

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

*Order Instituting Rulemaking on
Regulations Relating to Passenger
Carriers, Ridesharing, and New Online-
Enabled Transportation Services.*

Rulemaking 12-12-011
(Filed December 20, 2012)

**REPLY COMMENTS OF SAN FRANCISCO COUNTY
TRANSPORTATION AUTHORITY TO ORDER INSTITUTING
RULEMAKING 12-12-011**

July 31, 2017

Tilly Chang
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1. Introduction

The San Francisco County Transportation Authority (SFCTA) offers the following responses to comments submitted by parties regarding the Commission's questions about TNC data sharing, especially focusing on concerns related to sharing TNC data with other public agencies. These comments are grouped into three categories:

- Public Benefit of Data
- Privacy Concerns
- Trade Secrets, Competition & Regulation

Broadly, the SFCTA affirms that there is a public benefit of sharing TNC trip data with public agencies to allow us to understand the effects of TNCs on congestion, safety, greenhouse gas emissions, transit ridership, accessibility and equity and to support informed decision-making. Furthermore, we agree that ensuring customer and driver privacy are essential data reporting requirements, and that there are well-established methods for ensuring protection of sensitive private data and many examples of public agencies employing such methods.

2. Public Benefit of Data

- Agencies need TNC trip data
- TNC-provided trip data would be useful

- Ridehailing is not ridesharing

A number of comments provided to the CPUC claimed that agencies have no need for TNC data, and that even if they did need these data, the information that the TNCs could provide would not be useful. These comments alleged that agencies have “failed to articulate any particularized need for the data, or to explain precisely what they would do with it,”¹ and that they are “not aware of any evidence that access to TNC data would improve decision making.”² These comments also state that the “TNC trip data that the Commission collects may be poorly suited for assisting other state and local government entities,”³ and that other statistics are likely to be more useful for transportation planning purposes.

As a public agency charged with managing congestion, developing long range transportation plans, and prioritizing transportation funds for San Francisco, we know that, in fact, public agencies do need TNC data, and that the trip information that TNCs can provide would be extremely useful. Previously, TNCs have asserted that they “can significantly contribute to reduction of urban congestion, greenhouse gas emissions, and other problems caused by single-occupant driving.”⁴ But preliminary evidence suggests that TNCs may actually be leading to increases in vehicle miles travelled, increases in greenhouse gas production, and declines in transit ridership. Recently released reports from Schaller Consulting and the SFCTA demonstrated that TNC ridership comprises a substantial share of travel in New York City and San Francisco respectively. The Schaller report shows that TNC ridership is growing rapidly at the same time that transit ridership is declining. If such changes are occurring, there may be profound impacts on congestion levels and the environment. In addition, issues of ADA compliance and socioeconomic and geographic equity were identified as key CPUC concerns in earlier phases of rulemaking. But local and regional transportation agencies, not the CPUC, are responsible for managing streets and curb space, prioritization and planning transportation investments, and developing policy recommendations regarding right-of-way, fares, and tolls. We support LADOT’s argument that the CPUC cannot, and should not, be expected to engage in this work on behalf of dozens of local agencies, each with its own transportation context. Agencies need TNC trip data to determine the effects of TNCs on congestion, greenhouse gas emissions, transit ridership, accessibility and equity, and to support informed decision-making.

Ridehailing is not ridesharing. Comments submitted by Rasier-CA, Lyft, Engine, TechNet, Internet Association, and the California Chamber of Commerce use the terms “rideshare” and “ridesharing” to describe the services provided by TNCs. These terms are misleading in their description of the services TNCs provide. Ridesharing uses a standardized fare structure to ensure that the driver is not fare-motivated and the activity fits the statutory definition of

¹ Lyft comments, p.18

² Engine comments, p.5

³ Rasier comments, p.6

⁴ SFO comments, p.1

carpooling. Waze Carpool and Scoop are examples of companies that provide services that fit the definition of carpooling. By contrast, TNCs and other ridehailing services are fare-motivated, and may serve single occupant vehicle trips. Using the terms “ridesharing” or “carpool” as applied to TNCs is intended to reinforce unsubstantiated claims that TNC services increase vehicle occupancy. The preferred terminologies for the services actually provided by TNCs are “vehicle-for-hire” (VFH), “ridesource”, or “ridehail”.

