Taxi & Limousine Commission

David Do
Commissioner/Chair

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33 Beaver Street
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New York, NY 10004

New York City Taxi & Limousine Commission

Proposed Rules – Interior Advertising Provider Licenses for FHVs

Public Hearing Comments:

Interior Advertising Provider Licenses for FHVs

rules.cityofnewyork.us/rule/interior-advertising-provider-licenses-for-fhvs/

Rule status:

Proposed

Agency: TLC

Comment by date: January 9, 2025

Rule Full Text TLC-Proposed-Rules-Relating-to-Interior-Advertising-in-For-Hire-Vehicles-Preliminarily-Certified-11.27.24-Certifications-Attached.pdf

This rule package would establish requirements to become an Interior Advertising Provider for FHVs

Attendees who need reasonable accommodation for a disability such as a sign language translation should contact the agency by calling 1 (212) 676-1135 or emailing by January 8, 2025

Send comments by

- Email:
- Mail: TLC, Office of Legal Affairs, 33 Beaver Street Room/Floor: 22nd Floor ; New York, New York 10004

Public Hearings

Comments close by January 9, 2025

Add a comment

Notes. * "Required" indicates a required field. Your email address will not be made public.

Online comments: 1

- Esterlin Contreras

  They should be able to give plates at least to people who have had the TLC license for more than 10 years if they do not have a vehicle registered with their license. Because due to many problems in life I had to start my life from scratch and when I was able to establish myself and wanted to ask for my plate back I could not and now I barely sleep or share with my son because I have to pay the dealership more than 2400 dollars a month because I do not have a plate it is not fair! If I had my plate I could reduce my work hours because that way I would have less expenses those dealers take advantage of the drivers

  Comment added December 17, 2024 11:28pm

From: Ejatu Jalloh
To: tlcrules (TLC)
Subject: [EXTERNAL]
Date: Friday, January 3, 2025 1:27:18 PM

I'm against the rule of interior advertising provider license applicable to for-hire-vehicls.
I don't want to advertise alcohol,music, and stipe clubs in my car for religious reasons.

BEFORE THE NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Request for comment: Interior advertising in for-hire vehicles	Public Hearing: January 9, 2025

SUPPLEMENTAL COMMENTS OF
UBER USA, LLC AND ITS AFFILIATES

Nicholas Davoli
3 World Trade Center
175 Greenwich St., Fl. 47
New York, NY 10007
Email: ndavoli@uber.com

Attorney for Uber USA, LLC

Uber[1] submits this supplemental comment to the New York City Taxi and Limousine Commission ("TLC" or the "Commission") in connection with the Commission's final proposed rule for interior advertising in For-Hire Vehicles (the "proposed rule").

The Proposed Rules

Uber agrees with many of the Commission's modifications to the proposed rules following the August 2024 public hearing. Unfortunately, the proposed rules continue to include provisions which, if enacted, will prove operationally, technologically and economically prohibitive for Uber and its partners to provide in-vehicle advertising opportunities to drivers. Uber urges TLC to consider the additional modifications below to unlock this additional earnings opportunity for New York City's For-Hire Vehicle drivers.

Rider Data

The continued prohibition on the use of "passenger geolocation and identifying information" (Documentation for System Approval - Proposed § 59E-05(b)(5)(A)) will render in-car tablet businesses economically unviable and is inconsistent with the immediately surrounding text in

[1] "Uber" herein refers to Uber USA, LLC (HV0003) (B03404), and its affiliates. In submitting this Supplemental Comment, Uber incorporates by reference the entirety of its Comment on the initial rule proposal, submitted on August 13, 2024.

the proposed rules. Given the drafting of this provision, we understand that this prohibition may have been included in error.

Like traditional advertising businesses, in-car advertisers sell campaigns that help brands reach their target audience using all available information, including geolocation and other personally identifying information. A prohibition on the use of this data would destroy the ability to effectively sell in-car advertising campaigns to brands, and in turn, will greatly reduce the revenue opportunity for would be licensees and drivers.

Today, Uber riders can control their privacy and personalized advertising settings via a dedicated section within the Uber App. These privacy settings apply to all Uber ads products, including those displayed on in-vehicle tablets. The prohibition proposed by the Commission is more restrictive than any existing U.S. regulation or advertising industry standard, including California's amended CCPA, which considers the use of geolocation data within a radius of 1850ft to be "Nonpersonalized Advertising". Because riders are able to opt out of personalized advertising within the Uber App, Uber strongly recommends removing the prohibition on the use of passenger geolocation and identifying information from its proposed rule.

