

**PETITION TO
THE DISTRICT OF COLUMBIA TAXICAB COMMISSION
FOR ACTION TO ENFORCE REGULATIONS AGAINST
UNLICENSED FOR-HIRE TRANSPORTAITON
SERVICE PROVIDERS**

Docket No. _____

Comes now the Washington D.C. Metro Area Taxi Operators Association, representing over 2,000 taxicab drivers in the District of Columbia.

And Pleads To Wit to serve the public’s interest in safety and consumer protection, that all Unlicensed For-Hire Transportation Service Providers be subject to all rules, regulations, and laws governing for-hire passenger transportation services, including but not limited to licensure and vehicle equipment requirements.

We Petition the Commission to enforce D.C. Municipal Regulations Title 31 against Unlicensed For-Hire Transportation Service Providers.

In Support of our Petition, we state the following:

The Washington D.C. Metro Area Taxi Operators Association (“Association”), which represents over 2,000 taxicab drivers in the District of Columbia, petitions the D.C. Taxicab Commission (“Commission”) to enforce all rules, regulations, and laws governing for-hire vehicles against currently unlicensed public vehicles for hire, including but not limited to Uber Technologies, Inc. (“Uber”), Lyft, Inc. (“Lyft”), Sidecar Technologies, Inc. (“Sidecar”), collectively (“Unlicensed For-Hire Transportation Service Providers”).

For-Hire Taxicab Services & The Regulation of For-Hire Services

The D.C. Metro Area Taxi Operators Association (the “Association”) constitutes a significant portion of the District of Columbia’s estimated five thousand taxicab drivers, all of whom must satisfy an intricate framework of statutory and regulatory requirements in order to operate for-hire vehicles that transport passengers. It is a long held policy of the District of Columbia that for-hire vehicles seeking to transport passengers may not operate absent regulation. As held in *Stewart v. District of Columbia*, “A taxicab is a common carrier and use by it of the public streets is not a right but a privilege or license which can be granted on such conditions as the Legislature may impose. The conditions and regulations imposed on such vehicles are primarily for the protection of the public...” 35 A.2d 247, 248 (Mun. Ct. App. D.C. 1943).

The Council of the District of Columbia (“District of Columbia Council”) has imposed a number of rules on for-hire vehicles that transport passengers. The most basic of these is the requirement that only individuals and entities bearing special licenses may engage in the business of operating for-hire vehicles that transport passengers. The License Act of 1932 requires that any person “operating or proposing to operate any vehicle or vehicles not confined

to rails or tracks for the transportation of passengers for hire over all or any portion of any defined route or routes in the District of Columbia” undergo training, examination, and licensing. D.C. Code § 47-2829.

The Council further passed the D.C. Taxicab Commission Establishment Act (“Establishment Act”) in 1985. The Establishment Act charges the Commission with the duty to “[e]stablish reasonable rates for taxicab service for the transportation of passengers and their property within the District, including all charges incidental and directly related to the provision of taxicab services.” D.C. Code § 50-307(c)(1). The Establishment Act aims to protect the interests of the riding public by “insuring that all rules, regulations, and laws specifically relating to taxicabs be vigorously and fairly enforced; that discrimination in taxicab passenger service be strictly proscribed and penalized; and that adequate and high quality taxi passenger service be provided to all quadrants and neighborhoods of the District.” D.C. Code § 50-302(a)(1). Additionally, the Establishment Act authorized the Commission to “maintain a taxicab transportation system which provides owners and operators of taxicabs with reasonable and just compensation for their services” D.C. Code § 50-302(a)(2).

For enforcement of the Commission’s regulations, The Taxicab and Passenger Vehicle for Hire Impoundment Act of 1992 (“Impoundment Act”) authorizes the Commission’s Hack Inspector to boot, tow, or impound a taxicab from a public street or public space in the District of Columbia for failing to comply with certain requirements or for being improperly equipped. D.C. Code § 50-331(a)(6); D.C. Mun. Reg. §§ 31-608.2, 31-608.4. Through regulation, the Commission made taxicab companies and drivers who fail to comply with Commission’s regulations subject to fines between \$25 and \$1,000, impoundment of vehicles, confiscation of metering equipment, and the suspension, revocation, or non-renewal of their receptive licenses. D.C. Mun. Reg. §§ 31-518, 31-612, 31-825.