Finally, TNCs claim that they are sharing information with local agencies, and cite examples such as Uber Movement. Uber Movement uses Uber vehicles as probes to measure travel times between zones. It provides no meaningful information about how Uber’s operations impact the performance of the transportation system, such as how many trips they are serving, how many vehicle miles they generate, what routes Uber vehicles take, or how Uber --and by extension TNCs broadly-- may affect traffic or safety. Accordingly, the limited data provided by Uber Movement and similar initiatives does not obviate TNCs’ need to provide local agencies with data that can actually be used for transportation planning purposes.

3. Privacy Concerns

- Public agencies securely store and analyze data
- TNC customer and driver privacy can be protected
- Different data sharing standards can be established for agencies and for the public
- Data can be anonymized and aggregated effectively

A number of parties have raised concerns stating that “consumer data is not immune to hacks, leaks, and general misuse,”⁵ that “each additional entity with access to TNC data increases vulnerability,”⁶ and that “there is currently no way to ensure that any website the Commission establishes to share TNC data will be totally immune to hacking.”⁷ Additional comments alleged that, “It is not possible to provide anonymized trip-by-trip TNC data to the public without revealing information about particular individuals that they have a reasonable expectation in keeping private,”⁸ and that “so-called “anonymized” data can be reverse engineered to reveal highly personal details.”⁹

Public agencies already securely receive, store and analyze detailed consumer data without hacks, leaks, or security breaches. For example, transit farecard data and toll transponder data, which contain detailed private information, are securely used and stored by public agencies without incident. In fact, TNCs are already required to provide detailed trip data to the CPUC,

⁵ Engine comments, p.4

⁶ Engine comments, p.4

⁷ Internet Association comments, p.4

⁸ Rasier comments, p.2

⁹ Lyft comments, p.2

and any data security standards used by the CPUC can be met by other public agencies. It is not necessary to have a website or portal in order to share data.

In addition, a distinction must be made between data shared with public agencies and data shared with the general public. TNC trip data is analogous to the “travel pattern data” regarding electronic toll collection and transit fare collection systems, which are specifically exempt from disclosure pursuant to Streets and Highways Code §31490, and the TNC trip data should similarly be exempt from disclosure. Transit farecard and toll transponder data containing personally identifiable information is shared amongst public agencies to support performance assessment, program evaluation, and planning. However, this detailed information is not shared with the general public. By extension, detailed TNC trip data is shared with the CPUC and should be shared with other public agencies that meet the CPUC’s data security standards. This includes all past data that has been submitted to the CPUC by the TNCs. Different standards can be established for sharing data with agencies and for sharing data with the general public. The SFCTA would be willing to enter into an appropriate non-disclosure agreement with the Commission, if deemed necessary by the Commission.

Under the California Public Records Act (Government Code §6250, et seq.), agencies such as SFCTA are generally required to disclose “public records,” except where disclosure is prevented due to an explicit or implicit exception in the Act. Many of the exceptions in the Act deal with various types of personal information, although there is no specific exemption in the Act for the personally identifiable information (PII) at issue here. Instead, if the SFCTA or any other agency received a request for TNC data containing PII, we would rely on the general exemption in Government Code §6255(a), under which information is exempt from disclosure under the Act where “the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.”

Contrary to a number of comments, it is in fact possible to anonymize and aggregate TNC trip data so that derivative data products can be shared with the public with no risk of revealing personally identifiable information and which respects the privacy concerns of TNC passengers and drivers. However, it is not necessary to anonymize and aggregate data shared amongst public agencies because, as noted earlier, public agencies routinely securely store, share and analyze detailed data that contains potentially personally identifiable information. In addition, there are third-party solutions that can also provide services to store, anonymize and aggregate data to industry standards.

