NEW YORK CITY LIMOUSINE COMMISSION

PUBLIC HEARING

Held on Thursday, October 21, 2010

40 Rector Street

New York, New York.

Time: 10:15 a.m.
APPEARANCES:

COMMISSIONERS:

DAVID YASSKY, Chairman
LAUVIENSKA POLANCO, Commissioner
ED GONZALES, Commissioner
IRIS WEINSHALL, Commissioner
ELIAS AROUT, Commissioner
CHARLES FRASER, General Counsel

SPEAKERS:

GEORGIA STEELE, Licensing Division
BILL CARTER, Limousine Association of New York
Richard Thaler, Black Car Retirement
Bhairavi Desai
MR. YASSKY: Good morning. We have only
a relatively short agenda today, but we will
get started. At least one of our
commissioners is in traffic on the way here.
We'll get started, I will give my report, we
will have the hearing on the items before us.
If we do it not have a quorum by that time,
we can recess and return when there is a
quorum.

First, Commissioners, I just want to
give you a report on some initiatives
underway at the TLC. First, is our Livery
Stand Pilot Program. We are experimenting
with a livery stand at the Staten Island
Ferry Terminal to see if we can reduce the
number of illegal street hails and provide a
service that is in demand, namely, the
ability to, in that case, get off the Staten
Island Ferry and get a for-hire vehicle
without prearrangement. And so far that is,
I'm happy to report, quite successful.
The stand opened just after Labor Day at
St. George, the Staten Island side of the
ferry. It's been averaging about 275 rides
per day; in other words, 275 people a day are getting off the ferry and just getting into a car and going where they want to go. We assume or we believe that most of those, if not, almost all of those, otherwise would have been illegal street hails. So, we think that's a significant reduction in that, and a success to date.

We are proceeding toward a similar pilot livery stand at Jamaica Station, the end of the E Train in Queens. That should be getting off the ground around Thanksgiving.

The next initiative is the group ride efforts we haven undertaken both for yellow taxis in Manhattan and for group ride vehicles in Brooklyn and Queens. These are meeting with I would say mixed success. The Manhattan group ride stands at West 57th Street and Eighth Avenue, West 72nd Street and Columbus Avenue, and East 72nd Street and Third Avenue, the more-upper ones in Manhattan, simply have not worked, whether there's not enough common routes from there to work at all, or whether it is a kind of
chicken-and-egg problem that passengers will only go there if there are taxis and taxis will only go there if there are passengers, but neither will act first. However we understand it, the reality is they are not functioning as group ride stands.

So, those have not been successful, but the one at the Port Authority Terminal has been. That is averaging in about 20 share-and-rides a day, which I think is enough to continue that, there I think the chicken/egg problem seems to have been avoided because you have a steady stream of passengers already coming out.

MS. WEINSHALL: Do you ever think of doing Penn Station?

MR. YASSKY: I don't recall if we did. I mean we must have looked at an analysis, TLC must have, but I don't recall myself ever looking at that. But I will get you data where people are going from Penn Station.

MS. WEINSHALL: There are long lines for people awaiting cabs.

MR. YASSKY: We'll see if that is
comparable to the Port Authority. That is the Manhattan group ride stands.

In Brooklyn and Queens, the Commission approved a set of group ride vehicle routes to test out. This is kind of the livery equivalent maybe of the Manhattan taxis group ride stands, and those are slow to get off the ground, and I don't know yet whether they will succeed or not. We started with five, on three of them there is some amount of traffic, not enough to be self-sustaining at this point but enough for the operators to have a desire to hang in there and see if they will succeed.

On two of them, there has been very little ridership, not enough for them to justify the operators who want to hang in there. Even on the three, we have had spotty service, again you have kind of a chicken/egg. It is clear to me, that for the operators to succeed there, they are going to have to provide a consistency of service such that riders feel that they can rely upon it. And they really have not been doing that
yet. We have been working with them and
meeting with them to make it clear that if
this is to succeed, they are going to provide
consistency of service. So, I would say
that's still in the kind of too-early-to-say
stage, but we are kind of working on it.

