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NEW YORK CITY LIMOUSINE COMMISSION
PUBLIC MEETING
held on Friday, October 16, 2009
1:40 p.m.
40 Rector Street
5th Floor
New York, New York

1 P R E S E N T:

2 MATTHEW W. DAUS, Chairman

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4 ELIAS AROUT, Commissioner

5 HARRY GIANNOULIS, Commissioner

6 EDWARD GONZALES, Commissioner

7 LAUVIENSKA POLANCO, Commissioner

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11 CHARLES FRASER, ESQ., General Counsel

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1 THE CHAIRMAN: Good morning, everybody -- good
2 afternoon. I'm going to dispense with the Chair's report,
3 because unfortunately I have laryngitis, so I'm not going
4 to be able to talk very much. What I will say, I will
5 obviously comment on one topic, and that's the illegal use
6 of cell phones, which we are going to be talking about here
7 today. What I will say is that unfortunately, over the
8 last year or two, passengers, I think, are really throwing
9 their arms up in the air and they're really saying at this
10 point "we give up."

11 Drivers are on the phones left and right. It's
12 recognized universally that it is dangerous; it's as
13 dangerous as driving while impaired, and all studies at
14 this point now reaffirm the decisions that this commission
15 made in '99 when we were the first regulator anywhere to
16 ban hands-free cell phones.

17 The problem is, technology, which usually helps us at
18 the Commission, actually has rendered our rules obsolete.
19 So I'm very proud of the staff today for coming up, working
20 with myself, with a presentation and proposal, which is
21 subject to debate and comments from the commissioners,
22 which will hopefully eradicate this problem once and for
23 all. Which is a big public safety problem for the city and
24 for everyone who takes cabs, for all those passengers out
25 there, the people that we see at cocktail parties, and cab

1 drivers that I have seen with my own eye flouting the law,
2 talking on BlueTooths, frustrating our enforcement efforts.
3 We haven't given up on you.

4 The TLC is poised to take action before the end of the
5 year. Again, these are just proposals; it's not a public
6 hearing today. What I do want to say, it is a problem and
7 has to be addressed. That is pretty much it. The one
8 thing that is unique about this proposal, which you will
9 hear about for the first time, the way we are going to
10 hopefully eradicate it for good is actually doing something
11 that hadn't been done before, banning the actual wearing of
12 the device. I'm hopeful that this will be something that
13 will not only lead to better customer service for all our
14 drivers and all our industries, but it's also going to save
15 lives, not only the pedestrians but the drivers who we care
16 about and their families, and also save lives of
17 passengers.

18 We don't want to wait for an accident to happen, we
19 want to do this and get ahead of the curve, which is what
20 government should do. Mindful of that, the last thing I
21 want to say, we don't want to raise fines, that is the not
22 our goal. Our goal is to get drivers off the road if they
23 don't curb their behavior. That's the goal. However, we
24 do that to serve as a deterrent. That's what we're going to
25 do.

1 Most importantly, education is a big part of the
2 proposals. It's very important we educate drivers more,
3 and every time they get a conviction, they're going to get
4 a course that talks about the dangers of driving, and we
5 need to educate passengers more. Passengers need to know
6 that they can file a complaint with us, they can call 311,
7 thanks to Mayor Bloomberg, and also now, thanks to a new
8 law, testify by phone.

9 So there are a lot of things in this proposal I can
10 see. There are a lot of people here. That is the only
11 thing I want to comment on, because my voice is
12 gone. Hopefully, with my voice being gone, we will silence
13 all the drivers on the phones on the street and make them
14 put their eyes on the road and their hands on the wheel.
15 That is what they should be doing. Thank you.

16 I'm going to need some help today, so General Counsel,
17 would you help me a little bit? To complete my report, we
18 have some awards which I don't want to dispense with. I'm
19 going to ask my Deputy Commissioner for Public Affairs,
20 Allan Fromberg, to help me out.

21 MR. FROMBERG: Good morning, commissioners.
22 Mr. Chairman, good morning -- afternoon. Today the
23 commissioner wanted to make sure we took a few moments to
24 acknowledge the recently celebrated Customer Service Week,
25 which the TLC as an agency celebrated the week of October

1 5th through 9th. Customer Service Week is a nationally
2 celebrated event that is embraced by the Bloomberg
3 administration and the City of New York. The theme was
4 Call to Excellence. The event celebrates and recognizes
5 all the different forms of customer service, both
6 internally and externally.