4. Trade Secrets, Competition & Regulation

- TNC data are not trade secrets
- Reporting TNC data does not impose excessive costs
- Releasing TNC data will not stifle competition

Comments provided by the TNCs state that “The data Lyft submits to the Commission constitutes trade secret information under established law and is therefore exempt from disclosure,”¹⁰ and that TNCs protect “data that has been recognized as a trade secret”¹¹ and offering an anecdote that “a court found that the data showing the pickup and dropoff zip code for each trip is a trade secret that should not be disclosed to the public.”¹²

However, as the San Francisco City Attorney points out, “the Commission has already determined that trip data does not constitute a trade secret,”¹³ Since the Commission has already rejected this claim, TNCs’ assertion that their data constitute trade secrets should be disregarded by the Commission.

One comment also asserts that “Requiring TNCs to share sensitive data would likely raise costs...With millions of rides per day, maintaining public rideshare databases, while protecting driver and rider privacy, would require a great degree of manpower and technical expertise not readily available to smaller firms or startups.”¹⁴

TNCs, which by their very definition are on-line enabled digital platforms, are already collecting, storing and using all of the information needed by public agencies. The costs for sharing such data with public agencies would be marginal. As the San Francisco experience with taxis demonstrates, even small taxi companies that serve a few thousand trips a month are able to comply with reporting detailed data to the SFMTA using automated methods, so technology startups serving “millions of rides per day” could certainly fulfill this obligation as well.

Finally, the comments argue that, because in most areas Uber and Lyft are a duopoly, they will suffer competitive harm and stifle because each could learn information about the others’ business from reported data. Lyft argues that this would “allow a competitor to tailor its operations to more effectively deploy its resources to compete with Lyft.”¹⁵ The comments also threaten that, “disclosure of competitively sensitive information...may have a chilling effect on the free-flow of information necessary to carry out the Commission’s regulatory mission.”¹⁶

It is illogical and unenforceable to base data reporting requirements on the number of TNC companies in a given market. Would data reporting be required if there were one company or three companies operating in a given area, but not if there were two? The fact is that there has been no free-flow of TNC information. TNCs have been fined millions for not reporting data

¹⁰ Lyft comments, p.12

¹¹ Rasier comments, p.2

¹² Rasier comments, p.3

¹³ San Francisco City Attorney comments, p.4

¹⁴ Engine comments, p.3

¹⁵ Lyft comments, p.10

¹⁶ Lyft comments, p.6

required by the CPUC¹⁷, and no TNC data reported to the CPUC has been shared with any other public agency. The SFCTA seeks to encourage and enhance the integration of innovative services into our transportation system while balancing the needs of all users. It is unsustainable and inefficient to establish data reporting requirements through litigation, subpoenas and records requests.

Dated: July 31, 2017

Respectfully submitted,

/s/ Steve Stamos

Steve Stamos

Clerk of the Board

San Francisco County Transportation Authority

Tel: 415-522-4817

E-mail: clerk@sfcta.org

¹⁷ Dickey, Megan Rose. (2017 Jan 14). Uber Fined \$7.6 Million In California. techcrunch.com. Retrieved from <https://techcrunch.com/2016/01/14/uber-fined-7-6-million-in-california/>

Appendix A



July 28, 2017

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Subject: Release of TNC Data

Dear California Public Utilities Commission,

On behalf of Walk San Francisco and our members, we encourage you to share Technology Network Company (TNC) data with public agencies and the public in general. We are submitting this support letter in the context of the Commission's rulemaking on TNCs - Track 3 regarding TNC Data. We believe sharing data will enable agencies and the public to measure and understand the impacts TNCs have on their communities, make informed decisions, and plan for a safe and sustainable future.