Along with it, I will tell you, we have,
as we had told you at the time, stepped up
considerably against illegal commuter vans,
which are in some ways kind of a competitor
to this. Just over the last few weeks, we
have seized -- and Deputy Commissioner
Mullings and her team have been putting in
extraordinary effort. We have seized 131
vehicles. That is without question having an
impact. We know this, because we are seeing
people call the Licensing Division to inquire
about how to get licensed as legal commuter
vans. So, that enforcement effort is
definitely paying off, and we are committed
to keeping it up.

TPEP, two quick updates -- first, one
more item for two other things. Many of you
may remember an instance some months ago in
which a taxi driver ejected two gay men from his cab. The TLC penalized the driver for refusal and fined him. We issued a summons and the summons was appealed, and the driver was fined. In addition, the TLC referred the matter on to the City Commission on Human Rights as a discrimination complaint. And the Human Rights Commission recently announced that it had obtained settlement of $2,000 paid by the driver to the complainants. And I hope that this case will serve as a reminder to our licensees that everyone in New York City is entitled to service. There cannot be, there must not be any discrimination on the basis of race, on the basis of sexual orientation. No discrimination will be tolerated. And I think that this was a good outcome in this case.

So, two other kind of more significant business items, I just want to let you know where we are on them. First is, Taxi of Tomorrow, I have spoken with each of you here individually on this, and many of the
stakeholders too in the industry. We are in
the middle of the Taxi of Tomorrow process.
I'm bringing this up now, because there have
been some recent press reports. The Daily
News reported -- well, the New York Post
reported that one of the competitors, one of
the entrance respondents for our request for
proposal had claimed that it was selected as
the winner. That report may be accurate in
that perhaps the respondent said that, if so,
the claim is flatly untrue.

And the Daily News reported just a
couple days ago that there are two, in their
words, "finalists" -- also not the case.

We are in the middle of the process, and
we have gotten several responses, including
from major car companies. They are
promising, they are worthy of inquiring and
of serious and extensive review of our
technical scoring committee which is doing
that. They have made preliminary evaluations
as to strengths and weaknesses. They have
gone back to respondents to get further
information. We are in the middle of the
You know, a little knowledge is a dangerous thing. One fact out of context can be very misleading. Sometimes, to take an example that I'm familiar with, you can watch election returns: And with 3 percent in, somebody is up 70/30, and by the end of the day, the one who was at 30 has won. So, it may true that it was 7/30 with 2 percent in, but that is utterly and completely misleading and really irrelevant.

So, we are in the middle of this process. The staff is working extraordinarily hard. We have each spoken individually. I will continue to keep you updated. And as soon as we have real information worthy of review, I will be back with you.

Last is TPEP -- you know, one of the real great successes of this agency and this Commission. Our contracts with the existing -- as you know, for the last few years, three providers, three private companies have provided the TPEP systems to
taxi owners. And then Op Notch has provided them in the first place -- but even more important, operated them; processing the millions of credit card transactions every day. And credit card use, for your information, continues to grow and I think, you know, soon will really be the bulk of the way taxi fares are paid.

There have been three providers for the last few years. Our contracts with those three providers expired, or were set to expire at the end of September. We are seeking improvements. You know, there's always room for improvement. So, not to say the performance has been unsatisfactory, it's just that we see opportunities for improvement, as would you would expect, with a fairly new service.

So, we are seeking improvements in those contracts for the benefit of the riding public and the drivers; to the extent that cost can be brought down, or that revenue opportunities can benefit the drivers and the taxi owners, we want to make sure that they
do; to the extent that service to the riding public can be enhanced, either through even greater consistency -- although it's been quite consistent; or through expansion of additional services that this technology makes possible; and service to the TLC, the data that has been provided to us, that we have, as you know, relied upon for important enforcement efforts. On all those fronts, we are seeking improvements in the contracts.

We were not able to reach a conclusion with any of the vendors by the date of the expiration at the end of September. What we did was extend two of the contracts for 45 days until November 15th. So, those extensions expire November 15th.

With the third vendor, that is DDS, that contract is not being renewed. So, going forward, we expect that there will be two vendors, CMT and VTS. They have already of course been providing the bulk of the service to the industry. We believe going forward that they will provide the entirety of it.

