance should clearly allow for greater flexibility and experimentation in structuring fees in order to facilitate innovative forms of pricing that may benefit consumers.²⁴ To the extent that evidence of such harm is received, any restriction designed to address that harm should be narrowly crafted to minimize its anticompetitive impact.²⁵

C. Insurance Requirements

Proposed Chapter 9-115-080 would require each TNP to have commercial general liability insurance with coverage of at least \$1,000,000 per occurrence for bodily injury, personal injury, and property damage, and also commercial automobile liability insurance with a combined single limit for bodily injury and property damage of at least \$1,000,000 per occurrence. By contrast, current Chapter 9-112-330 only requires taxicab licensees to have public liability insurance with at least \$350,000 combined single limit coverage per occurrence. Current Chapter 9-114-170 requires that public passenger vehicles, other than taxicabs, have public liability insurance with combined single limit per occurrence coverage of at least \$100,000 for jitney car service vehicles with up to eight seats, and at least \$350,000 for other vehicles with up to ten seats.

Requiring TNPs to incur the likely higher costs associated with increased levels of insurance coverage may put them at a competitive disadvantage versus other business models.²⁶ This differential in the requirements for insurance coverage might be appropriate if there is evidence that TNP services involve a higher degree of risk for consumers. Absent such evidence, however, requiring TNPs to carry greater and likely more expensive levels of insurance coverage than other service providers will likely harm competition, increase costs for consumers, and provide no public benefit. If the risks associated with similar types of passenger motor vehicle service are comparable, then, from a competition perspective, insurance requirements should also be comparable across those types of service.

D. Airport and Convention Center Pick-ups and Drop-offs

Proposed Chapter 9-115-160(b) would prohibit transportation network drivers from picking up or dropping off a passenger at O'Hare International Airport, Midway International Airport, or McCormick Place convention center, areas where consumers may frequently demand service. Such a blanket prohibition eliminates even the possibility that TNP services can compete with other types of passenger transportation services at these locations. As with the ordinance's restrictions on pricing and insurance, absent some specific evidence that the presence of transportation network vehicles in proximity to these areas will harm consumers, this change should not be adopted. To the extent that there may be concerns about potential queue problems or congestion issues in certain areas, staff recommend considering a less restrictive means to deal with these problems.²⁷

Staff is aware that issues have sometimes arisen regarding the regulation of commercial passenger motor vehicle transportation services at these kinds of locations, as in the case of first-in first-out taxicab queues at airport, rail station, or downtown taxicab stand areas.²⁸ But these problems alone do not appear to support the proposed restrictions. Generally, there are likely to be more passenger transportation vehicles in particular areas only if there is demand for such vehicles in those areas, especially if service has been specifically prearranged by consumers. Staff also notes that similar restrictions do not appear to be in place for other types of prearranged services (e.g., livery service). Also, passenger motor vehicle transportation services can potentially reduce traffic congestion because increased use of those services can mean reduced use of automobiles, especially in downtown and other densely populated areas. Consequently, absent evidence of queue problems or congestion issues unique to TNPs, unnecessarily restricting the ways that consumers can receive TNP services at these locations does not appear to be warranted.

E. Records and Data Collection

Proposed Chapter 9-115-180 would require TNPs to maintain operations records for at least three years and make them available to the city's commissioner of business affairs and consumer protection. It would also require them to provide certain customer, driver, and trip data, including real-time trip data (e.g., driver identity, GPS location data,

and whether the driver is engaged with a passenger), to the commissioner at such times and in a format and manner prescribed by regulation.

As a preliminary matter, the City Council might consider whether this information is needed and, if so, for what purposes. In particular, the City Council should consider if there is any justification for establishing different data collection requirements for TNPs and other types of passenger motor vehicle transportation services.²⁹ Data collection and reporting requirements can impose significant costs on TNPs and the commissioner should carefully evaluate the costs and benefits of specific requirements, as well as the availability of less burdensome means of serving any public purpose.

