

Taxi and Limousine Commission Meeting  
April 2, 2015

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TRANSCRIPT OF THE  
NEW YORK CITY  
TAXI & LIMOUSINE COMMISSION  
TRANSCRIPT OF PROCEEDINGS

Thursday, April 2, 2015  
33 Beaver Street  
COMMISSION HEARING ROOM, 19TH FLOOR  
BOROUGH OF MANHATTAN  
10:36 a.m.

Reported by:  
Jennifer Cassella

STENO-KATH REPORTING SERVICES, LTD.  
139 MAMARONECK AVENUE  
MAMARONECK, NEW YORK 10543  
212.95.DEPOS (953.3767)\* 914.381.2061  
FACSIMILE: 914.722.0816  
E-MAIL: Stenokath@verizon.net

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HEARING CONVENED AT 10:36 a.m.

PRESENT:

Meera Joshi, Chair

LaShann DeArcy, Commissioner

Jacques Jiha, Commissioner

Charles Furrey

Jeffrey Roth

Rodney Stiles

ALSO PRESENT:

Chris Wilson, General Counsel

Christopher Tormey, Director of Applicant Licensing

Staff

The Press

The Public

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THE CHAIR: Good morning. The time is 10:36 and we're going to have this morning our biannual fare and lease cap hearing pursuant to rule 52-04(b). So we don't have any proposals before -- for the public to review or comment on, so this is an open hearing. We did send out a notice with some questions, so to the extent your comments can address those questions that would be particularly helpful.

And we will begin with Peter Mazer, MTBOT.

MR. MAZER: There are two documents there. There's a booklet which is our entire analysis and then there's also a copy of my testimony.

Good morning, Chairperson Joshi and Members of the Commission and staff. My name is Peter Mazer and I'm General Counsel to the Metropolitan Taxicab Board of Trade. I have today submitted extensive written comment which is in that binder that I've given to you, which I would like to supplement with this brief public

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testimony.

This morning I would like to make a few key points. The TLC first approved the leasing of taxicabs in 1979, but it did not regulate lease rates until 1996. Now, a few factors have taken place since the lease caps were first introduced in 1996. Since that time, the consumer price index has risen by about 50 percent, taxicab fares have risen by about 35 percent and maximum lease rates for shift drivers have gone up about eight percent. And I have a chart here, which I'll show to the audience and also is part of that booklet, which shows a trend line between the consumer price index since 1996 and lease prices, and that's also in your -- in this book.

The TLC last held a public hearing -- oh, and this chart here by the way, also shows the index of taxicab fares to the consumer price index from 1996 to the present and it shows a closer correlation between taxicab fares and the consumer price index.

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When the TLC last held a lease cap hearing in 2012, the average price of gasoline was \$3.90. Today it's about 2.50 a gallon, and we have a chart here tracking gasoline prices from 2003 to the present with a solid line showing monthly averages, also a 12-month moving average in a dotted line which shows the trending downward. And what it shows, particularly in recent months, is that the price of gasoline is very volatile. And what we have experienced with the price of gasoline is when the Commission looked at doing gasoline surcharge in leasing rates a few years ago, they did an analysis where you would be reviewing gasoline prices every six months. If we did that today, the analysis wouldn't make a whole lot of sense. Gasoline prices six months ago have no bearing to what they are today.

So a couple of takeaways with this: Lease prices have remained constant over the last nine years, ten years, perhaps even declined because not every garage

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today is charging maximum lease rates. Gasoline prices have fallen so drivers expenses over a period of time have actually declined. Overall fare revenue, according to TLC data since -- between 2013 and 2014 declined about four percent, and this was made up of two components, a bigger decline in the number of trips and a rise in the average fare per trip. There are fewer cars, fewer trips and revenue down slightly because the actual cost per trip has gone up.

And one of the problems that we have now is a very large number of lost shifts in our fleets. Many of our fleets are reporting 25 to 30 percent lost shifts, meaning that they just simply cannot find drivers to fill their cars. And we've tracked -- I'll put this chart up here -- showing lost shifts by month in blue is 2014, green is the first two months of 2015, and a trend line tracking the average. It shows that when we looked at the -- the last time we looked at lease

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caps and fare back in 2012, we found that the average fleet was losing about seven percent of its shifts. If we were losing seven percent of our shifts we would be down here. Last year in the best month, March, the average was closer to ten percent, by the summer it was peaking around 20, declined slightly in the fall and then it shot up to the 25 to 30 percent range since the final quarter of 2014 and the first quarter of 2015. And what we're finding and in terms of overall revenue is a bigger decline in fleet revenue, perhaps as much as 30 percent because it's a combination of the lost shifts as well as discounting of lease prices.

The DOVs are finding the same problem too. DOV operators basically work in an operation where the operator leases the medallion and the car is owned by a driver who then goes out and find second and third drivers to help offset some of the cost and they're finding that they can't get second and third drivers either.

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They're burdened with these additional costs too, vehicle purchase, vehicle maintenance cost, and a lot of DOVs have been reporting that the leases are being canceled and the cars are being turned back to the agent before the end of the shift.

What does that translate into in terms of numbers? When we looked at a operation of a fleet, the TLC did some numbers back in 2012 which were part of a presentation that the Commission gave back in July of 2012, it showed that the average income on a cab figuring it out with the lease prices and allowing for the expected lost shifts at the time was around \$76,000. Using today's numbers, what we see with actual prices, actual lost shifts, the number is down about \$23,000 per car per year for fleets, and the DOVs are finding exactly the same problem. In every segment of the industry, cars are sitting idle and they're not serving the public. Large numbers of cars are just not there.

Expenses are up in a lot of major

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categories and I'll get to that in a minute. But is it caused by a shortage of drivers? So we looked at tracking how many drivers are licensed by the TLC and this chart, which I'll show to the audience here, shows a direct steady increase in the number of licensed drivers. The last time I checked, we had 52,405 people holding current hack licenses, factoring out the number of people who had their licenses on temporary suspension because of DMV issues, we had 52,070 drivers that were licensed to drive. It's an increase of six percent in a year, it's an increase of about nine percent since the last time we did a public hearing.

So if there are more drivers and driver income hasn't taken a tremendous hit and driver expenses are down, why are there no drivers driving these cabs? And to answer that question which I think is the key question that we want to address in today's testimony, we have to look at the segments of the industry that are growing

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and what are they doing that's different.  
And I'll take you to one location,  
Jackson Avenue in Queens is a location, a  
building that houses five black car bases.  
It has 14,000 affiliated vehicles and  
drivers. What do they do that's a little  
different than the taxi industry? How do  
they set their fares? Their fares are not  
regulated and indeed they pride themselves  
on the fact that they raise fares  
exponentially in times of inclement  
weather, special events or emergencies.

Can I have about three more minutes?

Their relationship between the  
driver and the owner is not regulated.  
Drivers can be charged anything. There's  
no requirement that they even have a  
written lease. Drivers can be discharged  
at the whim of the base. In fact, these  
bases aren't even real bases. They're  
simply fronts for a computer program that  
sets fares and dispatches cars, flooding  
the market with vehicles so that response  
times are virtually instantaneous. But

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what they do offer that the yellow industry cannot offer is flexibility, the freedom of a driver to work when he or she wants.