Now, I should say, and I say to taxi
owners who are listening or who are represented here, at this point, neither of those two companies have we reached a full renewal agreement with. So, for people who have been served and are currently under contract with DDS, they are going to be looking for a new provider. I would recommend that they wait and see. I cannot guarantee that both of the other two vendors, that we will reach renewal contracts with both of those two vendors. We are working closely and aggressively, and I expect that we will. But to be clear, until there's a renewal agreement with either or both of them, then there simply isn't.

So, I would -- you know, that some of the owners who have been with DDS are thinking, "I should sign up with one of the others." Until there is a full renewal contract, I think that will be premature.

MR. GONZALES: On the contracts that are expiring, there is still a service agreement beyond the expiration date?

MR. YASSKY: Yes. Most important is
that the contract with DDS and the other two, if we don't reach a renewal agreement, provides for a year-long period in which the vendor is required to continue to service the equipment, continue to service the taxis, continue to provide the credit card processing transaction. And that commitment is backed up by a significant bond. So, we have every expectation, and all our conversations with DDS have been friendly and productive, and they are committed to making sure that there is smooth transition. And we are extremely committed to making sure there is smooth transition.

And whatever we reach do or don't reach with the other vendors, we will not permit any interruption in service to the public and to the drivers, for that matter, of the credit card processing that has become crucial to the industry.

MS. WEINSHALL: Can you share with the Commission why DDS is not being renewed?

MR. YASSKY: Well, we did feel that their level of service was inferior to the
other two by a significant extent. In terms of level of service, what I'm talking about is, you know, rate of success or failure in processing credit card transactions, the quality the data that was generated, and the level of reliability in the data that was provided when it was necessary for enforcement or lost property, of all of the other uses that we use that data for.

And as I say, we have had friendly and productive conversations about the transition. We certainly wish them well going forward.

And they expect to continue to compete in this marketplace elsewhere in the country, and I have no reason to think that they shouldn't be a successful competitor and perhaps in the future will return to the New York market.

But we just felt that we had a considerably higher degree of confidence, in the ability to perform, of the other two vendors over the next year or two years, which is the potential life of the renewal.
MR. GONZALES: With the one competitor dropping out, is it going to be an impact on the industry as far as drivers on cost?

MR. YASSKY: You know, we took into account the impact on competition; a competitive marketplace is a good one. And we understood that one factor in this decision is the less competition may be the worse for the drivers or the owners that have to pay for that cost. The renewal contracts do provide -- or the original contract and presumably the renewal do provide for a cap on the amount that the taxi owners can be charged for the equipment. Still, the credit card processing fees, there have been, you know, from time to time, concerns raised primarily by drivers about the cost of the credit card processing that the existing vendors charge. And you know, you are right to say "Well, the more competition would lower that cost."

And in fact, one thing we're exploring the new contracts is opportunity to provide for competition for that particular service.
But our paramount concern was: Somebody gets in a cab and swipes the card, the transaction has got to go through. And as I say, riders are coming to rely on that. If you go to other cities, you know, it is really hit or miss. Here in New York, we are able to say if you have $2 in your pocket but a credit card, you can still get into a cab -- we want to make sure that people know that they can. We felt that going forward with two rather than three provided greater certainty.

Finally, last on my report, but you know by no means least in importance to the agency, is a personnel matter. To our great regret, although happiness for him, Ira Goldstein has decided to leave us for the private sector. Tomorrow is Ira's last day at the TLC, after which, he will serve as executive Director of the Black Car Workers' Compensation Fund.

Ira has been at the TLC since 2001. He started out as an ALJ in the adjudications division. He has held a number of other positions, including chief of staff,
assistant commissioner for technology
development, was the project manager for the
TPEP project from its inception in 2004,
brought the project from its drawing board
to the taxi cab, despite the views of many
onlookers that the project was, you know,
like many government ideas, would never
happen -- this did. And it worked, and it
worked quite magnificently. So, that's just
one of the many things I will tell you --
that I'm not going to say it is
irreplaceable, but, Ira's breadth of
knowledge about both the industry and the
agency are extraordinarily valuable here.

I wish him only the best, and I am truly
and genuinely happy for him, because I think
it's to his credit that he's taking on a new
challenge. But he will be greatly missed
here at the Commission.