7 Mayor Bloomberg traditionally hosts an event at Gracie
8 Mansion, at which one outstanding employee from each city
9 agency is singled out. This year's TLC honoree is Fabian
10 Cancel, who is from the Counter Operations Owner Section.
11 Fabian, are you here? Please stand up. (Applause)

12 Actually, Fabian already received his award at Gracie
13 Mansion, but we just wanted to take a few moments to
14 acknowledge him and say a few words about what he does and
15 why it's so special. He's known as an especially hard
16 worker who takes his duties and responsibilities seriously,
17 and with particular emphasis on providing excellent service
18 to all our clients.

19 He started with the Commission on June 4, 2006 and was
20 involved in processing new driver applications. He was
21 promoted June of 2007 to a position in Licensee Support in
22 the Customer Service Unit, where he provided direct
23 customer service. He was heavily involved in the review of
24 our forms, documents and processing procedures as part of
25 our operational stream lining team. A year later Fabian

1 was appointed Supervisor of Counter Operations in our Owner
2 Section, where he supervises a staff of nine, is
3 responsible for all counter related application reviews and
4 processing for the vehicle owners and medallion section.

5 Although Fabian already received his award, I thought
6 and the commissioner thought actually that it would be
7 appropriate to just give him a hand today and acknowledge
8 him here today for all that he does.

9 I also want to take a moment to recognize some others
10 who made Customer Service Week a very special celebration
11 here at the Taxi & Limousine Commission, and I would like
12 them all to stand when I mention their name. Team captain
13 Lisa Oliver-Grant. Not here. I guess she was busy giving
14 customer service. The Rector Street eighth floor co-team
15 leaders Dawn Sherman and Eileen Henry, also busy. Long
16 Island City team leader Nicol Fakas. Shaniqua Payne and
17 Carolyn Castro, particularly helpful in coordinating
18 activities here at 40 Rector Street. I know they're here.
19 Carolyn is hiding in the corner.

20 THE CHAIRMAN: Why don't you ask them to come up
21 here and we'll take a photo.

22 MR. FROMBERG: Indira Strouse, Adrian Gonzalez.
23 Colette Graham. While we're getting that together, I would
24 also like to say for a moment -- actually, we're getting
25 the photo together now. Thank you so much everybody.

1 (Applause)

2 Okay, while we have a moment, I'd also like to mention
3 the Taxi & Limousine Commission gets many visitors from
4 other countries, other cities, other states who come here
5 to talk about what the TLC does, sometimes bringing
6 information back to their home countries and cities about
7 what we do. We share information with them, they tell us
8 about what is going on where they are.

9 We are privileged to have with us two visitors from
10 Ireland today, Anthony Carey, who is the enforcement
11 officer for the commission for taxi regulation in Dublin.
12 If you would stand for a moment. Joining him is Eric
13 Bollard from the Dublin fire brigade, who is a hero in his
14 own right. We're very honored to have you here today.
15 Thank you so much.

16 Another thing that the TLC does very well is
17 acknowledge taxi drivers for going above and beyond the
18 call of duty for doing very special things. We have a
19 driver who is joining us here today who has done such a
20 special thing, Mr. Ziad Alawi. Would you join me at the
21 microphone?

22 New York City taxi drivers sometimes find themselves
23 doing a bit more than driving a passenger from one location
24 to another. On May 28th Mr. Alawi picked up a passenger in
25 Manhattan, an older woman who said she wanted to go to

1 125th Street. Soon she was not sure of her destination.
2 She kept asking the driver to stop at every corner.
3 Mr. Alawi, recognizing that he had a disoriented passenger
4 on his hands, drove to the 17th precinct where he explained
5 the situation to Police Officer Orlata (phonetic) there.

6 The police officer noticed that the passenger was
7 wearing an Alzheimer's medic alert safe return bracelet,
8 part of a program run by the Alzheimer's Association. At
9 that point, the passenger was quickly identified by name,
10 contact was made with her caregiver and Ms. Rosado was
11 safely returned to her residence.

12 The fact that Aida Rosado was not just let off at any
13 street corner to fend for herself, but instead got the
14 thoughtful attention of a concerned taxi driver, says much
15 about the New York City taxi drivers in general and about
16 New York city taxi driver Ziad Alawi in particular.

17 I would also like to mention that Mr. Alawi is going
18 to be honored by the Alzheimer's Association Memory Walk
19 Sunday morning, ten a.m. in New York City. The Alzheimer's
20 Association could not be here today to join us, but they
21 are excited about honoring Mr. Alawi, but we wanted to beat
22 them to the punch. (Applause)

23 Would you like to say a couple of words, Mr. Alawi?

24 MR. ALAWI: No.

25 MR. FROMBERG: Thank you so much for all you

1 did. We actually have a rather big agenda today, so in
2 order to facilitate the swearing in of our new class of
3 administrative law judges, I would like to call on our
4 Chief Judge, Carmena Schwecke.

