

Licence Application Decision

(Transportation Network Services - New)

Application #	TNS6990-19	Applicant	Lyft Canada Inc.
Trade Name	Lyft		
Principals	Aaron ZIFKIN Emily NISHI Kristin SVERCHEK		
Address	Suite 2600, Three Bentall Centre 595 Burrard Street P.O. Box 49314 Vancouver, BC V7X 1L3		
Primary Areas of Operation	Region 1 – Lower Mainland, Whistler		
Current Licence	None		
Publication of Application	September 9, 2019 (Republished September 16, 2019)		
Application Summary	New Special Authorization: Transportation Network Services Authorization (TNSA)		
Deadline for Submissions	September 24, 2019 (original submissions) November 28, 2019 (2 nd set of submissions)		
Submitters (and representatives)	<ul style="list-style-type: none"> • Abbotsford Taxi Ltd., Mission Taxi (1980) Ltd., and Matsqui Taxi Ltd. (“Abbotsford Taxi”) • Agassiz & Harrison Taxi Ltd. • BC Federation of Labour • BC Taxi Association (“BCTA”) • Canadian Centre for Policy Alternatives • Chilliwack Taxi Ltd. • City of Burnaby • City of Delta • City of Richmond • City of Surrey • Group of Prospective Ride-Hailing Drivers • Lyndon Enterprises Ltd. • Progressive Intercultural Community Services • Salmon Arm Taxi (178) Ltd. • Syd’s Taxi (1984) Ltd., Meadow Ridge Taxi Ltd., Alouette Transit Systems Ltd., Bel Air Taxi (1982) Ltd., Coquitlam Taxi (1977) Ltd., 		

	<p>Port Coquitlam Taxi Ltd., Delta Sunshine Taxi (1972) Ltd., Tsawwassen Taxi Ltd., Garden City Cabs of Richmond Ltd., Guildford Cab (1993) Ltd., Kimber Cabs Ltd., Royal City Taxi Ltd., Sunshine Cabs Ltd., White Rock South Surrey Taxi Ltd., Surdell Kennedy Taxi Ltd., AC Taxi Ltd., Swiftsure Taxi Co. Ltd. (dba Yellow Cab Nanaimo), Jatinder Gill dba Oceanside Taxi, Comox Taxi Ltd., Duncan Taxi Ltd., Sunshine Coast Taxi Ltd. (“Syd’s Taxi <i>et al</i>”)</p> <ul style="list-style-type: none"> • Yellow Cab Company Ltd., North Shore Taxi (1966) Ltd., Richmond Cabs Ltd., Bonny’s Taxi Ltd., Burnaby Select Metrotown Taxi Ltd., Queen City Taxi Ltd., Black Top Cabs Ltd., Vancouver Taxi Ltd., Vancouver Taxi Ltd. dba Handicapped Cab, MacLure’s Cabs (1984) Ltd. (Vancouver Taxi Association (“VTA”))
Board Decision	<p>The special authorization is approved for the reasons set out below.</p> <p>Terms and conditions of licence are approved as set out in this decision.</p>
Decision Date	January 23, 2020
Panel Members	<p>Catharine Read, Chair Spencer Mikituk Roger Leclerc</p>

1. Introduction

[1] The *Passenger Transportation Act*, S.B.C. 2004, c. 39 (“Act”) regulates the licensing and operation of commercial passenger transportation vehicles in British Columbia. The Passenger Transportation Board (the “Board”) is established under the Act and its powers, duties and functions are set out in section 7. In general terms, the Board has authority to make decisions on license applications for passenger directed vehicles (e.g. taxis, limousines, and other small shuttle and tour vehicle licences). With some exceptions, the Act defines passenger directed vehicles to mean commercial passenger vehicles that are being operated to or from locations determined by or on behalf of passengers.

[2] In September 2019, amendments to the Act and the *Passenger Transportation Regulation* (the “Regulation”) came into force which enables the Board to also make licensing decisions for transportation network services (“TNS”), commonly referred to as ride hailing. The Act defines TNS to mean, in part, services respecting the connection of drivers to passengers who hail and pay for the services using an online platform, commonly referred to as an “app”. A transportation network company (“TNC”) is a company that uses an app to provide TNS.

[3] This regulatory change followed extensive provincial consultation and deliberation which resulted in, among other reports, a February 2018 Select Standing Committee report entitled “Transportation Network Companies in British Columbia” (the “2018 TNC Report”), a June 2018 report entitled “Modernizing Taxi Regulation” by Hara Associates (the “2018 Hara Report”), and a March 2019 Select Standing Committee report entitled “Transportation Network Services: Boundaries, Supply, Fares and Drivers’ Licences” (the “2019 TNS Report”). The Board also carried out consultations with the taxi industry, TNCs, the Vancouver Airport Authority and the Vancouver Port Authority on TNS operating areas, fleet sizes and rates in July 2019. The Board published the results of its consultations online and developed an operational policy entitled “Introduction of Transportation Network Services, 2019” (the “Operational Policy”).

