

Shared Use Mobility Rideshare Task Force

Legal Issues Review of Shared Use
Mobility “Apps”

February 26, 2014

Legal Issues To Consider

- **Legality of Providers' Services**
 - **Oversight of Services**
 - **CA Transportation Network Companies (TNC's)**
 - **DC Taxicab Commission Mutually Acceptable Regulatory Measures**
 - In the spring of 2013, Lyft, SideCar, and uberX debuted in the District, in advance of any legal authority
 - Commission creates "Panel on Industry" to make recommendations on how these services can be regulated, and allowed them to operate in the Interim

Legal Issues to Consider

- In September 2013, DC Council enacts Emergency Act, which sets specific criteria to allow the temporary operations and also enumerated specific issues for the Panel to address in a Report, including:
 - the type of licensing and regulation appropriate for the “ridesharing” services themselves, in addition to those necessary for drivers and their vehicles:

Legal Issues to Consider

- Panel is also considering rules and regulations to modify public vehicle for hire regulations, including the procedures for transmitting the passenger surcharge, data requirements, the licensure and registration process of digital dispatch services, driver inventory requirements, vehicle categories, and types and levels of service, including ride-sharing.

Legal Issues to Consider

The Act established basic rules to allow “ridesharing” services to operate temporarily

- Requiring the service to submit proof that it is licensed to do business in DC
- Maintains a registered DC agent
- Maintains a website that provides a customer service telephone number or email address

The Act also requires the service to maintain an excess liability insurance policy that provides a minimum of \$1 million per-incident coverage for accidents involving a ride-sharing vehicle and operator in transit to or during a ride-sharing trip

Legal Issues to Consider

- On November 12, 2013, the Panel met separately with Lyft, SideCar, and Uber. Each company's representatives was asked questions about matters such as insurance, driver eligibility, vehicle requirements, and operating rules such as proscriptions against taking street hails.
- The Panel also met with the taxicab industry on December 4, 2013.

Legal Issues to Consider

- The Panel also considered the CPUC Decision and Rules from California
- The Panel relied upon a white paper from International Association of Transportation Regulators (“IATR”), Ridesharing Applications: Illegal “Hitchhiking-For-Hire” Or Sustainable Group Riding? A Legal and Policy Primer for Ground Transportation Regulation (“IATR white paper”) (May 2013).
- The Panel considered a Draft Ordinance of the Seattle City Council (Dec.12, 2013) (“Seattle Draft Ordinance”).

Legal Issues to Consider

- The Panel's final report was issued on January 24, 2013. Key Findings:
 - The Panel believes that the use of the word “ridesharing” to describe the service provided by Lyft, SideCar, and uberX is not fair and accurate, and legally has no place describing a service that falls within the authority of the Commission.

Legal Issues to Consider

- Define “ridesharing” as “an activity not subject to licensing or regulation by the Commission in which passengers are grouped for a non-commercial purpose, such as defraying costs, reducing road congestion, decreasing fuel use, protecting the environment, and increasing ridership, in which no person has a for-profit interest.”

Legal Issues to Consider

- Define the service offered by Lyft, SideCar, and uberX as “a public vehicle-for-hire service that uses digital dispatch to connect passengers with non-professional drivers operating with their own personal vehicles” and state that the service “does not include ridesharing.” The Commission should chose an appropriate name for the new service.

Legal Issues to Consider

- Prohibit the use of the name “ridesharing” for any public vehicle-for-hire service.
- The availability of adequate insurance to compensate passengers and members of the public when an accident occurs is the issue of greatest concern to the Panel.
- “ridesharing” does not fall within the scope of coverage in an ordinary, personal motor vehicle liability policy

Legal Issues to Consider

- Lyft, SideCar, and Uber all make an effort to avoid liability through the terms and conditions that must be accepted by passengers prior to service
- The combined use of amateur drivers and private vehicles raises significant safety, consumer protection, and other issues. Safety is of concern because “ridesharing” drivers are part-time amateurs who – even if the Panel’s recommendations are followed – would not receive training comparable to professional drivers

Legal Issues to Consider

- Reciprocity Rules
- The panel sees no alternatives to statutory requirements that each driver (1) have a business license from the Department of Consumer and Regulatory Affairs (“DCRA”)
- Each service should maintain a basic training program for new drivers and should conduct background checks and screen all drivers for drug use at the time of application.

Legal Issues to Consider

- Modify the existing regulations for taxicab operations and fares, and for digital dispatch, to allow a digital dispatch service to set the entire fare for a dispatched taxicab ride.
- Consider additional measures to continue efforts to increase the availability of wheelchair accessible vehicles in the industry if “ridesharing” becomes an approved service.

Legal Issues to Consider

- Provider Information
 - Description/Explanation of App or Website
 - Provider History and Information
 - Documents and Agreements
 - Safety Measures
 - Data
 - Compliance with Applicable Law
 - Financial Status
 - Antidiscrimination Measures

Legal Issues to Consider

- Clarity of Relationships
 - Evident to all that any non-COG Provider, app or program that COG promotes is not affiliated with COG in any way. We would never want anyone to mistake a third-party Provider for a COG-run program like Commuter Connections. This is important for several reasons, the most important being the limitation of COG's liability and the protection of COG's reputation. Any promotional materials, especially links from COG's website, would need to clearly indicate that these are third-party Providers

Legal Issues to Consider

- Taxis
 - Many taxi companies are openly hostile toward many of these Providers. The Providers that do not facilitate the use of taxis are drawing away customers from the taxi companies. In many cases, they are doing so under less restrictive regulations than those to which the taxi companies must adhere. COG has contracts with certain taxi companies for GRH. However, provided that any Provider that COG promotes is in compliance with all applicable laws and regulations, the taxi companies would not have any legal recourse against COG simply for entering into a cross-promotional relationship.

Legal Issues to Consider

- Data Sharing

- The sharing of data between COG and a Provider would be subject to the Privacy Policies and Terms of Service of COG, its programs, and the Provider with which COG intends to share data.

Accordingly, the legal concerns with regard to such sharing would be fully dependent on the nature the data to be shared, and the specific Provider.

Legal Issues to Consider

- COG's legal staff anticipates that this will be an iterative process.

Questions?

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