5 HON. SCHWECKE: Good afternoon. I would like to
6 introduce the new class of ALJ's. Please stand when I call
7 your name. Jeffrey Davis. Jeffrey Davis is a graduate of
8 Brooklyn Law School, staff attorney at the Port Authority
9 of New York-New Jersey from 2008 to present. Associate at
10 the law firm Canterman, O'Leary & Associates in Queens and
11 a former Brooklyn assistant district attorney.

12 Jodi Zagoory, graduate of Benjamin Cordoza Law School,
13 twenty-two years of experience on the bench. I don't know
14 if she wanted me to mention that. Self-employed as an
15 arbitrator.

16 John Philip, graduate of Columbia Law School,
17 litigation attorney. He was also with the office of
18 corporation counsel and law firm of Sullivan & Cromwell.

19 Next, Karen Ortiz, graduate of Fordham University
20 School of Law, assistant regional counsel in the New York
21 Office of General Counsel. Also counsel with the New York
22 City Department of Parks and Recreation from 1998 to 2001.

23 Martin Kramer, graduate of Saint John's University
24 School of Law, and also NYU School of Law. He worked with
25 corporation counsel and is a litigation partner -- was a

1 litigation partner in the firm of Feister, Flood & Kramer
2 in Brooklyn.

3 Mickey Heller, graduate of Brooklyn Law School,
4 general practitioner from 2000 to the present. Also an ALJ
5 at the Parking Violations Bureau.

6 Morgan Bitton, graduate of Columbia University
7 Graduate School of Journalism and Brooklyn Law School.
8 Also an administrative law judge at the New York City
9 Environmental Control Board. A claims representative at
10 New York Presbyterian Hospital and court representative for
11 the Office of New York City Comptroller.

12 Nicholas Mahoney, graduate of Fordham Law School,
13 trial attorney for the New York City Department of
14 Education from 2003 to 2008. Associate attorney with the
15 office of Bruce G. Clark & Associates in Great Neck, New
16 York.

17 Paul Vaygen, graduate of Benjamin Cordoza School of
18 Law, attorney in private practice in Brooklyn from 1994 to
19 present.

20 Robert Getman, graduate of Brooklyn Law School, BP
21 Associate General Counsel, Prudential Securities, Inc., in
22 the area of commercial litigation towards arbitration and
23 regulatory and securities areas.

24 Shirley Spira, graduate of Rutgers University,
25 attorney in the law firm of Bivona & Cohen, handling toxic

1 court cases. Also attorney for Port Authority, New
2 York-and New Jersey in their law department from 1995 to
3 2007.

4 (The administration law judges were sworn in by
5 the Chief Administrative Law Judge.)

6 THE CHAIRMAN: Thank you judges.
7 Congratulations.

8 MR. FRASER: Item 2 on the agenda is approval of
9 the minutes. Any comments or changes?

10 COMMISSIONER AROUT: Make a motion to approve.

11 COMMISSIONER GONZALES: Second.

12 MR. FRASER: All in favor? It's unanimous.
13 Item 3, base applications. Who is presenting the base
14 applications?

15 MS. STEELE-RADWAY: Good afternoon. Licensing
16 would like to present before the Commission twenty-one
17 bases with a recommendation for approval.

18 MR. FRASER: Motion to approve?

19 COMMISSIONER GONZALES: Motion.

20 COMMISSIONER AROUT: Second.

21 MR. FRASER: All in favor? Unanimous.

22 MS. STEELE-RADWAY: Licensing is also
23 recommending one base with a recommendation for denial with
24 a request that the Commission grants an additional thirty
25 days so they may present the outstanding items.

1 COMMISSIONER GONZALES: Motion to deny.

2 COMMISSIONER AROUT: Second.

3 MR. FRASER: All in favor? Unanimous. Thank
4 you, Georgia.

5 Item 4 is for Commission action, Chapter 4, taxi
6 driver rules. I think I'll turn the meeting over to myself
7 as general counsel.

8 These rules, part of our Phase 2 of our rules
9 revision, which is what we're calling the zero sum phase,
10 there were few or no, in this case few substantive changes
11 from the existing rules. The substantive changes are
12 delineated in the bullet point in the statement of bases
13 and purpose.

14 In addition, we published for the thirty day comment
15 period, received public comments, which have all been
16 forwarded to the commissioners, as well as the transcript
17 of the public hearing. Based on the comments, we are
18 making three additional changes which are outlined in my
19 memorandum to the commissioners.

20 Any questions or discussion or comments on Chapter 4?
21 Motion to approve -- the staff is recommending, as with all
22 the TATC chapters, they be conditionally approved, subject
23 to a full vote when all the chapters have gone through this
24 process.