[4] On September 3, 2019, TNC Lyft Canada Inc. (“Lyft”) applied for a passenger transportation licence with a special authorization in the form of a TNS authorization (“TNSA”) to provide ride hailing services in Region 1 (Lower Mainland, Whistler Region of British Columbia) (the “Application”). In accordance with s. 26 of the Act, the Registrar of Passenger Transportation forwarded Lyft’s Application to the Board.

[5] Section 28 of the Act governs determinations by the Board about whether to approve, in whole or in part, licence applications for a special authorization such as a TSNA. Section 28 provides that such approval may be granted after the Board considers whether: (a) there is a public need for the services that the applicant proposes to provide under the special authorization; (b) the applicant is a fit and proper person to provide, and is capable of providing, those services; and, (c) the application promotes sound economic conditions in the passenger transportation business in British Columbia. If approved, the Board is required to specify the special authorizations to be included in the licence and establish licence terms and conditions as provided for in ss. 28(3) to (6).

[6] For the reasons set out below, the Board approves Lyft’s Application with the specified terms and conditions.

2. Procedural History

[7] Section 26 of the Act requires the Board to publish notice of the Application, which it did on September 9, 2019. Section 27(2) provides that any person may (within the time period specified by the Board and on payment of the prescribed fee) make a written submission to the Board respecting the Application. In relation to Lyft’s Application, the Board received submissions from:

- Abbotsford Taxi
- Agassiz and Harrison Taxi Ltd.
- BC Federation of Labour
- BCTA
- Canadian Centre for Policy Alternatives
- Chilliwack Taxi Ltd.

- City of Burnaby
- City of Delta
- City of Richmond
- City of Surrey
- Group of Prospective Ride-Hailing Drivers
- Lyndon Enterprises Ltd.
- Progressive Intercultural Community Services
- Salmon Arm Taxi (178) Ltd.
- Syd's Taxi *et al*
- VTA

(collectively and individually, the “Submitter(s)”)

[8] Lyft's Application is one of over 20 applications that have been made by various companies since the introduction of the TNS legislative amendments. Many of the Submitters responded to a number of these applications globally rather than individually, with a focus on Lyft and one other applicant.

[9] Some of the Submitters asked the Board to conduct an oral hearing in respect of the applications received. The Act confers broad authority on the Board to control its own process when making decisions on licence applications. That authority includes discretion to conduct a written, electronic, or oral hearing or any combination of them, as the Board in its sole discretion considers appropriate. For reasons given in a letter to Lyft and the Submitters dated October 30, 2019, the Board determined to follow its usual process of conducting a written hearing.

[10] Section 27(5) of the Act provides that, unless the Board directs otherwise, a person making a submission respecting an application does not, merely because of that submission, become entitled to participate any further in the application process or obtain further information or disclosure respecting the application. On October 30, 2019, the Board issued an Industry Advisory modifying its process for all ride hailing applications to provide greater disclosure to the Submitters and more transparency in its process.

[11] In accordance with the Industry Advisory, on November 14, 2019, the Board sent an application package to all Submitters which included Lyft's initial response to the Submitters' materials as well as the documents provided by Lyft in support of its Application (i.e. TNS Declaration Form, TNS Information Sheet, Business Plan, Cash Flow Projections, Balance Sheet and Income Statements, Resumes, Criminal Record Checks, Signing Authority, BC Registry Service Company Status, and Disclosure of Unlawful Activity and Bankruptcy Forms). Consistent with Rule 17 of the Board's Rules of Practice and Procedure, the application package and supporting documentation sent to the Submitters contained limited redactions which were necessary to protect the confidential business information of Lyft. The Submitters then had 14 days to provide further written

submissions on the Application. The Board then provided copies of the written submissions received from Submitters to Lyft.

3. Lyft's Application

[12] Lyft was incorporated as a B.C. company on June 27, 2017, and its registered and records offices are located in Vancouver, B.C. Lyft is a wholly owned subsidiary of Lyft, Inc. Lyft was issued a *National Safety Code* (NSC) certificate on August 20, 2019.

[13] Lyft, Inc. introduced its mobile-based platform for on-demand ride hailing (the "Lyft App") in 2012. Since that time, it has become a provider of flexible multimodal transportation alternatives that include rideshare, bikeshare and scooter-share services. It currently operates in over 360 cities in Canada and the United States facilitating more than 50 million rides each month. Lyft, Inc. has more than 5,000 employees across more than 30 offices. The applicant, Lyft, has operated in Toronto since 2017 and in Ottawa since 2018.