Commission regulations dating back to 1972 provide that holding a Face Card operator identification license (“Face ID”) is the exclusive means to operator a for-hire vehicle to transport passengers:

1000.1 No person shall drive a public vehicle for hire in the District unless he or she has a valid operator identification license (Face Card) issued under the provisions of this chapter. A public vehicle for hire is any passenger vehicle for hire licensed in the District of Columbia *including, but not limited to taxicabs and limousines.* (emphasis added).

1000.2 No owner of a public vehicle for hire shall operate or permit the vehicle to be operated in the District unless a license has been issued for that vehicle under the provisions of this chapter.

D.C. Mun. Reg. § 31-1000. A Face ID may be suspended or revoked only upon determination of liability, by the Panel’s Commission on Adjudication, that a driver violated one of the Commission’s rules. D.C. Mun. Reg. § 31-703.

Commission regulations further require any vehicle used for the for-hire transport of passengers to bear an H-tag license from the District of Columbia Department of Motor Vehicles. *See, e.g.* D.C. Mun. Reg. § 31-506. Commission regulations provide that operators and vehicles engaged in for-hire passenger transport that lack the proper licensing required by the District of Columbia are subject to a \$1,000 fine and the impoundment of their vehicles for each act engaging in for-hire passenger transport. D.C. Mun. Reg. § 31-825.2.

Through a series of rulemakings in 2013, the Commission adopted regulations that required drivers to equip each vehicle engaged in the for-hire transportation of passenger with a specific dome light, modern taximeter system, credit card processing system, and passenger console. D.C. Mun. Reg. §§ 31-400, 31-603, 31-605. The Commission requires each of these units to be sourced from a limited number of retailers pre-approved by the Commission and installed by a limited number of installers pre-approved by the Commission. Additionally, the Commission requires that these units be synced to each other over a wireless service, which must be provided by one of eight pre-approved Payment Service Providers with which drivers must contract.

These rulemakings further required drivers of for-hire vehicles to begin transitioning their vehicles to a uniform color scheme of 3M Controltac Graphic Film Geranium Red 180C-63 and Pantone Warm Gray 2 to match the D.C. Circulator buses. D.C. Mun. Reg. § 31-503. The uniform color scheme further requires that taxicabs bear on multiple sides large, black decal letters with the name of any company, association, or fleet with which the taxicab is affiliated. *Id.* at § 31-503.3. The regulation further denies taxicab drivers the opportunity to outfit their taxicabs with any other insignia that has not been pre-approved by the Commission. *Id.*

Accordingly, between the costs of licensure, required equipment, and enforcement, taxicab drivers incur thousands of dollars in expenses in order to comply with the intricate framework of statutory and regulatory requirements enacted by the Council and Commission for the purposes of public safety and consumer protection. The below schedule sets out the approximate expense of complying with just some of these costly requirements:

Required driver training for license	approx. \$375 - \$400
Criminal background check for license	approx. \$7
Face ID license	approx. \$250, every other year
Fees for late license renewal	approx. \$25-\$150
H-Tag for vehicle	approx. \$140
Vehicle inspection	approx. \$35, twice per year
Airport hang tag	approx. \$40
One Stop fee	approx. \$50
Insurance for commercial vehicles	approx. \$33 per week
Dome light, device and installation	approx. \$450
Uniform Taxi Color Paint Scheme	approx. \$450
Meter, credit card machine, passenger consoles – devices and installation	approx. \$500

Monthly fees to one of the five Payment Service Providers chosen by the Commission	approx. \$30-\$40 per month
Credit card processing fees to one of the five Payment Service Providers chosen by the Commission	approx. 3%-5% of the fare collected
Fines for failing to have all the above equipment or other non-compliance with regulations	approx. \$25 to \$1,000 for each specific regulation not complied with
Towing fees for impoundment ordered by hacking inspector upon any finding of non-compliance	approx. \$120-\$140/day, plus lost revenues

The members of the Association have undertaken these costly compliance requirements and invested in the required equipment in reliance on the District of Columbia’s promise that full compliance with these statutory and regulatory requirements is the sole and exclusive means to provide for-hire passenger transportation in the District of Columbia.