25 COMMISSIONER AROUT: Make a motion.

1 COMMISSIONER GONZALES: Second.

2 MR. FRASER: All in favor? It's unanimous.

3 Item 5, pilot program proposal for Commission action,
4 David Klahr.

5 MR. KLAHR: This is a proposal for a device
6 called the Magno-Flo. I actually brought it in. I don't
7 often get to bring that in in pilot proposals. This, as
8 specified in your books, what this is is a magnet, intended
9 to be attached via the zip line to the fuel line of a
10 vehicle.

11 What the proposer is claimig is the magnets affect the
12 flow of the gasoline so as to cause greater efficiency of
13 use as well as a reduction in pollutants. The staff is
14 recommending that the proposal be denied, largely because
15 there doesn't seem to be a clear scientific basis for the
16 use of these devices.

17 Furthermore, studies by the EPA and the Federal Trade
18 Commission have indicated that devices, not necessarily
19 this one, but devices similar to this, that rely on magnets
20 for this purpose, do not appear to have any measurable
21 effect on fuel efficiency. Naturally, the commission is
22 always interested in any idea to reduce fuel efficiency or
23 reduce pollutionn, but there doesn't seem to be a pathway
24 with a great deal of promise to it. That is all there is
25 on this particular item.

1 MR. FRAZER: You're recommending?

2 MR. KLAHR: It be denied.

3 MR. FRAZER: Any questions for Mr. Klahr?

4 COMMISSIONER AROUT: Motion to deny.

5 MR. FRAZER: Is there a second?

6 COMMISSIONER GONZALES: Second.

7 MR. FRAZER: All in favor of denial? It's

8 unanimous.

9 That takes us to Item 6. Staff presentation,
10 Ms. Phillips?

11 MS. PHILLIPS: Good afternoon. I will be
12 presenting today the updating of the rules concerning
13 drivers and their cell phone use. Just a quick outline of
14 the presentation today. We will look at the scope of the
15 problem and govenment's response to TLC challenges, our
16 opportunities and the initiatives, including the proposed
17 rule changes, driver accountability and
18 enforcement, education and public outreach of both of the
19 driver and passengers.

20 And finally, our next steps. Recent studies have
21 shown that distracted driving, which is sort of the term
22 the art that is used to describe drivers who are using
23 either a cell phone or texting, or what have you, have a
24 serious problem and it's very dangerous. In fact, the
25 National Safety Council recently said that you're four

1 times more likely to get into an accident if you're on your
2 cell phone or texting.

3 Interesting, the TLC, as the commissioner stated, was
4 the first regulatory body to actually pass rules concerning
5 hand-held cell phones in 1999. That is ten years ago. The
6 state soon followed in 2002, banning the use of hand-held
7 cell phones, and recently including a ban on texting while
8 driving. There are currently fifteen states that ban cell
9 phone use and eighteen states that ban texting, and about
10 three weeks ago, the Federal Department of Transportation
11 convened a working group of transportation agencies to
12 study the problem, and they have actually proposed
13 restriction on cell phone use for train and subway
14 operators as well as truck, and school bus drivers and
15 interstate truck drivers as well.

16 I think the most sort of sweeping suggestion currently
17 out there is the National Safety Council is calling for a
18 nationwide ban on cell phone use while driving. The TLC
19 faces quite a few challenges when it comes to cell phone
20 use. It's been ten years that this ban has been on the
21 books, and we know that drivers are still continuing to use
22 their cell phones while driving. It's difficult to catch a
23 driver, because of the new technology, such as BlueTooth
24 devices which are hard to catch. Our Operation Secret
25 Rider was developed to enforce against various violations

1 that impact driver safety and we found that just about
2 fifty percent of the summonses we have written are about
3 cell phone use.

4 The bottom line is that the driver should be a hundred
5 percent focused on getting the passenger to their
6 destination, and if they're on their phone, they are
7 distracted. We see many opportunities to enhance customer
8 service with these proposed rules. Strengthening the
9 distracted driver program, which I will talk about in a
10 little bit. Improving driver education, including adding
11 additional courses, educating passengers on their rights
12 and service standards, including the fact that we do have a
13 prohibition on the books today that states that drivers
14 cannot use their cell phones.

15 Ensuring drivers are focused on passengers. Again,
16 this is a customer service issue for us, and we think it's
17 very important that we make sure that the passenger gets
18 what they are paying for. Finally, you know, we were the
19 first and we want to continue to be ahead of the curve in
20 terms of ensuring that we provide quality and safe
21 transportation services in the City of New York.