Walk SF is San Francisco's only pedestrian advocacy organization. Our mission is to make walking safe so our city is healthier and more livable. We've been active partners with City agencies in the adoption and implementation of Vision Zero, the goal to end all severe and fatal traffic injuries by 2024. As part of this work, we lead a community-based Vision Zero Coalition of over 40 organizations committed to ending traffic deaths in our city.

The increasing presence of TNCs, and the lack of data about them, threatens pedestrian safety in the following ways:

1. The key to Vision Zero is having accurate data about what is happening on our streets so that the City can implement targeted, strategic improvements. City agencies in San Francisco are working hard to redesign safer streets, but they need information about all street users to do this successfully. Without this data — including TNC data — the City will struggle to reach Vision Zero.
2. More vehicles on our streets means more opportunities for vehicle-pedestrian conflicts and crashes.
3. TNC drivers in San Francisco have been observed dropping off and picking up patrons in crosswalks, blocking curb ramps, and exhibiting other dangerous driving behaviors. We must have as much data as possible about these vehicles to be able to address these behaviors.

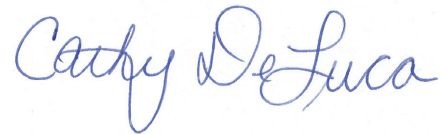
The San Francisco County Transportation Authority recently released a study, *TNCs Today*, which highlights the number of TNC trips that occur within the city. The report ultimately confirms what many of our members and community partners have been telling us — TNCs make up a significant share of vehicles in San Francisco: nearly 170,000 intra-city trips per day (15% of all intra-city vehicle trips). More importantly, these vehicles are operating in San Francisco's most congested areas at the most congested

times. As this industry is expected to grow, it will become even more critical that public agencies and the public are able to measure this growth, understand its impacts, and plan accordingly.

State and local policies — like California's Complete Streets Policy, Vision Zero policies, and Titles III and IV — support and guide the work that San Francisco does to make sure our public streets are used by all California residents and visitors. Every day, public agencies, community stakeholders, advocacy groups, and the public work to improve our transportation system and meet those policy goals. However, without accurate information and data, we cannot work toward our shared goals of a safe and sustainable transportation system that is available to all. **Without TNC data, select private companies are allowed to shape our system and our community in ways that may not ensure our shared principles and goals.**

We encourage the Commission to share TNC data with public agencies and the public to enable us to work collectively toward improving our transportation system and ensuring that the streets are safe for all users.

Sincerely,



Cathy DeLuca
Interim Executive Director

cc: Tilly Chang, Executive Director, San Francisco County Transportation Authority
Jeff Hobson, Deputy Director of Planning, San Francisco County Transportation Authority



San Francisco Bicycle Coalition
1720 Market Street
San Francisco CA 94102

T 415.431.BIKE
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sfbike.org

PROMOTING THE BICYCLE FOR EVERYDAY TRANSPORTATION

July 28, 2017

California Public Utilities Commission
770 L Street
Sacramento, CA 95814

Re: TNC – Track 3 Rulemaking

On behalf of our over-10,000 members, the San Francisco Bicycle Coalition strongly urges the California Public Utilities Commission to share transportation network company (TNC) data with public agencies and the public in general. We are sharing this letter with you today as the Commission considers rulemaking on “TNCs - Track 3” regarding TNC data.

There are few places in the world that have felt the everyday impact of TNCs like we have in San Francisco. Unfortunately, that impact has meant an increase in congestion and regular encroachment of TNC vehicles in bike lanes, which has led to worsening conditions for street safety. A report last year published by the SF Treasurer’s Office estimates 45,000 Lyft and Uber drivers operating on San Francisco streets.

Most recently, the SF County Transportation Authority (SFCTA) released a study, TNCs Today, which includes extensive data collection and analysis on the number of TNC trips that occur within the city. The report validated the anecdotes we hear regularly from our members with actual numbers: TNCs make up nearly 170,000 intra-city trips per day, or 15% of overall trips. In our most dense, downtown neighborhoods, the impact is even greater as more vehicles are operating in the most congested areas during the most congested times.