Existing leasing rules in the yellow industry accomplish certain things that are of vital importance. They promote transparency. A driver should know in advance when he or she is to be charged to lease a cab. All the fees are laid out. Contracts and receipts must be written. A driver can complain if there's a discriminatory practice. There are limitations on charges that an owner can impose for accidents, repairs or owners tickets. There are consumer protection provisions that serve a purpose and generally these should be retained, although we can take a look at each one of them and see if they still make good business sense.

But the 12-hour shift that's built into the regulations is an anachronism that neither drivers nor owners want or benefit from. Drivers want the flexibility to work

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when they want, not the hours that suit the garages or suit the regulations of the TLC. Regulated lease rates prevent drivers from receiving the benefits of lower charges for certain periods so its owners cannot offset these reductions by charging a market price in more lucrative periods. By offering leases other than the standard 12-hour or weekly lease, the needs of the drivers can be better met. Drivers should be able to work the hours they want which may or may not be a standard 12-hour shift and pay a fair lease price which reflects the earning ability during those hours. Rates should be posted, they can be filed with the TLC, they can be made known to the drivers in advance and then drivers will make the decision to when they want to work and for whom they want to work. There should be no restrictions on business relationships between owners and drivers as long as they're transparent and non-discriminatory. These parties can better meet their respective needs than the regulator.

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I want to also address briefly, and it's not in the comments here but it's in the more detailed version, a look at income and expenses over the last three years. The last time that the TLC held a public hearing, after the testimony, the TLC put out these two columns in a chart which was part of a public presentation in July of 2012, estimating revenue per taxicab to be 77,750 with expenses of 29,000 and we had said about 39,000, with a net operating income of somewhere between \$36,000 and \$48,000, which are based on the price of the medallion at the time. It was a return of investment about three and a half percent.

Using today's figures, we looked at total revenue downward of about 53,000 -- \$57,000 per cab. Expenses, liability insurance up a little bit, workers; comp up a lot, the vehicle purchase price up tremendously because the taxi of tomorrow carries a sticker price of about \$29,700. We found that the vehicle

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maintenance and fleet operations costs around about \$14,000 per cab, leaving a net operating result of about \$16,000. Now, that may sound like well, that's nice, that's a nice profit, but that's not a profit at all.

THE CHAIR: Mr. Mazer, just in light of the fact there's several other speakers after you, if you could wrap up. Thank you.

MR. MAZER: Of course. I'm going to end in one or two more comments.

All I want to say on this point which finally is that with respect to return of investment, with the price of the medallion down, with the price of the medallion so volatile and so few transactions, and I have another chart that's in the book, showing that there are basically no transactions in the medallion industry which means that it becomes increasingly difficult to determine the price of the medallion, the rate of return which is required by the Charter to be

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considered. We don't even know what a fair rate of return is right now but we know that something has to give. The point that I want to make is that there's a decline in drivers. What we're doing now, the 12-hour shift with the fixed lease periods just doesn't seem to be working and what we have to come up with is a new way of looking at this with some reconsideration of the entire process.

I just want to make one final point if I may, which is -- I haven't addressed the subject of fares. Surge pricing is prevalent in this industry. Peak and off-peak pricing is prevalent in the transportation industry across the board. If you take a Metro-North or a Long Island Railroad train, you may more in rush hours than you'd pay in other times. Right now in the taxicab industry there is a small surcharge. What we're suggesting is that we look at the ability of this industry to tailor prices in a way that supply can meet demand and that we can look at a pricing

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structure that will allow for premium pricing during peak periods of time, especially times when there is a shortage of taxicabs, that we can equalize the balance between drivers and passengers through the use of some premium pricing. It will also incentivize drivers to work in this industry.

And that's pretty much everything that I would like to say at this time. A lot of additional material that I haven't talked about is in the book and if you have any questions I'll be happy to answer them.

THE CHAIR: Thank you very much.

Any questions?

COMM. JIHA: Quick question for you. I'm trying to see, I don't know if on page 21 of your report, I don't know if it's a typo or -- in terms of your expenses. I'm trying to -- it's \$29,000 for -- I can't get that number.

MR. MAZER: What number?

COMM. JIHA: On the TLC estimate 2012 at \$29,000.

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MR. MAZER: They added up liability insurance, workers' compensation, medallion licensing, vehicle purchase, vehicle maintenance. That figure came straight off the TLC's presentation which was made to this Commission on July 9th of 2012. That's not my numbers, that's the TLC's numbers that the TLC reported at that time. My numbers are in the left column which was what we estimated costs to be in 2012 and then the right column which was what we believe costs are today.

COMM. JIHA: For the surge pricing model that you discussed, can you tell me how would you see it working in the taxi industry?

MR. MAZER: One way it could work, when we use the TPEP we know exactly how many cabs are on the road at any given time. We can have a variable rate system, let's say say a rate one, rate two, rate three perhaps, and rate one being the stated rate of fare that's in effect right now, the drop in mileage and time. If the

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number of taxicabs drops below a certain level by checking TPEP records on real time data, let's say 14,000 cabs on the road and let's say we find that whenever the number of cabs drops below 5,000 that we'll go to rate two and rate two will impose an additional \$2 surcharge, something like that's. That's one way of doing it.

I mean, we haven't submitted a formal rate proposal, we haven't submitted a formal leasing proposal. What we've done here is simply we want to open the door for some dialogue because these are the ideas that we have and I think how we can flesh them out with some rules. I think everything can be fleshed out with rule making and that will, of course, require an ongoing process where the Commissioners and the industry would have to talk about that. But that's how I would envision something like that happening.

COMM. JIHA: If the objective is to attract more drivers, how would you envision sharing the benefits of that

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increase price?

MR. MAZER: Well, my takeaway from the analysis is that the drivers are not attracted to a particular industry solely because of revenue. I think revenue is important, but I don't -- drivers from my data, drivers do not seem to be making a lot less -- if they are making less money it's very slightly less and some may be even making more money than they were making three years ago hour for hour. The problem with the driver situation now is drivers are locked into certain fixed periods of time. Many of the garages, for example, you might lease a car from 5:00 p.m. until 5:00 a.m., a 12-hour shift, we pay for 12 hours. Now, the rules of the Commission dictate what the lease price is and dictate that the driver has to have the car for 12 hours. So I can't say to the driver, I'll give you the car for six hours. There's no rule provision that allows that. The driver says, well, I want it for 12, I'm entitled to 12 even if I

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want to sleep in the car for six hours or use it for personal work. We don't have the ability so say to the driver, well, we'll let you lease the car for six hours because that's what you really want to do.

A lot of our fleet owners that were around in this business years ago would tell me that they used to attract students, they used to attract part-time workers, they used to attract actors, they would attract even lawyers between big cases, people going to medical school, on and on and on driving cabs. You don't see that anymore because the flexibility isn't there. It used to be work when you want, that was the model of the taxicab industry. We don't really see that today. Drivers are attracted to this other business model I think in part because they see it as a more -- as the ability to work when they want. You can go out for the base on Jackson Avenue and work when they announce that they're going into surge pricing mode and you can get a lot of money so you can

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work four hours on a Friday night. And drivers have told me, why would I work for a fleet for 12 hours, I can make -- in three hours I can go work for that base and make the same amount of money and I don't have to work anymore.