22 So, our first initiative is about the proposed rule
23 changes. Our rules are designed to sort of look at the
24 issue in a more holistic way and will apply to all TLC
25 regulated drivers. So the first thing is the technology.

1 Obviously, there have been many advances. We know that
2 people communicate in different ways, whether it's the
3 BlackBerry, cell phone, i Phone, gaming device, Smart
4 phones, hands-free devices, we know that people are
5 communicating. Also in just not only talking on their cell
6 phones, but also texting e-mailing, surfing the Web and
7 sharing pictures, we.

8 I also want to include and address the actual wearing
9 of the BlueTooth device. And finally, it's important that
10 we acknowledge that we have to sort of look at specified
11 emergencies, as of course, there will always be some sort
12 of emergency that can happen. Part of our rules is
13 increasing fines as a deterrent. We are going to look for
14 ways to enhance driver accountability concerning cell phone
15 violations, increasing points. The Persistent Violator
16 Program, which may lead to TLC license revocation, or
17 suspension, and Distracted Driver Program, which is a new
18 program which assigned points to TLC and DMV violations.
19 Continuing along the team, the accountability and
20 enforcement.

21 The proposed rules will help our enforcement efforts
22 greatly. It will enhance our capacity and increase driver
23 accountability and responsibility, so that the Distracted
24 Driver Program, which is new, would assign points for DMV
25 and TLC cell phone convictions. The first cell phone use

1 conviction will result in an increased fine and safety
2 refresher course. Two cell phone use convictions within a
3 fifteen month period will result in an incrementally higher
4 fine, thirty day suspension and mandatory refresher course.
5 Finally, three cell phone use convictions within a fifteen
6 month period will result in an incrementally higher fine
7 and license revocation.

8 Our second initiative concerns driver education and
9 passenger outreach. Driver ed is critical to the success
10 of these proposed rules, and we are looking at ways to
11 revise our curriculum, including focusing on the dangers of
12 cell phone use and texting while driving. We are also
13 looking into additional courses, such as pre-license
14 education reinforcement, mandatory continuing education
15 after one year and finally a refresher course for
16 persistent violators. We are also looking to develop
17 written materials, brochures, posters, industry notices and
18 so on, getting outreach to industry stakeholders.

19 Passenger outreach is also critical, and really,
20 passengers are eyes and ears out in the field, so it's
21 important that they understand their rights and rules
22 concerning the use of cell phones while driving. So we
23 will highlight that for them for sure. In addition, we
24 would like to highlight the fact that you can participate
25 in the court process by phone. It's obviously convenient.

1 Then also developing education programs such as PSA's for
2 the passenger monitors, and sort of again stressing the use
3 of 311 if you have an issue, our court process and
4 potentially even information stickers in the back of the
5 vehicles.

6 That leads us to our next steps. We will develop and
7 publish these rules and hopefully have a public hearing in
8 November or December. With that, I will take any questions.

9 THE CHAIRMAN: Good job. Any questions?

10 COMMISSIONER GONZALES: No questions, but I have
11 just one general comment. First of all, I like the signs,
12 guys. Don't quite agree with the content, but I think it
13 achieves the objective of showing that there is an issue.
14 I'm happy that we're taking action here. I look forward to
15 enhancing what we are currently doing with respect to
16 safety.

17 Remember, it's safety for the passenger, drivers and
18 also property that we're trying to address here.

19 Also, thirdly, with respect to the presentation here,
20 I hope that the emphasis is on resolution and not on fines
21 and punitive approach to it. I think that is a flavor I
22 believe that would be most effective in eradicating the
23 issue.

24 THE CHAIRMAN: Any other questions or comments,
25 Harry?

1 COMMISSIONER GIANNOULIS: Could you tell me, or
2 somebody tell me what in terms of the three sectors,
3 livery, black car, yellow, what are the legitimate
4 non-personal uses of phones currently? Not under the law,
5 but under practice.

6 MS. PHILLIPS: If I'm understanding your
7 question, I think the answer to that is only when they are
8 stopped or parked.

9 COMMISSIONER GIANNOULIS: Maybe I didn't explain
10 myself. In other words, if you are a driver in either of
11 those three sectors, what do you currently use your phone
12 to do business with? Outside of personal use, are people
13 taking destination information, et cetera, what is the
14 legitimate use of phones currently?

15 MS. PHILLIPS: That is a good question.

16 THE CHAIRMAN: They do use the phones, Harry, to
17 take -- some people take Nextels to receive dispatch calls,
18 but they're supposed to pull over to the side of the road
19 to take the calls, right, Chuck?

