



Office of Policy Planning
Bureau of Competition
Bureau of Consumer Protection
Bureau of Economics

April 19, 2013

The Honorable Debbie Ossiander
Assembly Member, Seat A
Municipality of Anchorage
P.O. Box 670772
Chugiak, AK 99567

Re: AO NO. 2013–36

Dear Assembly Member Ossiander:

The staffs of the Federal Trade Commission’s Office of Policy Planning, Bureau of Competition, Bureau of Consumer Protection, and Bureau of Economics¹ appreciate this opportunity to respond to your request for our views on AO NO. 2013–36 (“the proposed ordinance”). According to the Assembly Memorandum for the proposed ordinance, it is intended as a comprehensive rewrite of AMC Chapters 11.10—11.40 regulating the licensing and permitting of taxicabs, limousines, other vehicles for hire, chauffeurs, and dispatch services. The proposed ordinance would allow for additional entry into taxicab services through 2022, after which there would apparently be no limits on the number of taxicabs that could operate in Anchorage. Because new entry and competition may generate consumer benefits and are unlikely to harm consumers or competition, staff strongly supports eliminating restrictions on the number of vehicles that may provide taxicab service by 2022, or sooner if practical. (Staff also supports removal of the

I. Interest and Experience of the Federal Trade Commission

The FTC is an independent federal agency that enforces laws prohibiting unfair methods of competition and unfair and deceptive acts or practices in or affecting commerce.² The Commission has wide-ranging responsibilities concerning nearly all segments of the economy. Pursuant to this responsibility, the Commission seeks to identify business practices and regulations that impede competition without offering countervailing benefits to consumers, and advocates for policies that promote competition and consumer protection.³

Competition and consumer protection enforcement naturally complement and mutually reinforce each other, to the benefit of consumers. Consumers benefit from market competition, which pressures producers to be innovative and responsive to consumer preferences with respect to price, quality, and other product and service characteristics.⁴ At the same time, consumer protections promote informed consumer decision-making by prohibiting firms from engaging in unfair and deceptive acts or practices, and requiring sellers to make truthful and non-deceptive representations about their offerings. In general, competition should only be restricted when necessary to achieve some countervailing procompetitive purpose or other public benefit such as protecting the public from significant harm.

In carrying out its mission, the Commission has developed considerable expertise in analyzing issues relating to passenger vehicle transportation services. FTC staff previously has submitted a number of advocacy filings related to taxicabs with various local and state authorities, including previous comments regarding taxicab regulation in Anchorage and the State of Alaska.⁵ Staff has also recently provided comments regarding the regulation of new applications for obtaining passenger vehicle transportation services in Colorado.⁶ In addition, the FTC has brought enforcement actions against two cities relating to taxicab regulation.⁷ Another major contribution in this area is an FTC staff report on taxi regulation.⁸

through traditional service dispatchers.¹² For example, some applications use the Global Positioning System (“GPS”) technology incorporated into smartphones to enable consumers to locate nearby vehicles and track their arrival on an electronic map, thus facilitating matching between customers and service.¹³ Some applications also utilize the GPS and computing capabilities of smartphones to enable new fare calculation methods based on one or more factors, such as distance, time, per trip fees, demand, additional services, or gratuities, which the application can then charge to a credit card.¹⁴ These technologies and methods may be more responsive to consumer demand and may promote a more efficient allocation of resources (e.g., vehicles and drivers) to consumers. They may also raise novel consumer protection issues, for example, relating to consumers’ understanding of price information communicated via an application and the privacy of information collected.

Although some jurisdictions have embraced incremental reforms to expand competition within the traditional framework, others have responded to these broader changes in the industry with more expansive reforms. In some cases, the reforms have sought to facilitate the entry and expansion of new services. In other cases, policies have been proposed to impede the growth of these new services.¹⁵ Below, FTC staff offers its views on Anchorage’s proposed new ordinance, as well as some recommendations for possible additional, future steps towards modernization of its regulations.