So it's the flexibility. I'm not saying that we're going to compete that way in having triple and quadruple prices and price gauging, and not give service around the clock, but I think if we keep our mind open to the kind of flexibility that I'm talking about. I'm not saying anything about deregulating, I'm not saying that we should abolish the whole rules, go back to 1979 and do nothing and have whatever we want. I'm saying that I think a lot of the rules may be inhibiting the opportunity of individual drivers to do -- to have the flexibility and the owners to have the flexibility too to have service meet the needs of the people.

The biggest complaint we hear is that there are certain times you can't get

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cabs and then other times there's an oversupply of cabs. Can't we try to figure out a way to balance that, and that's all I'm saying, is let's open the door, let's talk about the different ways that we can really bring that into balance.

THE CHAIR: Any questions?

COMM. DEARCY: You'll have to forgive me because I haven't had an opportunity to digest all that you've submitted and I find your presentation to be helpful, but it's still new to me. But based on my cursory and reading of what your testimony is, it seems to me that much of what you've said regarding the lease caps is in fact dependent upon the fare surcharging in order for it to have the effect, the desired effect. Specifically, I don't see how absent the fare surcharge pricing that you've proposed that you will be able through the abolition of some of the lease cap rules, increase the demand that you are saying is creating much of the problems with respect to the lease.

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You're already discounting the lease -- some of the lease cap numbers, right, and that's a demand issue. And so unless you address the demand issue, then it doesn't seem that you address your problems and I'm not certain how you address the demand issue unless you address the fare issue. So it seems that they're built upon each other even though your testimony spends very little time discussing the lease fares. It all seems to me really dependent and built upon your ability to convince this Commission to allow surcharge pricing.

MR. MAZER: The way I would address that is, yes, you're looking, of course, at supply and demand and you can obviously increase the supply of drivers. If the sole motivation for a driver to come back into the taxicab industry is income, then of course only some sort of premium pricing during peak hours might have the affect of getting more cars on the road during those peak hours. I mean, we hear, like I said

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before, there's a lot of problems. We hear that we can't get cabs in rush hour, and maybe if there was a bigger surcharge more drivers would work in the rush hours and that's part of it. But I don't necessarily believe that they have to be interlock. I like them both, I would like to see both, but that doesn't mean that one is not contingent on the other.

Here is what I see on the other side: I still believe that a lot of drivers are persuaded from leasing in the taxicab industry because of the fixed shift requirement, the 12-hour shift and the shift times that are locked in. If a garage had the flexibility to perhaps have four six-hour shifts during the day, there are a lot of drivers who would find that attractive for the right price. Obviously we're not saying, well, we're going to get -- what we get now for a 12-hour shift we should get for a six-hour shift. But it doesn't mean that we should get half because if the shift now is from 5:00 p.m.

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to 5:00 a.m., we can't give the driver -- tell the driver only pay half as much and bring the car back at 11:00 at night and then we'd have nobody driving in the middle of the night and lose the revenue.

COMM. DEARCY: Forgive me, but isn't your example of the DOV model that you have in your testimony, if I understood your testimony correctly, that there is an issue in the DOV model of being able to have that second and third shift filled? Doesn't that somewhat undercut your testimony now that allowing these shorter shifts will increase the demand? It seems to me that there's a problem with the demand even when you have the ability to have shorter shifts, according to your testimony, not mine.

MR. MAZER: The DOV model -- the only down -- where I have to draw the line on that one is that the DOV model, they're subject to the same -- the leasing to a driver for a second or third shift is

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subject to the same rules and regulations a fleet is subject to. So there isn't a lot of flexibility. Everybody is subject to the same rules. Nobody can lease a cab to somebody else or sublease --

COMM. DEARCY: I'm sorry. I'm just trying to understand. I was getting some clarification.

MR. MAZER: That's O.K.

So what we're seeing is they're not getting again, the second and third drivers because the first driver will be taking up -- the first driver is the contract holder who will obviously take the best shifts and then look to sublease the car out lawfully to another driver, but probably not the most lucrative shifts. So it's kind of a little bit of a hybrid model, maybe it's not as fixed because they don't have a garage and they don't have their so-called shift change and have all of the same restrictions, but the fact that a driver can look at the other opportunities that a driver has.

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When we did this years ago, drivers drove yellow, they drove for a car service and there was nothing else. Now they have a lot of other opportunities. They can drive for green, they can lease a car -- drive in a street hail livery car and lease that out for a 24-hour period, and then you do street hails, you do radio calls, you do Uber or whatever else they do, they do it. And of course the black car and the model and the model that seems to be working in Long Island City, the drivers are attracted to that because they're told, you know, work when you want, use your car, you have your own car, you use it for private purposes, when you want to make extra money you put the sign in the window, you turn your app on and you make as much money as you want. If you made enough money go home, take the sign out of the window and do what you want. Even in the DOV model you don't have that.

COMM. DEARCY: So as this Commission considers your testimony, you do not want

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us to consider your proposed proposal regarding the fare surcharging or premium pricing as necessary to the proposals regarding the lease cap? In your mind while you advocate both of them, you do consider them to be separate?

MR. MAZER: They are separate, but I advocate for both.

COMM. DEARCY: No, I appreciate that.

MR. MAZER: And perhaps this Commission may decide that it wants to do something in the form of premium pricing and not adopt every piece of my proposal with respect to leasing, or you may adopt everything I say or you may adopt part of what I say, and it's a wide menu of -- well, I mean, we've thrown a lot out at the Commissioners today. I mean, a lot of it is stuff that you probably haven't heard from the industry in awhile. We usually come here and say we want X dollars in the fare increase and X dollars in the lease cap increase, and why am I going to

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do that? If I can't get the cars out on Sunday morning at \$100, why would I think I could get them out at \$110?

COMM. DEARCY: I just wanted to make sure I understood the ways in which you want this Commission to view your proposal.

MR. MAZER: The way I see the proposal, it's a comprehensive proposal that we think that everything that this Commission does and the way we regulate the taxicab industry from top to bottom and the Commissioners will be able to obviously work and in the course of deliberation we'll reach the conclusions that -- of what works and what doesn't work, and what might be done as a pilot program and what might be done as a permanent rule making and I think everything is on the table and we're open to all suggestions.

THE CHAIR: Thank you very much.

MR. WILSON: And the next speaker is Erhan Tuncel.

(No response.)

MR. WILSON: Mr. Tuncel isn't here.

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We'll call him again.

The next speaker is  
Kevin Fullington.

MR. FULLINGTON: Hello. I'm  
Kevin Fullington from the law firm of  
Herrick Feinstein, New York Counsel to  
Nissan North America.

Chair Joshi, Members of the  
Commission, thank you for the opportunity  
to provide testimony on the City's lease  
cap regulations.

As you know, the current system that  
allows certain hybrid taxi medallion owners  
to charge \$3 more per shift was put in  
place in 2009. At the time, hybrid taxis  
constituted a small portion of the fleet  
and the TLC was eager to find ways to  
incentivize the purchase of hybrids by  
medallion owners. Almost all of the  
reasons justifying this disparity in lease  
caps have been eliminated and we ask the  
TLC, regardless of the amount of the caps,  
to restore parity in the lease caps across  
vehicle types.