If the Commission believes restrictions on the use of geolocation are needed, Uber would support limiting the use of geolocation to a coarser, non-precise level of accuracy, in line with existing advertising industry standards. For example, the National Advertising Institute (NAI) considers latitude and longitude coordinates with 2 or fewer decimal points (~3600ft) to be imprecise.[2]

Insurance and Indemnification

The indemnification and the insurance provisions in proposed rules are overboard. There is little to no risk reasonably related to the physical placement of a tablet in a For-Hire Vehicle by Partners, the integration with passenger-facing booking tools like Uber, or the presence of digital advertisements. Liability for bodily harm or personal injury, for example, is wholly inapplicable. Moreover, these provisions are more restrictive and burdensome than the existing rules in place for Rooftop Advertising Fixture Providers ("RAFPs").

We recommend replacing the extensive insurance requirements with a more focused rule that requires insurance coverage and submission of proof of such coverage, similar to that required of RAFPs. Alternatively, we suggest the following changes:

- in 59E-05(g)(1)(C), replace "name" with "include" as large corporate insurance providers will not name particular parties, but instead cover them as additional insureds under a blanket additional insured endorsement;
- replace all mentions of "Declarations Pages" with "Certificates of Insurance" to align with industry standard of maintaining confidentiality of Declaration Pages;

[2] Guidance for NAI Members: Determining Whether Location is Imprecise (Feb 2020). https://thenai.org/wp-content/uploads/2021/07/nai_impreciselocation2.pdf

- remove requirement to provide copies of the policy upon demand, and instead make such provision contingent upon an event of a claim giving rise to a question of coverage; and
- add email address for delivery of required insurance documents to allow for electronic delivery.

With respect to the indemnification provision in proposed rule § 59E-10, it is unclear what third-party claims would be asserted against the City of New York that would require an Interior Advertising Provider to indemnify, especially given the City of New York is not party to the contracts between the For-Hire Vehicle drivers and the Interior Advertising Providers. In addition, RAFPs are not required to indemnify the City of New York. As such, we recommend removing the indemnification obligations entirely.

Technical and Accessibility Requirements

Uber and its Partners regularly undergo independent reviews of its overall information security program and controls. As drafted, proposed rule § 59E-05(b)(1), is costly and impractical. Uber recommends the section be revised and Applicants be required to submit Information Security and Use of Personal Information Policies consistent with § 59D-16 (f),(g), and (h).

Uber and its Partners understand the importance of accessibility for Passengers as noted in Passenger Functionality and Interaction - Proposed § 59E-22(b)(4). However, neither Uber nor its Partners collect information specific to a Passenger's potential disabilities. Moreover, there is not a feasible mechanism to collect/use this information. As such, Passengers' ability to interact with the Approved Tablets without the assistance of the Driver must be limited to only <u>critical</u> features of the Approved Tablets. All Passengers, including those with vision disabilities, will be able to use physical controls to silence or "nap" Approved Tablets and an audio message explaining the same. Beyond such on/off features and an auditory reminder for gratuity, the Approved Tablets should keep Passenger disruptions to a minimum.

Conclusion

Uber encourages the Commission to incorporate the changes suggested herein to the final rules in order to seamlessly unlock an additional earnings opportunity for New York City's For-Hire Vehicle drivers.

Testimony of Andrew Greenblatt, Policy Director
Independent Drivers Guild (IDG)
Before the Taxi and Limousine Commission
January 9, 2025

Good morning, Commissioner Do and the Taxi and Limousine Commission members. My name is Andrew Greenblatt, and I am the Policy Director of the Independent Drivers Guild, otherwise known as IDG. Thank you for this opportunity to testify regarding the proposed regulations relating to interior advertisements for FHVs. These regulations are proposed in response to Local Laws 33 and 56 of 2024.

The IDG is a nonprofit affiliate of the International Association of Machinists and Aerospace Workers (IAMAW). Our organization represents over 140,000 for-hire vehicle drivers in New York State and 300,000 in Connecticut, Massachusetts, New Jersey, Florida, and Illinois. The IAMAW is the only union to successfully organize black car workers in New York City and has been doing so for over twenty years.

I would like to begin by thanking Council Member Farias for championing this important issue.

Since TLC's decision in August 2019 to block rideshare drivers' right to make money through interior and exterior advertising, IDG has advocated for the return of this revenue source.

This new law and the proposed regulations, which only deal with interior advertising, are an essential first step in restoring a rideshare driver's ability and opportunity to supplement their income from driving. When the original regulations were proposed last summer we supported the proposed regulations with two important and much-needed changes.

First, the regulations would allow Interior Advertising Providers to contract with drivers using an electronic signature. We asked the TLC to require that in such cases, the Provider must transmit a copy of the signed contract to the driver and otherwise make the contract available. The new version of the proposed regulations includes this important change, and we thank the TLC for listening to drivers on this point.