(Applause)

MR. YASSKY: With that -- my promise of
a short meeting quickly evaporating -- can we
go to the business adoption of the minutes?

MR. AROUT: I make a move we accept the
MR. YASSKY: All in favor, Aye?
THE COMMISSIONER: (In unison) Aye.
MR. YASSKY: Opposed?
(No response)
MR. YASSKY: Without objection, the minutes of the September 16, 2010 Commission meeting are adopted.
Base applications -- this is our primary business here today. Is Georgia presenting them?
MS. STEELE: Good morning. Licensing would like to present before the Commission 21 bases with a recommendation for approval.
MR. YASSKY: Is there a motion to approve them?
MS. WEINSHALL: So move.
MR. YASSKY: All in favor, say Aye.
THE COMMISSION: (In unison) Aye.
MR. YASSKY: Opposed?
(No response)
MR. YASSKY: Your recommendation is adopted, and 21 bases are approved.
And there is also recommendation for
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four denials?

MS. STEELE: Yes, with the request that
the Commission grant an additional 30 days so
that they may present the outstanding items.

MR. AROUT: Make a move to do that.

MR. YASSKY: Thank you. All in favor,
say aye.

THE COMMISSION: (In unison) Aye.

MR. YASSKY: Opposed?

(No response)

MR. YASSKY: Without objection, then
again those four items are recommended for
denial with an additional 30 days to meet our
requirements. Thank you, Georgia.

Now, we have a Commission public hearing
on six rules changes. Our general counsel
will describe these items.

MR. FRASER: All six proposed rules are
changes to the rules that will become
effective next year. None of them are
changes to the rules that are currently in
effect. Five of them are proposals that we
have been calling "Phase 2 1/2 Proposals;"
meaning relatively minor items that we
identified in the course of doing the Comprehensive Rules Revision that needed to be fixed that we did not do because we were not doing substantive changes in the rules as part of that project, the sixth one being the Black Car Rules which are a change to the new rules to parallel a change that's been already approved to the existing rules after the approval of the new rules in July.

The first one is items that have to be in clear view of the passenger. Our existing rules require that certain items be present in the taxicab and in for-hire vehicles. This rule specifies which of them must be in clear view of the passenger, meaning visible and not blocked in any way by the driver or any other object in any way of the thing that is to be in the car.

We published these for comment, and I got no written comments. There is one witness who is signed up to speak today.

MR. YASSKY: Bill Carter from the Limousine Association of New York.

MR. CARTER: Good morning, Mr. Chairman,
Commissioners. My name is Bill Carter. I'm the executive director of the Limousine Association of New York.

The Limousine Association of New York supports the Commission in its efforts to clarify and codify the rules that govern the various segments of the transportation industry under its agency.

We appreciate the opportunity that we have been given to helping correct the new for-hire vehicle rules. We hope to continue to be an integral part in any future changes that affect this industry and the way it operates.

However, it saddens us to note that one small bone of contention that we urge the Commission to change still has not been rectified. The luxury segment of this industry has asked the Commission to reconsider the language included in the rule requiring the display of credentials within the vehicle.

I call your attention to rule 6-12(j), which, over a series of intermit time
periods, finally requires that four
documents; the vehicle registration, the
insurance card, the FHV driver's license, and
the FHV vehicle permit, be kept in the car.

The first two may be kept, "at the
visor, on top of the dashboard or in the
glove compartment."

The other two items; the vehicle permit,
and the FHV driver's license, are to be
displayed behind the seat of the driver. The
Commission granted, however, the following
exemption: 6-12(j)(4), which says, "The
driver's FHV license and vehicle permit, if
not displayed behind the driver's seat in a
holder, may be displayed in the vehicle in a
way so as to be clearly visible from the
passenger's seat and available for inspection
by the passenger upon request."

The Limousine Association of New York
was asked to conduct an informal survey of
our passengers, and we found that in this
segment of the industry, the customer does
not want visual intrusion in the vehicle.
This was further represented in letters
forwarded to the Commission over a year ago.

As a category, luxury vehicles generate very few violations. While we welcome sensible regulations and enforcement, and we understand the need for identification of the vehicle, the driver, and the licensing status of a vehicle serving the riding public, we ask that the Commission not view us as part of that problem; we do not accept street hails, many of our drivers are chauffeurs or employees, our passengers are prearranged, and the company or base always knows who is driving the vehicle that is assigned to that job.