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The primary reason why a higher lease cap was needed in 2009 was because the average cost of a hybrid taxi was higher than that of an average cost of a non-hybrid taxi. As such, medallion owners, particularly those who lease out their medallions, have very little incentive to purchase a more expensive vehicle. In the very near future, the vast majority of medallion owners will have a choice between Nissan's taxi of tomorrow or a roomy hybrid vehicle. The current MSRP for the taxi of tomorrow is 29,700. The current MSRP for a qualifying roomy hybrid is \$3,000 less than the taxi of tomorrow. Owners who are looking for cost efficiency no longer need a financial incentive to purchase a hybrid vehicle.

Moreover, there are a number of unique elements to the taxi of tomorrow that will make it more cost-efficient to operate and further eliminate any rationale for different caps. Specifically, the taxi of tomorrow, one, comes with a 150,000 mile

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powertrain warranty, the only taxi to do so; two, it is a purpose built taxi, unlike any hybrid on the market, and is likely to see significantly less in maintenance costs over the life of the vehicle; and three, it has no battery pack that needs servicing or replacement while high mileage hybrids might need such costly servicing.

Additionally, the profile of the taxi fleet and its fuel efficiency has changed significantly since 2009. In 2009, the most common taxi was the Ford Crown Victoria. Its fuel efficiency rating was significantly lower than the taxi of tomorrow. The taxi of tomorrow currently is rated at 24 miles per gallon and is expected to improve in the coming model years. A more fuel efficient alternative to hybrids means less justification for a lease cap disparity promoting hybrids.

Lastly, it is important to note how the City's policy of expanding wheelchair accessible taxis interplays with the lease cap. Currently, there are no vehicles on

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the market that are hybrid and wheelchair accessible. As such, a rule providing a financial incentive to purchase hybrid vehicles directly discourages the expansion of wheelchair-accessible vehicles.

Six years ago, the taxi fleet was in need of an upgrade and the City's policy to address this issue was more hybrids. With the taxi of tomorrow's arrival, the deficiencies in the fleet have been addressed while still allowing every medallion owner the choice of a less expensive hybrid vehicle. Bringing parity to the lease cap regulations will continue this City on the path to a world-class taxi fleet and one that is accessible to all.

Thank you.

COMM. DEARCY: I have a question for you. Are you advocating for the Commission to increase the lease cap with respect to the non-hybrids or to eliminate the \$3 surcharge? Which one?

MR. FULLINGTON: We are agnostic about whether it is you increase the

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non-hybrid or decrease the hybrid, just as long as there is parity, we are supportive of that.

COMM. DEARCY: Okay. Thank you.

MR. WILSON: The next speaker is Asim Aktar from NYTWA.

(No response.)

MR. WILSON: The next speaker is Bill Lindauer from NYTWA.

MR. LINDAUER: I'm Bill Lindauer from the New York Taxi Workers Alliance. We represent the drivers.

Once again, I shed only crocodile tears for the Metropolitan Taxi Board of Trade. Maybe their income is down a little, but if you remember when we had the last fare hike hearing where we got an increase, according to TLC figures, the garages were making between \$2 million and \$9 million a year, and most of these -- most of this money was just for the leasing. Most of their medallions were bought by their fathers or grandfathers for \$10, \$100, and now they're up to a million.

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I know it's gone down a little bit since, but we didn't promise a bonanza every year. They're still making, if not a win for profit, a very, very handsome profit.

The only people who are not making a handsome profit or a decent income are the drivers. The fare revenue is down, ridership is down because of Uber and what have you, and, you know, the rents are sky high. I don't know where drivers are going to live after awhile. They make almost poverty level income. They have families. How do they support them when even in a place like Sunnyside where one bedroom is \$1,800 a month? Where are they going to live? Huh? In Buffalo and commute? You have to understand they have to make a decent living, otherwise there will be no drivers. And I suggest to Mr. Mazer that they lower the lease cap dramatically, substantially to attract drivers.

And another thing I understand from drivers that Uber treats their people much better than a lot of garages treat their

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drivers. There are no onerous penalties. I mean, I won't go through all the details, but they get respect supposedly from Uber, and I know that's very important to most drivers.

But the thing is, driver income is suffering. I mean, so-called suffering of the garages is pathetic, you know. So keep in mind the drivers please, because if there's no drivers, well -- and I want to keep in mind that subway fares keep going up and up, right, and they're going up in another two years. Cab fares have not kept pace with the MTA fares and we hate to have that onerous burden on our backs of the \$0.50, and God knows if some politician may want to jack it up to a dollar. Who knows? And the meter surcharge to us and you have to get the \$0.50 and the \$.30 accessibility charge. This is unconscionable. Thank you.

MR. WILSON: The next speaker is Bhairavi Desai.

MS. DESAI: Good morning. I'm

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Bhairavi Desai, Executive Director of the New York Taxi Workers Alliance. While I have this opportunity though, I would actually like to share with you our experiences as the National Taxi Workers Alliance.

So in the city of San Francisco, which has, you know, has a taxi industry that's considered similar to New York as fairly large, even though it's about less than 3,000 medallion taxis. You now have a scene today where probably less than 2,000 of the taxis are still on the road because throughout the state of California, they allow for what's called ride sharing. Ride sharing is basically where any private motorist with a non-chauffeured license, non-commercial insurance can go online, download an app and you'll be dispatched fares for-hire. Of course the main companies that operate in this economic model are Uber, Lyft, and Sidecar.

Now, we're pleased that in New York City we don't have, you know, legally we

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don't have this model at the moment because you still have to, in order for you to operate a car with Uber, you still have to be a TLC licensed driver, still have to have commercial vehicle standards that are regulated in the FHV industry. There's a lot of questions as to whether or not a model where whether it's through an electronic device or by raising an arm where you say that within three to four minutes we can guarantee you service, the meter whether it's actually in the yellow taxi or a green cab or it's a so-called virtual meter, you don't take corporate accounts and there's no prearrangement, it's hard to imagine that what Uber is operating is actually not a hail service.

And so I think that this is something that the TLC must look into seriously. I mean, I am not saying this in any rhetorical fashion. I can tell you from our brothers and sisters in a place like San Francisco where within a year we don't even know if there's going to be 500

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taxis left on those streets. And we're talking about a medallion industry wherever it exists that it pays for a significant amount of public services. In the yellow cab industry, we raised revenue of \$86 million from the \$0.50 tax.

THE CHAIR: Just because we want to focus on lease caps in New York City and I know there's lots of things to talk about nationwide with regards to taxis, but can you focus your testimony on comments to what you think should change about our current lease cap and fare rules?

MS. DESAI: Sure. I mean, I wanted to say that to give the context of where we're coming from, right, because I think these really are serious times and it's not an exaggeration to feel that way.

So let's get to the lease caps. It is beyond any comprehension why fleet owners don't understand the primary reason that drivers left yellow, went into the black car industry is simply because you don't have a daily medallion lease to pay.