Second, the original proposed rules would have prohibited Interior Advertising Providers from allowing tipping through the tablets. Providers who operate in other parts of the country report that the largest increase in revenue to drivers comes not from sharing advertising revenue, but from increases in the number and size of tips to the drivers. These come when the provider is connected to the passenger's app, which allows them to use the tablet to give the driver a tip during the ride. We noted then that yellow cabs are not only allowed but are required to collect tips through their tablet-based systems.

We appreciate that the TLC also heard our concerns about this issue and that the proposed regulations would allow tipping through the tablets if the Providers have existing relationships with an app company.

With these two significant changes, the IDG supports these regulations and urges the TLC to move quickly to implement this new and important revenue option for drivers. The proposed regulations do a good job of protecting drivers and passengers. They protect drivers' rights to choose whether or not to have a tablet and what company to work with. They also create the groundwork needed to ensure drivers get the money they are entitled to.

In closing, we thank the Commission for its willingness to work with drivers to create the best possible options.

NYC TAXI & LIMOUSINE COMMISSION
INTERIOR ADVERTISING PROVIDER LICENSE
JANUARY 9, 2025

PROPOSED RULE FOR PUBLIC HEARING

Chair Do and Members of the Board of Commissioners,

My name is Michael Chow, founder and CEO of Dart Technologies, a Tech:NYC startup member headquartered in Manhattan and software provider of passenger media solutions for mobility operators.

On behalf of Dart Technologies, we reiterate our support from August 14 for simplifying non-core requirements preventing providers and drivers from offering the best passenger experience possible. While Local Laws 33 and 56 were intended to foster a vibrant marketplace of solutions, an arbitrary 15% advertising airtime requirement stifles innovation and reduces provider viability by mandating operational complexity that neither serves drivers nor passengers as key stakeholders.

Any airtime requirement not only systemically burdens all providers with integration challenges, but suboptimally limits the entire experience to TLC's predefined ad formats and aspect ratios available.

For instance, Dart delivers an optional media amenity via a standalone iPad app. Unlike the traditional Taxi TV model with its single linear loop, our opt-in platform offers a premium In-Flight Entertainment (IFE) airline-style experience, featuring multiple content channels to explore and navigate at will based on mood such as Calm and Headspace for meditation. This *earned engagement* approach prioritizes passenger choice over forced viewing of scheduled interruptions in the form of third-party ad breaks.

We urge the Commission to reconsider such a requirement as overly prescriptive rules risk anchoring the industry in past paradigms. Instead, an outcome-oriented framework will allow providers flexibility in supporting drivers delivering 5-star passenger satisfaction, and ultimately a win-win for all stakeholders.

Thank you Board of Commissioners for considering our perspective.

Sincerely,

Michael Chow
CEO
Dart Technologies
(646) 939-2394

About Dart Technologies, Inc.

At Dart Technologies, our mission is to build the passenger media network delivering digital services for connected and autonomous e-mobility, making cities smarter and the ride more enjoyable. We do this by providing an iOS/Android-based infotainment platform for mobility partners to elevate the in-car experience by delivering engaging content to audiences on the move. As a Tech:NYC startup, our team is uniquely positioned at the intersection of media and mobility, with prior experience deploying digital out-of-home media platforms at RMG Networks (fka Danoo) and Starwood Hotels, as well as expertise working with OEMs and suppliers advising the US Treasury during the Automotive Bailout.

§59E-22 Technical Requirements – Approved Electronic Tablet

(c) Passenger functionality and interaction.

(2) any Passenger-facing device that displays third-party content must display content provided by the TLC, subject to the following limitations:

(A) The content provided by the TLC will be in the same format as the third-party content displayed by the Passenger-facing device, and

*(B) At least fifteen percent (**15%**) of the Passenger-facing device's advertising airtime will be comprised of TLC-provided content.*

*(i) If an Interior Advertising System is integrated with a High Volume For-Hire Service (i.e. Passenger information is shared), the **15%** advertising airtime must be calculated and played/broadcasted based upon each new dispatched trip.*

*(ii) If an Interior Advertising System is not integrated with a High Volume For-Hire Service (i.e. Passenger information is not shared), the **15%** advertising airtime must be calculated and played/broadcasted on an hourly basis.*

NYC TAXI & LIMOUSINE COMMISSION
INTERIOR ADVERTISING PROVIDER LICENSE
AUGUST 14, 2024

PROPOSED RULE FOR PUBLIC HEARING

Chair Do and Members of the Board of Commissioners,

My name is Michael Chow, founder and CEO of Dart Technologies, a Tech:NYC startup member headquartered in Manhattan and software provider of passenger media solutions for mobility operators.

On behalf of Dart Technologies, we strongly advocate for simplification of non-core requirements to preserve flexibility for passenger experience innovation going forward.