Commission regulations also impose a comprehensive fare schedule that prohibits any driver autonomy over the pricing of taxicab services. The Commission’s fare schedule serves as both a floor and ceiling, denying for-hire drivers both the opportunity to charge more when demand is high and the opportunity to charge less to compete better when demand is low. Effective June 1, 2013, the Commission’s current imposed rates for taxicab services are as follows:

Fares:

- First 1/8 mile: \$3.25
- Each additional 1/8 mile: \$0.27
- Wait rate per hour: \$25.00
- Wait time begins five (5) minutes after time of arrival at dispatch location.
- No wait time charged for premature response to a dispatch.
- Wait time charged while taxicab is stopped or slowed to less than ten (10) miles per hour for longer than sixty (60) seconds.
- Wait time charged for delays or stopovers at the direction of the passenger.

Extras:

- Taxicab passenger surcharge, twenty-five cents per trip \$0.25
- Telephone Dispatch, two dollars \$2.00
- Additional passenger, one dollar \$1.00 (regardless of the number of additional passengers)
- Declared Snow Emergency Fee, fifteen dollars \$15.00

- Group or Shared Riding: as each passenger arrives at his or her destination fare due shall be paid by passenger(s) leaving the cab.

This fare schedule requires for-hire drivers to charge passengers a twenty-five cent (\$0.25) surcharge for every cash or credit card fare collected and remit that surcharge back to the Commission. D.C. Mun. Reg. §§ 31-400, 31-801.7(b)(2). This surcharge augments the cost of taxicab service to the passenger, thereby making the price of taxicab service less competitive, without providing any additional revenue or benefit to the driver. The collection of this surcharge by the Commission was made possible only by the Commission duly requiring that taxicab drivers outfit their vehicles with a costly modern taximeter system and contract with a Payment Service Provider for payment processing.

Unlicensed For-Hire Transportation Service Providers

Since on or about 2011, at least three companies – Uber Technologies, Inc. (“Uber”), Lyft, Inc. (“Lyft”), Sidecar Technologies, Inc. (“Sidecar”), or, collectively “Unlicensed Service Providers” – have been operating public for-hire transportation businesses in the District of Columbia without being required to comply with the Commission’s rules, regulations, and laws for public for-hire vehicles.

Uber currently offers four forms of for-hire vehicle services in the District of Columbia through a smartphone application – UberX, UberSUV, UberBlack, and UberTaxi. Uber launched UberSUV in the District of Columbia in or about December 2011 and UberX in or about August 2013. UberX and UberSUV operate in a similar fashion. Under the smartphone-based system, a potential passenger uses a smartphone application to ask Uber to send an ordinary, unmarked private vehicle to a designated location. Uber sends the request to a network of affiliated private individuals who have contracted with Uber to accept its dispatches. Via smartphone application, Uber alerts the potential passenger of a driver interested in taking the fare. If the potential passenger chooses to accept the dispatch, Uber notifies the passenger of the operator’s name, the type of vehicle and expected time of arrival.

Through internet marketing, Uber recruits and contracts with drivers as part of its fleet. Accordingly, Uber functions as the equivalent of a taxicab company with a fleet of taxicabs. Uber, however, does not require these private individuals to hold licenses issued by the Commission in order to engage in the business of public for-hire passenger transportation. Nor does Uber require the vehicles used by these drivers to comply with the many equipment requirements imposed by the Commission on for-hire vehicles engaged in transporting passengers. On information and belief, Uber allows private individuals to operate as UberX and UberSUV regardless of the color, make, or model of their vehicle and distinguishes only between SUV and non-SUV size vehicles.

Uber drivers adorn their vehicles with the trade dress of the company’s signature “glowing U” in order to be visible and recognizable to customers as a uniform brand providing for-hire passenger transportation service. *See, e.g., Uber, Meet Chris: Operations & Logistics Manager* (January 23, 2014) http://blog.uber.com/wp-content/uploads/2014/01/glowing_u.jpg, <http://blog.uber.com/meet-kosto>.