[14] Lyft's App is described in detail in its Application materials. In general terms, the Lyft App allows riders to request a ride, matching them to an approved driver in real time. All fare calculation, payments, driver and rider feedback, support and trip receipts are handled electronically within the Lyft App. The Lyft App has several features to enhance passenger safety such a ride tracking and automatic flagging of certain passenger feedback. Those latter aspects of the Lyft App are discussed in further detail below.

[15] Lyft's platform includes features to help all riders access its services, including those riders with limited vision, hearing and mobility.

[16] Lyft maintains that it is guided by the following principles:

- Reducing car ownership and single occupancy vehicle trips as evidenced by its 2014 launch of Lyft Line (now Lyft Shared) which matches riders heading in similar directions with a single driver so they can share the overlapping portion of their ride.
- Collaboration with government agencies to improve access in the communities it serves as a complement to, not a replacement of, public transit as evidenced by its 2014 Friends with Transit initiative.
- Equity and inclusion through partnerships with local governments, transit agencies, and non-profit organizations to expand access to opportunities, such as through provision of free or reduced-price rides to low-income seniors, veterans in transition and victims of natural disasters.
- Climate commitment through, for example, expansion of the number of electric vehicles on the road and collaborating with local and national advocacy groups to fight for climate action and more green space.

[17] The Lyft team consists of Aaron Zifkin (Managing Director of Canada), Peter Lukomskyj (General Manager, British Columbia), Paul Davis (Senior Manager, City and Transit Partnerships), Tyla Flexman (Senior Manager, City Partnerships), Fatima Reyes (Communications Manager, Canada), Jaclyn Cummings (Marketing Manager, Vancouver), Sophie Cote (Public Policy Manager, Western Canada), and Fernando Treviño (Community Affairs Manager, Western Canada). The General Manager, Vancouver, will manage operations, marketing, communications, public policy, partnerships, analytics, and special events for B.C.

[18] Lyft applies to operate a TNS in the Lower Mainland/Whistler (Region 1). Lyft anticipates that it will have 500 to 1,000 drivers onboarded by the time it starts operating in B.C., depending on the supply of commercially licensed drivers. Lyft states it will conform to the Board's geofencing requirements at Canada Place. Geofencing is a virtual perimeter for a real-world geographic area. A geofence could be dynamically generated, as in a radius around a point location, or be a pre-defined set of boundaries. The Board's Supplementary Terms and Conditions for TNSA Apps requires Lyft's App to have geofencing capabilities. The Board's Operational Policy specifies the virtual perimeter around Canada Place within which a TNS cannot operate.

[19] Lyft advises that vehicles are required to meet Lyft's internal standards and regulatory requirements before they are approved to operate on the platform. Lyft requires vehicles operating within B.C. to: (1) be less than 10 years old; (2) have four doors and at least five seats with seatbelts (inclusive of driver); (3) hold a Commercial Vehicle Inspection Report (at a frequency determined by the kilometers travelled as set out in the *National Safety Code*); and (4) have valid vehicle registration and personal automobile insurance. Additionally, drivers are required to perform daily pre-trip inspections to ensure their vehicles are in good working condition.

[20] Lyft's App includes a two-way, five-star rating system for both drivers and passengers which, among other things, automatically flags concerning feedback from passengers or drivers indicating urgent safety issues, which are followed up by Lyft's Critical Response Team. Lyft also encourages its drivers to wash and clean their vehicles. Consistent cleanliness issues raised by the two-way rating system will result in Lyft follow-up and potential suspension from Lyft's platform.

[21] In terms of driver education, Lyft provides driver applicants with a series of educational videos and how-to-guides that cover all aspects of service delivery, including Lyft's road safety policies and practices and modules on customer service, including with respect to riders with disabilities. Lyft's materials include modules on its Anti-discrimination Policy and its Service Animal Policy. With respect to the latter, failure to abide by the Policy could result in immediate deactivation.

[22] Applicant drivers must hold a Class 4 driver's licence and be licensed in B.C. for at least three years. If the applicant driver has not been licensed in B.C. for the past three

years, the applicant is either disqualified or required to submit a driving record check by the previous licensing jurisdiction. Drivers must undergo an annual driving record check, and the results are assessed against applicable regulatory requirements and Lyft's safety criteria. Lyft maintains records of all driving record abstracts. Applicant drivers are also required to annually submit (to the RCMP or local police department) and pass a Police Information and Vulnerable Sector check.

[23] Lyft's business plan includes financial information with three-year cash flow projections, start up costs, balance sheets as of December 31, 2017 and 2018, consolidated statements of operations and consolidated statements of cash flows for the years ending December 31, 2016, 2017, and 2018.

4. Analysis and Findings

[24] Section 28(1) of the Act sets out the three factors which must be considered by the Board. While the Board does not recite all the information filed by Lyft and the Submitters (which is voluminous), it has carefully considered it when making its determination.

