



The American Antitrust Institute

August 26, 2013

Ron Linton, Chairman
District of Columbia Taxicab Commission
2041 Martin Luther King Junior Ave, SE
Suite 204
Washington, D.C. 20020

Dear Chairman Linton and Commissioners:

This is a public comment by the American Antitrust Institute concerning proposed regulations affecting the operation of publicly available car services in the District of Columbia.^{1 2}

Uber, the car service company, recently complained at <http://blog.uber.com/2013/08/19/dctc-uberx-update/> that the District of Columbia Taxi Commission delivered a blow to consumer choice by passing car service regulations that restrict competition and affordable consumer transportation options. These regulations, among other things, include record keeping and reporting requirements, and outlaw the use of mid-sized, fuel efficient vehicles, such as those offered by uberX.

DC Council member Mary Cheh said that the Commission's regulations "discourage customer choice," create "an anti-competitive atmosphere" and "do not serve the goal of protecting consumers." (Her comments are in a letter available at <http://f.cl.ly/items/2O1T0Y40170B1B0n0t3s/2013-06-04%20Ron%20Linton.pdf>) We agree with Council member Cheh's conclusions.

¹ The DC Taxicab Commission has issued three notices of second proposed rulemakings regarding Title 31 of the D.C. Municipal Regulations, concerning taxicabs and other public vehicles for hire. The proposed rules would amend Chapter 12 to establish requirements for luxury class services, composed of limousines and sedans, establish substantive rules governing sedans in a new Chapter 14, and establish substantive rules governing traditional and digital dispatch services in a new Chapter 16. These proposed rules follow enactment of the "Taxicab Service Improvement Amendment Act of 2012" and the "Public Vehicle-for-Hire Innovation Amendment Act of 2012."

² The American Antitrust Institute is an independent, non-profit education, research, and advocacy organization dedicated to promoting the laws and institutions of antitrust. Information about the AAI may be found at www.antitrustinstitute.org.

For some time AAI has been studying local regulations that are overbroad and impinge on competition. Anticompetitive local car service and taxi regulations are important issues in a number of cities across the country. The cities where there is controversy similar to that in DC include San Francisco, Boston and Cambridge, New York (where litigation is ongoing), Chicago, Denver (where FTC Staff submitted comments), Las Vegas, Los Angeles, Miami, and Houston.

The FTC weighed in recently concerning the DC Taxi Commission regulations. See FTC Staff Comments Before the District of Columbia Taxicab Commission Concerning Proposed Rulemakings on Passenger Motor Vehicle Transportation Services (June 2013) (V130008), available at www.ftc.gov/os/2013/06/130612dctaxicab.pdf.

The FTC observed, among other things, that

Proposed 1299.1 facially restricts the types of vehicles that can be operated as limousines or sedans, which may be an important consideration for some consumers and a valuable component of competition. For example, the 3,200 pound weight requirement for sedans might exclude certain lighter-weight, more fuel efficient, and more environmentally friendly vehicles from being used for sedan services, including lighter-weight alternative fuel vehicles, that are currently available or that may become more widely available and popular in the future. The use of fuel efficient vehicles may be an important component of consumer demand for sedan services and the proposed rule would impede sedan operators from competing with regard to this feature.

The FTC's concern about restrictions on lighter and more fuel efficient vehicles is particularly pertinent to the regulations proposed by the DC Taxi Commission; it is hard to see any good reasons for the DC Taxi Commission's restrictions on such vehicles. Use of lighter, less costly, and more fuel efficient cars may, as the FTC says, be an important consideration for some consumers and a valuable component of competition, permitting less expensive consumer pricing. Less expensive pricing would be an especially important consideration for people too poor to afford their own car, people who are too old to drive, and also for handicapped people, who use car services relatively frequently. We do not see a reason for the DC Taxi Commission to require use of heavier, more costly, and less efficient "luxury" vehicles.

We support the FTC's view of the relevant competition policy issues:

A forward-looking regulatory framework should allow new and innovative forms of competition to enter the marketplace unless regulation is necessary to achieve some countervailing pro-competitive or other benefit, such as protecting the public from significant harm. Consumers benefit from competition between traditional and new products and services, and from new methods of delivering services. Regulations therefore need to be reviewed and revised periodically to facilitate and encourage the emergence of new forms of competition.

In summary, we support the FTC's view of the competition policy issues involved in local car service regulations, and Council member Cheh's observation that overly broad DC Taxi Commission regulations disserve the goal of protecting consumers. We urge DC and other localities to heed the advice of the FTC, and we support the position of DC Council member Cheh and other DC Council members who believe that the DC Taxi Commission regulations are unnecessarily restrictive.

Sincerely,



Albert A. Foer
President³

cc: Mary M. Cheh
Councilmember, Ward 3
Chair, Committee on Transportation and the Environment
Council of the District of Columbia
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Washington, DC 20004

³ The author received comments for this letter from a variety of sources, including many members of the AAI Advisory Board. The letter does not purport to represent the views of any or all Advisory Board members.