The fare for UberX and UberSUV is computed by Uber using information from the smartphone's GPS system, based on distance and time rates set by Uber. The fare is paid to Uber via the passenger's credit card, which must be previously registered with Uber. Upon information and belief, Uber remits 80% of the fare to the Uber-affiliated driver and keeps 20% as its fee. Uber sets minimum rates for UberX and UberSUV on its website but adjust those rates in real-time by a dynamic pricing program in order flexibly augment prices with periods of actual or anticipated higher demand. As of February 2014, the minimum standard rates in the District of Columbia for UberX are a \$3.10 base fare, plus 29 cents per minute and \$1.40 per mile. UberX imposes a minimum fare of \$4.70 and a \$5 cancellation fee. The minimum rates for UberSUV are a \$14.00 base fare, plus 45 cents per minute and \$3.65 per mile. UberSUV imposes a minimum fare of \$25.00 and a \$10 cancellation fee.

Through UberBlack, a passenger uses the smartphone application to ask Uber to send a sedan-class vehicle to a designated location. Sample UberBlack vehicles include a Lincoln Town Car, Chrysler 300, or a Cadillac DTS. As of February 2014, the minimum standard rates in the District of Columbia for UberBlack are a \$7.00 base fare, plus 35 cents per minute and \$3.00 per mile. UberBlack imposes a minimum fare of \$12.00 and a \$10 cancellation fee. During periods of dynamic pricing or "surge pricing," Uber regularly inflates its minimum rates by factors of two to eight. As explained on its website, "At times of intense demand, our rates change over time to keep vehicles available." Uber has and continues to increase its normal rates from two to eight times its regular minimum rates for holidays, weekend nights, snowy days, and during the aftermath recovery from local natural disasters. *See* Uber Blog, *Clear and Straight-Forward Surge Pricing* (Mar. 14, 2012) <http://blog.uber.com/2012/03/14/clear-and-straight-forward-surge-pricing/>, *Surge Pricing Followup* (Jan. 3, 2012) <http://blog.uber.com/2012/01/03/surge-pricing-followup/>.

Through UberTaxi, a passenger uses the smartphone application to ask Uber to send a licensed taxicab to a designated location. Uber sends the request to a smartphone used by a taxicab driver in the area. If the taxicab driver chooses to accept the dispatch, Uber notifies the passenger of the taxicab's number and the expected time of arrival. The fare is calculated based on the Commission's taximeter fare schedule, with the addition of a \$2.00 booking fee and a default 20% gratuity fee. The fare is paid to Uber via the passenger's credit card, which the passenger registers with Uber in advance. Uber remits the fare and gratuity to the taxi driver, less the booking fee and a credit card processing fee. Uber, however, does not collect the passenger surcharge of twenty-five cents (\$0.25) for every cash or credit card fares collected and remit that surcharge back to the Commission as required by D.C. Mun. Reg. §§ 31-400, 31-801.7(b)(2).

Like Uber, Lyft connects potential passengers with individual drivers through a smartphone application. Lyft sends a potential passenger's request for pickup at a location to a network of affiliated private individuals who have contracted with Lyft to accept its dispatches. Through internet marketing, Lyft recruits and contracts with drivers as part of its fleet and functions as the equivalent of a taxicab company with a fleet of taxicabs. Lyft does not require these private individuals to hold licenses issued by the Commission in order to engage in the business of public for-hire passenger transportation. Nor does Lyft require the vehicles used by

these drivers to comply with the many equipment requirements imposed by the Commission on for-hire vehicles engaged in transporting passengers. 50. Lyft's drivers adorn the hoods of their vehicles with the trade dress of the company's signature furry magenta mustache in order to be visible and recognizable to customers as a uniform brand providing for-hire passenger transportation service. *See, e.g.,* The New York Times, *Where Car Is King, Smartphones May Cut Traffic* (July 12, 2013) <http://graphics8.nytimes.com/images/2013/07/13/us/TAXIS-1/TAXIS-1-articleLarge.jpg>; <http://www.nytimes.com/2013/07/13/us/In-Los-Angeles-Where-Car-Is-King-Smartphones-May-Cut-Traffic.html>. On information and belief, Lyft allows private individuals to operate as Lyft drivers regardless of the color, make, or model of their vehicle.