(a) Is there a public need for the service Lyft proposes to provide under the special authorization (s. 28(1)(a))?

[25] The first consideration is whether there is a public need for the service that Lyft proposes to provide. This requires an applicant to demonstrate that there are people who would use Lyft's proposed service. In this respect, Lyft relies on:

- the 2018 TNC Report;
- the 2018 Hara Report;
- the 2019 TNS Report; and,
- the 2018 Hansard Debates relating to the *Passenger Transportation Amendment Act*.

(collectively, the "Background Materials")

[26] Lyft's position is that the Background Materials all support the need for ride hailing in B.C. Those materials conclude that: (1) taxis cannot meet peak hour public need for vehicles-for-hire; (2) there is a need for improved service as a result of service refusals by taxi drivers; (3) there is a lack of choice of service; and (4) there is a lack of price competition.

[27] In November 2017, the Legislative Assembly authorized the Select Standing Committee on Crown Corporations to examine, inquire into and make recommendations on ride hailing in B.C. During the course of its inquiry, the Committee invited 67 expert witnesses to either present at a public hearing or to provide a written submission. Over three days of hearings in January 2018, the Committee heard 26 presentations and received 12 written submissions. Overall, the Committee agreed that TNCs should be

permitted to operate in this province within a provincial regulatory framework and saw the key benefit of TNS to be improved access to transportation services.

[28] The 2018 Hara Report provides background on the history of taxi boundaries and current issues, the market for taxis and TNS, and the regulatory and industry structure for taxis. Stakeholder viewpoints and their concerns and recommendations for modernizing taxi regulation are summarized, including concerns relating to the private market value of taxi licence-shares, the relevance of operating areas to taxi licence-share values and driver income and the environment likely to emerge following the licensing of TNS. Options are set out for rules relating to trips crossing operating area boundaries, taxi operating areas and TNS operating areas and suggestions are made for modernizing the taxi industry. Like the 2018 TNC Report, the 2018 Hara Report identifies the need for better transportation services. Among other things, the Report notes:

What we did not know previously was the magnitude of the suppressed demand that exists among today's consumers for timely and reliable vehicle-for-hire service. Where TNCs have entered urban markets, the trip volume of taxis has fallen – but not by so much as to cause taxis to withdraw from service.

...

Non-taxi industry stakeholders reported concern with the availability of taxi service at peaks, in small and rural communities, in cross boundary trips between municipalities, in consistent provision of wheelchair accessible service, and in the ability of the industry to supply and integrate into the rise of web-based tourism....

...

Virtually all municipalities identified some service issues, either consistently too few cabs, or distinct service problems at specific times – bar closing, rush hours, major sporting or arts events. Larger cities have service deficiencies resulting from the limitation on the number of taxi licenses in each area. Smaller municipalities often have the opposite problem, a challenge attracting anyone to provide a taxi service, especially in the face of some of the barriers to entry. The ability of TNCs to respond to those service deficiencies, to reduce costs and to improve service levels generally, are all seen as positive. Recent improvements in taxi service, such as the introduction of taxi apps, is also seen as positive innovation engendered by TNCs, and continued innovation was identified by some as a positive expectation of having TNCs enter the market.

[29] The 2019 TNS Report examines four areas of TNS regulation, namely boundaries, supply, fare regimes and driver's licences. Like the 2018 TNC Report, the Committee relied on input from experts with knowledge in fields relevant to the Committee's areas of review. The Committee ultimately supported regulation of all four areas but agreed that decisions related to them must be evidence-based. To that end, it suggested collecting and sharing data on TNS to ensure that accurate information is available for the purpose of managing and assessing the industry.

[30] A number of the Submitters argue that, reliance by Lyft on the Background Materials alone, does not establish public need. The Board finds otherwise. The Background Materials establish that there was extensive public consultation and input from experts on the need for TNS and form an appropriate evidentiary basis for establishing public need. An analogous process was used for the 2018 taxi modernization initiative which enabled taxi companies to increase the number of their licensed vehicles by 15%. The Board accepted that taxi companies could rely on Board consultation documents and the 2018 Hara Report to demonstrate public need.

[31] Many of the Submitters take the position that there is no public need because TNCs are just “another type of taxi”. Lyft takes issue with this characterization and maintains that, unlike taxis, Lyft’s business model (part-time drivers using their own vehicles and choosing their own hours) allows TNS to satisfy demands at peak hours, or after major events, and in areas underserved by transit and taxis. Lyft also makes the following points:

- Service Availability. Non-industry stakeholders stated clearly that they want more and better vehicle-for-hire services. Compelling evidence was provided to demonstrate that taxis cannot meet peak demands. Additionally, service refusal is a major issue and a dangerous reality for passengers who find themselves stranded at night with no other means of getting home safely. Lyft’s model allows it to serve communities traditionally underserved by taxis and public transit (approximately 44% of the rides on the Lyft platform start or end in low income neighborhoods). Lyft can play a crucial role in connecting passengers with work, school and public transportation.
- Service Quality. The avenues available to ensure taxi drivers are held accountable for service quality are limited. Unlike TNS, there is no mechanism for rating drivers by passengers.
- Choice. Passengers are limited to using either a taxi or a limousine if they want to use a passenger directed vehicle. The evidence supports the strong demand for the use of TNS in other jurisdictions.
- Price. Passengers are currently unable to make passenger directed vehicle choices based on price. Taxis charge set rates regardless of peak or low demands and the evidence is that passengers are willing to pay more for better service in peak periods. As well, unlike Lyft, passengers typically do not know in advance what a taxi ride will ultimately cost them until they arrive at their destination.

[32] The Board agrees that TNCs are different from taxis. This is reflected in the Act and is evidenced in the Background Materials. For example, the Act defines passenger directed vehicle authorization to mean an authorization that, if included in a licence, authorizes one or more motor vehicles to be operated as passenger directed vehicles, but only if those motor vehicles are hailed other than through the use of TNS. TNS is defined to mean

services (other than those excluded by regulation) respecting the connection of drivers of passenger directed vehicles with passengers who hail and pay for the services through the use of an online platform or “prescribed services” (of which there are none at this time). Section 23 provides that persons who hail or flag vehicles from the street can only be transported in vehicles authorized by licence to permit this or inter-city buses or prescribed commercial passenger vehicles. The Board notes that the 2018 Hara Report described as a “key service offered exclusively by taxis” the ability to pick up customers based on hails from the street and taxi stands. The 2018 TNC Report also observed that, while “often compared to traditional ride-hailing services such as taxis, TNCs are unique” in part because the TNS model relies on drivers who use their own vehicles and on variable pricing models based on real-time demand for their service.

[33] The Board rejects the contention that TNCs are just like, and should be treated the same as, taxis. This contention is not supported by the Background Materials and not supported by the regulatory framework which draws distinctions between the two.

[34] To the extent that some Submitters (such as Abbotsford Taxi) maintain there is no need for additional passenger directed vehicles in their areas of operation based on their dispatch statistics and their inability to keep their existing fleet active at all times, no evidence of those dispatch statistics was provided. The Board therefore rejects these arguments.

[35] The Board concludes that the public need element established by s. 28(1)(a) has been met and is supported by the Background Materials.

(b) Is the applicant a fit and proper person to provide the proposed service and is the applicant capable of providing it (s. 28(1)(b))?

[36] The second consideration is whether Lyft is a fit and proper person and has the capability to provide the proposed service.

[37] Fit and proper person is not a defined phrase. The Oxford English Dictionary defines “fit” in part to mean “well adapted or suited to the conditions or circumstances of the case, answering the purpose, proper or appropriate ... possessing the necessary qualifications, properly qualified, competent, deserving”. “Proper” is defined to mean “suitable for a specified or implicit purpose or requirement; appropriate to the circumstances or conditions; of the requisite standard or type; apt, fitting; correct, right”. The context for what is fit and proper is the passenger transportation industry in B.C. This reflects that a licensee has a responsibility to exercise the powers conferred by the granting of a licence with regard to proper standards of conduct.

[38] When considering whether an applicant is fit and proper, the Board considers factors such as the applicant’s past conduct and the potential risk of harm to the public and the integrity of the transportation industry if a licence is granted to the applicant. Where, as here, the applicant is a corporate entity, the Board will consider any relevant information

concerning the conduct of the directors and key management staff in order to assess how the business is likely to be run in this jurisdiction.

[39] When considering capability, the Board considers whether the applicant has demonstrated knowledge and understanding of the relevant regulatory requirements and policies governing passenger transportation, the applicant's ability to comply with those regulatory requirements, and the applicant's capability to provide the proposed service in a proper and lawful manner. The Board will also consider whether the applicant has the business knowledge to operate the service. This will include consideration of the business knowledge and experience demonstrated by management and the applicant's business plan and financial statements.

[40] A number of the Submitters raised concerns that Lyft was not a fit or proper person to provide TNS in B.C. without sufficient safeguards and close Board supervision. Those concerns focused largely on public safety, company ethics, and the sufficiency of driver background checks. For example, information was provided that: (1) as a result of new legislation introduced in the State of Massachusetts regarding background checks of ride-hailing company drivers, approximately 1,000 drivers were disqualified in 2017 due to records of violent crimes or sex offences; and (2) Lyft discontinued using the same company in the U.S. that it proposes to use to conduct driver background checks in B.C. There was also a lack of confidence expressed by one company about Lyft's ability to comply with provincial regulatory requirements.

