

**Testimony of Bill Heinzen, Acting Commissioner
New York City Taxi and Limousine Commission (TLC)
New York City Council
Transportation Committee
Hearing on Intro. No. 1738 and Pre-considered Intro. Nos. 5549 and 5628**

January 22, 2020

Good morning, Chair Rodriguez and members of the Transportation Committee. I am Bill Heinzen, Acting Commissioner of the New York City Taxi and Limousine Commission. Thank you for inviting me to join you for this hearing on legislation to create a livery and traditional black car task force, as well as legislation to allow advertising in and on For-Hire Vehicles in New York City.

Pre-considered Intro. No. 5549 – Livery and Traditional Black Car Task Force

Pre-considered Intro. No. 5549 would create a Livery and Traditional Black Car Task Force to identify any challenges to the viability of the industry and make recommendations to address the Task Force’s findings. As I have testified before, TLC supports the creation of the task force.

Traditional livery bases provide neighborhood-based transportation options for New Yorkers, particularly in areas of the City underserved by taxis and public transit. Livery bases offer customers reliable for-hire service, provided by drivers and base owners from their communities. Because their passengers may not speak English or have access to a credit card, livery services can reduce barriers to mobility in immigrant and lower-income communities. Traditional black car bases provide services to businesses ranging from those looking for premium for-hire service to corporate account work for businesses with transportation needs.

These traditional sectors have been impacted by the introduction and increase of the apps, now known as High Volume For-Hire Services. Although liveries and traditional black cars

continue to serve their clients, there is no mistaking that app-based companies have significantly changed the landscape. Today, apps are frequently used by passengers who would have called a livery or FHV base in years past. However, when considering what steps can be taken to support the traditional industries, we must look for solutions that do not compromise the service improvements passengers throughout the city have come to expect.

While the City was not successful in its attempt to limit the number of For-Hire Vehicles in 2015, in 2018, the Mayor and City Council worked together to enact a moratorium on new For-Hire Vehicle licenses, with exceptions for wheelchair-accessible and battery-electric vehicles, and to grant TLC the authority that it previously lacked to control the number of licenses. That and other legislation allowed TLC to begin addressing the effects of four years of uncontrolled growth by the High Volume companies, and the impacts of that growth on driver pay, congestion, and the traditional sectors. Most of these initiatives, as I have testified before, have focused on the High Volume services, without imposing more responsibilities on the traditional black car and livery sectors.

This is just an overview – the Task Force will allow us to take a more sustained look at the challenges faced by the traditional livery and black car sectors and determine what additional steps can be taken to ensure the continued viability of the important services they provide.

For-Hire Vehicle Advertising – Intro. No. 1738 and Pre-considered Intro. No. 5628

Intro. No. 1738 and Pre-considered Intro. No. 5628 would allow interior and exterior advertising in For-Hire Vehicles. TLC’s longstanding rules prohibiting advertising on and inside For-Hire Vehicles were challenged in federal court, and TLC could not enforce the rule for approximately one year while the courts considered the case. During that time, TLC received few

applications for advertising permits, and only 82 permits for exterior advertising were issued. Last summer a federal appellate court upheld the rule, in a decision that reinforced the City's authority to regulate commercial advertising in public spaces as well as the City's interest in regulating the interior of the vehicles that TLC licenses.

Allowing over 100,000 licensed For-Hire Vehicles in every neighborhood and in every borough to carry advertising may greatly expand advertising in the public and this legislation may impact the City's regulation of advertising beyond TLC issues. With the City's limited authority to regulate ad content unless it is obscene or criminal, ads could be for anything from Broadway musicals to strip clubs, both inside and outside of vehicles. Once these ads are permitted, it would be very difficult to scale them back. Indeed as currently drafted, Pre-considered Intro. No. 5628 appears to prohibit the City's ability to require permits or licenses for displaying interior ads, so it would be difficult to know how the full extent of such problems, because the City will not even know how many vehicles have interior advertising, let alone which ones.

I have testified before that expanding advertising to For-Hire Vehicles raises challenges that we will need to address, and the new task force may provide a good forum for these discussions. TLC understands the desire to increase driver revenue, which has been one of our key policy missions in this administration. We always ask if the financial benefits of any new technology will actually reach drivers in a meaningful way, a concern I know the Council shares. To ensure that potential benefits are not overstated, and that drivers would actually benefit from For-Hire Vehicle advertising, and not just advertising companies, leasing companies or the apps, it is important that the City retain the necessary authority to address these concerns. Any promised financial benefits should be clear to the drivers and/or vehicle owners, they should be consistent, they should be guaranteed, and they should be easily enforceable.

It is also important to remember that it may not be just one or two companies that want to sell advertising. In addition to the companies that have already come forward, there will likely be several business models for advertising, and a wide variety in the terms offered to drivers. These advertising terms and conditions may leave drivers with little say, or lock them into one-sided legal agreements. Mandatory arbitration clauses, which waive the right to bring class actions in the courts; non-disparagement agreements; terminations without cause; and the lack of any guarantee of any specific payment amount or any guaranteed time frame for payments are issues that concern all of us, and we must be able to protect drivers and owners against them.

Because advertising relies on increased visibility, it will likely be easier and more desirable for corporations to enter into agreements with leasing companies that own many vehicles, or with app-companies or bases, than to make individual agreements with individual drivers or vehicle owners. In taxis, for example, most advertising is done on a fleet model, and the drivers do not share the revenues. If advertising companies do enter into fleet-based agreements, drivers who lease vehicles may well see little or no benefit.

Allowing interior advertising may raise other specific concerns for drivers and passengers. We have heard passenger complaints about interior advertising in yellow taxis, but also taxi drivers tell us that the ads can be annoying, with the same or similar audio playing on repeat, all shift long. Even with prohibitions against obscene content, there will be no meaningful way to restrict advertising that some passengers might find offensive. Extending interior ads to For-Hire Vehicles would multiply these passenger and driver concerns by tens of thousands.

Additionally, it is not clear what impact FHV advertising would have on taxi advertising revenue. With a large increase in ads in for-hire vehicles, such competition may drive down the revenue potential for taxis and street hail liveries, causing unintended financial consequences.

It is important that we discuss these issues and that we leave the City the authority to address them so that drivers and vehicle owners are not excluded from advertising profits. Thank you for inviting me to address these challenges and we look forward to continuing the conversation.