20 MR. FRAZER: The BlackBerries you're referring
21 to?

22 THE CHAIRMAN: Years ago, they used to use the
23 Nextel direct connect as well. Some are still using them.

24 MR. FRAZER: I do think some of FHV's use -- I'm
25 having trouble -- you used the word "legitimate" -- I think

1 some of the FHV's take dispatches on cell phones. If
2 they're moving, that's not legitimate.

3 COMMISSIONER GIANNOULIS: What I'm trying to get
4 at, what are the non-personal uses of telephones in
5 vehicles currently that would be banned under these new
6 restrictions?

7 MR. FRAZER: I think the answer is none. In
8 other words, you cannot now use a cell phone while you're
9 driving for any purpose, business or otherwise. If someone
10 is doing that now, they're violating our rules.

11 One of the problems is though, you have the BlueTooth
12 in your ear and you argue I wasn't using it, and we are not
13 able to get the violation sustained, but we know because
14 the BlueTooth is in your ear while you're driving, that
15 it's available to be used at any moment.

16 COMMISSIONER GIANNOULIS: Putting aside yellows,
17 the liveries or black cars, if they're receiving
18 information from the bases, they're to stop their vehicles?

19 MR. FRAZER: Yes. If you're driving, you're not
20 to be making calls or taking calls; that's right.

21 COMMISSIONER GIANNOULIS: That obviously doesn't
22 happen now. It's not about the use of a telephone, it's
23 about the use of any device in the car.

24 MR. FRAZER: As of now, the only rule we have on
25 the books is cell phones. Ten years ago there weren't all

1 these new devices.

2 COMMISSIONER GIANNOULIS: They're not using cell
3 phones now?

4 MR. FRAZER: Many people are, absolutely?

5 COMMISSIONER GIANNOULIS: When I get into my
6 black car and something is ringing there, what is ringing?

7 THE CHAIRMAN: Some of them have text displays.
8 That comes with the hardware and software from the dispatch
9 companies. It's used for dispatching purposes.

10 The ones we have in the yellow cabs is text messages.
11 They're not capable -- they banned them from being able to
12 send text messages while the cab is actually in motion.
13 Many black car companies have similar type text message
14 screens that when the companies have contracts with
15 software and hardware companies to take their dispatch
16 system, they use that hardware to receive the calls. They
17 have to actually hit a button saying they're going to take
18 the call or not. They're supposed to do that, best
19 practice, when they're on the side of the road.

20 This proposal, as I understand it, would ban you from
21 doing it unless you're actually parked.

22 COMMISSIONER GIANNOULIS: Some of them have
23 Nextels?

24 MR. FRAZER: Not as much, but they used to years
25 ago.

1 COMMISSIONER GIANNOULIS: How are bases
2 communicating to livery drivers?

3 THE CHAIRMAN: Used to be two way radios.

4 COMMISSIONER GIANNOULIS: We don't know.

5 THE CHAIRMAN: We know. It used to be two way
6 radios.

7 COMMISSIONER GIANNOULIS: Let's put aside if
8 someone is doing something wrong. If they were standing on
9 the corner not moving, how would they communicate; it's a
10 simple question.

11 MR. FRAZER: I think the bulk of them are cell
12 phones. It's variation of a theme. You use the phone
13 mechanism on a BlackBerry; is that a phone? I don't know.
14 Mainly they're calls.

15 COMMISSIONER GIANNOULIS: You have a livery
16 service. Harry Giannoulis calls for a car. What happens
17 then? They call up the driver on their personal cell
18 phone and say go pick up Harry?

19 MR. FRAZER: The vast majority yes.

20 COMMISSIONER GIANNOULIS: In the black car
21 industry, there is some more advanced technology that may
22 involve texting and may involve other things, and in the
23 yellow car industry there is none of that.

24 MR. FRAZER: There isn't supposed to be.

25 THE CHAIRMAN: It's for the reasons, for

1 emergency, if someone left something in the back of the
2 cab, they will send them a text message, and the message
3 will come in after they stop the cab and they pull over and
4 read it.

5 COMMISSIONER GIANNOULIS: They can't do their
6 job unless they communicate. Under any possible
7 restrictions, how does that get worked out? I know this
8 isn't a formal proposal yet.

9 MR. FRASER: The notion is they would have to
10 stop the car before they take a call or place a call. If a
11 message is left and they have to pull over and answer the
12 message, that is how it would have to work.

13 COMMISSIONER GIANNOULIS: This would include
14 texting?

15 THE CHAIRMAN: Yes.

16 MS. PHILLIPS: That is state law as well.

17 COMMISSIONER GIANNOULIS: I know that. That
18 would include the type of things that is currently in black
19 cars that is considered to be texting.