[41] In response, Lyft says that safety is its overriding priority and that safety processes have been incorporated into every aspect of their platform aimed at preventing safety issues from occurring and ensuring that any safety issues that do arise are dealt with effectively to protect both drivers and their passengers. Those safety measures include:

- 24/7 Critical Response Line. Lyft's Trust and Safety Team is available 24 hours a day, seven days a week. Any passenger or driver involved in an incident that threatens personal safety will be instructed, as first step, to alert proper law enforcement authorities by calling 911.
- Annual Background Check. Lyft conducts annual background and driving record checks and disqualifies applicants or drivers who do not meet regulatory standards and Lyft's internal standards.
- Two Way Rating System. Lyft has a rating system for each completed ride by both drivers and passengers. Drivers with a low average rating may be removed from the Lyft platform.
- Secure Communications for Drivers and Passengers. Lyft provides a secure method for drivers and passengers to contact each other before and immediately after a ride.

- GPS Tracking and Shareable Routes. All rides are tracked by way of GPS from start to finish and passengers can share their route and estimated arrival time with friends and family using the Lyft App.
- Transparent Information for Drivers and Passengers. Once a driver accepts a ride request, passengers can use the Lyft App to view the driver's first name, rating and photograph (in B.C. a photograph is required).
- Zero Tolerance Policy. Lyft has a zero-tolerance drug and alcohol policy for its drivers. The Lyft platform also automatically monitors passenger feedback and complaints using keywords that could trigger concerns about the violation of its Policy.
- Confirm Your Driver Notice. The Lyft App reminds passengers to always confirm the identity of their driver and vehicle licence plate number before entering the vehicle.
- Age Requirement. Unaccompanied minors are prohibited from travelling with Lyft. Passengers must be 18 years of age to sign up for a Lyft account.

[42] In addition, Lyft has a policy to respond to all law enforcement inquiries and has an email address for these inquiries which is monitored by a team of specialists seven days a week, 24 hours each day.

[43] The Board is satisfied that Lyft is a "fit and proper person" for s. 28(1)(b) purposes. Lyft has operated in the passenger transportation industry in Canada since 2017, and Lyft, Inc. has experience in the passenger transportation industry internationally since 2012 when it was established. The background, experience and qualifications of its principals demonstrate that Lyft is well-equipped to oversee management of its proposed operations. Mr. Zifkin directs all of Lyft's Canadian business operations, including new market launches, local operations, customer and community outreach, and strategic partnerships. Mr. Lukomskyj is responsible for leading Lyft's business operations in B.C. and advocating for transportation equity through shared rides, cycling infrastructure, and public transit. Lyft's regulatory team is dedicated to ensuring ongoing compliance with all regulatory requirements applicable to it.

[44] Lyft holds a valid NSC certificate. Mr. Zifkin, Lyft's Managing Director of Canada, signed a Declaration on behalf of Lyft under the *Liquor Control and Licensing Act* and the *Cannabis Control and Licensing Act* declaring that Lyft will operate its vehicles in accordance with this legislation. The Board's Supplementary Terms and Conditions respecting capability to meet data requirements were confirmed. The Disclosure of Unlawful Activity and Bankruptcy form and Criminal Record Checks were completed to the satisfaction of the Board.

[45] Although there is evidence that Lyft, Inc. has encountered regulatory and safety issues in other jurisdictions, the Board is satisfied that Lyft's Application provides sufficient assurances that it will comply with the regulatory requirements in B.C. The Board is also satisfied that the safety measures put in place by Lyft in its operations and via its platform are satisfactory to meet the "fit and proper" requirement of s. 28(1)(b).

[46] With respect to Lyft's capability to provide the proposed service, some of the Submitters state that the business model of Lyft, Inc. is wholly speculative and has never been, and may never be, profitable. They point to the fact that Lyft, Inc. (the parent company) went through the initial public offering process associated with becoming a public company in 2019. The Initial Public Offering ("IPO") filed by Lyft, Inc. states in part that it has "a history of net losses" and that it "may not be able to achieve or maintain profitability in the future". Lyft, Inc.'s associated financial filings indicate it has a deficit of \$4.7 billion. These Submitters argue that this information indicates that Lyft, Inc.'s business model is not viable and is likely to fail. For these reasons, they say that Lyft is not capable of providing the service it proposes to provide in its Application.

[47] By way of explanation of its losses and statements relating to ability to maintain profitability, Lyft points to a number of contributing factors. Lyft says that the demand for its offerings is highly sensitive to the price of rides, the rates for time and distance, incentives paid to drivers, and the fees it charges drivers. Many factors including operating costs, legal and regulatory requirements or constraints, and its current and future competitors' pricing and marketing strategies could significantly affect its pricing strategies. Certain of its competitors offer, or may in the future offer, lower-priced or a broader range of offerings. Similarly, certain competitors may use marketing strategies that enable them to attract or retain new qualified drivers and new riders at a lower cost than Lyft. This includes the use of pricing algorithms to set dynamic prices depending on route, time of day, and pick-up and drop-off locations of riders.