The addition of tens of thousands more vehicles on San Francisco streets has meant an undue burden on our streets’ most vulnerable users—people who bike and walk. Cities across the state, including San Francisco, have adopted Vision Zero and are actively working to end all traffic fatalities, recognizing that the cost of doing business on our streets cannot be people’s lives. Given that, we need to seriously consider how TNCs coexist within a Vision Zero city, and we need to gather data and develop policies that complement Vision Zero, not impede progress towards meeting this goal.

With that said, we recognize that TNCs are a new way for people to get around, and we need laws and regulations to match the rate at which new technology and services are being developed. If San Francisco wants to be a city that is able to accommodate and adapt as new technology is developed, public agencies and the public at-large must have full access to data to understand impacts and plan accordingly. Without TNC data, select private companies are allowed to shape our system and communities in ways that may not ensure our shared principles and goals.

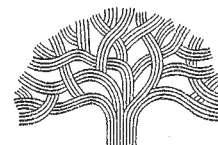
Therefore, we encourage the Commission to share TNC data with public agencies and the public to enable us to work collectively towards improving our transportation system.

Sincerely,

A handwritten signature in black ink, appearing to be "JL" or "Janice Li".

Janice Li
Advocacy Director
San Francisco Bicycle Coalition

CITY OF OAKLAND



CITY HALL • ONE CITY HALL PLAZA • OAKLAND, CALIFORNIA 94612

Office of the Mayor
Honorable Libby Schaaf

(510) 238-3141
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TDD (510) 238-3254

July 27, 2017

Commissioner Liane M. Randolph
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Public Comment on Track 3 (TNC data) Rulemaking for Ridesharing and Online-Enabled Transportation Services

~~Liane~~
Dear Commissioner Randolph,

It's been a very long time, and our professional paths have never crossed. As a reminder, I'm Margi Clarke's husband and our son Kiernan is still friends with Calvin. It's great that we're now working in the same area; I'd love to have coffee or lunch sometime and hear your experience of leading this huge task so deep inside transportation services.

As Transportation Policy Director to the Mayor of Oakland, I am writing to request that CPUC's Rulemaking on Transportation Network Companies (TNCs) for Track 3 (Data) includes a requirement that TNCs share data with public agencies and the public. Public access to TNC data is important to enable cities and other public transportation agencies to make good policy; we need to understand the impact of TNCs on traffic safety, congestion, parking, air quality, transit service, and on other public concerns. Without accurate and timely information, local governments cannot serve our public duty to plan for the future of our cities, nor can we intelligently incorporate TNC services into our current transportation systems.

I was struck by San Francisco County Transportation Authority's recent study, *TNCs Today*, which daylights the previously unknown number of TNC trips that occur within San Francisco. That TNCs make up 15% of all intra-city vehicle trips, mostly occurring within San Francisco's most congested areas at the most congested times, is critically important information. The data for Oakland is certainly very different, but without data or the resources to collect it ourselves, Oakland can neither accommodate nor regulate TNCs.

In addition to basic traffic management concerns, cities and the public need to know whether, and to what degree, TNCs are supporting or degrading compliance with larger policy goals, such as California's greenhouse gas emissions reduction, Complete Streets Policy, and traffic safety efforts like Vision Zero to protect the users of our highways, streets and sidewalks. If TNC's aren't required

to share data by the CPUC, these private firms will continue shape our transportation system and the quality of life of our cities in unknown ways. TNCs obviously provide a valuable service; public agencies need to support that public benefit, while also gauging the potential negative effects on our shared public investments and environment.

I urge the CPUC craft rulesmaking towards regulations that result in TNC data being shared with public agencies and the public. (And I hope we can meet sometime soon!)