On information and belief, Lyft previously provided for driver payment by sending a "suggested donation" to the passenger's smartphone at the end of a fare. The suggested donation amount could be adjusted upwards or downwards within 24 hours of the ride. Currently, Lyft has established a schedule of minimum rates based on a combination of time & distance, which Lyft can flexibly increase for periods of higher demand. As of February 2014, Lyft's minimum rates in the District of Columbia are a base rate of \$2.25 for pickup, plus a \$1.00 Trust & Safety fee, plus \$1.50 per mile and 30 cents per minute. Under these minimum rates, Lyft imposes a \$5.00 minimum and a \$5.00 cancellation fee. Any time that Lyft deems that ride requests from passengers greatly outnumber available Lyft drivers, Lyft turns on its "Prime Time Tips" dynamic pricing program, which adds a mandatory tip percentage to a passenger's fare. For the 2013 holiday period only, Lyft capped Prime Time Tips at 200%, or a tip of twice the price of the base fare. Lyft, however, does not collect the passenger surcharge of twenty-five cents (\$0.25) for every cash or credit card fares collected and remit that surcharge back to the Commission as required by D.C. Mun. Reg. §§ 31-400, 31-801.7(b)(2).

Sidecar also connects potential passengers with individual drivers through a smartphone application that allows passengers to input their pick-up and drop-off locations. Through internet marketing, Sidecar recruits and contracts with drivers as part of its fleet and functions as the equivalent of a taxicab company with a fleet of taxicabs. Sidecar does not require these private individuals to hold licenses issued by the Commission in order to engage in the business of public for-hire passenger transportation. Nor does Sidecar require the vehicles used by these drivers to comply with the many equipment requirements imposed by the Commission on for-hire vehicles engaged in transporting passengers. On information and belief, Sidecar allows private individuals to operate as Sidecar drivers regardless of the color, make, or model of their vehicle

Once potential passenger inputs his or her starting and ending location, the Sidecar application will provide the potential passenger with a list of possible drivers, organized by the price. On information and belief, Sidecar previously provided for driver payment by sending a "suggested donation" to the passenger's smartphone at the end of a fare. The suggested donation amount could be adjusted upwards or downwards within 24 hours of the ride. Currently, Sidecar allows drivers to set their own rates by adjusting their personal prices to be a multiple of its suggested donation rate. Provided they make the price clear up-front, Sidecar drivers are encouraged to set their own prices based on demand, the quality of their vehicle, their income needs and business strategy, and any additional perks they want to offer, like drinks

and snacks. On information and belief, Sidecar's suggested donation takes into account the distance traveled. Sidecar, however, does not collect the passenger surcharge of twenty-five cents (\$0.25) for every cash or credit card fares collected and remit that surcharge back to the Commission as required by D.C. Mun. Reg. §§ 31-400, 31-801.7(b)(2).

The Unlicensed For-hire Service Providers Operate in Violation of District of Columbia Law

The Unlicensed For-hire Service Providers, including but not limited to Uber, Lyft and Sidecar, operate unlicensed public for-hire transportation businesses providing services that are identical in all material respects to the services offered by taxicab drivers and other similar businesses and individuals, which operate in compliance with District of Columbia law. The Unlicensed For-Hire Transportation Service Providers do so by providing the following services to the public:

