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New York City Taxi & Limousine Commission  
33 Beaver Street  
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To the Members of the Taxi and Limousine Commission:

I write to urge the Commission to revise its proposed rule requiring formal approval, in writing, from a livery or black car base before the driver of an affiliated vehicle is allowed to accept a dispatch from a rival base (the “Proposed Rule”).<sup>1</sup> Despite its worthy aims, I believe that the Proposed Rule would needlessly restrict competition in the for-hire vehicle industry.

This letter seeks to elaborate on concerns my office first raised with Commission staff last week. I understand that the Commission may now be considering withdrawing part of the Proposed Rule, as applied to black cars. For the reasons expressed below, this change is essential—and should extend to liveries as well.

Earlier this year, the Commission, the State’s Department of Financial Services, and my office worked collaboratively to promote fair competition in the for-hire vehicle industry. We ensured that a high-tech startup, Lyft, would comply with the same longstanding safety requirements and consumer protections that apply to existing car services. In doing so, we sent the message that all competitors had to follow the same rules of the road.

But fair competition also means avoiding undue barriers to entry and unnecessary restrictions on operation. Shortsighted regulations can become inadvertent roadblocks that may result in worse service, less consumer choice, and higher costs.

Recent technological advances have enabled for-hire drivers—who often operate as independent contractors—to accept dispatches from multiple bases. By reducing downtime between trips, this development can increase driver efficiency and reduce passenger waiting times. It can also ease traffic and cut down on environmental pollution from idling and circling cars. From a

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<sup>1</sup> This letter expresses no view on the Commission’s proposal to prohibit cross-class dispatches.

competitive standpoint, these advances may lower the costs of entry for new for-hire vehicle services and encourage existing services to compete more effectively for both drivers and passengers.

The Proposed Rule could forestall these changes. The rule would tie drivers of affiliated vehicles to a single base, requiring each base to agree in writing before drivers may accept dispatches from a rival base. Requiring agreements between competitors raises serious antitrust issues. Ultimately, the proposed rule is likely to lead to market consolidation around a small number of the best-capitalized and most well-known services, whether large existing firms or well-financed newcomers. This market concentration will hurt consumers, who can expect fares to increase and service to decline. If this anticompetitive outcome followed from collusion in the industry, it would be illegal. It is no less disturbing as a product of regulatory action.

In drafting the Proposed Rule, the Commission outlined several worthwhile objectives, all of which can be accomplished through other means. I agree, for example, that there must be a mechanism for quickly investigating and assigning fault after an incident involving a for-hire vehicle. Likewise, it is vital that the workers' compensation system adequately covers drivers who receive dispatches from more than one base. Neither objective, however, necessitates the unintended anticompetitive consequences of the Proposed Rule.<sup>2</sup>

Public agencies must set out and enforce rules of fair play to ensure a level playing field for all. But consumers, not regulators, should pick winners and losers in the marketplace. In this spirit, I urge the Commission to reject the Proposed Rule and ensure that any revision promotes free and open competition.

Please feel free to contact me or to reach out to Simon Brandler in my office (212-416-6544) with any questions or concerns.

Sincerely,



Eric T. Schneiderman

cc: Simon Brandler, Esq.

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<sup>2</sup> For example, one alternative approach would be to allow drivers to formally affiliate with multiple bases, provided that each base is a member of the same worker's compensation scheme (e.g., the Black Car Fund). This would avoid gaps in coverage. It would also ensure that the Commission has a record of which companies are affiliated with which vehicles, allowing the agency to effectively follow-up after a crash or consumer complaint.