A passenger having a complaint about a driver will notify the company, not the TLC. And if the service does not meet their standards, they will take their business elsewhere. We ask that the Commission reconsider changing the language of the rule to allow all four required documents to be kept in the same place which would include the glove compartment in a luxury vehicle.

Thank you.
MR. YASSKY: Any discussion on this item?

(No response)

MR. YASSKY: I would only say -- thank you, Mr. Carter, for your testimony -- we have of course heard this issue raised from Mr. Carter and his colleagues. The rules do treat luxury limousines differently than our for-hire vehicles, in that the driver's license is not required to be displayed on the back of the driver's seat in a way that is kind of very immediately presented to the passenger. And that is in recognition of the fact that luxury limousines of course are not allowed to accept street hails, and don't serve -- serve the general public in a different way. It's largely by repeat-customers, and not as much by the one-off customers. So, perhaps the need to look out for the public in that way is slightly less.

And also that part of what that segment is offering is a luxury experience that, at least in the view of the industry, to which is entitled to respect, that luxury
experience is disrupted somewhat by having
the license displayed so prominently.

However, we do believe that it is
important for passengers to be able to
identify the driver by name, by license
number. The rules now permit it to be on the
visor, so, in a less obtrusive way but still
visible way. And, that, this Commission
staff feels and I feel, is an appropriate
compromise between the aesthetic demand of
the luxury field and the need to protect the
public.

So, that was, Commissioner, just so you
understand what our rationale was.

Is there a discussion on this item?

MR. GONZALES: I have a general comment
on 423: The clear view for passengers, just
with respect to the wording, and if it's
taken literally, I don't think it's what our
intention is. It says in the last three
lines, "and must not block in any way a
passenger's access to the medallion number on
the taxicab identification raised lettering
plaque or the taxicab identification brail
plaque," with the word on there, if taken literally, seems to be you can block one or the other.

MR. FRASER: Well, no, that is certainly not what was intended. I think it means you can't block either one, is the way I would construe that. The point being that, for the raised lettering and the brail to work, the passenger has to be able to touch it. So, it isn't even the matter of the view, obviously, a blind person doesn't need to see it. They need to be able to touch it. So, that's why that is not cast in terms of blocking the view, it is blocking access to it so that it can be touched. And the point was not that you can block one or the other, the point was that you can't block either.

MR. YASSKY: I guess, Commissioner, what I would ask is, perhaps we can go over with you and grammarians whether it accomplishes that. You know, I think that by saying, "must not block this or this" prevents the blocking of either one, as opposed to saying, "passenger must have access to this or this,"
which would allow the either/or. But if we could, we can go over that with you afterwards to see if an amendment is necessary.

MR. GONZALES: Yeah, anything along the lines of "The two plaques must not be blocked" I think would be appropriate.

MR. YASSKY: So, I hear the wording comment. Like I said, because I think that if we think about it, I do think this wording accomplishes what it's intended to. So, I guess what I would ask your indulgence is, we can go over that with you, and if you disagree, we can go back.

MR. GONZALES: Okay.

MR. AROUT: Make a motion we approve it.

MR. YASSKY: Okay, a motion to approve is on the table. All in favor, say aye.

THE COMMISSION: (In unison) Aye.

MR. YASSKY: Opposed?

(No response)

MR. YASSKY: By unanimous vote, this item is adopted.

Mr. Fraser?
MR. FRASER: The next one is a proposed rule that will allow LLCs, limited liability companies, to be licensees for all of our license types except drivers. This is one that was generated by an inconsistency in our rules. Our rules currently allow LLCs to own medallions, but are not specified as a permissible owner or licensee of bases or other business licenses.

In fact, I understand LLCs are accepted by our licensing division. So, this is sort of a cleanup provision that will allow LLCs to be licensees of all types, except drivers obviously.

We published this rule for comment. We received no written comments, and no one has signed up today to testify.

MR. YASSKY: I think that is straightforward. Is there any discussion of this item?

(No response)

MR. YASSKY: Is there a motion to approve it?