Counter to the intent of Local Laws 33 and 56 designed to create a vibrant marketplace providing choice of licensed solutions for drivers, currently proposed rules include overly-specific technical restrictions on functionality and content (e.g. must display a prologue provided by the TLC at the start of each trip; at least 15% of the Passenger-facing device's content will be comprised of TLC-provided content; must display reminder about the payment of a gratuity) that will likely result in no providers able to fully comply and operate innovative systems within a paradigm anchored by legacy TPEP solutions tethered to yellow taxi meters i.e. broadcasting a single linear videoloop programmatically initiated by driver starting trip via meter.

Our support for removing non-core technical requirements is rooted in firsthand experience operating our iPad-based passenger media network for independent driver partners prior to the Second Circuit Court of Appeals reversal in 2019.

We believe that prudent implementation of this legislation will lead to a win-win outcome for all stakeholders involved – promoting economic growth, technological innovation, and an improved passenger experience. Thank you Board of Commissioners for considering our perspective.

Sincerely,

Michael Chow
CEO
Dart Technologies
(646) 939-2394

About Dart Technologies, Inc.

At Dart Technologies, our mission is to build the passenger media network delivering digital services for connected and autonomous e-mobility, making cities smarter and the ride more enjoyable. We do this by providing an iOS/Android-based infotainment platform for mobility partners to elevate the in-car experience by delivering engaging content to audiences on the move. As a Tech:NYC startup, our team is uniquely positioned at the intersection of media and mobility, with prior experience deploying digital out-of-home media platforms at RMG Networks (fka Danoo) and Starwood Hotels, as well as expertise working with OEMs and suppliers advising the US Treasury during the Automotive Bailout.

§59E-23 Technical Requirements – Approved Electronic Tablet

(c) Passenger functionality and interaction.

(1) Any Passenger-facing screen displaying third-party content must be authorized by the TLC and adhere to the following specifications:

(A) a Passenger-facing screen must display a prologue provided by the TLC at the start of each trip

(F) a Passenger-facing screen must display content that includes a reminder about the payment of a gratuity from a passenger to a driver prior to displaying any third-party content.

(G) any Passenger-facing device that displays third-party content must display content provided by the TLC, subject to the following limitations:

(i) The content provided by the TLC will be in the same format as the third-party content displayed by the Passenger-facing device, and

*(ii) At least fifteen percent (**15%**) of the Passenger-facing device's content will be comprised of TLC-provided content. The TLC required prologue will not be counted against the fifteen percent requirement for TLC-provided content.*

About Dart Technologies, Inc.

At Dart Technologies, our mission is to build the passenger media network delivering digital services for connected and autonomous e-mobility, making cities smarter and the ride more enjoyable. We do this by providing an iOS/Android-based infotainment platform for mobility partners to elevate the in-car experience by delivering engaging content to audiences on the move. As a Tech:NYC startup, our team is uniquely positioned at the intersection of media and mobility, with prior experience deploying digital out-of-home media platforms at RMG Networks (fka Danoo) and Starwood Hotels, as well as expertise working with OEMs and suppliers advising the US Treasury during the Automotive Bailout.

Lyft, Inc.'s Comments on the Proposed Rules to Implement Local Law 33 and Local Law 56 Related to For-Hire Vehicle Interior Advertising

Lyft, Inc. ("Lyft") welcomes the opportunity to submit comments regarding the amendments to the Administrative Code proposed on December 3, 2024, and scheduled for a hearing on January 9, 2025, by the New York City Taxi and Limousine Commission (the "TLC," or the "Commission") that will implement Local Law 33 and Local Law 56, relating to interior advertising in for-hire vehicles (the "Proposed Rules").

Lyft appreciates the TLC's consideration of the concerns raised in Lyft's August 14, 2024 comments on the previously proposed amendments to the For-Hire Vehicle Interior Advertising rules. The TLC qualified modifications to the Interior Advertising Systems as material, removed the required TLC-provided prologue, removed passenger consent requirements at the start of each ride, and removed broad language regarding passenger payment capabilities. However, there are still aspects of the Proposed Rules that Lyft believes require modification, including clarification of proposed requirements, removal of the TLC provided content, and a commitment to equitable administration of benefits and waivers to all Licensees and applicants. Therefore, Lyft respectfully submits the following recommendations to the TLC for consideration.

I. <u>The TLC Should not Mandate City-Provided Content for FHV Trips.</u>

As written, the Proposed Rules require 15% of the advertising on Electronic Tablets to be unpaid content provided by the TLC. Unlike the TLC's mandate for the taxi industry, due to the revenue sharing model in the for-hire vehicle ("FHV") industry, there is a notable negative different impact. Given that, this requirement will unfairly impact the advertising earnings of FHV drivers, as drivers generate no advertising revenue while playing TLC-provided content. One of the main purposes of interior advertising in FHVs is to increase revenue earning opportunities for drivers, so requiring at least 15% of this content to be provided by the TLC contravenes the intended purpose of the Proposed Rules as it limits the additional revenue a driver can earn.