1. Like taxicab services, the focus of the Unlicensed For-Hire Transportation Service Providers' business operations is to provide for-hire transportation to the public.
2. Like taxicab services, the Unlicensed For-Hire Transportation Service Providers offer, arrange for, dispatch, and/or provide public for-hire transportation services.
3. Like taxicab services, the Unlicensed For-Hire Transportation Service Providers use digital dispatch communications (also known as "digital hailing" or "e-hailing") to connect a driver and vehicle with a customer who requests transportation. The Unlicensed For-Hire Transportation Service Providers dispatch drivers over smartphone applications, an electronic wireless system. For-Hire Taxicab Services use both dispatch radio and electronic, wireless systems.
4. Like taxicab services, the Unlicensed For-Hire Transportation Service Providers take customer requests over smartphone applications. The For-Hire Taxicab Services take customer requests over smartphone applications (including Hailo, Taxi Magic or Go Fast Taxi), telephone, and website reservation systems.
5. Like taxicab services, the Unlicensed For-Hire Transportation Service Providers use a metering system based, at least in part, on distance to determine the fare.
6. Like taxicab services, the Unlicensed For-Hire Transportation Service Providers impose and notify the public of their rates in advance of beginning a passenger's transport. Similarly, like taxicab drivers, the Unlicensed For-Hire Transportation Service Providers do not allow passengers to individually negotiate fares or rates.
7. Like taxicab services, the Unlicensed For-Hire Transportation Service Providers accept credit card payment for the fare and are enabled to provide credit card processing within the vehicle.

8. Like taxicab services, the Unlicensed For-Hire Transportation Service Providers adorn their vehicles with trade dress to promote a uniform brand and make that brand visible and recognizable to customers on the street.
9. Like taxicab services, the Unlicensed For-Hire Transportation Service Providers engage in the commercial use of their vehicles and therefore carry commercial insurance to cover liability for accidents that occur during commercial use. *See, e.g., Time, Uber Expands Insurance for Drivers Amid Criticism* (March 14, 2014) <http://time.com/25397/uber-lyft-sidecar-insurance/>.

The Commission's Failure to Enforce Regulations Against Unlicensed For-Hire Transportation Service Providers

Despite admissions that the Unlicensed For-Hire Transportation Service Providers engage in public for-hire passenger transportation and are therefore subject to all laws otherwise applicable to taxicab service, the Commission has failed to enforce those laws against the Unlicensed For-Hire Transportation Service Providers, while at the same time aggressively enforcing those same laws against taxicab drivers.

In or about January 2012, Commission Chairman Ron Linton announced publicly that that as result of Uber's failure to comply with District of Columbia laws regulating for-hire passenger transportation, Uber is "operating illegally, and we plan to take steps against them." The Washington Post, *Uber car service runs afoul of D.C. Taxi Commission* (Jan. 11, 2012) http://www.washingtonpost.com/blogs/mike-debonis/post/uber-car-service-runs-afoul-of-dc-taxi-commission/2012/01/11/gIQAxH3UrP_blog.html.

Subsequently, in or about January 2012, Chairman Linton and the Commission's hack inspectors cited Uber driver Ridha Ben-Amara for violating District of Columbia law by providing for-hire passenger transportation without holding a hacking license, by driving an unlicensed vehicle, by not having proof of insurance, and by charging an improper fare. Pursuant to these violations, Ben-Amara was fined \$1,650 by the Commission and his vehicle was impounded. The Washington Post, *Uber car impounded, driver ticketed in District of Columbia sting* (January 13, 2012) http://www.washingtonpost.com/blogs/mike-debonis/post/uber-car-impounded-driver-ticketed-in-DistrictofColumbia-sting/2012/01/13/gIQA4Py3vP_blog.html.

On or about January 18, 2013, the Council passed the Public Vehicle-for-Hire Innovation Act (originally entitled the Sedan Class Amendment Act of 2012, and hereinafter "Innovation Act"), which legalized the provision of for-hire passenger transportation in sedan-class vehicles free of the laws and regulations that encumber taxicab service:

- (b) Sedan-class vehicles shall operate exclusively through a digital dispatch service as defined by and meeting the requirements of section 201 and shall not solicit or accept street hails. Sedan-class vehicles shall calculate fares on the basis of time and distance, except trips to airports and other point-to-point trips based on well-traveled routes or event related trips such as sporting events, which may be charged on a flat-fee basis.

Innovation Act, § 2(i)(2).