Staff recognizes that the city may want to collect and make available to consumers certain information relating to safety and availability of service. But staff cautions against otherwise publicly disclosing or sharing other operational information, such as real-time trip data, among competitors involved in facilitating or supplying passenger vehicle transportation services, including TNPs and drivers, and other types of vehicle operators and vehicle fleets or associations. If shared, this sort of data might compromise proprietary business strategies and facilitate tacit or explicit collusion among competing service providers. Such collusion would harm consumers through, for example, higher prices, decreased output, decreased quality, or reduced innovation.³⁰ Any such information, therefore, should be treated as confidential business information.

F. TNP Business Relationships Related to Vehicles

Proposed Chapter 9-115-090(a) would prohibit TNPs from owning transportation network vehicles, providing financing for the obtaining, leasing, or ownership of such vehicles, or having a beneficial interest in such vehicles. There does not appear to be any pro-competitive or pro-consumer rationale to support this sweeping prohibition. To the contrary, the logical and predictable consequence of it will be to constrain the development of TNP service to the detriment of competition and consumers.

Although staff is unaware of any TNPs that currently have these types of relationships relating to personal vehicles, it is conceivable that such business models might develop in the future (e.g., to facilitate the ability of drivers to get access to vehicles that can be used in passenger motor vehicle transportation service). Staff, therefore, strongly cautions against unnecessarily inhibiting new methods or models of doing business, such as those involving integration or other business relationships between TNPs, vehicles, and drivers.

G. Vehicle Advertising

Proposed 9-115-120 would prohibit transportation network vehicles from displaying commercial advertisements on either the exterior or interior of the vehicle. As with the blanket prohibition on various kinds of integrative relationships between TNPs and vehicles, there does not appear to be any pro-competitive or pro-consumer rationale to support this sweeping prohibition. To the contrary, the logical and predictable

consequence of it will be to limit the sources of income to TNPs and TNP drivers and constrain the development of TNPs to the detriment of competition and consumers. Staff notes that advertising is presently permitted for taxis and charter-sightseeing vehicles, subject to approval by the commissioner based on certain criteria and a one-year permit fee, under Chapters 9-112-410 and 9-114-330. Staff, therefore, cautions against unnecessarily inhibiting new methods or models of doing business, such as those involving external advertising (e.g., magnetic signage or other exterior advertising) or interior advertising (e.g., interior signage or audio-visual equipment). Any restrictions on advertising should be narrowly drawn.³¹

V. Conclusion

FTC staff appreciates this opportunity to provide views in regard to this matter and would be happy to address any questions you may have regarding competition policy in the passenger motor vehicle transportation marketplace.

Respectfully submitted,

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¹ This staff letter expresses the views of the Federal Trade Commission’s Office of Policy Planning, Bureau of Competition, and Bureau of Economics. The letter does not necessarily represent the views of the Federal Trade Commission (“FTC” or “Commission”) or of any individual Commissioner. The Commission has, however, voted to authorize staff to submit these comments.

² Federal Trade Commission Act, 15 U.S.C. § 45.

³ Specific statutory authority for the FTC’s competition advocacy program is found in Sections 6(a) and (f) of the FTC Act, under which Congress authorized the FTC “[t]o gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person, partnership, or corporation engaged in or whose business affects commerce,” and “[t]o make public from time to time such portions of the information obtained by it hereunder as are in the public interest . . .” 15 U.S.C. § 46(a), (f).

⁴ Nat’l Soc’y of Prof’l Eng’rs v. United States, 435 U.S. 679, 695 (1978); *accord* FTC v. Superior Court Trial Lawyers Ass’n, 493 U.S. 411, 423 (1990).