When the TLC sought insight into residents' least favorite part of their taxi experience, 31%

noted "Taxi TV is annoying."[1] As passengers prefer less TLC provided content, an overload of TLC provided content would lead to a decline in engagement with Electronic Tablets, that in turn would impact a driver's advertising revenue. Lyft therefore respectfully requests the Commission amend the Proposed Rules to remove this section requiring TLC-provided content on an Electronic Tablet and rather require that TLC-provided content be made *available* to passengers.

II. **Proposed Restrictions Require Clarification.**

A. The Commission Should Clarify that the Usage Restrictions for Electronic Tablets Apply only to Drivers.

Proposed Rule 59A-31(f) limits the use of Electronic Tablets to voice activation or preprogrammed buttons. However, Lyft believes that the Commission intended to impose the requirement in Proposed Rule 59A-31(f) as was done in other sections in Chapter 59, specifically to restrict a *driver's* use of the Electronic Tablet to pre-programmed buttons or voice activation *while the vehicle is in motion*.

Limiting passenger interaction with Electronic Tablets to pre-programmed buttons or voice control activation would significantly decrease passenger engagement and a driver's ability to maximize their earning potential. Passengers would be unable to engage with many of the Electronic Tablet's intended functions, like controlling music by typing the title to a song or entering a custom amount to tip the driver. Therefore, Lyft respectfully recommends the Commission edit Proposed Rule 59A-3(f) as follows: "that **Driver** use of the Electronic Tablet is limited to either voice or preprogrammed buttons **while the vehicle is in motion**."

[1] Patrick Coffee, THE NEXT AD BATTLEGROUND WILL BE THE BACK SEAT OF YOUR NEW YORK CITY UBER (2024), https://www.wsj.com/articles/the-next-ad-battleground-will-be-the-back-seat-of-your-new-york-city-uber-a47d7302 (last visited December 27, 2024).

B. The Commission Should Limit the Proposed Regulation Requiring Approval of all Advertising.

Proposed Rule 59B-29(e)(4) prohibits "any interior advertising unless the advertising has been authorized by the Commission." This broad language implies that every individual advertisement would require approval, even programmatic display advertisements in approved apps that are available through the Interior Advertising Systems, which the Licensee has no connection to or control over. Lyft believes the Commission's intent is to limit all interior advertising to advertising displayed on an approved Electronic Tablet.

Therefore, Lyft respectfully recommends the Commission modify Proposed Rule 59B-29(e)(4) to limit advertising authorization to advertisements displayed on the Electronic Tablets. Lyft respectfully recommends the Commission revise the language as follows: "[a] Vehicle must not display or attempt to display **an Interior Advertising System** unless the advertising has been authorized by the Commission and a License has been issued to the Interior Advertising Provider in accordance with the provisions of Sub-Chapter 59E of this chapter."

III. Waivers or Modification Granted by the Commission Should be Made Available to all Licensees.

As stated in Lyft's August 14, 2024 comments, it would be inequitable for a Licensee to receive a waiver or modification unless the Commission provides the same to all other Licensees. Granting waivers or modifications to singular Licensees would be a significant burden to existing Licensees, deter new entrants to the market, and result in financial harm to Licensees and unfair competition in the industry.

Lyft therefore respectfully requests the Commission amend the Proposed Rules to require notice of waivers or modifications to all industry Licensees and applicants, and commit to extend benefits granted in such waivers or modifications across the board to all other Licensees and applicants.

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Lyft greatly appreciates the Commission's consideration of these comments, and looks forward to working with the TLC to craft a workable regulatory framework.

Octopus Interactive, Inc.

Comments on New York City Taxi and Limousine Commission
Proposed Rules to Create an Interior Advertising Provider License

January 8, 2025

1. Introduction.

My name is Brad Sayler, and I serve as the Head of Rideshare Media for Octopus Interactive, Inc. ("**Octopus**"), a wholly owned subsidiary of T-Mobile USA, Inc. Since 2018, Octopus has provided interior advertising screens to over 100,000 rideshare drivers nationwide, with more than 10,000 drivers currently operating in and around New York City. Although Octopus does not currently display ads or earn ad revenue in New York City, Octopus has continued to pay drivers according to the earnings system Octopus uses in other cities.

