

Transportation Network Company Review Board Report



TNC Review Board Meeting Report

INTRODUCTION AND BACKGROUND

The demand for mobile technology services has given rise to various innovations within the transportation sector in New York State. Transportation Network Companies (TNCs), or ride sharing companies, meet this demand by connecting passengers to TNC drivers for prearranged trips. By utilizing digital networks through a smartphone app, TNCs have a broad ability to service the public in ways previously unavailable.

As with other forms of transportation, TNCs are regulated to ensure public safety and enforce proper business practices. As a result of the TNC legislation (TNC Act, Chapter 59, part AAA Laws of 2017), which became effective on June 29, 2017, the New York State Department of Motor Vehicles (DMV) is authorized to regulate ride sharing companies within upstate New York and Long Island. The TNC Act empowers DMV to license TNCs, conduct record reviews, and receive complaints against TNCs.

Since the TNC Act became effective, DMV has granted licenses to two companies: Uber and Lyft. The agency is currently in the process of conducting record reviews of both companies by reviewing their policies, procedures, and documentation to verify compliance with licensing requirements.

DMV has also received complaints pertaining to TNC operation since the legislation became effective. (Please see the Appendix attached to this report for a summary of these complaints.) Generally, DMV has purview over complaints that include, but are not limited to:

- Concerns about a TNC's license to operate in New York State;
- Concerns about TNCs operating within a locality that has opted out;
- Concerns about the maintenance of group liability insurance, disclosure about such insurance, and other insurance concerns;
- Concerns about TNCs failing to include information that is required to be displayed in the mobile app such as driver photo, vehicle information and up-front fee estimate;
- Concerns about TNCs failing to include required information on their receipts;
- Concerns about TNCs failing to include required information on their websites;
- Concerns about TNC trade dress;
- Concerns that a TNC has not established and notified drivers of its zero-tolerance policy for impaired TNC operation and/or its non-discrimination policy; and
- Concerns about TNC driver qualifications.

The Transportation Network Company Review Board was convened to garner public feedback and review issues related to the general operation of TNCs within the state.

THE TNC REVIEW BOARD

The TNC Review Board was established through TNC legislation (Section 22 of the TNC Act, Chapter 59, part AAA Laws of 2017). The Review Board is chaired by the Commissioner of Motor Vehicles, with

designated members that include, among others, the Superintendent of Financial Services, the Commissioner of Labor, the Superintendent of the New York State Police and the Commissioner of Economic Development or their designees.

The Review Board was directed to evaluate issues related to the general operation of TNCs within the state, such as, but not limited to:

- TNC licensing
- TNC driver permitting
- Geographic operation
- Consumer protection
- Economic impact
- Anti-discrimination
- Workers' compensation
- Local government-related impact
- Public safety
- Surge pricing
- Any other issue deemed appropriate and proper by the board

To ensure that public input could be gathered, an email address, dmv.sm.tnc@dmv.ny.gov, was established to allow individuals to submit comments and a public forum was organized to hear people's concerns. A media advisory announcing this information was issued to the press and the forum was publicized through social media. Email submissions were accepted through December 3, 2018.

TNC REVIEW BOARD MEETING

A meeting was held at the Empire State Plaza on November 19, 2018 to provide an opportunity for the public, board members, and other interested parties to submit comments on the previously mentioned issues. The meeting was video recorded. Five members of the TNC Review Board were present at the meeting:

- (Chair) Terri Egan: New York State Department of Motor Vehicles Executive Deputy Commissioner,
- Kevin Younis: Empire State Development Chief Operating Officer, on behalf of Commissioner Zemsky
- Mario Musolino: New York State Department of Labor Executive Deputy Commissioner, on behalf of Commissioner Reardon
- Holford Marshall: New York State Department of Financial Services Supervising Insurance Examiner, on behalf of Superintendent Vullo
- Major James Michael: New York State Police, on behalf of Superintendent Beach

Executive Deputy Commissioner Terri Egan began the meeting with introductions of her fellow board members, followed by a brief explanation of the Review Board's background, purpose, and the range of topics to be opened for comment. During this time, the audience was reminded that the meeting was intended as a means of submitting concerns about TNCs. The audience was also reminded that if they had comments regarding TNC accessibility for disabled persons, such concerns were being addressed by a separate task force specific to those issues.