20 MS. PHILLIPS: I think, if I'm understanding
21 what you said, that they get the text. In order to answer
22 the text, they have to be pulled over. So, I suppose they
23 can receive a text and to answer the call, meet Joe at so
24 and so address. They would have to be pulled over in order
25 to answer.

1 COMMISSIONER GIANNOULIS: I don't think my
2 questions are that complicated. It seems two of the three
3 industries are entirely based on the communication system.
4 I'm trying to figure out how they're going to talk to
5 people.

6 THE CHAIRMAN: It's based on what has been
7 regulated for the last ten years, which some of them aren't
8 doing because they have the BlueTooth on. They're supposed
9 to pull over to the side of the road. If something is
10 vibrating, you don't answer it, you pull over.

11 State law and the other laws we're talking about don't
12 prohibit you from doing that. The only thing that is
13 different, obviously texting, wasn't per se included in the
14 1999 law. The BlueTooth thing is a separate issue. It's
15 unfortunate, because we're at the point where I don't think
16 we can enforce these laws appropriately unless we get ban
17 on the BlueTooth.

18 In my mind, the BlueTooths are gone, but you can still
19 have your phone, your text message screen. When you get
20 the messages, you just can't answer them or communicate
21 while you're driving, you have you have to pull over to the
22 side of the road. I think that is the safest way to go.

23 COMMISSIONER GIANNOULIS: I understand where
24 you're going. I understand you ban the BlueTooth. I think
25 you need to do that. We all know the nature of the

1 BlueTooth. We all see people in on the street and we don't
2 know if they didn't take their meds or they're speaking on
3 the phone.

4 I just need a clearer explanation for the next
5 presentation. I need an explanation in a simpler form as
6 to how exactly -- I'm not talking about personal usage. I
7 understand that it's banned across the board already. I
8 need to understand what is the typical communication that
9 occurs between people who are actually -- not that they're
10 checking in with their husband or wives or kids -- what is
11 the typical communication done probably a hundred times a
12 day that we are fundamentally changing now?

13 If we are saying now you have to pull over to text the
14 person back that you could pick up Harry at his house,
15 fine, maybe you have to just pull over and push a button.
16 That sounds easy. But is it as easy as it sounds? When I
17 sit in cars I hear there is a quite a bit of chatter in
18 terms of where are you, are you in Jackson Heights, are you
19 in Douglaston, are you on 34th Street. It doesn't seem
20 like it's a one minute conversation. We have to flush that
21 out.

22 THE CHAIRMAN: I think it's a fair point. Since
23 we don't allow them to pick up street (inaudible) regulating
24 that area could make it more difficult. That's been the
25 law for the last ten years, and it's a fair point that we

1 haven't drafted the rules yet. It's just a concept.

2 I agree with you that they have to be very
3 specifically tailored and set forth very clearly what you
4 can and cannot do. That would include also emergency use.
5 If somebody is involved in an accident, if there is a road
6 rage incident going on or somebody is about to commit a
7 crime, the presentation also realizes that other than
8 business use, there may be an emergency component that when
9 you weigh the risks and benefits, that we may want the cab
10 driver to pick up the phone and make that call to 911 under
11 some limited circumstances.

12 COMMISSIONER GONZALES: In general terms, I
13 agree with you, Harry, that probably there is a major
14 distinction between cabs and for-hire vehicles with respect
15 to business practices, and I implore the industry to
16 provide that information to staff as they develop the guts
17 and teeth of this proposal, that those issues are
18 addressed.

19 I will say from my experience in general, in taking
20 yellow cabs, I have been in cabs where the entire cab ride,
21 the driver has been on the cell phone. In a black car, it
22 does tend to be more professional, does tend to be, you
23 know, driver, you have another pick up after this one.
24 It's like a ten second conversation or whatever. As far as
25 what have you --

1 COMMISSIONER GIANNOULIS: I agree with you. I
2 was going to say the same thing, but I didn't want to seem
3 like an elitist. That is true, but under the rule, that
4 ten second conversation would be prohibited. I understand
5 the issue surrounding that. I understand that it very
6 much. So accordingly now, I think we need to kind of flush
7 that out a little bit. Maybe there is technology that
8 solves this issue. Maybe people are already using
9 technology that solves this issue.

10 I certainly commend Matt and the staff for thinking
11 about this because we all do it. In my personal vehicle, I
12 have hands free and use that all the time. It's not --
13 probably dangerous as well. I agree that it is out of
14 control with a lot of people being on the phone. If you're
15 working, especially in a busy district, it's hard enough to
16 drive.