The Innovation Act limited the Commission's authority to regulate digital dispatch services to those "rules and regulations that are necessary for the safety of customers and drivers or consumer protection," which "protect personal privacy rights of customers and drivers," which "[will] not result in the disclosure of confidential business information," and which "[will] allow providers to limit the geographic location of trip data to individual census tracts." Innovation Act, § 2(j)(1)(b).

As both taxicab drivers and the Unlicensed For-Hire Transportation Service Providers rely on digital dispatch, this constraint on Commission authority appears at first glance to create an equal playing field of regulation. However, the Innovation Act goes on to state that taxicabs using digital dispatch must nevertheless follow the taxicab fare structure required by the Commission's meter system, whereas "a public vehicle for-hire other than a taxicab" is not restricted in its fares provided it discloses any fare calculation method to the passenger. *Id.* at § 2(j)(1)(b)(1)-(2).

Further, while the Innovation Act facially prohibits hotels, restaurant, and theaters from discriminating against taxicab drivers and from helping the Unlicensed For-Hire Transportation Service Providers solicit passengers, it effectively reverses the prohibition by allowing an exception for hotels, restaurant, and theaters to enter into written contracts with Unlicensed For-Hire Transportation Service Providers on a prearranged basis. Innovation Act, § 2(b)-(c).

On or about August 30, 2013, the Commission complied with the Council's directive under the Innovation Act and promulgated a final rulemaking that "establishes substantive rules governing the operation of sedan service in the District, including rules to ensure the safety of passengers and operators, to protect consumers, and to collect a sedan passenger surcharge." 60 D.C. Reg. 12410, § 1400 (August 30, 2013). Under the Commission's sedan regulations, a sedan is defined as "a public vehicle-for-hire that: (a) Meets the requirements for a luxury class vehicle; (b) Is not stretched; (c) Is any "dark" color other than 15-1150 TCX, 15-1150 TPX, 16-035 TCX, or 16-035 TPX, or any "black" color, as defined by Pantone LLC (available at: <http://www.pantone.com/pages/pantone/colorfinder.aspx>); and (d) Has a passenger volume of at least ninety five (95) cubic feet, according to the EPA (available at: <http://www.fueleconomy.gov/feg/powerSearch.jsp>)." D.C. Mun. Reg. §§ 31-1201.1, 31-1299.

As the Council made an exemption only for sedan-class vehicles and the Commission's regulations limited the special treatment of sedans to only those vehicles fitting within its specific definition, only a small portion of Unlicensed For-Hire Transportation Service Providers' services are exempt under the sedan-class vehicle. For instance, UberBlack's operation was legalized only for those sedan-class vehicles in its fleet that are painted dark colors other than black and bear proper sedan-class licenses. *See* D.C. Mun. Reg. §§ 31-1201.1, 31-1299.

On September 27, 2013, the Council passed the Livery Class Regulation and Ride-Sharing Emergency Amendment Act of 2013 ("Emergency Act"). The Emergency Act called

upon the Commission to study and recommend rules for “ride-sharing,” while at the same time temporarily amending Commission regulations to allow Unlicensed For-Hire Transportation Service Providers to operate free of the numerous regulations that encumber for-hire taxicab operations. The Emergency Act expired on December 26, 2013.

The Emergency Act defined a ride-sharing network as “a company operating in the District that uses a digital platform to connect passengers to ride-sharing operators using personal, noncommercially licensed or operated vehicles for the purpose of transportation.” Emergency Act, § 3(b)(a)(1). A ride-sharing operation was defined as “an individual who uses the individual’s personal, non-commercially licensed or operated vehicle to provide transportation services through a ride-sharing network in the District.” *Id.* at § 3(b)(a)(2). Under the Emergency Act’s interim regulations, the Unlicensed For-Hire Transportation Service Providers were minimally required to become licensed as a business entity in D.C., limit ridesharing to those make and model year vehicles that are acceptable to use as taxicabs or limousines, conduct safety inspections of vehicles, maintain excess liability insurance policies with a minimum of \$1 million per instance, perform criminal background checks, perform driving history record checks, institute a zero tolerance policy for driver alcohol and drug use, and transmit electronic receipts to passengers. Emergency Act, § 3(b).

