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June 11, 2015

To: The Honorable Members of the House Consumer Affairs Committee

From: Samuel R. Marshall

Re: House Bill 1065 – Coming to grips with the regulation of TNCs

First, thank you for recognizing that the advent of “app-based” ride-sharing requires new laws to safeguard consumers. Consumers and businesses – and that includes insureds and insurers - are adapting to this ourselves. We recognize the transformational popularity of this service. We also recognize the speed with which it is evolving – it is a pace that has stretched our own comfort zone, and a pace faster than we usually see in the legislative and regulatory process. That’s a challenge for all of us, as hurried decisions are often incorrect ones.

The Commonwealth should be involved at the outset: While much of the TNC evolution is being determined by technology and consumer demand – standard market-driven principles – the Commonwealth has a pivotal role: It doesn’t need to promote or curtail this innovation, as sometimes happens with new services. But it needs to ensure that it comes with safety and insurance for consumers; with oversight and education of a new wave of drivers; with accountability from the TNCs and their drivers; and with a regulatory structure that still promotes conventional taxis to round out the services consumers need.

Fortunately, the Commonwealth has been involved from the outset: The TNCs have been able to operate, but only under conditions set by the PUC. We have some reservations with those conditions, and more so with the enforcement of them, but they have enabled the Commonwealth to give consumers the value of ride-sharing with proper consumer protections, while allowing more thorough consideration before committing to a statutory resolution.

We also appreciate the legislative involvement to date – not just what you've done but what you haven't done. Some early proposals proved to be premature. They passed in some other states, and those states now have to deal with refinements and amendments. By holding off, you've given all of us the time to reason through issues, to adapt to new realities, and to test which issues are more substantive than cosmetic. That is an ongoing process – but we are far enough along that we have a better understanding for the framework and cornerstones, at least for insurance, and we have a better chance of getting it right the first time.

Turning to insurance:

- The bill recognizes that the TNC is primarily responsible for insurance coverage starting when its drivers are “on app,” not just “on match” or “on ride.” Our goal has been clarity in who is responsible and closing gaps in a driver's coverage as he goes “on and off app”, and this goes a long ways to ensuring that.
- We appreciate the bill's disclosures to drivers about their insurance coverage and possible issues. A TNC driver might overlook this in the whirl of the sign-up process – but understanding this is a necessity when the inevitable claims and underwriting decisions get made later on, and drivers need to be educated from the beginning.

We're wary that these disclosures not be lost in the shuffle of the sign-up process, which might make them more theoretical than meaningful. The PUC has at least required TNCs to have their drivers reach out to their personal insurers; other states have required other forms of special emphasis. Some drivers will still be oblivious to insurance issues, but the more education, the better.

- The bill recognizes that a person will lose collision/comprehensive coverage while acting as a TNC driver, and that may cause problems with any car loan or lease. That's a significant gap, and I'm not sure how a driver could fill the void absent a TNC doing so in its coverage – so the driver should at least be informed and plan accordingly.

- We appreciate the bill's provisions for protocol in an accident. An accident victim needs to know the right insurer to contact – so a TNC driver needs information on his TNC coverage to be as readily available as with his personal coverage.
- Showing how rapidly this is evolving, we're concerned with the disclosures when the driver is using somebody else's car – an option not even envisioned in last fall's PUC hearings, but now heavily promoted by at least one TNC in its driver recruitment. That means a scenario where the key isn't for the driver to contact his own insurer, but for the TNC to contact the insurer of the car to be used. That may merit further refinement.
- Philadelphia is something of a wild card, and it is the biggest market. We recommend that however this is resolved, the insurance requirements remain consistent throughout the Commonwealth.
- The real wild card may be enforcement. Our industry has an agency with considerable staff empowered to monitor our compliance with insurance laws and take quick action if it finds an insurer lacking. It works with other agencies, and the trial bar gets involved, too. I'm not sure how the PUC envisions enforcing the requirements in this bill; probably the best place to start is by examining how it enforces its current orders conditionally authorizing TNCs.

As we noted at the outset, TNCs are already proving transformational – they hold the potential of a massive expansion of on-demand taxi services, at least for those of us who are “app-oriented.” The demand is there; whether the supply of qualified drivers is, and whether it can be met while still having taxi services for those of us not wired in, remains to be seen.

Our concern is that the Commonwealth makes sure those drivers are truly qualified from an insurance perspective. That means they are driving without gaps in coverage and with a full understanding of the insurance aspects of their new endeavor, with TNCs being more than passive observers.

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House Bill 1065 goes a long ways to doing that, and we look forward to working with all interested parties in making the refinements to ensure that it works and can adapt as TNCs evolve.

Again, thank you for having this hearing and for inviting our participation.