⁵ FTC Staff Comments Before the District of Columbia Taxicab Commission Regarding Second Proposed Rulemakings Regarding Chs. 12, 14, and 16 of Title 31 (June 7, 2013) (“D.C. Letter”), *available at* <http://www.ftc.gov/policy/policy-actions/advocacy-filings/2013/06/ftc-staff-comments-district-columbia-taxicab>; FTC Staff Comments to the Honorable Debbie Ossiander Concerning AO NO. 2013-36 Regarding the Regulatory Framework for the Licensing and Permitting of Taxicabs, Limousines, and Other Vehicles for Hire in Anchorage, Alaska (Apr. 19, 2013), *available at* <http://www.ftc.gov/policy/policy-actions/advocacy-filings/2013/04/ftc-staff-comment-anchorage-assembly-member-debbie>; FTC Staff Comments Before the Colorado Public Utilities Commission *In The Matter of The Proposed Rules Regulating Transportation By Motor Vehicle*, 4 Code of Colorado Regulations 723-6 (Mar. 6, 2013) (“Colorado Letter”), *available at* <http://www.ftc.gov/policy/policy-actions/advocacy-filings/2013/03/ftc-staff-comment-colorado-public-utilities>.

⁶ The FTC sued the cities of New Orleans and Minneapolis in 1984, charging both cities with unfair competition by combining with taxicab operators to impose regulations that limited the number of taxicab licenses, increased fares, and eliminated competition in violation of the federal antitrust laws. The complaint against Minneapolis was withdrawn after the city revised its ordinance to permit more competition. The complaint against New Orleans also was withdrawn after the state authorized the conduct in question by a new law. *See generally* FTC, 1985 ANNUAL REPORT 5 (1985), *available at* <http://www.ftc.gov/reports/annual-report-1985>.

⁷ ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (“OECD”), DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS, COMPETITION COMMITTEE WORKING PARTY NO. 2 ON COMPETITION AND REGULATION, TAXI SERVICES REGULATION AND COMPETITION 199-210 (Sept. 11, 2008) (submission of the United States), *available at* <http://www.oecd.org/regreform/sectors/41472612.pdf>; MARK W. FRANKENA & PAUL A. PAUTLER, AN ECONOMIC ANALYSIS OF TAXICAB REGULATION (1984) (FTC Bureau of Economics Staff Report), *available at* <http://www.ftc.gov/sites/default/files/documents/reports/economic-analysis-taxicab-regulation/233832.pdf>.

⁸ *See generally* U.S. DEP’T OF JUSTICE & FTC, ANTITRUST ENFORCEMENT AND INTELLECTUAL PROPERTY RIGHTS: PROMOTING INNOVATION AND COMPETITION (2007),

available at <http://www.ftc.gov/reports/antitrust-enforcement-intellectual-property-rights-promoting-innovation-competition-report>; FTC, TO PROMOTE INNOVATION: THE PROPER BALANCE OF COMPETITION AND PATENT LAW AND POL'Y (2003), available at <http://www.ftc.gov/sites/default/files/documents/reports/promote-innovation-proper-balance-competition-and-patent-law-and-policy/innovationrpt.pdf>; FTC STAFF, ANTICIPATING THE 21st CENTURY: COMPETITION POL'Y IN THE NEW HIGH-TECH, GLOBAL MARKETPLACE (1996), available at http://www.ftc.gov/system/files/documents/reports/anticipating-21st-century-competition-policy-new-high-tech-global-marketplace/gc_v1.pdf; and FTC STAFF, ANTICIPATING THE 21st CENTURY: CONSUMER PROTECTION POL'Y IN THE NEW HIGH-TECH, GLOBAL MARKETPLACE (1996), available at http://www.ftc.gov/system/files/documents/reports/anticipating-21st-century-competition-policy-new-high-tech-global-marketplace/gc_v2.pdf.

⁹ FTC STAFF, .COM DISCLOSURES: HOW TO MAKE EFFECTIVE DISCLOSURES IN DIGITAL ADVERTISING (2013), available at http://ftc.gov/os/2013/03/130312_dotcomdisclosures.pdf.

