
¹ Under §1504(b) “The Commission may accept comments from the public concerning any proceeding, which shall be included in the record.” 4 C.C.R. 723-1 § 1504(b).

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without offering countervailing benefits to consumers.⁴ In carrying out this mission, the Commission has developed considerable expertise in analyzing

⁴ Specific statutory authority for the FTC's competition advocacy program is found in Sections 6(a) and (f) of the FTC Act, under which Congress authorized the FTC "[t]o gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person, partnership, or corporation engaged in or whose business affects commerce," and "[t]o make public from time to time such portions of the information obtained by it hereunder as are in the public interest. . . ." 15 U.S.C. § 46(a), (f).

⁵ *E.g.*, FTC Staff Comments to the Hon. Geanne Faatz Concerning Colorado H.B. 1165 to Reform the Regulation of Taxicab Service (Feb. 7, 1985).

⁶ The FTC sued the cities of New Orleans and Minneapolis in 1984, charging both cities with unfair competition by combining with taxicab operators to impose regulations that limited the number of taxicab licenses, increased fares, and eliminated competition in violation of the federal antitrust laws. The complaint against Minneapolis was withdrawn after the city revised its ordinance to permit more competition. The complaint against New Orleans also was withdrawn after the state authorized the conduct in question by a new law. *See generally* FTC, 1985 ANNUAL REPORT 5 (1985), available at <http://www.ftc.gov/os/annualreports/ar1985.pdf>.

⁷ MARK W. FRANKENA & PAUL A. PAUTLER, AN ECONOMIC ANALYSIS OF TAXICAB REGULATION (1984) (FTC Bureau of Economics Staff Report), available at <http://www.ftc.gov/be/econrpt/233832.pdf> ("Staff Report").

⁸ OECD, Directorate for Financial and Enterprise Affairs, Competition Committee Working Party No. 2 on Competition and Regulation, Taxi Services and Competition – United States 2 (Oct. 15, 2007), available at <http://www.ftc.gov/bc/international/docs/ustaxis.pdf> ("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.").

authority from the CPUC to operate as a taxicab carrier service between all points within a twenty (20) mile radius of 16th and Champa Streets in Denver, Colorado and from said points, on the one hand to all points in the State of Colorado, on the other hand. This proposed geographic area includes Denver International Airport, among other areas.⁹ According to the application, it is restricted as follows: (1) to the use of vehicles with a seating capacity of seven (7) passengers or less, not including the driver and (2) to the use of a maximum of two-hundred sixty-two (262) cabs.¹⁰

It is also our understanding that Colorado House Bill 08-1227 became effective on July 1, 2008 and, thus, amended Colorado Revised Statutes § 40-10-105, concerning rules for issuance of certificates of public convenience and necessity to a motor vehicle

⁹ Application of Union Taxi Cooperative 1 (Docket No. 08A-241CP).

¹⁰ *Id.* at 2.

¹¹ H.B. 08-1227, 66th Gen. Assemb. (Colo. 2008).

¹² C.R.S. § 40-10-105(2)(b)(II)(A).

¹³ *Id.* at § 40-10-105(2)(b)(II)(B).

¹⁴ See, e.g., *Nat'l Soc'y of Prof'l Eng'rs v. United States*, 435 U.S. 679, 689 (1978); *Goldfarb v. Virginia State Bar*, 421 U.S. 773, 787 (1975); see also *United States v. Am. Bar Ass'n*, 934 F. Supp. 435 (D.D.C. 1996), *modified*, 135 F. Supp. 2d 28 (D.D.C. 2001).

¹⁵ *Prof'l Eng'rs*, U.S. at 695 (emphasis added); accord, *FTC v. Superior Court Trial Lawyers Ass'n*, 493 U.S. 411, 423 (1990).

¹⁶ See generally Staff Report, *supra* note 7, at 112-56; OECD, *supra* note 8, at 4-7.

¹⁷ See generally Staff Report, *supra* note 7, at 115-16, 156; OECD, *supra* note 8, at 4-7. Price declines of as much as 20% were reported in the 1990s in major New Zealand cities due to the deregulation of entry. *Id.* at 6 n.20. Indianapolis, Indiana deregulated taxicabs in 1994 and allowed jitney (transportation services for individuals along a semi-fixed route) and minivan operation. According to the city, new entrants cut fares by 7-10%. Others have questioned the overall, long

Furthermore, some cities have reported that service has improved, for example, through reductions in vehicle age, increases in fleet maintenance

¹⁷(...continued)

generally set through a tariff application filed by a taxicab operator and approved by the CPUC, and that these rates may change from time to time, subject to the approval of the CPUC. 4 C.C.R. 723-6 § 6207. However, a flat-rate schedule for service to and from Denver International Airport, on the one hand, and the Downtown Denver area, the Denver Tech Center, and the City of Boulder, on the other hand, is established by 4 C.C.R. 723-6 § 6256.

¹⁸ Staff Report, *supra* note 7, 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.offt.gov.uk/shared_offt/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.

¹⁹ *See generally* Staff Report, *supra* note 7, at 102-03.

²⁰ Typically, the operator of a taxicab service, as an overall business, is distinct from an individual taxicab driver (“cabbie”) who physically transports passengers via automobile. *Compare* Application of Union Taxi Cooperative, *supra* note 9, at 6-7 (describing a cooperative owner-driver business plan).

²¹ Staff Report, *supra* note 7, at 68, 74-79, 105-11.

²² *Id.* at 106-07 (collecting taxicab license values in various cities); OECD, *supra* note 8, at 10-12 (appendix collecting taxicab license values in various cities).

²³ Certain authors, however, have argued that these substantial license values serve as a deterrent mechanism that ensures good behavior by cab drivers who fear the loss of the license in the event of inappropriate behavior. Staff Report, *supra* note 7, at 71-72; OECD, *supra* note 8, at 3.

²⁴ Staff Report, *supra* note 7, at 1, 50-51, 123-24, 156; OECD, *supra* note 8, at 2; Leisy, *supra* note 17, at 6. It appears in some cases that first-in first-out taxicab queues have inhibited price competition, that drivers sometimes bickered over their places in line as queues of waiting cabs lengthened, and drivers also sometimes refused service to passengers wanting only a short trip.

²⁵ Staff Report, *supra* note 7, at 1, 50-51, 123-24, 156; OECD, *supra* note 8, at 6-7.

²⁶ Staff Report, *supra* note 7, at 38-43, 121. Concerns about congestion may be more real in very dense urban areas such as Manhattan, New York or Singapore

do not provide an argument that new entry will harm consumers or competition, generally. We hope you will find these comments useful. FTC staff is pleased to have this opportunity to express these views and would be happy to address any questions you may have regarding competition policy in this area.

Respectfully submitted,

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