MS. POLANCO: So move.
MR. YASSKY: Thank you, Commissioner Polanco. All in favor, say aye.

THE COMMISSION: (In unison) Aye.

MR. YASSKY: All opposed?

(No response)

MR. YASSKY: By 6-to-nothing -- or 5-to-nothing I suppose, the item is adopted.

Mr. Fraser?

MR. FRASER: The next one is the Black Car Retirement rules and Clean Car Incentive. This rule was promulgated by the Commission a couple months ago as an amendment to our existing rules. What this proposal does is it recodifies it as an amendment to the rules that will become effective next year, with no change from what has already been promulgated.

We published this for comment and received on written comment, which has been distributed to the Commissioners, and that commenter has signed up to testify today.

MR. YASSKY: Mr. Thaler, you have asked to testify?

(No response)
MR. YASSKY: Okay, very good. Again, Commissioners, this really is I think a purely technical amendment. We are continuing to the TATC rules what we have already adopted for existing rules.

So, is there a motion to approve?

MR. AROUT: Move the adoption.

MR. YASSKY: Thank you. All in favor, say aye?

THE COMMISSION: (In unison) Aye.

MR. YASSKY: Opposed?

(No response)

MR. YASSKY: Mr. Thaler, if you would like, please go ahead. And I appreciate your brevity. We have received your written comment and it has been distributed.

MR. THALER: Thank you, Chair Yassky and Commissioners. The two-year retirement extension for wheelchair accessible vehicles applicable to non-fleet operated medallion taxis is not permitted in this proposed Black Car Retirement rule. So, would the Commission consider adding this provision? It would provide an important incentive to increase the number of wheelchair accessible
FHVs as the MTA continues to explore the opportunity to increase the participation of FHVs for Access-a-Ride service, and also to support perhaps the increase in a latent unknown demand from the disabled community.

MR. YASSKY: Thank you. This was a helpful comment. Your written comment was quite helpful, and your oral testimony is helpful as well.

In our discussion with the industry, there was some interest in taking advantage of a retirement-age incentive for fuel efficient vehicles. So, that is why this was included in the rule. Also, because it was a revision of a strict requirement, as you know.

We did not here similar interest in accessible vehicles. Nonetheless, we ought to look at it. So, we don't want to put into loss something that was meaningless, but we'll take a look at it. And I appreciate your comment. Thank you.

So, we were, I believe in the middle of voting. We'll just do it again.
All in favor, say aye.

THE COMMISSION: (In unison) Aye.

MR. YASSKY: Opposed?

(No response)

MR. YASSKY: By unanimous vote, Item 4C is adopted.

Mr. Fraser?

MR. FRASER: Next is the Distracted Driver revisions. This changes our existing rules in two respects: One, it eliminates the need for a directive that a driver take a refresher course after the driver is found guilty of one distracted driver violation. The way the rules read now, if the driver is found guilty, a directive must be issued, and then the driver has to take the course, it is obligatory upon being found guilty. So, what this rule does is it eliminates the extra step of having to issue the directive: You are found guilty, you have to take the course; you don't sit and wait until you get the directive to get the course.

The other change that this rule makes is it eliminates the counting of DMV violations
for distracted driver, essentially cell
phones, while also other electronic devices.
It eliminates counting those towards your
three-strikes-and-you're-out. And the theory
there is that your personal driving should
not be counted against you for this purpose.
So, those are the two changes that this
proposal would make. We published this for
comment. No written comments were received,
and one speaker has signed up to testify
today.

MR. YASSKY: Ms. Desai, you signed up to
speak.

MS. DESAI: Good morning. Actually, may
I also comment on two other rules? I know
that's normally been the procedure.

MR. YASSKY: Go ahead.

MS. DESAI: Thank you. Well, first, we
certainly welcome the change in the rule to
eliminate counting points from, you know, DMV
summons, toward the three-strikes-and-
you're-out provision. What I would want to
say is that I think that the new language in
the penalty in this rule is actually very
confusing. By what Mr. Fraser has just said, I would assume that your goal is to have the penalty read that it is the $200-fine, plus having to take the course which is mandatory. But I think upon a very quick glance, it gives the impression that it is $200 plus a suspension. And I understand that the rest of the rule continues to clarify to say that the suspension is deferred for 60 days, but I do think it is confusing, and I think especially if someone who is representing themselves pro se gets a disposition -- I, just think it is going to lead to a lot of confusion at Queens Boulevard. So, you might just consider rewording that paragraph.

