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Chairman Robert W. Godshall  
Pennsylvania House of Representatives  
Consumer Affairs Committee  
150 Main Capitol Building  
PO Box 202053  
Harrisburg, PA 17120-2053

Re: Public Hearing on Transportation Network Companies

Dear Chairman Godshall and Members of the Consumer Affairs Committee:

Thank you for taking the time to consider my testimony on behalf of the Pennsylvania Taxi Association and the Philadelphia Cab Association regarding Transportation Network Companies ("TNCs"). These organizations represent over one thousand Philadelphia taxi medallions and over three thousand Philadelphia taxicab drivers, respectively. We are grateful that the Consumer Affairs Committee is making an effort to better understand our concerns.

I would like to begin by unequivocally stating that the taxicab industry encourages new technology and innovation. If the public is looking for new transportation options, then we must define these options before we can discuss how to implement them. Today we are discussing one option: TNCs. TNCs are for-profit companies that use non-professional drivers in private vehicles to transport passengers for compensation. TNCs are not ridesharing companies. TNCs and their drivers are in the transportation business and fall under the definition of common carriers as defined in Title 66 of the Pennsylvania Consolidated Statutes. The Pennsylvania Public Utility Commission ("PUC") has acknowledged this fact. If the General Assembly wants to create a new set of laws for TNCs, then these companies should be formally designated as common carriers and regulated as such.

For the sake of public safety, we do not want these companies to operate without sensible oversight. Allowing TNCs to operate without regulations on par with those of taxis and limousines would be akin to allowing a restaurant to serve customers without health department approval. It does not matter how cheap and convenient that restaurant may be, or how many times the restaurant has assured you that its kitchen is clean. If the legislature is going to adopt new legislation to regulate TNCs, then it should address the following issues: **insurance, driver certification, vehicle inspections and markings, and rates and tariffs.**

## Insurance

TNCs must carry primary commercial insurance that continuously covers vehicles used by TNCs and their drivers. Each vehicle used in TNC service should be listed on the TNCs' insurance policies in order to ensure that drivers and passengers are covered. Currently, TNCs' insurance policies fail to protect the public.

TNC drivers operate their vehicles in a commercial capacity without carrying commercial insurance. This endangers the public because personal insurance does not cover transportation for compensation. The TNCs claim they carry commercial policies that will cover drivers and passengers in the event of an accident, but disclaimers and exclusions in the terms of the TNCs' user agreements and uncertainty about who is insured leave crucial questions unanswered. For example, only the TNCs are listed on their insurer's policies, not individual drivers or vehicles, and even then, it is not clear whether the TNC actually providing transportation services is insured on the policy. Currently, Raiser-PA, LLC is listed as the insured on the Form E it provided to the PUC, while Raiser, LLC, not Raiser-PA, LLC, is the entity presently providing transportation services throughout Pennsylvania. With such ambiguities, how can Pennsylvanians be sure they are protected?

Additionally, if these policies do provide coverage, they only do so when a driver's TNC App is turned on. A driver looking for a cash fare or to undercut the price charged by the TNC may turn off the App after the passenger enters the vehicle. What if an accident occurs in this scenario or what happens if an accident occurs during the times when a driver is without a passenger but is out seeking another fare? The answer is that in both of these examples, neither a driver's personal policy nor the TNC's alleged commercial policy will provide coverage.

Adding to the doubts about coverage is the precarious position the TNCs' insurer, James River Insurance Company, has assumed. The TNCs do not enumerate individual drivers or vehicles to their insurer, making it impossible for James River to know how much risk it has taken on. James River does not know the type or quantity of vehicles it is responsible for covering or the quality of the drivers it is supposedly insuring. How can anyone, including James River, be sure that the company is capable of covering all this risk? James River is not an admitted carrier in Pennsylvania and if it becomes insolvent the Pennsylvania Property and Casualty Insurance Guaranty Association Act will not protect its claims. Instead, the burden of insurance coverage will fall on the shoulders of Pennsylvanians.

Furthermore, TNC rules do not require drivers to notify their personal insurers of their intent to act as TNC drivers and TNCs do not train their drivers on what to do in the event of an accident. Drivers are also not required to carry proof of the TNC's commercial insurance in their vehicles. If a TNC driver is in an accident on the job, the driver's only option is to present his or her own personal insurance policy to the other party. This is insurance fraud and there is no positive outcome: either the insurer will deny the claim, leaving drivers and passengers unprotected, or the driver will get away with insurance fraud, ultimately shifting the financial burden of such activities onto the public.

There is no question whether taxicab drivers and passengers are covered by a taxicab's insurance policy. It doesn't matter whether the meter is on or whether the driver owns his own vehicle—drivers and passengers are always covered. There are too many unanswered questions

when it comes to TNC insurance. All of these uncertainties could be avoided if TNCs are required to list individual drivers and vehicles on their policies and carry primary commercial policies that cover drivers and passengers at all times.