I am writing to comment on the New York City Taxi and Limousine Commission's ("**TLC**") revised proposed rules to implement Local Law 33 and Local Law 56 of 2024 concerning interior advertising in for-hire vehicles ("**FHVs**"). Octopus appreciates the TLC's efforts to revise the proposed rules in response to feedback from the industry. However, the proposed rules are misaligned with the realities of in-car tablets and/or Interior Advertising Systems (as defined in the proposed rules) that Octopus and others offer rideshare drivers and other for-hire operators worldwide. These proposed rules could result in compliance costs that easily exceed advertising revenues, making operating in the New York City market impractical. In particular, we have concerns regarding Interior Advertising Provider ("**IAP**") insurance and indemnification requirements, system approval processes, the choice of venue and law for IAP-Driver contracts, and prohibitions on using certain information for serving advertisements. In this comment, we also seek to clarify proposed rules regarding electronic signatures and requirements for passengers with visual disabilities.

2. Interior Advertising Systems Are <u>Not</u> Taxi Technology Systems.

Many of the TLC's proposed rules for IAPs appear to be based on the TLC's rules governing Technology System Providers ("**TSPs**") in Chapter 66 of Title 35 of the Rules of New York City. However, Interior Advertising Systems do not have functionality similar to the Technology Systems governed by Chapter 66 and, therefore, have a much lower and different risk profile. Unlike Technology Systems, the Interior Advertising Systems **do not** accept payment and credit card information, track trips, or collect or transmit sensitive personal information ("**TSP Data**"). In stark contrast with Interior Advertising Systems, use of Technology Systems creates risk of breach of consumers' personal financial information, unauthorized transactions and billing errors, as well as susceptibility to fraud. Interior Advertising Systems do not collect TSP Data or process payments, and therefore, using Interior Advertising Systems does not expose personal information or payment data, or otherwise result in risk similar to that of Technology Systems.

Additionally, IAPs do not generate the same levels of revenue as TSPs, making the cost of implementing the proposed rules significantly more impactful on the IAPs than TSPs. TSPs make a significant portion of their revenue from payment processing, which supports their ability to comply with complex rules. IAPs do not conduct payment processing. Instead, many IAPs operate on slim margins derived from advertising revenues. If the proposed rules are codified, it could make it financially unviable for IAPs to continue operations in New York City.

Rather than being based on the TSP rules, the TLC's Interior Advertising System and IAP rules should align with the requirements for Rooftop Advertising Fixture Providers ("**RAFPs**"), as Rooftop Advertising Fixtures are similar to the Interior Advertising Systems. The TLC rules for Rooftop Advertising Fixtures are simple, yet effective – the TLC ensures that the Rooftop Advertising Fixtures are safe. There are no indemnification, insurance, background check, or licensing requirements imposed on RAFPs, and no government intrusion into the RAFP-Driver contracts.

3. Insurance Requirements (Proposed Sections 59E-05(g)).

The proposed insurance requirements for IAPs are excessively stringent and misaligned, particularly when compared to the RAFP rules. We recommend either (i) replacing the extensive insurance requirements with a more focused rule that requires insurance coverage and submission of proof of such coverage similar to that required of RAFPs, or (ii) making the following changes to the proposed language:

(a) In 59E-05(g)(1)(C), replace "name" with "include" as large corporate insurance providers will not name particular parties, but instead cover them as additional insureds under a blanket additional insured endorsement;

(b) Replace all mentions of "Declarations Pages" with "Certificates of Insurance" to align with industry standard of maintaining confidentiality of Declaration Pages;

(c) Remove requirement to provide copies of the policy upon demand, and instead make such provision contingent upon an event of a claim giving rise to a question of coverage; and

(d) Add email address for delivery of required insurance documents to allow for electronic delivery.

4. Indemnification Requirements (Proposed Section 59E-10).

The proposed rules requiring Interior Advertising Providers to indemnify the City of New York, as outlined in § 59E-10, would impose burdensome conditions that may not accurately reflect the inherent risks associated with Interior Advertising Systems. As is detailed in the above sections, these systems are generally less intricate and present fewer potential liabilities compared to the more complex Technology Systems in taxis.

It raises significant questions about the rationale behind this indemnification requirement, particularly since TLC has failed to explain what specific third-party claims could arise against the City of New York that would necessitate such indemnity from an IAP. Notably, the City is not a direct party to the contractual agreements between FHV Drivers and IAPs, further complicating the justification for this requirement. Without clarity on the types of claims that could be anticipated, the rationale for placing this additional obligation on IAPs seems questionable, arbitrary, and capricious.

Moreover, it is important to highlight that the TLC does not impose similar indemnification responsibilities on Rooftop Advertising Fixture Providers, Taxi and For-Hire Vehicle drivers or vehicle owners, For-Hire Bases, Medallion Owners, Taximeter Manufacturers, Taximeter Businesses, or companies involved in converting vehicles to be accessible taxis. This inconsistency raises concerns about the fairness and equity of these proposed rules. The absence of indemnification demands for these other TLC regulated entities suggests a potential oversight in the proposed regulations for IAPs.