The other two that I wanted to comment on was a rule in terms of proposed amendments to items which must be in clear view of passengers for taxis and for-hire vehicles. In as much as that rule now includes the passenger information monitor, my one concern would be that drivers -- one, the signal is out for the credit cards, and in some cases
where the monitor itself is out, and especially when there is a system-wide failure or a prolonged failure throughout a shift, instead of getting into an argument with every single passenger that get's in, drivers very reasonably will post up a sign. And I think it is really to communicate with the rider, to actually ease any miscommunication or misunderstanding as to why their transaction is not going through. So, I do think that there should be some sort of exception, that if the reader is out, the driver should be allowed to post some sort of a sign to alert the passenger even before they get into the back seat. And since the monitor seems like the ideal location for that kind of a handwritten sign, my concern would be that with the new proposed amendment, that a driver would not be able to do that without facing the consequence of a penalty when they are pulled by a TLC inspector when they might have such a sign up. So, that is something that I think should be considered.
Lastly, in terms of the proposed accident rules, I would just ask that some sort of an industry notice immediately and in the future some sort of a regulation be issued -- and we have testified to this many times in the past -- which would require both garages and agents to provide information to all drivers on the procedure in case of an accident. Of course, drivers are aware that they have to inform the owner or the agent, but particularly if you are a DOV operator, you don't have the title of that vehicle, and it's not made clear in the so-called contract, there is a lot of confusion, especially after hours or over the weekend as to exactly what procedure the agent requires in case of an accident.

I do think that if the TLC will regulate what the driver is required to do, then similarly, you should regulate what an agent or owners are required to do in those situations. Thank you.

MR. YASSKY: Well, thank you. Before discussion, just a couple of things. First
of all, Ms. Desai referred to a point-bearing violation for cell phone use. Just to be clear, and part of what drives this force is that this doesn't carry DMV points, cell phone violation does not. And if it did carry the DMV points, then of course under our Critical Driver Rules, DMV points do accumulate towards a TLC sanction. These do not, I just want to make sure people are clear on that.

On the language, you know, my just quick reading of the penalty language, I think it does accomplish again what we're looking to accomplish. I believe that's what the general counsel's opinion is as well.

I would just to say this to our kind of regular customers: If we have a rule that we have circulated for comment, and you see an issue with it, bring it to our attention. Don't wait until the day of the vote.

There is another item that was planned to be on the agenda for today that our colleagues at the League of Mutual Taxi Owners brought some genuine substantive issues to us recently, we want to explore
them. I think in the end, you know, we will still want to go forward with that item, but it needed to be looked at.

But what I would ask is, rather than a few days before or on the day of, if you bring it to us, then we can address the issue. And I say, I believe that this language is fine.

And the same would go for the sign point. We do want -- I can understand why you would say put something there on the monitors, a place you know people are looking. I would want to think that through, have the Commission staff kind of think that through before presenting that to the Commissioners.

So, thank you for your comments. Is there a discussion on -- we're back on the Distracted Driver item. I know, Commissioner Weinshall, you were interested in this.

MS. WEINSHALL: I'm fine.

MR. YASSKY: You understood, okay. So, is there a motion to approve this?

MR. AROUT: Motion to approve.
MR. YASSKY: Thank you. All in favor, say aye.

THE COMMISSION: (In unison) Aye.

MR. YASSKY: Opposed?

(No response)

MR. YASSKY: Item 4-D is adopted.

Mr. Fraser, we have two more items, and again, I think these are both short ones.

MR. FRASER: This one proposes the remarkable innovation that when you have a camera in your car, it has to actually work. The rules currently require -- believe it or not -- that under certain circumstances you must have one, they do not require that it be functional. And so we have had some instances where the camera was there, didn't work, and our judges dismissed the violation. Some judges have dismissed charges where the camera was present but not operational. So, this fixes that problem.

We published this for comment, got none, and have no one signed up to testify today.

