

May 18, 2015

Taxi and Limousine Commission
Office of Legal Affairs
33 Beaver Street – 19th Floor
New York, New York 10004
Via e-mail to tlcrules@tlc.nyc.gov

Re: Privacy Implications of Broad Data Collection by FHV Dispatch Applications

Dear Commissioners,

We write to address the privacy implications of the Taxi and Limousine Commission's (TLC) proposed rule change covering mobile applications that dispatch third party For-Hire Vehicles (FHV). Several provisions in the proposed rules present significant privacy issues, particularly with respect to the collection and transmission of E-Dispatch request data.

According to the proposed rules, FHV Dispatch Applications must be capable of automatically collecting and transmitting certain E-dispatch request data in a format, layout, and frequencies to be prescribed by TLC. Some of the specific data captured includes the date, time, and location of the request, which would be collected even in the event that the passenger later cancelled the trip.¹ The proposed rules provide no guidance with regard to when and how such transmission would occur, suggesting this data could be requested at the sole discretion of TLC.

We understand that the Commission intends to gather dispatch information in order to improve transportation services across New York City. Increasingly, technology facilitates the collection of a wide range of sensitive travel information about city residents. We understand that TLC's overarching goal is to optimize traffic flows, improve the environment, and advance safety.² However, there is a need to recognize the privacy and security concerns that are implicated when a regulatory agency collects vast quantities of sensitive data that details the day-to-day activities, lifestyles, and habits of millions of individuals. This governmental collection program raises significant privacy issues under both the federal Fourth Amendment and article I, § 12 of the New York State Constitution.³

When government is the custodian of this information, clear rules must be established to address potential access to the data by other agencies and law enforcement. Moreover,

¹ §77-20 (b).

² See Kelsey Finch & Omer Tene, *Welcome to the Metropticon: Protecting Privacy in the Hyperconnected Town*, 41 Fordham Urb. L.J. 1581, 85-86 (2014).

³ E.g., *People v. Weaver*, 909 N.E.2d 1195 (N.Y. 2009).

protections must be in place both to secure and to protect the data. In this case, it is unclear based on the proposed rules how data about private trip requests would or could be shared among city departments. Law enforcement access in particular could raise serious Fourth Amendment concerns. Data collected by the TLC can be subject to New York's Freedom of Information Law, creating a high risk that private information will be made public and widely available.⁴ Several news reports have previously demonstrated how even anonymized data can be "reverse engineered" to reveal passenger names and trip pick up and drop location information.

While we understand the Commission's need to regulate FHV's in New York City and recognize that mobile applications and technology are increasingly mediating these services, it is important that TLC carefully consider and address the serious privacy challenges presented by this proposal. We urge the Commission not to take action on these rules before they have the opportunity to engage in a more in-depth consultative process with privacy experts, organizations and the public in order to determine how to achieve TLC's goals to guide FHV apps without unnecessarily placing passengers' privacy at risk.

Sincerely,



⁴ Chris Whong, *FOILing NYC's Taxi Trip Data* (Mar. 18, 2014), http://chriswhong.com/open-data/foil_nyc_taxi/