The proposed indemnification requirement appears unnecessary, and is excessively burdensome due to no clear justification, especially in light of the TLC's existing regulatory practices with various other licensee groups. A more thorough review of these provisions may be necessary to ensure equitable treatment across the board and to accurately account for the actual risk profiles associated with different advertising systems used in the city.

5. Documentation for System Approval (Proposed § 59E-05(b)(1)).

The proposed requirement in Section 59E-05(b)(1) for obtaining approval for Interior Advertising Systems includes stringent cybersecurity measures that are unnecessary for the functionality of Interior Advertising Systems. In contrast to Technology Systems, Interior Advertising Systems do not generally track specific trips, process payments, allow online browsing, or collect personally identifiable information. Therefore, the level of cybersecurity scrutiny is disproportionate to the risks involved. The requirement for an independent third-party audit, coupled with the need for detailed system design documentation, would lead to significant costs of compliance.

Implementing these stringent requirements will likely not add meaningful value or enhance safety because they impose safety measures on data that is not collected in Interior Advertising Systems. The combination of excessive requirements, high costs, and a lack of clarity makes the documentation rule seem overly burdensome for applicants seeking approval for systems that pose minimal risk. Finally, there is no such requirement for RAFPs.

6. The Driver Agreement Is Not a City Contract (Contract with Driver – Proposed § 59E-17).

The proposed rules in Section 59E-17 requiring certain language in the IAP-Driver contracts unnecessarily interfere with the freedom to contract. Freedom to contract is a fundamental aspect of contract law, promoting economic efficiency and personal liberty by allowing individuals and businesses to tailor agreements to their specific needs. Furthermore, the requirements in those terms are excessive for an optional device that may be returned free of charge. In particular, the requirements in proposed 35 RCNY § 59E-17(d) and (e) requiring New York for venue and choice of law for potential claims arising from the contract are an unnecessary overreach. The TLC has put forth no justification for requiring the IAP and the Driver to agree to the New York venue and choice of law. If the TLC were a party to the contract, or if the Driver was a city contractor, Octopus would recognize the need for New York venue and jurisdiction, however, neither of these apply here. The parties to the contract should have the autonomy to determine the venue and choice of law, as well as all other terms, as long as the contract is lawful and voluntary. Octopus suggests removing these burdensome contractual requirements and allowing Drivers and IAPs to negotiate freely to come to terms agreeable to both parties.

7. Use of Geolocation and Passenger Information (Proposed § 59E-05(b)(5)(C)).

As currently drafted, proposed Section 59E-05(b)(5)(C) prohibits IAPs from collecting and using certain information for advertising campaigns, with no exceptions, making operation of interior advertising in the City of New York entirely impractical. First, an IAP's access to "real-time vehicle location" is an essential component of interior advertising systems and necessary for advertisers to reach consumers in New York City. In the event that the IAP has not identified a specific passenger, as is the case with Octopus's current software, real-time vehicle location is often the sole ad targeting criteria (including for TLC-provided content) and should not present a privacy concern. Additionally, it would not be possible to create a mechanism for such an unidentified passenger to control privacy settings.

Second, where a specific passenger has been identified, the last clause of the rule may have intended to allow an IAP to use, monitor, and disclose the data elements listed in the proposed rule if there exists an electronic, passenger-facing mechanism where such passengers can control their privacy settings electronically with respect to such use. However, as drafted, the language is unclear.

8. Clarifications.

We seek clarification on the following proposed rules:

(a) We interpret the language of proposed Section 59E-16(b) that requires that terms and conditions be "accepted by the Driver," to permit a checkbox during application rather than a formal electronic signature from the Driver. Requiring such a formal electronic signature would be overly burdensome, interfere with Driver's freedom to contract, and be unnecessary for a free device that may be returned at no charge. We believe "accepted by" is intended to cover a checkbox process; and

(b) We interpret the language of proposed Section 59E-22(c)(4) that requires certain functionality for passengers with vision disabilities to be satisfied by (i) providing clearly marked buttons, such as those built into the side of the tablet, to adjust volume, place the device into sleep mode, or power off the device, and (ii) providing periodic audio instructions on the availability of such buttons. Providing an audio alternative to all optional tablet content, such as games and videos, would be overly burdensome and make operating in New York City impractical.

9. Conclusion.

In summary, the proposed rules misunderstand the interior advertising industry by proposing numerous unnecessary and overreaching provisions that will result in significant compliance costs and reduced Driver compensation. By simplifying these rules and aligning them more closely with industry standards and RAFP rules, the Commission will foster a more conducive environment for IAPs and Drivers while still ensuring safety and reliability in the market.

Sincerely,

Bradford J. Sayler
Head of Rideshare Media – T-Mobile USA, Inc./Octopus Interactive, Inc.