[48] The Board has reviewed the IPO materials. The IPO notes that transportation is the largest household expenditure after housing and is almost twice as large as healthcare. Lyft, Inc. provided Consolidated Balance Sheets as part of its Application and the IPO. They show a growing stockholder deficit. Between 2017 and 2018, total assets grew by 25% while total liabilities grew by 108%. On the question of whether Lyft, Inc. will ever be profitable, the IPO includes consolidated operations data. Between 2016 and 2018, revenue grew by over 525%, total costs and expenses grew by about 200% and net loss grew by only 33%. The gap between revenues and costs closed substantially during the period. On a contribution margin basis (revenue contribution to fixed costs), the company demonstrated favourable results, with 23.9% in 2016, increasing to 37.8% and 42.7% in 2017 and 2018, respectively. Each incremental booking and ride contribute to cash flow and profitability to fund the indirect costs and expenses related to growth of the company. Each market the company enters is assessed against positive contribution margin. As a quickly growing company, Lyft, Inc. has been investing significantly in research and

development in such areas as establishing an innovative platform for its drivers and riders and autonomous vehicles. During the three-year period, expenditures on research and development increased by over 360%. The net loss is driven by corporate investments in operations, research and development, sales and marketing, and general and administrative expenses, including stock-based compensation to executives and directors. The Board notes that the growth-based business strategy used by technology companies such as Lyft, Inc. differs substantially from that in the traditional transportation business. Whether or not this strategy will be profitable is uncertain at this time.

[49] When Lyft, Inc. operates at a loss, the implications are that venture capitalists and shareholders are subsidizing the rides of passengers. In the longer term, if the company remains unprofitable, investors may lose their equity. As a publicly traded company, Lyft, Inc. is subject to public disclosure requirements and it must adhere to Securities and Stock Exchange Commission reporting standards, rules and regulations. It is also subject to annual third-party audits and internal financial controls as required by the listing entity which provides some assurance to investors. Questions concerning Lyft, Inc.'s profitability are of primary concern to its investors.

[50] The Board has reviewed Lyft's business plan and financial statements relating to its proposed B.C. operations (and included with its Application) as part of its assessment of Lyft's capability to provide the proposed service. Lyft provided a 36-month cash flow projection for its operations in the Lower Mainland. The Board reviewed the assumptions underlying the projections, which are reasonable and based on trends from existing operations in other jurisdictions. The revenue estimates and their growth over the 36-month period are reasonable, as are the cost of revenue and operating expenses over the period. The projections show Lyft's operations in the Lower Mainland becoming profitable within the period.

[51] Lyft has demonstrated to the Board's satisfaction that it has the overall infrastructure to provide care and control of its drivers and vehicles and has the management resources in place to provide ride hailing services. It has also demonstrated knowledge and understanding of the governing passenger transportation regulatory regime (including the *National Safety Code*), and its obligations as a result of this regime. Its business plan and financial information demonstrate that it is capable of providing the proposed service. The Board accepts that Lyft will provide that service in a proper and lawful manner.

[52] The Board is satisfied that Lyft's Application demonstrates that Lyft is fit, proper and capable for the purposes of s. 28(1)(b) of the Act.

(c) Would the application, if granted, promote sound economic conditions in the passenger transportation business in British Columbia (s. 28(1)(c))?

[53] The remaining consideration is whether granting the Application would promote sound economic conditions in the passenger transportation business in this province. In

considering s. 28(1)(c), the Board strives to balance public need for available, accessible and reliable commercial passenger transportation services with overall industry viability and competitiveness. The Board considers this issue from a wide-ranging perspective, which includes consideration of harm to other industry participants such as taxi companies. It is the Board's view that, generally speaking, the economic interests of the passenger transportation business overall weigh more heavily than the economic and financial interests of any particular applicant or submitter.

[54] In assessing whether the Application promotes sound economic conditions in the passenger transportation industry, many of the Submitters collectively refer to a variety of factors which they believe to be relevant. While those factors are not systematically identified in their submissions, the Board finds it convenient to consider them under the following headings (in no particular order):

- Level playing field (including, but not limited to: (a) fleet size, (b) rates and other differences, and (c) predatory pricing)
- Economic impact on taxis
- Impact on transit ridership
- Increased congestion and greenhouse gas emissions
- Increased fatalities and accidents
- Treatment of TNS drivers
- Wheelchair accessibility

[55] Some of these factors were considered as key areas of concern in the 2018 TNC Report. It was there acknowledged that the introduction of TNS involves complex issues, often with conflicting evidence. The Executive Summary to that Report reads in part:

Five key areas of concern also emerged in regard to a potential regulatory regime that the province may establish: availability and pricing; data reporting and enforcement; insurance; licensing; and vehicle and public safety. On the topic of availability and pricing, the Committee had a detailed discussion about the issue of vehicle caps and service boundaries, noting that future regulatory decisions in this regard should be based on data. Moreover, if TNCs are permitted to operate without defined service boundaries, taxis should also be permitted to pick up fares outside of their home jurisdictions under certain circumstances. Recommendations in respect of pricing include upfront disclosure of the cost of a trip and further monitoring to determine if a base rate or cap on surge or primetime pricing needs to be set in future.