¹⁰ See FTC STAFF, MOBILE PRIVACY DISCLOSURES: BUILDING TRUST THROUGH TRANSPARENCY (2013), available at http://www.ftc.gov/os/2013/02/130201_mobileprivacyreport.pdf.

¹¹ OECD Submission, *supra* note 7, at 200 (“As of 2007, the general description of the taxicab industry and taxicab regulation in the United States remains much as it was when Frankena and Pautler described it in 1984. That is, nothing dramatic has happened to alter the U.S. industry in the interim.”).

¹² See generally Lauren Goode, *Worth It? An App to Get a Cab*, WALL STREET J., June 17, 2011, available at <http://blogs.wsj.com/digits/2011/06/17/worth-it-an-app-to-get-a-cab/>.

¹³ See generally *id.*

¹⁴ See generally *id.*

¹⁵ See generally Michael B. Farrell, *Taxi app Hailo to expand service*, BOSTON GLOBE, Feb. 5, 2013, available at <http://www.bostonglobe.com> (discussing booking fees, service fees, and gratuities); Brian X. Chen, *Uber, an App That Summons a Car, Plans a Cheaper Service Using Hybrids*, N.Y. TIMES, July 1, 2012, available at <http://www.nytimes.com> (discussing charging by time, distance, consumer demand, and gratuities).

¹⁶ See generally Goode, *supra* note 12.

¹⁷ See generally NEW YORK CITY TAXI & LIMOUSINE COMM'N, PRESENTATION, E-HAIL PILOT PROGRAM (Dec. 31, 2013) (second quarter assessment of the city's e-hail pilot program for regulated yellow taxicabs), available at http://www.nyc.gov/html/tlc/downloads/pdf/ehail_q2_report_final.pdf.

¹⁸ See generally *id.* at 8-9.

¹⁹ This model is one example of the larger recent phenomena of the still developing “sharing economy” in which individuals may exchange or “share” goods and services using

Internet-enabled communications technologies in ways that were previously impractical. Other examples include: car-sharing, parking space rentals, boat rentals, rentals of personal homes and apartments, dog kennel services, and the rental of personal goods. *See generally* ECONOMIST, *All eyes on the sharing economy*, Mar. 9, 2013 (Technology Quarterly: Q1 2013), available at <http://www.economist.com/news/technology-quarterly/21572914-collaborative-consumption-technology-makes-it-easier-people-rent-items>.

²⁰ Proposed 9-115-090(c) states that “No vehicle licensed as a taxi or public transportation vehicle in any jurisdiction shall be operated as a transportation network vehicle.”

²¹ In addition to the provisions discussed in the body of this letter, staff also notes that under proposed amended Chapter 3-46-050 A.-B., TNPs, transportation network drivers, and transportation network vehicles would not be exempt from Chicago’s Motor Vehicle Lessor Tax and Personal Property Lease Transaction Tax, as are, respectively, other lessors or lessees of a ground transportation vehicle and persons leasing a ground transportation vehicle from a license holder. This differential tax treatment may put TNPs at a competitive disadvantage, versus other vehicle types. *See generally infra* note 26 and related text.

Likewise, under proposed amended Chapter 3-46-065 C., transportation network vehicle owners could not claim a tax credit for providing service to or from designated underserved areas, as can other ground transportation vehicle license holders. Such an exclusion may put TNPs at a competitive disadvantage in serving underserved areas. *See generally id.* Such an exclusion could also reduce the economic incentives of TNPs to provide service in underserved areas, generally. As noted above, applications may promote passenger motor vehicle transportation service to traditionally underserved areas. *See* NEW YORK CITY TAXI & LIMOUSINE COMM’N, *supra* note 17, at 10 (“E-Hail Apps are having the greatest effect on passengers and drivers in places that tend to be underserved by taxis.”). Staff, therefore, recommends that the Chicago City Council carefully consider the implications of excluding TNPs from receiving a tax credit for the provision of passenger motor vehicle transportation service in underserved areas.