Executive Deputy Commissioner Egan went on to explain that DMV's Rideshare Unit receives comments, complaints and concerns regarding TNC companies. She elaborated that not all of the comments that have been received were concerns upon which the DMV has authority to act, but all comments were reviewed and subsequently passed on to appropriate parties.

The speakers who participated or provided written comments represented several points-of-view including:

- TNC drivers
- TNC passengers
- General public

ISSUES ADDRESSED BY SPEAKERS AND WRITTEN SUBMISSIONS

The Review Board meeting and written comments highlighted several issues related to TNC operation.

The key issues include:

- Information availability
- Public municipalities
- TNC software
- TNC trade dress
- Driver policies
- Local TNC representation
- Transaction transparency
- Customer service

Commenter experiences typically occurred with only one TNC, and the appropriate company is referenced with each comment description.

All of the concerns raised below have been shared with both Uber and Lyft.

INFORMATION AVAILABILITY

Comment: Speaker asked if a centralized location exists where the public could view a list of appropriate topics on which to provide comments for the TNC Review Board versus the TNC Accessibility Task Force.

Response: Listing the topics of discussion pertinent to each body on the website will be taken under advisement. Any additional comments can always be shared by submitting them to the specially established e-mail address for the TNC Review Board at dmv.sm.tnc@dmv.ny.gov; accessibility-related comments will be shared with the TNC Accessibility Task Force. Any comments/complaints/concerns about a specific rideshare company can also be submitted by e-mailing DMV through its Email DMV application on the web at: <https://nysdmv.custhelp.com/app/ask>.

PUBLIC MUNICIPALITIES

Comment: Speaker inquired, for colleagues, if the Review Board would assess comments related to TNC contracts with municipalities and public transit systems and went on to mention possible inclusion of TNCs in transportation programs near Westchester and Rochester.

Response: The Board was receptive to this comment and reiterated that if there is an issue of interest, e-mail submissions are available until December 3, 2018.

TNC SOFTWARE

Comment: Speaker (TNC driver) raised an issue of trust with the native navigation system used by Uber. A lack of trust on the part of the driver and the passenger stemmed from the sudden failure of the auditory system, and consistent malfunction regarding directions to the airport. The speaker elaborated that additional frustration occurs when poor navigation generates passenger distrust and increases the risk of a bad review. The driver approached Uber about the issue, but it reportedly remains unaddressed.

Response: The Review Board acknowledged the issue and will share it with the TNCs.

TNC TRADE DRESS

Comment: Speaker (TNC driver) addressed an issue where police were pulling TNC drivers over because of the TNC lights within the vehicle. The optional light device is designed as an advanced form of trade dress and is beneficial to drivers and passengers alike.

Response: The Review Board acknowledged the issue and will share it with the TNCs.

DRIVER POLICIES

Comment 1: Speaker (TNC driver) raised an issue about a notification from Lyft regarding mandatory consent of consumer reporting. Not only would the driver have to give consent to continue driving, but to be informed if the information was being requested, they would need to submit a written request. The speaker preferred more clarification regarding this policy and ease-of-access regarding follow-up information. The driver works for Lyft, but suspects Uber drivers are receiving the same notification.

Response: The Review Board acknowledged the issue and will share it with the TNCs.

Comment 2: Speaker (TNC driver) then addressed an issue regarding Lyft's policy of pay to drivers. The driver was concerned that Lyft was taking an inconsistent percentage of the money earned in a ride before tip was applied. The driver could not remember any policy from the time of his start with Lyft – just the onboarding qualifications to become a driver.

Response: The Review Board acknowledged the issue, thanked the driver for the comment, and will share it with the TNCs.

LOCAL TNC REPRESENTATION

Comment: Speaker voiced concern about no longer having an Uber representative in the capital region. The previous representative was relocated to the Boston area and currently has no replacement, leaving no one to be reached locally.

Response: The Review Board acknowledged the issue and will share it with the TNCs.

TRANSACTION TRANSPARENCY AND CUSTOMER SERVICE

A comment submitted via email to the TNC Review Board raised several issues pertaining to a lack of transparency regarding additional charges/fees received during an Uber ride and the genesis of the charges themselves. Examples include:

- Final bill different from initially-indicated charges
- Lack of clarity for charges that sound synonymous
- Lack of consistency in list of charges on receipt
- Charges incurred to passenger due to GPS-app malfunction
- Black Car Fund surcharge applying to passenger tips
- Lack of due diligence on the part of the TNC (Uber) to properly investigate and refund charges made in error

The commenter conveyed that passengers and drivers should be informed of their rights regarding filed complaints.