The Emergency Act’s interim regulations also minimally required drivers registered with the Unlicensed For-Hire Transportation Service Providers to refrain from accepting or soliciting street hails, be at least 21 years of age, and possess a valid DMV license, registration, and insurance. Emergency Act, § 3(c). The Emergency Act did not constrain the fares that could be charged by the Unlicensed For-Hire Transportation Service Providers or their drivers, instead giving them full freedom to charge any amount of fare, no fare at all, or ask for generalized donations, provide that any method for calculating a fare was disclosed. Emergency Act, § 3(d).

During the period of the Emergency Act’s effectiveness, the Commission undertook aggressive enforcement of its regulations against taxicab drivers by fining taxicab drivers and impounding taxicab vehicles for failing to be equipped with the dome lights and meter systems required for engaging in for-hire public transportation. The Washington Post, *New taxicab regulations have inspectors on their toes* (Nov. 11, 2013) http://www.washingtonpost.com/local/trafficandcommuting/new-taxicab-regulations-have-inspectors-on-their-toes/2013/11/11/f23fc44e-4739-11e3-bf0c-cebf37c6f484_story.html

On information and belief, the Commission has on multiple occasions either implicitly or explicitly stated that its regulations are necessary for the safety of customers and drivers or consumer protection. Since the December 26, 2013 expiration of the Emergency Act, however, the Commission has taken no steps to regulate or enforce its public vehicle for-hire laws against the Unlicensed For-Hire Transportation Service Providers despite aggressively enforcing its regulations against taxicab drivers and acknowledging that the Unlicensed For-Hire Transportation Service Providers and taxicab drivers are engaged in the same enterprise.

For example, the District of Columbia has aggressively fined and punished the Association’s taxicab drivers and other drivers engaged in the for-hire passenger transport for lacking or failing to properly display H-tags or Face ID licenses, for charging fares not consistent

with the Commission's fare schedule, and for engaging in dynamic pricing. For-Hire Taxicabs have incurred fines between \$25 to \$1,000 for each act of non-compliance, in addition to the costs and lost revenues incurred because of impoundment. In turn, the Commission allows the Unlicensed For-Hire Transportation Service Providers to engage in the for-hire passenger transport without complying with the same regulations.

The Commission knows that Unlicensed For-Hire Transportation Service Providers threaten the safety of customers and consumer protection. There have been numerous, widely public reports of the Unlicensed For-Hire Transportation Service Providers charging excessive prices with little warning, leaving customers stranded, or hiring drivers that are not legally able to drive the District of Columbia. *See The Washington Post, In New York, Uber's price surge isn't a problem. Other cities might be different* (Dec. 18, 2013) <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/12/18/in-new-york-ubers-price-surge-isnt-a-problem-other-cities-might-be-different/>; Yelp, *Uber* (accessed Mar. 5, 2013) http://www.yelp.com/biz/uber-washington?sort_by=rating_asc. The Commission's own *Report of The Panel on Industry Findings and Recommendations on "Ridesharing"* cites to MPD Report #14006656, which describes the January 14, 2014 arrest of an UberX driver in the District of Columbia for both operating on a suspended license and driving with obstructed vision because his UberX trade dress blocked his front windshield. Government of the District of Columbia Taxicab Commission, *Report of The Panel on Industry Findings and Recommendations on "Ridesharing"* 18 (January 24, 2014). Yet, the Commission has failed to enforce its public vehicle for-hire regulations against these Unlicensed For-Hire Transportation Service Providers.

Regulatory Action Sought by the Association

Based on the foregoing, and the public's interest in the safety of customers and drivers, the Association petitions the Commission to enforce all rules, regulations, and laws governing for-hire passenger transportation against the Unlicensed For-Hire Transportation Service Providers, including but not limited to licensure requirements and vehicle equipment requirements. As the Emergency Act expired on December 26, 2013 and both the Establishment Act and Innovation Act authorized the Commission to regulate for public safety and consumer protection, there can be no question of the Commission's authority and responsibility to act on this matter. If the Commission fails to do so, the Association is prepared to assert its rights via lawsuit.

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