

Date: May 5th, 2016

To: Governor Andrew Cuomo

From: James Kelley and Mark Kurtz

Subject: Allowing Transportation Network Companies to Operate in New York State

INTRODUCTION

In order to increase economic opportunities and enhance existing transportation networks, we recommend that New York State enact legislation to allow transportation network companies (TNCs), specifically Uber, to operate throughout the state. The company provides a ridesharing service through a mobile application that is accessed through a smartphone.

Although Uber operates in New York City, it is barred from doing so in the rest of state.

Legislation currently in committee in the NYS Senate and Assembly would modify existing insurance law and allow Uber entry into NYS. While there are concerns about regulation, privacy, and safety, allowing Uber to operate in NYS would ultimately provide an efficient and inexpensive complement to public transportation for consumers, an increased amount of flexible part- and full-time jobs opportunities, numerous positive social benefits, and opportunities for economic development.

ABOUT UBER

Founded in 2009, Uber provides an efficient and affordable alternative to existing forms of transportation. The company is currently valued at \$62.5 billion, has 400 thousand drivers, and operates in 68 countries. Consumers utilize a mobile app from a smartphone to request a ride with an Uber driver, who uses his or her own vehicle. The transaction occurs through the mobile app, so money does not physically exchange hands. Afterwards, both the drivers and users can rate one another on their performance and level of professionalism. As a result, undesirable

providers and consumers with low ratings are not permitted to administer or receive the company's services.

State and local governments do not regulate Uber's prices and its unique model does not require the same licensing requirements as taxi and limo companies. For example, Uber uses "surge pricing" to rapidly account for fluctuations in the market. When demand is greater during peak travel times, the company can charge higher rates. Conversely, taxi companies are not allowed to alter their rates. Furthermore, Uber drivers do not need a medallion license, which is required for driving a taxi in NYS, because the ride is booked from a smartphone and therefore technically not hailed from the street. These factors have decreased the company's costs and have allowed them to efficiently administer services.

Uber has become increasingly prevalent and it operates in nearly every major American city, including NYC. In order to allow for Uber to operate in NYC, the company was mandated to take on requirements similar to that of a yellow cab, including an extended insurance policy, registration with the NYC Taxi and Limousine Commission, and a medallion license. Essentially, this policy stripped Uber of their classification as a technology company and re-categorized them as a taxi service. However, Uber and other TNCs are currently barred elsewhere in NYS. The City of Buffalo, for example, is the largest city by population in the United States in which Uber is inaccessible. While Uber has been kept out of Upstate New York, the company is currently focusing its efforts to begin operations in the region.

TNC LEGISLATION

Politicians throughout NYS have recently increased their efforts to advocate on behalf of TNCs. For example, the mayors of Buffalo, Syracuse, Albany, and Rochester, the four biggest

cities in Upstate NY, recently wrote a letter to Governor Cuomo urging him to support legislation that would allow TNCs to operate in their cities. The NYS Senate and Assembly are both currently considering legislation that would allow TNCs to operate throughout all the state. Assembly Bill A6090A and Senate Bill S4280A would amend existing laws to “establish, regulate, and provide proper insurance for transportation network companies and drivers.” The Senate Bill, which sponsored by James L. Seward, recognizes the benefits of ridesharing, economic opportunities, and consumer choice offered by TNCs. However, the bill also acknowledges the need to “regulate the interaction of private passenger automobile insurances policies, with insurance policies covering transportation network services.” Specifically, the bills empower the NY Commissioner of Motor Vehicles with oversight of TNCs and the ability to take action against them in cases of violation. Although Uber offers a service similar to taxi companies, it does so in a unique manner that allows it to face different standards. Nonetheless, Uber must be compliant with basic requirements stated in the relevant TNC legislation in order to gain entry into NYS.

BENEFITS OF ALLOWING TNCs TO OPERATE IN NYS

Increased Employment Opportunity:

Uber’s entry to an area typically creates an influx of flexible part- and full-time employment opportunities. A study done by ECONorthwest, a consulting firm, examined the impact of the service on the City of Chicago. The firm used an input-output model to determine the implicit costs associated with Uber and taxi rides and literature-based estimates of the price elasticity of demand in the taxi industry. Overall, Uber’s gross impact on the economy was \$46.38 million in revenue and 1,049 jobs in 2013. The study also concluded that the introduction

of the service contributed over 25,000 additional rides in the transportation market that would not have been provided by the standard bus and taxi markets. In Upstate New York, Uber estimates it could add 13,000 jobs in cities from Buffalo to Albany.