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I mean, I don't know what they mean when they're talking about flexibility, the freedom to work. The reality is -- and by the way, we have many black car members. The majority of our base is, of course, yellow cab drivers and many of our members are now leasing from Uber. And there's a significant difference when you're going to a garage, let's say on a Tuesday day shift, a standard non-hybrid where you're paying a hundred -- or a Thursday, \$116 plus 4.77 in the tax, \$120, plus gasoline in order just to break even, as opposed to getting your own car there's no medallion lease and you're paying maybe \$40 in expenses for the vehicle per shift any time that you work, and then you're paying for gasoline.

The drivers don't have quote, unquote flexibility. They're actually still working very long hours but they see the advantage of they don't have a high lease to pay in that sector, similar to what, you know, as to what they were paying in the yellow cab industry.

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So the lease is the fundamental issue. If we want to retain drivers, you cannot raise the lease, and if you lower the shifts to say six hours, I don't even know what honestly, what that's going to do for public service, how that keep us competitive as a sector itself, our significant questions. But it's not going to attract drivers because there's still going to be a ratio of, you know, the fleets are looking at it as -- they already know there's only certain hours of the shift that you can really earn a living. The other hours you're driving around desperately, you know, without any fares and you're basically burning fuel.

COMM. DEARCY: Can I interrupt you and ask you a question? There's been an issue of demand that's been raised, Mr. Mazer and Mr. Lindauer talked about it from different perspectives, obviously. I am curious whether either anecdotally or whether your organization tracks this to determine if drivers seek out garages that

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discount their leases such that there is a comparison point to determine whether there's a greater demand created by a discounting of the lease cap member versus the garages that do not, and whether there's a correlation between demand there or as I think Mr. Mazer would suggest, the problem is somewhere else; the problem is the fact that there's, you know, no flexibility in the shifts versus your position that the problem is the amount of the lease.

Do you guys tract that? Do you track it, Mr. Mazer? Can someone provide this Commission with any information to show me if simply discounting works and that's been successful, or whether or not, you know --

MS. DESAI: I mean, I would answer that question, Commissioner DeArcy, in two ways. One is it's been really difficult to track it because for the most part fleets have practically charged the same amount across the board so you didn't always have

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a means to say okay, I'm going to go to this place because they charge less compared to another place. Usually you selected it based on the quality of the cars that they lease out to you and then compared to, you know, where they're located in terms of your commute, especially if your a night driver and you have to take subway to get there.

Now things are beginning to change slightly because some places are beginning to lower the lease and I mean, I'm happy to start documenting that information to make our point, but the other way that I actually think it's been documented already is just by looking at the numbers that have left fleets to go and work for Uber. I mean, that's what that change represents because you're going from having to pay \$120 for a 12-hour shift, you know, to a sector where it's probably closer to \$40 and then both groups of drivers are paying for gasoline.

COMM. JIHA: Let me ask you a

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question. Do you have any data on how much more a driver makes driving an Uber car than a taxi medallion, and if the differential is high enough, why is it that all the drivers you have driving taxi medallion now, why it driving taxi medallion instead of migrating over to Uber?

MS. DESAI: Sure. So for your first question, we do have some of that data now. Most part from what we're seeing for maybe two years ago or even a year ago, the drivers that started out with Uber were making more, but now because there's so many cars, you know, our Uber members will tell you that they're making less and less money. And our biggest concern is that within the Uber model and similar to what I think the fleets somehow want to replicate, that you're finding more and more part-time drivers. But there's still a significant number of workers who depend on this as your daily bread, it's your full-time job and so they're feeling a lot of competition

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on the streets, especially during rush hours and prime hours. So we're seeing the amount that people who were making more, we're seeing it begin to come down.

COMM. JIHA: I'm just trying to clarify my mind because on the one hand you're saying the incentive is a lot more for the Uber driver and at the same time you're saying they're not really making money. So I'm just trying to identify exactly why you have the shift and if there's a real shift taking place in the industry --

MS. DESAI: There is a real shift. I'm sorry. My point is consistent. My point is to say to you, even if net income ends up equaling out, the main differential is what you're paying in lease. So the debt that you are taking on -- if you are a weekly driver and you have a shift that you need to take off, you still have to pay for that lease up front.

COMM. JIHA: I understand. I'm just trying to say in terms of net --

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MS. DESAI: So that is the differential.

COMM. JIHA: -- income that they generate on both sides, I mean after adjusting for the lease payment. That's what I'm trying to figure out exactly.

MS. DESAI: So that income for Uber drivers is beginning to come down because of the level of cars. I mean, they are not the 14,000 cars.

THE CHAIR: Can I ask just -- I think this is following up on Commissioner Jiha's question. Have you looked at a comparison of the cost of lease payments where there's no car ownership, you're paying the lease because you don't own the car, you're leasing it for a short term versus what you see more frequently in the black car world the cost of car ownership, you may be paying -- or paying nothing at all to kind of be given calls and ways to pick up fares but you are paying to purchase a car and making financial commitment long-term or

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short-term on that car?

MS. DESAI: So, I mean, that would go to your second question, right, of why the taxi drivers that are not going into the other sector, why are they not. One, you still have a significant number of drivers in the taxi industry who purchase their vehicles and then, of course, you have owner operators. And then you do have drivers who don't want to purchase any vehicle and that's why they prefer that traditional fleet model that they may not be, you know, full timers in the sense that they're not working six days of the week, right, or they may not be -- they may be more transient in that the months that they do work they may work for six days of the week but then there's significant months of the year where they may not be driving. So for that segment of drivers the fleet model is still more attractive because you're not having to put any money down, you know, to invest into a capital like a vehicle.

THE CHAIR: So one part that we have

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visibility into on the -- we have tremendous visibility on the taxi side is what a driver's expenses are to be a yellow taxi driver. We don't have as much visibility today on the black car sector and if there is a tremendous shift, it's important for this Commission to understand the finances of both sectors from the driver's perspective to have a better understanding of the reasons behind the shift.

So to the extent you have members that are black car drivers and can share with us some of the expenses that they incur, and there's no lease there so obviously they would take, I would assume, other forms like car payments or for-hire insurance, if you can share that information with us and redact it, we don't need the names of drivers, but it would be very helpful for us to have that baseline understanding in making determinations on the fundamental economic reasons for the shift.

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MS. DESAI: Sure.

THE CHAIR: Thank you.

MS. DESAI: And I just want to conclude by saying that, you see, in order for you to really see our position, you have to understand that for professional drivers it's all about the debt that they carry at the beginning of their shift, you know, first of all. And secondly, the Uber terrain itself is changing because of the number of vehicles that they keep adding. We're not up here trying to represent every person that may want to drive for-hire like once a month or, you know, a couple of times a year. We're here to represent the men and woman for whom this is their bread and butter, it's their full time living. And for them to have a viable income in any of these sectors, you know, it's about limiting the number of cars because of the crazy amount of competition everybody's facing right now. And secondly, it's about making sure that we do not in any way, shape or form deregulate, you know, the

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economics of the lease caps or, you know -- in fact, we think a lot more needs to be done.

And you have the five percent that the yellow cab drivers are paying. You know, I mean, I know it's now converted to the, you know, to the flat amount of \$11 on the credit card transactions, but it still calculates -- TLC calculates that based on, you know, looking at the fares, the revenue and multiplies it by five percent. That is still a really high amount.