### Driver Certification

TNC drivers should be certified on annual basis by an independent state agency. The public should be able to rely on a disinterested third party like the PUC to conduct background checks on an annual basis. First and foremost, a state agency is in the position to verify whether an individual is able to work legally in the United States. A state agency can also conduct annual criminal and driving background checks in addition to making sure that drivers' insurance and vehicle registrations are valid.

TNCs only perform initial criminal background checks; they do not oversee drivers on an ongoing basis, nor do they validate that a driver's vehicle registration and insurance are renewed annually. Additionally, TNCs do not perform prior driving history checks—they only review drivers' motor vehicle records during their time driving for the TNCs. As Administrative Law Judges Long and Watson stated in their Recommended Decision dated September 19, 2014, "[UberX's] failure to present any cohesive plan for managing and policing driver safety and vehicle integrity beyond the initial engagement with the driver, strongly suggests that [UberX] is not committed to operating safely and legally."

There is no way to ensure that the TNCs are even performing these minimal checks because they do not have to report their findings to anyone. The public simply has to accept the TNCs' word. In addition, the TNCs' diligence has proven to be inadequate. There have been well-documented instances where drivers with criminal histories have been permitted to drive for TNCs. Moreover, there have been numerous instances where TNC drivers have assaulted passengers, or worse. In San Francisco and Los Angeles, district attorneys told TNCs that they misled customers by claiming their background checks of drivers screen out anyone who has committed driving violations, including DUIs, as well as sexual assault and other criminal offenses. These district attorneys say the claims made by the TNCs are patently untrue.

The public cannot rely on TNCs to regulate their own drivers. An independent state agency must be responsible for holding the TNCs and their drivers accountable. The public will be at risk if such measures are not implemented.

### Vehicle Inspections and Markings

An independent state agency should be responsible for inspecting vehicles used in TNC service. Moreover, these vehicles should be appropriately marked with special tags and decals to alert the public and enforcement agencies that these vehicles are providing TNC services.

TNCs do not perform physical inspections of the vehicles used in their services. Instead, TNCs merely rely on annual vehicle inspections performed by the Pennsylvania Department of Transportation ("PennDOT"). Rather than inspecting vehicles, TNCs also rely on passenger feedback.

While annual PennDOT inspections are appropriate for non-commercial vehicles, vehicles used in TNC service experience significantly more wear than typical private passenger

vehicles. The vehicles used by TNCs are commercial and should be treated as such. Passenger feedback may let the TNCs know whether a driver's backseat is unkempt, but it won't be able to diagnose safety issues. TNC vehicle safety standards fall short and endanger the lives of the public.

In addition, allowing TNCs to operate without any special markings leaves room for fraud and puts the public at risk. As simple as it sounds, when someone hails a taxicab, there is no question that they are getting into a taxicab: taxicabs have special license plates issued by PennDOT and are marked with identifying decals. Such markings protect riders by notifying them that they are getting into a safe, regulated vehicle. The markings also put other drivers on notice: if a taxicab gets into an accident, the driver cannot present a personal insurance policy to the other party because there is no doubt that the vehicle is operating commercially. Authorities can also easily identify taxicabs to make sure they are operating in designated areas and complying with the law.

None of these safeguards exist with TNCs. Any private driver can purport to be a TNC driver and vice-versa. There have been instances where non-TNC drivers have picked up unsuspecting passengers, claiming that they work for a TNC. On the other hand, if a TNC driver gets into an accident, nothing alerts the other party that they are dealing with a commercial vehicle. A TNC driver can present his or her personal insurance policy and the other party would be none the wiser. Personal insurers are not designed to cover such claims. Either the driver will get away with insurance fraud, passing on costs to all Pennsylvanians, or the insurer will deny the claim, leaving drivers and passengers exposed.

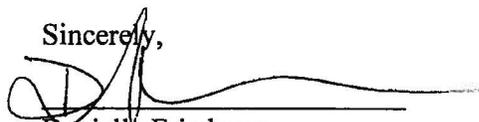
Such lax standards put the public at risk. A simple solution like decals and specialized license plates would eliminate these types of fraud.

#### Rates and Tariffs

TNCs must be required to submit their rates and tariffs for approval by a state agency. This will ensure that drivers make a living wage and that customers are not taken advantage of. Without any oversight, TNCs are free to cut prices at their discretion during instances of low demand or use predatory "surge pricing" during instances of high demand. By regulating TNCs' rates and tariffs, drivers will be able to rely on rates without worrying that their livelihood can be slashed on a whim. Customers can rest assured that they won't be surprised with an exorbitant fare just because it is rush hour. Regulating the tariffs charged by TNCs will ensure fairness for both passengers and drivers.

There is no question that TNCs are common carriers and they should be treated accordingly. TNCs have demonstrated a clear contempt for regulators in Pennsylvania, but this should not deter the General Assembly from establishing fair rules and regulations that ensure that TNCs offer safe service to the public. There is no excuse why these multi-billion dollar companies cannot comply with reasonable regulations such as those described above. Thank you for your consideration.

Sincerely,



Danielle Friedman