III. The Proposed Ordinance

A. Regulatory Changes that Facilitate Entry May Generate Consumer Benefits and Are Unlikely to Harm Consumers or Competition

The proposed ordinance responds to perceived current and projected future shortages of taxicab services. It would add a limited number of new general taxicab permits, add a process for issuing new limited and special needs taxicab permits, and phase out the transferability of current taxicab permits.¹⁶ It is our understanding that Anchorage currently has 173 valid taxi permits, of which 158 are transferable.¹⁷ Anchorage stopped issuing transferrable permits in 1994; since that time fifteen non-transferrable permits have been issued, with the last being issued in 2009.¹⁸ The most recent sales of transferable permits were each made for \$155,000 in January 2013 and in

As FTC staff indicated in previous comments regard

IV. A Regulatory Framework Should be Responsive to New Methods of Competition, While Maintaining Appropriate, Reasonably Tailored Consumer Protections

As already noted above, today's passenger vehicle transportation industry is in a

Respectfully submitted,

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¹⁰ *Id.* at 200 (“As of 2007, the general description of the taxicab industry and taxicab regulation in the United States remains much as it was when Frankena and Pautler described it in 1984. That is, nothing dramatic has happened to alter the U.S. industry in the interim.”).

¹¹ *See generally* Lauren Goode, *Worth It? An App to Get a Cab*, WALL STREET J. (June 17, 2011), available at <http://blogs.wsj.com/digits/2011/06/17/worth-it-an-app-to-get-a-cab/>.

¹² *See generally id.*

¹³ *See generally id.*

¹⁴ *See generally* Brian X. Chen, *Uber, an App That Summons a Car, Plans a Cheaper Service Using Hybrids*, N.Y. TIMES, July 1, 2012, available at <http://www.nytimes.com> (discussing charging by time, distance, consumer demand, and gratuities); Michael B. Farrell, *Taxi app Hailo to expand service*, BOSTON GLOBE (July 1, 2012), available at <http://www.boston.com> (discussing charging by time, distance, consumer demand, and gratuities).

study found that immediately after regulation, the fare for an average trip increased by 35%. Using a longer time frame, another study found that by 1984 these changes may have led to a 5% net reduction in fares, as radio-dispatch fares fell and taxicab stand fares rose. A third study found no net change in fares. Staff Report at 125-31; OECD at 202 (both summarizing the experience of Seattle after deregulation). Other studies have questioned whether regulated fares were, in fact, held artificially low prior to deregulation, as compared to general rates of price inflation. Craig Leisy, *Taxicab Deregulation and Reregulation in Seattle: Lessons Learned* 5 (2001).

²⁸ Staff Report, *supra* note 8, at 116-20, 156. *See also generally* Office of Fair Trading, *The Regulation of Licensed Taxi and PHV Services in the UK* (2003), available at http://www.of.gov.uk/shared_of/reports/comp_policy/oft676.pdf. The report finds, among other things, that quantity controls on taxicab service result in: fewer taxis per capita; longer wait times for service; and the use of less suitable alternative transportation by consumers. Therefore, the report recommends that such quantity controls be removed. *Id.* at 2-6, 23-44.

²⁹ *See generally* Staff Report, *supra* note 8, at 102-03.

³⁰ *Id.* at 68, 74-79, 105-11. Typically, the operator of a taxicab service, as an overall business, is distinct from an individual taxicab

Commission and Uber Technologies, Inc. Re Case PSG-3018, Citation F-5195 (Jan. 2013)
(available via the California Public Utilities Commission).

⁴⁶ For example, under the Washington, D.C. Public Vehicle-for-Hire Innovation Amendment Act of 2012, *supra* note 44, (amending D.C. Official Code § 50-329.02), “A digital dispatch service shall be exempt from regulation by the [District of Columbia Taxicab] Commission, other than rules and regulations that are necessary for the safety of customers and drivers or consumer protection.”