Lastly, we have a group of owner operators who bought their medallions during the last auction. Close to 150 of them were all in fear of foreclosure right now, you know, because most of them don't have a second shift driver. They're struggling for that. So I do think that there are serious issues here on the table and it is going to have a significant impact in determining the future of all of these sectors. I just don't want to see drivers in our right to have less debt and

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higher earning, for that to be sidelined in any way because of the concerns of any side of corporations, whether it be the fleets or it be, you know, Uber's model of ultimate deregulation.

COMM. DEARCY: Can I just -- can I say, I am very sympathetic to the concerns you raise with regard to Uber and your points are well taken. As Commissioner Joshi said, I think that, you know, those are issues that we certainly need to address.

What's missing of it in my mind though from your testimony today with respect to the lease caps, is the specific reference to the lease caps vis-a-vis, say the fleets, and their costs, and their expenses, and the interplay between those two in this segment of the industry versus your position with respect to -- for the drivers, etc., versus Uber which is a different segment of the industry.

And I would certainly be interested in hearing from you in written format

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perhaps at another time after this hearing, you know, what your opinions are and thoughts with respect to some of the questions that we asked vis-à-vis this particular segment. Because while your points regarding Uber are important, I think the analysis here must consider the interplay between you all and the medallion owners in terms of this context, and if we don't hear from you on that, I think it makes your testimony a bit incomplete.

MS. DESAI: Sure.

COMM. DEARCY: Do you understand where I'm coming from?

MS. DESAI: I appreciate your point and we can certainly follow up on that. We think the weekly lease should be lower, we think the five percent is a significant issue. The drivers should not bear the costs of repairs and I think that if these things were addressed, you would attract many more drivers back into the yellow sector. And the profit loss that the fleets are talking about, coming

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specifically from the loss of drivers, that would be addressed.

The way to do this is to elevate the economics by alleviating the burden that drivers face as a means to attract this sector. And believe me, I assure you drivers will come back. And one of the main reasons they would come back, Uber, there's no cash fares. You still have in this industry, even though 60 percent may be credit card-based, you still can earn day-to-day cash in this industry and that's important for people.

There's also people who, you know, they enjoy driving a taxi. They know the streets of Manhattan like the back of their hand, you know, and it's the profession that they entered into in this sector and it's what people would like to come back to.

But really I just want to say to you the significant, main reason that people started to leave is because they saw they didn't have to pay a high debt with the

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lease on a daily basis in this other sector, and it's true this other sector preexisted Uber, but the difference is that the volume of fares are now available in a way that were not before. And so if this industry, if the taxi industry, you know, wants to remain healthy and attract back the drivers, lower the weekly lease, lower the five percent, have the insurance include full coverage so drivers are not taking that loss, and lastly for DOV operators who have not turned their cars back in, if the agents agree to not remove the medallion until the vehicle retirement. These are the main economic issues that we face. This is what would attract drivers back into the sector.

COMM. JIHA: I would say something, to be honest with you, that is a bit disturbing to me in the industry. To me, the industry is going through such a major challenge that if you use all the players in the industry to work together to find a common ground to face the many challenges,

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it's not again, not to me appropriate when I see the major players in the industries going at each other as if, you know, it's perceived as some game rather than sit down and try to find common ground to basically tackle the major challenges. Because this is an industry that's going through some major, major significant challenges and unless all of the players sit at the table, come up with some kind of a comprehensive solution to the problem, I think going at each other is not going to be a solution in the long term.

MS. DESAI: I assume you mean that for not just us but also the fleets?

COMM. JIHA: No, for everybody.

MS. DESAI: Well, we're happy to sit down at the table and discuss that. You know, we have no issues with that whatsoever. We want to see the sector thrive so --

COMM. DEARCY: I think that there's no question. I think you're absolutely right. I mean, I take your points with

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respect to Uber, but I also believe that, you know, other segments of the industry are going to have to figure out how to effectively compete with Uber. And, you know, I have had, you know, I've been vocal where I have criticisms or concerns with respect to Uber. We had the trip data information that we saw, but I think that there's an aspect there and that's part of the reason why I want to in my mind separate the testimony here about these lease caps so that I can have a clear sense of what it is that you want with respect to the lease caps in this industry. And not to dismiss your concerns with Uber, but I also believe that that's a larger discussion that I think my fellow Commissioners, or at least some of them agree you all have to be mindful of.

MS. DESAI: Sure. We're more than open to that, so if that's something the TLC wants to coordinate, we're more than open to that.

THE CHAIR: I mean, I think there's

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no doubt that that there's common goals and that there's two aspects of the yellow taxi industry that are sort of being tested right now, and that's the driver retention and customer service. And it does seem logical that all segments of the industry should work together on those aspects because those are areas where there is stiff competition and it would be naive to ignore that competition.

MS. DESAI: Absolutely. Thank you.

MR. WILSON: That was our last speaker. I'll ask if Mr. Tuncel from LOMTO arrived?

UNIDENTIFIED SPEAKER: He's not coming.

MR. WILSON: He's not coming. Okay. So that was --

THE CHAIR: We have one more speaker who did not sign up.

MR. WILSON: We do have one other speaker who did not sign up.

MR. KEOGH: Mike Keogh. I represent the Committee of Taxi Safety. I'm with the

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firm of Bolton-St. Johns. We are going to make a submission, but basically our overall point is, and it's something that we've made to Chair Joshi before, we do think that there does need to be some adjustment of the fare. We do think that. As has been the practice for the last couple of cycles, it should probably tilt towards the driver. We do think that there is a significant challenge that is facing the industry with the 50 percent accessible vehicles that are coming online in January.

There has not been the fare cap structure for accessible vehicles. We do think that the \$42 surcharge on the DOV week lease or the DOV model that exists could be the basis, and I believe the fleets have the \$3 daily surcharge for hybrids, could be extended to accessibles. Because one of the most significant problems that we are facing is drivers do not want to drive accessible vehicles.

The TLC has sitting in its vaults a number of, actually pretty much all of the

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accessible medallions of the last couple of auctions fully financed but not on the road. And as Bhairavi just testified to, a number of those are going to be facing severe actions by their lenders because they're not producing any revenue. And the real reason for that is drivers do not want to drive accessibles because they much prefer driving hybrids, they much prefer vehicle choice, they much prefer a car that they feel comfortable in driving.

So again, we would just -- we recognize that the TLC has done, within the confines of the taxi of tomorrow program, a number of adjustments to allow for more vehicle choice, but the loss of hybrids while other segments are going to be freely able to offer hybrids is only going to exacerbate starting in January of 2016 the driver shortage that we have.

And we do believe, as we have seen and mostly from our DOV operators, that working with the drivers in terms of finding them the right vehicle that they

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would like to drive and the payment schedule that makes sense for them, and also helping them to try to find the second driver is very important to keeping the segments healthy. It's one of the reasons why many of the DOV operators within the Committee for Taxi Safety are still putting their vehicles on the road.

There is some challenges that does have to happen that are not so much related to lease cap that have been brought up today. They do relate to the drivers experience, shift change for example, if there was a way to do it so they didn't have to go all the way back to the garage. And we know that a lot of people in Manhattan don't necessarily want that happening on their streets, but it would help and is something that we think would be --

THE CHAIR: On the shift change going thing and going back to the garage, is something that's always, and not be being a garage owner, perplexes me.