Critics are concerned that Uber supports a low-wage market and does not compensate workers appropriately. The chart below shows the average earnings per hour for typical driving jobs, with Uber earning \$19.04/hr. compared to taxis and limos services earning only \$10.97/hr.



Despite being responsible for fees including tolls, gas, and car maintenance, which are not built into the fare, Uber drivers still consistently earn more than their taxi counterparts. Additionally, Uber drivers benefit from flexible work schedules that allow them to work hours that fit their own schedules or are during peak traffic hours, leading to larger earning potential. Conversely, taxis have a dispatcher who controls their schedules and the region in which they operate. While only about 30% of the Uber staff consists of full time employees, Uber offers a flexible job with a respectable wage for individuals whose primary source of income is insufficient and for those who are in between jobs.

Increased Consumer Convenience:

Although buses provide cheap fare, bus routes often do not adequately cover all areas within a city, necessitating the use of a taxi or personal vehicle. In such cases, Uber provides an inexpensive alternative to taxi cabs and helps individuals reach otherwise inaccessible areas. In addition, Uber's service is a convenient complement to public transit for individuals who do not want to compete with other riders for a cab or coordinate with a dispatch office of a taxi service. Uber also has helped to increase traffic to small businesses.



For example, the company reports almost 30% of rides start or end at a local business in Hoboken, New Jersey. The image above illustrates that a significant amount of these businesses are not close to existing public transportation routes. In these cases, Uber can significantly increase consumer convenience by providing an additional form of transportation to access these locations.

Positive Social Impacts:

Uber's social impacts extend into driver and rider-environments. For drivers, competition amongst one another decreases because the mobile application allows them to arrive at locations with pre-determined riders. Drivers also have public profiles allowing customers to view their reviews and ratings from past customers. This increases transparency of drivers and makes them accountable for their performance. The drivers are also allowed to review customers and rate

them based on how respectful they were during the ride. While you can file a complaint against normal taxi service or driver, it is difficult to build accountability as a consumer and service provider.

The ridesharing service also improves the communities where they operate by reducing the need for individuals to own a car, thus decreasing a potential economic burden on citizens. With fewer vehicles on the road, Uber helps to reduce the amount of automobile pollution and positively impacts traffic. A decrease in car ownership also leads to a reduction in parking structures, which opens space in congested areas for economic development opportunities.

Additionally, Uber has taken a stance against driving under the influence and has actively campaigned their service as a safe option to get home. In Toronto, the company created a kiosk that allowed individuals to take a Breathalyzer test and, if they were too intoxicated to drive, an Uber was automatically dispatched to take them home for free. Uber also conducted a differences-in-differences study to examine its impact on reported DUIs in major cities. Using Seattle as the treatment city and San Francisco as the control, the company used police and crime data from each city and a fixed effect to account for time trends. The results indicated that upon Uber's introduction to a city, there was an associated 10% reduction in reported DUIs. If available in NYS, Uber could have a similar effect in cities like Rochester and Buffalo.

CONCERNS

Safety & Training:

In order to meet Uber's eligibility requirements, drivers must be at least twenty-one years old, own a car newer than the year 2000, and pass a background check. While these initial qualifications are similar to other taxi services, Uber does not require the same training

standards. NYS's requires that all drivers take a driving course from an approved taxi school and pass a defensive driving class. Furthermore, there has been some concern that Uber's background checks are inadequate. The San Francisco District Attorney, George Gascon, recently filed a suit alleging that Uber does not properly screen prospective drivers. As a result, the company did not flag the applications of 25 drivers with criminal records who collectively gave over one thousand rides in the San Francisco and Los Angeles areas. In order to increase the safety of Uber riders and drivers, NYS could include provisions in legislation requiring defensive driving certifications and stricter background checks.