17 It's a serious issue. At the same time, we do have to
18 be sensitive to the entire world is communicating
19 twenty-four hours a day and we can't -- we have to come up
20 with -- pulling over and other reasons, we certainly have
21 to be flexible to people, that they can't be banned from
22 using a phone for twelve hours a day. We have to be
23 sensitive about that.

24 I just want to start out figuring out what the
25 existing communications systems are, especially in the

1 for-hire industry.

2 COMMISSIONER GONZALES: One last comment. The
3 way I see the issue, it's not so much a personal thing in
4 the sense it's not necessarily just detach the driver from
5 the situation. The situation is distractibility. That is
6 the issue that needs to get resolved. The for-hire vehicle
7 industry prior to cell phones, they had walkie-talkies,
8 CB's, Nextels and things like that. Apparently, the
9 industry was able to operate efficiently way back when
10 without this level of distractibility. That is the issue I
11 think needs to be flushed out.

12 THE CHAIRMAN: It's also regard for passengers
13 too. Harry raised a -- and Ed went into detail, there is a
14 distinction to be drawn between passengers exercising their
15 right and not doing so. That's the education component.
16 Black cars and limousines, you're paying a premium price to
17 take a black car somewhere or take your limousine to a prom
18 or wedding. You better darn well know if that driver is on
19 the phone, that complaint is going to come in and you're
20 going to lose the account.

21 Unfortunately, in the yellow cabs, it's a street base
22 system. People are throwing up their hands and giving up.
23 We were looking at the numbers and the numbers came down.
24 Cell phone complaints are down. After spending some time
25 in cabs and on the street, there is not a place that I go

1 the first thing that comes out of a passenger's mouth is
2 they have to get off the darn phones, but you know what,
3 they have given up. Because not only is everybody doing
4 it, they don't have the choice to call and say I'm going to
5 get rid of that company.

6 They would have to go through a process, even though
7 we made it easier. I think education is part of this
8 too. Passengers need to know all they have to do is call
9 311, schedule a date and use their own phones to testify.

10 I think this is a safety issue. I can't think of
11 anything right now that is as important as this in terms of
12 potentially saving lives. Anybody else?

13 COMMISSIONER AROUT: As far as for-hire
14 vehicles are concerned, they're prearranged, number one.
15 That particular driver will go to a destination. Most of
16 the time they have -- the drivers I deal with on Staten
17 Island do not go from there to a destination hands free,
18 they're waiting for the call to come through.

19 As far as that is concerned, first of all, I'm totally
20 against these cell phones to begin with. I've been
21 receiving between ten and twelve calls in the last twelve
22 days in regard to cabs, people driving in the cabs, the
23 driver is talking to whoever he wants to either by the ear
24 thing or by cell, driving the passengers crazy. They can't
25 do anything. The driver will curse out -- that lady that

1 spoke to me, I said did you get the name. She said no, I
2 didn't.

3 But that is constant. They're constantly on the phone
4 no matter where you go. As far as I'm concerned, it's a
5 big thing and couldn't come any sooner. Thank you.

6 THE CHAIRMAN: Questions or comments?

7 COMMISSIONER POLANCO: I was going to basically
8 say I agree with Harry. In terms of striking a balance, of
9 course, the current law is there that cell phone use is
10 prohibited. Also, you have to strike a balance with the
11 legitimate purpose of, let's say, the livery cab industry
12 and also the black car. They use certain mechanisms to
13 communicate. That is something we have to consider.

14 This is a presentation that you will take it into
15 consideration when you do meet people in the industry.

16 THE CHAIRMAN: These are not finalized as rules
17 yet. There are a number of people from the industry here.
18 We will sit down with you and get language from you before
19 we bring it to the Commission to address some of these
20 concerns. Any other questions? Thank you. Any other
21 business, Chuck?

22 MR. FRAZER: We have two Commission appeals on
23 for executive session, and with only five commissioners and
24 Commissioner Daus recusing himself from appeals on his own
25 decisions, we won't have a quorum, so we have to adjourn

1 those to the next meeting.

2 Is there a motion to adjourn the meeting?

3 COMMISSIONER AROUT: Make a motion to close the
4 meeting.

5 COMMISSIONER GONZALES: Second.

6 MR. FRASER: All in favor? It's unanimous.

7 (Time noted: 2:33 p.m.)

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CERTIFICATION

STATE OF NEW YORK)
)
COUNTY OF SUFFOLK)

ss:

I, JUDI GALLOP, a Stenotype Reporter and Notary Public for the State of New York, do hereby certify:

THAT this is a true and accurate transcription of the New York City Taxi & Limousine Commission meeting held on October 16, 2009.

I further certify that I am not related, either by blood or marriage, to any of the parties in this action; and

I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of October, 2009.

JUDI GALLOP