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There's nothing in our rules that requires that the shift change happen at the garage.

MR. KEOGH: It's just that whenever we do it in the street, we get a call from the TLC to say stop doing it because residents in Manhattan complain about it.

THE CHAIR: So it is a matter of space?

MR. KEOGH: It's a matter of space and convenience probably, for the folks who are living in a particular neighborhood.

THE CHAIR: And the prime, just for the Commission's edification, what are the prime areas for that --

MR. KEOGH: I can get you that information. I don't have that today.

THE CHAIR: That would be helpful.

MR. KEOGH: I can get you that information. But we do think that ultimately making for a better passenger experience, making for a better driver experience because that really was what the standard was for yellow taxis for a very long time. It became something fun for

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people to do whether they were from out of town or just looking to get that quick ride.

THE CHAIR: I'm sorry to go back to shift change. Is it the standard practice now if it's not at the garage that one driver's waiting for the other driver, or they're leaving the car there and then the other driver comes and picks it up at their convenience?

MR. KEOGH: My understanding from just our operators and others can talk about it, is they'll try to predesignate with drivers, they'll try to set it up amongst themselves so that the car is driven to one place and the next driver can get right in and start.

THE CHAIR: Is right there?

MR. KEOGH: Yeah. That's generally how our operators work.

THE CHAIR: Because if there didn't need to be a meeting of people, you can have increased flexibility on drop off and pick up, right?

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MR. KEOGH: I suppose you could. It really becomes a question of to what Peter Mazer was taking about, creating more potential flexibility for drivers. The career driver is going to want to drive, if they're in a garage setting, the full 12-hour shift as much as they can. But there are a number of other drivers who are attracted to the fact that, well, I can work six hours and, you know, the other six hours they are -- they could have somebody else driving the vehicle. And we've seen in the DOV model that you can get a second driver if you are providing them with a particular time frame that they want to drive it.

So we do think that making for greater flexibility will help in terms of keeping the vehicles on the road, and when you keep the vehicles on the road the medallions and the financing that's behind them will be serviced and there will be opportunity for drivers who want to drive in those segments. And to be perfectly

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honest, if they really want to have flexibility within yellow taxi, they have greater economic opportunities in the DOV segment we've seen after expenses. And we only know from Uber from the billboard signs that they're guaranteed 5,000 a month, but we've seen after expenses in the DOV segment drivers making as much as \$6,000 a month.

COMM. DEARCY: Can I ask you a question? In terms of the driver flexibility, at least it seems to me from your testimony that you think that this is something that drivers wanted. So in your minds eye, if there was a provision that allowed for the shorter shifts but only at the drivers discretion, you think that there would be a significant demand and you're doing it? Do you know what I mean? Because it's one thing if it's forced on drivers and then they don't get to pick their shifts and it's six hours, and I think that there was testimony to suggest that drivers wouldn't want that.

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You think that they would, so in your mind, could this be at the drivers discretion and satisfy your concerns? Because you feel like there's a high demand for it.

MR. KEOGH: I think that that's where it has to be if you're going to -- because this is really talking about what drivers are preferring. And then you have the different policy constraints that are different because you have so many, as folks have mentioned, taxes that are on the taxi industry that are not on other segments and thereby they can say, well your up front costs are going to be different. But then they make drivers who have left yellow taxi sign up for the purchase of a vehicle. We haven't yet to be able to see the finances of that lease but we understand that is one of the reasons why in addition to the increase driver supply, a number of Uber drivers didn't make the promised \$10,000 a month that Uber was advertising in December, and very few of them are anywhere near \$5,000 a

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month because they've been signed up for vehicle purchase leases that, you know, they have to pay those every month.

COMM. JIHA: Have you thought about the impact of, let's say you want to segment the shift and we can undo this to a different outline, do you think you would have an impact -- you could have a situation where we have a lot of drivers so we increase the supply of drivers in the shift where it's most profitable for the drivers?

MR. KEOGH: Drivers are going to want to drive a drive time a piece on an early morning rush hour, an evening rush hour. That's the most lucrative segment and that's what drivers are going to want to drive, have one of those within their leases, yes.

COMM. JIHA: So as the supply basically increase, what would be the impact on the drivers basically cut, you know, what's --

MR. KEOGH: In terms of how it works

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for the DOV segment, the second and third driver pay the driver who does the initial lease. So they are able to work out amongst themselves what they think is the most lucrative time. Some of them do it on the weekends, some of them do it on the weekday. So it gives them the flexibility that they're looking for in their lives to do it and the main lease driver also makes more money as a result by having people do those particular shifts.

A type of model like that may or may not work for the fleets. It's still something that within the Committee of Taxi Safety we're sort of trying to figure out with our fleet operators as to what are the best mixes that will work. But we're happy to come back and share some thoughts with you on that.

THE CHAIR: I think that concludes our speakers list and there's a few things --

COMM. DEARCY: I think he wanted to respond because I said something. I'm

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sorry.

THE CHAIR: Oh, okay.

MR. MAZER: One comment that I want to make, Commissioner, you said that there's nothing in the rules that require that the shift change take place at the garage, but there is a rule that requires that the driver be reimbursed in cash at the end of each shift, credit card money. So that would be very difficult for a garage to reimburse credit card money in cash without having the shift change take place at the garage. I just wanted to point that out.

THE CHAIR: Thank you for raising that point. And that does go to some flexibility as well.

MR. MAZER: And Commissioner DeArcy raised one question. I think she asked if either Ms. Desai or I, in our analysis of the lost shifts, if there was any difference between the garages that were discounted. And what I found looking at it is, that the answer -- the short answer to

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that question was no, and I found that there is somewhat of a large discrepancy between garages and number of lost shifts.

And the garages that were doing the best were doing the best for two reasons. Number one was location of the garage. Number two was garages that had a large percentage of long time drivers tended not to lose their drivers, and that's just the data that I found. And the garages that had the biggest lost shifts were the ones that imposed the discounting of the shifts and they found that even after imposing the discounting of the shifts, they did not see any way to operate.

I think that's the short answer to the long answer of the question.

MR. STILES: I actually have a follow-up now that you mentioned that.

So in your testimony that you provided on lost shifts, it said there was a sample of the garages that are members of fleets.

MR. MAZER: Yeah.

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MR. STILES: Can you provide the list of those garages that ran that analysis?

MR. MAZER: No, I'm not -- what I'll do is I will provide a more comprehensive analysis of more garages, but I was --

COMM. DEARCY: And a list of the garages you're including or --

MR. MAZER: Oh, yeah. I'll provide a list of my member garages and a list of the lost shift data that we have, but I will supplement that with additional data rather than -- because the garages that gave me the data did give it to me in confidence that it would only be used as part of an analysis and did not want -- the sample, I don't want it to be identified by specific garages having specific issues at this point because I was told -- I was given that information by the garages as long as I didn't do that.

COMM. JIHA: Let me try to see if I can clarify my own mind. Are you saying the economics doesn't change at all? It

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doesn't incentivize drivers at all?