The commenter concluded that "the only way to get a clear understanding of issues relating to TNC operations in the state is to request the data directly from the TNCs..." Information he thought would be useful to report includes:

- Total number of complaints received by category (e.g., GPS errors, excess fees/overcharges, etc.)
- The number of fee-related complaints received
 - Full refunds
 - Partial refunds
 - Non-refunds
- A list and explanation of changes, if any, that were implemented due to complaint(s) received

Response: The comment was shared with the TNCs.

SUMMARY

By hosting an open forum and accepting written comment submissions, the TNC Review Board has created an opportunity for the public, the industry, and regulators to provide feedback which will help inform future policy.

The comments submitted to the Review Board covered a range of topics including the potential for local municipalities and transit agencies to work with TNCs, as well as concerns about TNC driver policies, functionality of the TNC software/app, and TNC's transparency and customer service. The public comments summarized in this report are being shared with both Uber and Lyft, and they can now be added to the conversation as future policy discussions occur within the industry moving forward.

APPENDIX: TNC

Complaint type	Department of Motor Vehicles (DMV) Response
Driver having a hard time finding work in Rockland County since the TNC (Transportation Network Company) Law went into effect	Acknowledged complainant's concerns. Suggested changes to the TNC Act must be addressed by the NYS Legislature.
TNC drivers in Westchester County not displaying trade dress	Thanked customer for the information and sent copy of complaint to TNC reminding them of the requirement.
TNC act is unfair to livery companies	Acknowledged complainant's concerns and advised him that the DMV administers the law as it is written. Suggested changes must be addressed by the NYS Legislature.
Nassau TLC is issuing tickets to Uber drivers at the train station for improper trade dress	Provided the complainant with a copy of the TNC regulations as they apply to the trade dress. Advised him that tickets issued for violations must be addressed with the issuing authority and advised him to contact Nassau County Taxi and Limousine Commission (T&LC).
TNCs do not handle lost items appropriately. Customer left phone in car and claimed driver wouldn't return it. Customer requested that DMV suspend TNC's license.	Advised complainant that lost items are not within the DMV's purview. Directed complainant back to TNC.
Driver received three tickets because they didn't remove the TLC stickers on their car but doesn't have livery plates.	Advised complainant that tickets must be answered to the issuing authority. DMV does not oversee TLCs.
Unspecified company is operating illegally	Reviewed information, company does not meet the criteria of a TNC (no digital app).
Uber driver attacked for refusing to transport mother/child without a car seat. Uber would not share identifying information with driver so he could file a criminal complaint.	Advised driver that this matter should be further pursued with the TNC.
TNCs do not handle lost items appropriately. Left car keys in vehicle and TNC would not return	Advised complainant that lost items are not within the DMV's purview. Directed complainant back to TNC.
TNCs violating Fort Drum's Installation access policy	Advised complainant that the TNCs and Fort Drum must resolve how Fort Drum's policy is enforced.
NYC taxis/TNCs blocking the bike lanes	Advised that taxis and Downstate TNCs are regulated by the T&LC. Enforcement of bike lane rules is a matter for local law enforcement.
TNC failed to pay driver for the services provided	Acknowledged complainant's concerns. Individual payment disputes handled by TNC.
Police advising driver that his Uber/Lyft trade dress on windshield is illegal	Sent complainant a copy of the TNC regulations relating to the placement of the emblem.
Uber drivers with DUI offenses in New York are getting licenses in PA and NJ to skirt the law. Also claims that Uber is not doing background checks on their drivers and that individuals are posing as drivers to take advantage of young girls.	Advised complainant that the TNC Act only has jurisdiction over TNCs operating in upstate New York. One of the requirements of being a TNC driver in upstate NY is having a New York Driver's license. Background checks and license monitoring are also required.
NY Livery company has vehicles registered in different states without properly licensed drivers	Advised complainant that companies operating as livery are not considered to be TNCs. Livery companies operating in NYC are regulated by the T&LC, those operating outside of NYC are regulated by their local municipalities.
Drivers in Ithaca are trying to create artificial price surging	Acknowledged complainant's concerns and thanked him for the information.