WRITTEN COMMENTS OF PEARLAND MEDALLION TRANSFERS TO NEW YORK CITY TAXI AND LIMOUSINE COMMISSION PROPOSED RULES RELATING TO TAXICAB IMPROVEMENT FUND.

January 8, 2025

Pearland Medallion Transfers LLC (R0072) is licensed by the New York City Taxi and Limousine Commission ("TLC"). Our team has had a longstanding relationship with the TLC spanning over 30 years. Now more than ever we would like to work with the TLC to improve the dialogue with licensed Brokers to create a long-term and sustainable medallion market.

The proposed rules relating to the Taxicab Improvement Fund ("TIF") are well-intentioned but will do more harm to a market that is still recovering from COVID than help without revisions. The following comments, suggestions and observations are offered with respect to these various introductions. We welcome the opportunity to further discuss our comments and look forward to working with the TLC as the new rules are implemented.

Pearland Medallion Transfers agrees with the stated goal of the TLC in "eas[ing] the burden of compliance with TLC's recently adopted rule requiring that all taxicab hack-ups must be with Wheelchair Accessible Vehicles". However, we disagree that the correct approach is to eliminate operational payments and driver payments.

The current rules already provide enough incentive for both the owners and the drivers to place Wheelchair Accessible Vehicles ("WAV") on the road. This is especially true since the TLC passed Rules that permit only WAVs to be hacked up. The TLC increased TIF from $0.30 to $1.00, however, there needs to be more transparency on the financial condition of the program. If the issue is liquidity, the TLC must work with NYC, MTA and NYS to repurpose redundant fees to be directed towards drivers or owners to offset the costs of operating a WAV.

The following are comments and thoughts that the TLC must account for when enacting changes to the TIF program:

1) **Existing WAVs** – Pearland Medallion Transfers has brokered a lot of medallion sales over the past several years. The majority of those owners purchased selected WAV medallions or mini-fleets and applied for the Hack-Up and Operational Payments under the existing rules. If the TLC goes forward with this proposal, we recommend that the TLC either (A) grandfather in the existing WAVs and continue to operational payments or (B) issue true-up payments to owners on existing WAVs up to the new amount.

2) **Broker Material Disclosures**: TLC Rule 62-19(c)(4)(viii) states: "*Agreements for the transfer of an interest in a Medallion must provide the following additional terms: (A) The Broker's duty to disclose any facts known to the Broker which materially impacts the value of the Medallion*". Under the current TLC Rule proposal the single most material

disclosure will be whether or not that medallion received the Operational Payment within the last 7 years, because if it did the new purchaser will not be eligible for the grant. This will in turn create separate classes of medallions similar to the WAV and Non-WAV and likely result in Grant Eligible vs Non-Grant Eligible medallions. We strongly urge the TLC not to pursue this method because it will make it more challenging to value a medallion and limit future investment or liquidity in the industry. If the TLC moves forward with this proposal, how will the broker know whether that medallion has received the TIF Hack-Up Payment and when it will be eligible for the next payment.

3) **Outstanding TIF**: TLC Brokers currently face an issue checking outstanding TIF balances. While Pearland Medallion Transfers uses every available resource in checking publicly available information and clearing at the TLC, occasionally after a sale outstanding TIF on a medallion sale becomes an issue. The TLC should work closely with the Brokers on a better system to clear past balances to avoid these issues going forward. We encourage the TLC to reach out to Brokers on this issue as well as others to help create a more robust medallion marketplace.

4) Eliminate the 5-year reimbursement and 7-year on medallion. The TLC should continue with a larger Hack Up Payment, followed by Operational Payments to the owner. The payout over the life of the vehicle lowers the TLCs upfront cost, allows the medallion owner to earn the funds over the life of the vehicle, reduces opportunities of fraud, and eliminates the need for a 5-year reimbursement and to be eligible only once every 7 years. If the TLC chooses not to keep the operational payments, the TLC should at minimum reduce the 5-year reimbursement to *4 years* and delete the 7-year requirement which does not promote fleets putting newer vehicles into service earlier.

5) Devalued & Less Transferrable Asset – By issuing these rules the TLC will create a devalued asset. Buyers and Agents will not be willing to purchase a vehicle for a medallion that is not eligible for the grant unless there is a significant discount. For example, XYZ owns a medallion that received the hack-up payment and passes away after year 3 of that vehicle's operation and the estate decides to sell the medallion. What is the worth of a medallion that is not eligible for the grant? Our best guess under the proposed rules would be the market cost for a medallion, less $35,000. While these proposals may solve a temporary problem for the TLC it will create a devalued and less transferrable asset in the future by creating a new subclass of medallion (ex. grant eligible vs non-grant eligible).

We appreciate the TLC's approachability in discussing these proposals and remain available to provide feedback at your convenience.