MR. MAZER: No. What I'm saying is that the garages that right now are -- have reduced their maximum lease rates tended to be the garages that had the highest lost shift percentages and that even after they incentivize shifts with lower lease rates, they did not see a decline in their lost shifts. Other garages that had better lost shift percentages had better vehicle utilization, tended to have that for other reasons, mostly the location of the garage, i.e. garages in Manhattan tend to do better than garages in the outer boroughs, and garages whether located in Manhattan or elsewhere who tended to have a very high percentage of drivers who were very long-term drivers. We have some garages that most of the drivers are with them 20, 30 years. Those drivers are not leaving. They're charging the maximum. The drivers are staying. The drivers don't even know what Uber is and they're content to work at these garages, and that's what I'm seeing.

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I'm not saying that changing the dollar amounts -- I mean, I think we all agree that something is going to change -- there's going to be some sort of incentivization to get drivers back. We're not saying that, well, we're just going to wave a wand and we return to the way things were five years ago or ten years ago. There has to be some sort of incentive. It's got to be when sharing is up. The drivers have to make money, the owners have to cover their expenses, there has to be a fair return. We're a big industry. I think we can do that. We still transported 240 million passengers last year. Somehow I think the pie is big enough and Uber, I don't know how many -- they didn't transport very many. They seem to have a lot of drivers and not a lot of passengers.

COMM. JIHA: Do you know where the location of the garages that provide discount, are they in Manhattan, are they --

MR. MAZER: They tend to be all over

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the place right now.

COMM. JIHA: They all tend to be all over the place.

MR. MAZER: And it's not across every shift. I mean, they're discounting on the shifts where they're having the biggest problems from what I'm seeing. And they're offering some specials, they're doing -- they're trying to be a little flexible and that's why I say flexibility may work, but they're still limited under what they -- under the existing rules, they're limited to what they can do with flexibility. So they're being flexible to the extent that they can, consistent with the rules.

THE CHAIR: Thank you.

And my understanding is Bhairavi Desai would also like to rebut. This is what happens when we get rid of the three-minute rule. It's good though, it's all good information. Thank you.

MS. DESAI: I mean, I'm sure one thing we would all agree with is we really

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appreciate the level of engagement for today's hearing.

I just wanted to clarify one point on the DOV model. There -- it's not -- if there are three drivers on a car, I don't want you to have an impression that it means that, you know, that they're dividing up 24 hours between three drivers. That doesn't happen. It's that they're having shifts, so it may be that the, you know, the two steady full-time drivers may be the ones that work throughout the week and then there might be a third driver who just works more part-time. But they're working full 12-hour shifts, so it's not like they're picking and choosing specific hours.

The second thing I want to say is, I mean, it's the fleets that started requiring the, you know, shift changes at the actual garage. And one reason for that is because and they can charge drivers the daily rate and, you know, and the daily rate was higher than what they can charge

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to a weekly driver and so they started requiring drivers to go back to the garage.

And, you know, I know that TLC knows about this, every driver will tell you about it, when you go to the shift change at the garage, there's always tipping.

Like what you see on the actual lease cap is not the only amount that drivers end up paying. There is a tax that they're also paying -- that they pay, like the 4.77 per shift. There's also, I mean, the tips that they give, and I don't want to belabor the point but if you go back to TLC archives, it was in fact --

COMM. JIHA: What do you mean by tips that they pay? I'm new to this.

MS. DESAI: Sure. When they go to the garage and, you know, to pick up the car, there's basically the dispatchers that are working at the fleets, in order for you to make sure that you're going to get a car or you get one of the better cars, it's -- everybody -- the owners may not be saying to the drivers that you must pay

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this amount, but everybody knows that this happens. The TLC has had --

COMM. JIHA: Is this legal or --

MS. DESAI: You know you've received so many complaints about this. We've complained. Everybody knows. This has happened for years.

THE CHAIR: This is -- there's human elements, right. So when you do dispatch without humans, these problems go away to some extent. So I mean, there is some modernization that I think would benefit fleets and drivers when it comes to dispatch and taking -- leveraging technology so that there is more of a streamlined allocation of drivers to cars, but that's something that obviously, you know, has to work with a business model. We have a Driver Protection Unit and we've received, let's say in the last year a handful of complaints about tipping -- about needing to tip a dispatcher to get a particular car.

MS. DESAI: Yeah. And so, I mean,

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my point, I don't want to belabor it, but really my larger point is that there has been an economic incentive for the fleets to have the drivers change shift at the fleets, even though it's been at the disadvantage of the driver because by the time you get into Manhattan, you've probably lost an hour of rush hour. You're taking that economic hit, but it's true we've lost shift change areas, especially like on Houston Street, you know, once the gas station started closing down.

But for the most part, the change in having more and more drivers change shift at the fleet really started after 2007 when, you know, when we also saw a lot of rampant lease overcharges, you know. And it's true that, I mean, the garages I have in mind at the moment are not MTBOT, they're GNYTA garages and everyone knows because I've testified about this publicly. But SLS Jet, for example, where drivers try to be flexible so they were still working 12 hours but they would

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go in say 2:00 p.m. or 3:00 p.m. to pick up the car, SLS was charging them an early bird fee. They were not, you know -- they weren't working more than 12 hours but they were still being charged an additional early bird fee, you know, for picking up the car earlier.

So I just, you know, I just want to say that, you know, the economics of this has not been so, you know, has not been so clean as it's been presented to be. It's come at a cost to the drivers and that's why we're partly in the scenario that we're in. But I will -- you know, words can mean so much, I will back this up with actual data. I know, Commissioner DeArcy in particular, nothing would please you more than that. I'm also a numbers person so we're going to let the numbers tell the story.

And lastly, I just want to say, even if the MTBOT is saying they have data that where the leases came down, you know, maybe that those garages weren't able to attract

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back more drivers, the question is, did they suffer any more of a loss? If they had lowered the lease earlier, maybe the drivers that left would not have left in the first place. Look, we want to see this industry thrive, but we have to be realistic about it. If you do it by raising the leases and changing the hours in a way where you're saying there's flexibility but it's still tied to a higher lease, we're not dumb. Drivers are going to get it. It's still at our expense. You're not going to attract anymore people in. So that's it. Thank you.

MR. KEOGH: For the record, I don't want a rebuttal.

THE CHAIR: So one thing I'd like to note and we'll go through the transcript, but several people were asked to provide follow-up information and that would be helpful if you can provide it, and we'll go through the transcript and reach out to you and ask you for it if you don't. Because this is -- there's a lot of feelings

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involved but really it comes down to the numbers and how people are paying to run their business and how drivers are paying to -- paying for the expenses associated with driving any for-hire vehicle, so those would be appreciated. Thank you.

And with that I think we're going to end the meeting. And I'm going to call it noon even though it's two of.

(Time noted: 12:00 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK )  
COUNTY OF RICHMOND ) ss:

I, JENNIFER CASSELLA, a Notary Public  
within and for the State of New York, do hereby  
certify:

I reported the proceedings in the  
within-entitled matter, and that the within  
transcript is a true record of such proceedings  
to the best of my ability.

I further certify that I am not related  
to any of the parties to this action by blood  
or marriage; and that I am in no way interested  
in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 12th day of April, 2015.

---

JENNIFER CASSELLA

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