²² Municipal Code of Chicago Ch. 9-112-340(l) and Ch. 9-112-550(b). In addition, a one-year taxicab medallion license issuance or renewal fee for taxicabs that are not wheelchair accessible is \$600 and a one-year taxicab medallion license issuance or renewal fee for wheelchair accessible taxicabs is \$500. *Id.* at Ch. 9-112-150(a)(i)-(ii). The annual fees for passenger vehicles other than taxicabs are \$500 for a livery vehicle; \$500 for a charter/sightseeing vehicle; \$500 for a medical earner; and \$250 for jitney car service. *Id.* at Ch. 9-114-070.

²³ *See generally* ROBERT H. FRANK, MICROECONOMICS AND BEHAVIOR 37 (8th ed. 2010).

²⁴ Pricing practices should be truthful and non-deceptive, in order for the passenger motor vehicle transportation marketplace to function efficiently. *See generally* D.C. Letter, *supra* note 5, at 7-8 & nn.28-29 and Colorado Letter, *supra* note 5, at 4 & nn.17-18.

²⁵ For example, if there is evidence that consumers do not understand or are confused by alternative methods of calculating payments, the City Council could consider requiring better disclosures in lieu of fixing and limiting the range of permissible payment methods.

²⁶ *See generally* Steven C. Salop & David T. Scheffman, *Cost-Raising Strategies*, 36 J. INDUS. ECON. 19 (1987); Thomas G. Krattenmaker & Steven C. Salop, *Anticompetitive*

Exclusion: Raising Rivals' Costs to Achieve Power over Price, 96 YALE L. J. 209 (1986); Steven C. Salop & David T. Scheffman, *Raising Rivals' Costs*, 73 AM. ECON. REV. 267 (1983).

²⁷ Consumers appear to be better off when regulators pursue alternatives for such locations that are less restrictive, such as redesigning taxicab stands, increasing taxicab line user fees, or entering into contracts with operators. OECD Submission, *supra* note 7, at 204-05; Staff Report, *supra* note 7, at 1, 50-51, 123-24, 156.

²⁸ It appears that in some cases first-in first-out taxicab queues have inhibited price competition, that drivers sometimes bickered over their places in line as queues of waiting cabs lengthened, and that drivers also sometimes refused service to passengers wanting only a short trip. OECD Submission, *supra* note 7, at 200; Staff Report, *supra* note 7, at 1, 50-51, 123-24, 156.

²⁹ Compare Proposed Chapter 9-115-180, with current Municipal Code of Chicago Chapter 9-112-210 (“Duty to maintain real time records as to a chauffeur operating a taxicab”) (requiring licensees to maintain real-time chauffeur identity data, and produce to the commissioner upon request information and data regarding which chauffeur is operating a particular taxicab on any given date and time, and that taxicab medallion holders implement processes to enable the commissioner to access real-time data on chauffeur identity and the taxicab’s location).

³⁰ See generally D.C. Letter, *supra* note 5, at 6-7. See also FTC Comments Before the Environmental Protection Agency Concerning Proposed Confidentiality Determinations for Data Required Under the Mandatory Greenhouse Gas Reporting Rule and Proposed Amendment to Special Rules Governing Certain Information Obtained Under the Clean Air Act (Sept. 30, 2010), available at <http://www.ftc.gov/policy/policy-actions/advocacy-filings/2010/09/ftc-comment-environmental-protection-agency> (discussing a proposed EPA rule concerning the confidentiality of data submitted under EPA’s Greenhouse Gas Reporting Rule).

³¹ Because Proposed 9-115-120 would implement certain restrictions on commercial speech, it may also raise First Amendment issues. See generally *Central Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n of New York*, 447 U.S. 557 (1980) (articulating four-part test for evaluating whether government restrictions on commercial speech are constitutional).