MR. YASSKY: Is there a motion to approve?
MS. WEINSHALL: So move.

MR. YASSKY: All in favor, say aye?

THE COMMISSION: Aye.

MR. YASSKY: All opposed?

(No response)

MR. YASSKY: By a vote of 5-to-nothing, Item 4-E is adopted.

MR. FRASER: The last one is a rule that would clarify and standardize the requirements that drivers in all four of our regulated industries have to meet after an accident. We have rules in our existing rules that apply only to taxi drivers, and we didn't really have rules in the other three industries that governs what happens after an accident, this specifies the exchange of insurance information and so on. It expands it, because the current rules talked about exchanging insurance information with other drivers, but obviously, injured passengers need to have insurance information as well. So, this covers them.

I do want to note two corrections that we need to make in the proposed rule as
published, in our zeal to have all four
exactly the same wording, we include
persistent violator points in the Para
Transit chapter and the Commuter Van chapter,
and para transits and commuter vans don't
have persistent violator rules, so, those
references and those two rules, 614(c)(2) and
714(c)(2), to three points, need to come
out.

Other than that, we are recommending
that it be passed as published. We published
for comment, there were no written comments,
and no one has signed up to speak today.

MR. YASSKY: Just to be clear, we are
voting now to adopt the rule as circulated,
but without the reference to persistent
violer points in para transit and commuter
sections?

MR. FRASER: That's right.

MS. POLANCO: So, that will be what?

Section 714(c)(2)?

MR. FRASER: 714(c)(2), and 614(c)(2)
for para transit, right.

MS. POLANCO: What about regards to
513(6), Payment Of Traffic Judgments? It says, "The holder or driver's license issued under this chapter must satisfy any outstanding judgment in paying the Civil Penalty 04 Traffic Violation for qualified jurisdiction."

MR. FRASER: Yeah, that's the existing rule. The only reason that it's in the proposed rule is because the changes we are making require that that be renumbered from whatever it used to be -- 5 probably, to 6. But that's not new and it's not being changed. This is solely about exchanging information at an accident.

MS. POLANCO: Okay.

MR. YASSKY: Is there a motion to approve?

MS. POLANCO: So move.

MR. YASSKY: A motion is on the table. All in favor, say aye.

THE COMMISSION: (In unison) Aye.

MR. YASSKY: Opposed?

(No response)

MR. YASSKY: Okay. Well, thank you.
And so, Commissioners, these were worth doing. None of these rules really changed Commission practice, they kind of codify what's already been happening or technical changes. So, I appreciate your coming in. It nonetheless needed to be done. I appreciate your coming here today.

Next month, we will have some substantive and I think important rules on the agenda that will tighten up the rules regarding when an adjournment is available. We have had a repeated problem with respondents, defendants, people who have been issued summonses adjourning cases repeatedly, to the frustration of passengers who have made complaints, or where it's the result of field summonses. It means that the events are now months in the past, and memories are not as good as they were when the events were fresh. An adjournment, you know, should be available when necessary, but it should not be a matter of course for someone to postpone the hearing -- a day of reckoning if you will -- again and again. We are tightening
that up.

We are also tightening up the rules on reinstatement of a case after a default judgment. This is in response to a problem that we have seen where defendants don't show up, the judge issues a default judgment finding of course guilty, and then walks in, you know, maybe sometimes a month later, and says, "Well, now, I want to have my hearing."

And if there's a legitimate reason and it's a real reason, there needs to be a safety belt for that I understand, but that can't be a matter of course that you ignore the summons and come in a year later and reopen it.

But those are substantive. Those are real. I think that you will find them to be good changes to the rules. But those will be on for November, so I am giving you some advanced notice.

I had said I thought we would finish by 11:00, we're not too far off. Commissioners, I appreciate your indulgence for the extra five minutes. And of course, members of the
public, thank you for joining us this morning. With that, the hearing is adjourned.

(TIME NOTED: 11:10 a.m.)
CERTIFICATION

STATE OF NEW YORK )
COUNTY OF NEW YORK )

I, CASEY MARTIN, 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 Taxi and Limousine Commission Public Hearing held on October 21, 2010.

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

I am not in any way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of October 2010.

______________________________
CASEY MARTIN