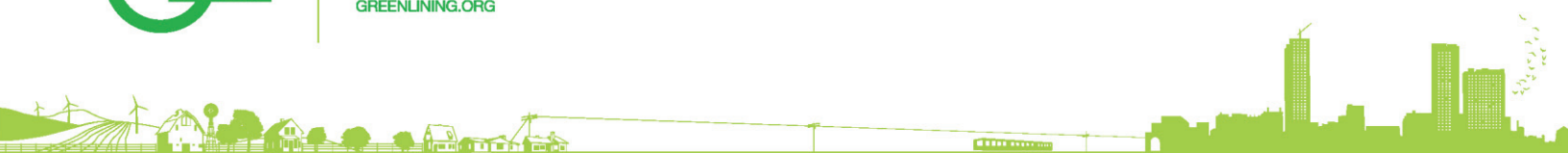
Respectfully,

A handwritten signature in black ink, appearing to read "Matt", with a stylized flourish at the end.

Matt Nichols

mdnichols@oaklandnet.com

510-292-3136 (mobile)

A decorative illustration at the top of the page shows a sustainable city skyline. On the left, there are wind turbines and solar panels. In the center, there are houses and a train. On the right, there are tall city buildings and a person climbing a ladder next to a tree.

California Public Utilities Commission
505 Van Ness Ave,
San Francisco, CA 94102

CC: Tilly Chang, Executive Director and Jeff Hobson, Deputy Director of Planning, SFCTA

**Re: OPENING COMMENTS OF SAN FRANCISCO COUNTY TRANSPORTATION
AUTHORITY TO ORDER INSTITUTING RULEMAKING 12-12-011**

On behalf of The Greenlining Institute, we encourage you to share Technology Network Company data with public agencies and the public in general. We are submitting this support letter in the context of the Commission's rulemaking on TNCs - Track 3 regarding TNC Data. We believe sharing data will enable agencies and the public to measure and understand the impacts TNCs have on their communities, make informed decisions, plan for the future, and potentially work to incorporate these services and technologies into their systems.

We care about this issue because The Greenlining Institute is a policy, research, organizing and leadership development institute working for racial and economic justice. We envision a nation where communities of color thrive and race is never a barrier to economic opportunity. TNC data can play a vital role in ensuring racial equity. Communities of color face higher burdens from vehicle pollution and as gentrification fuels displacement, a sustainable transportation system based on reliable and accurate data is vital. Communities of color are also at higher risk of identity theft and data exploitation. Therefore, we support appropriate anonymization and de-identification of data that is shared with the general public.

The San Francisco County Transportation Authority recently released a study, TNCs Today, which highlights the number of TNC trips that occur within the city. The report ultimately confirms what many already believed to be true, TNC make up a significant share of vehicles in San Francisco: nearly 170,000 intra-city trips per day (15% of all intra-city vehicle trips). More importantly, these vehicles are operating in San Francisco's most congested areas at the most congested times. As this industry is expected to grow, it will become even more critical that public agencies and the public are able to measure this growth, understand its impacts and plan accordingly.

We support several keystone policies that ensure our public streets are used by all California residents and visitors. California's Complete Streets Policy ensures all modes are accounted for on our roadways. Vision Zero Policies, adopted by cities throughout our region call us to protect our most vulnerable roadway users, those who walk and bicycle along our sidewalks and streets. Title III and Title IV maintains that our roads are for users of every ability, ages, and backgrounds. Every day, public agencies, community stakeholders, advocacy groups and the public work to improve our transportation system

and meet those policy goals. This is a responsibility and duty we share. However, without accurate information and data, we cannot work toward our shared goals of a sustainable transportation system that supports transit and is available to all. Without TNC data, select private companies are allowed to shape our system and our community in ways that may not ensure our shared principles and goals.

We encourage the Commission to share TNC data with public agencies and the public to enable us to work collectively toward improving our transportation system.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vinhcent Le', with a stylized, cursive script.

Vinhcent Le
Energy & Telecommunications Legal Fellow