Liability & Insurance Coverage:

The most debated issue state and local governments face when considering allowing Uber's entry into their areas is the liability and insurance coverage of drivers. The issue is complicated by the fact that drivers own their cars and are considered partners, not employees, of Uber. While all drivers are required to have personal car insurance, Uber provides a varying level of liability coverage depending on the stage of the driving process. California was forced to reevaluate their standards for TNCs after an Uber driver struck a family and killed a six-year-old girl in San Francisco. Uber denied responsibility because the driver did not have a passenger in the car with him at the time. The company ultimately settled with the family for an unknown amount and the driver was charged with misdemeanor vehicular manslaughter. TNCs in California now must provide insurance once the driver turns on the app and up to \$1 million in liability coverage. To address this issue, Assembly Bill A6090A and Senate Bill S4280A would require group insurance policies for TNCs and allow for the commissioner of motor vehicles to regulate the service.

Worker Representation and Classification:

Uber currently classifies its drivers as independent contractors and not as employees. As a result, drivers do not receive fringe benefits and cannot unionize. In California, Assemblywoman Lorena Sanchez has introduced legislation to allow employees in the gig economy to collectively bargain for their pay and benefits. However, the bill has received resistance from the California Chamber of Commerce, the tech industry, and even some Teamsters. In addition, Uber recently settled class-action lawsuits in California and Massachusetts that forced the company to pay up to \$100 million to 385 thousand drivers. The driver's payout was determined by their years of service and the amount of miles driven for the company. Drivers can now solicit tips and will receive warning before termination. The company also set up a process to manage future driver pay disputes. However, Uber can maintain its current business model and continue to classify its drivers as independent contractors. As a result, the debate over Uber driver's representation and classification will likely continue into the future.

Consumer Privacy and Data Integrity:

Uber has access to an abundance of sensitive information, such as geolocation and credit card data. There have been concerns, particularly amongst journalists, high-ranking executives, and public officials, about Uber's ability to ensure consumer privacy. As with any technology service, there is some level of risk with providing a company with personal information and, once provided, users need to be aware of any stipulations in the company's terms and agreements. Uber has prioritized consumer privacy by recently increasing their data protection team, reevaluating their privacy program, and publishing a new terms of agreement for consumers in an easier to read format and in twenty-three different languages.

CONCLUSION

Although Uber and other TNCs operate throughout a vast majority of states and major cities, including NYC, the service is not allowed in the rest of NYS. In areas where Uber provides services, there have been increased job opportunities, greater economic development, and more efficient transportation. While there are relevant concerns about the company's introduction to NYS, these can be appropriately addressed in legislation regulating aspects of the company's operation. As such, allowing Uber to move into Upstate New York would be an innovative measure that would assist with the region's resurgence.

REFERENCES

- Ackerman, Sarabeth. "More Upstate Mayors Pushing for Uber Expansion." *Cnycentral.com*. 22 Apr. 2016.
- "Ex-Uber Driver Charged with Manslaughter in Death of 6-year-Old." *Time*. 9 Dec. 2014.
- "How to Become a New York Taxi Driver." *Driver.com*. 23 Aug. 2010.
- Krueger, Alan B., and Jonathan V. Hall. "An Analysis of the Labor Market for Uber's Driver-Partners in the United States." *Dataspace*. 22 Jan. 2015.
- Liam, Dillon. "Bill to Give 'Gig Economy' Workers Collective Bargaining Rights Is Done for the Year." *LA Times*. 29 Apr. 2016.
- Lien, Tracey. "Lyft Defies Predictions by Continuing to Grow as a Rival to Uber." *LA Times*. 5 Jan. 2016.
- Masunaga, Samantha. "What You Need to Know about the Uber Settlement." *LA Times*. 22 Apr. 2016.
- Nelson, Laura J. "Prosecutors: Uber Background Checks Missed Drivers' Criminal Records." *LA Times*. 19 August 2015.
- "New York State Assembly Bill A6090." *New York Assembly*. 2015.
- "New York State Senate Bill S4280A." *NY State Senate*. 2015.
- "On the Road with the Uber Jobs Tour: Binghamton" Uber Newsroom. 25 Nov. 2015.
- Rogers, Brishen. "The Social Costs of Uber." *The University of Chicago Law Review*. 2015.
- Thompson, Derek. "The Uber Economy." *Atlantic* 23 Jan. 2015.
- "UberDATA: Uber's Economic Impact on the City of Chicago." *Illinois*. 12 Mar. 2014.
- Warner, Gene. "Cheap, Easy Rides vs. Safety Drive Uber Debate." *The Buffalo News*. 16 Jan. 2016.
- Wholsen, Marcus. "Why Uber's Fate Could Hinge on this Traffic Accident." *Wired*. 29 Jan. 2014.