[56] Similarly, the 2019 TNS Report identified several common overlapping themes arising in respect of the introduction of TNS and made a number of recommendations to support TNS regulation:

The Committee's discussions regarding boundaries, supply, and fare regimes were closely linked as a result of the significant overlap in the problems that each area of

regulations seeks to address. Each of these topics touch on mitigating the potential impact of TNS on congestion, encouraging transit ridership, and balancing the need to limit supply in congested areas while concurrently encouraging supply in underserved areas.

Deadheading is a key area of concern that emerged in deliberations on boundaries, and Members heard about other issues caused by geographic boundaries such as trip refusals and increased emissions. The Committee acknowledged these problems and recommended not implementing boundaries for TNS. Members considered other options to manage the distribution of TNS vehicles including geofencing to redistribute supply and price mechanisms such as per-trip or per-kilometer fees to address congestion.

The TNS model requires a large number of part-time drivers to be available when demand increases, and Members agreed that limiting the total number of drivers or vehicles available is not an appropriate mechanism to manage supply. However, Members did not agree on other mechanisms to limit the number of vehicles operating at a particular time in a certain location ... Finally, the Committee examined supply from the perspective of the types of vehicles used for TNS and agreed that the vehicles should be no more than ten years old to encourage safety and increase the likelihood that vehicles are low carbon.

A number of issues were raised in regard to price and fare regimes. Members agreed on the importance of accessibility and recommended that TNS be required to charge the same fare for accessible trips. The Committee also discussed protecting investments made in public transit and encouraging the trend towards increased transit ridership. They recommended setting a minimum price that does not undercut public transit. Given the importance of dynamic pricing to TNS, the Committee expressed support for variable pricing and considered whether limits to surge pricing would be necessary. Because dynamic pricing means that fares may vary from hour to hour, Members emphasized the need for drivers to communicate the cost of a trip in advance.

[57] The 2019 TNS Report also looked to other jurisdictions to learn from their TNS experiences and reviewed four reports that evaluate various impacts of TNS in major U.S. cities.

[58] Both the 2018 TNC Report and the 2019 TNS Report refer to the absence of sound data in relation to the effect of TNS on public transportation, traffic congestion and the environment. The 2018 TNC Report recommended that TNS be required to provide government trip data to support transportation demand monitoring, forecasting and planning. It also expressed the view that, in relation to the questions about the relationships between TNS and their drivers, there was value in providing government with a record of driver hours and earnings to enable government to monitor TNS labour and employment practices. Similarly, the 2019 TNS Report concluded that decisions about

boundaries, supply, and fare regimes should be evidence-based. It recommends collating and sharing data on TNS to ensure that accurate information is available for the purpose of assessing and managing the industry and for informing any future regulatory adjustments.

[59] The Board will consider each of the factors identified by Submitters. In doing so, the Board observes that virtually all taxi companies oppose the entry of TNS into the marketplace.

Level Playing Field

[60] Many Submitters argue that there should be a level playing field between taxis and TNCs in order to promote sound economic conditions and many of the submissions on fleet size and rates are premised on the view that TNCs and taxis provide the same service. The VTA argues that just because TNCs only provide services through an app, there is no valid reason to treat them differently from taxis. The VTA and other Submitters argue that the TSNA terms and conditions should therefore mirror those imposed on taxis. For example, limits should be imposed on the number of Lyft cars that can operate at any one time (fleet size), rate discrepancies (and other differences) should be addressed, and Lyft should be prohibited from subsidizing rides (predatory pricing).

[61] As noted above, the Board rejects the contention that TNCs and taxis provide the same service. The TNS business model is markedly different from the business model used by taxis, resulting in different responses to market conditions. The TNS business model relies on a large number of drivers with vehicles to supply the service, a large number of consumers to purchase the service, the interaction of supply and demand to set fares, and information exchanged between the parties through the use of an app. The TNS business model responds to service availability issues that have arisen in the taxi industry by increasing the supply of vehicles-for-hire in peak periods and reducing supply in off-peak periods. Street hails and taxi stands, however, remain the exclusive domain of the taxi industry.

a. Limits on Fleet Size

[62] Fleet size is defined in the Regulation as “the maximum number of passenger directed vehicles authorized to be actively operating, at any given time, under a licence that includes a passenger directed vehicle authorization or transportation network services authorization”. The Board is authorized to both set and amend fleet sizes for a group of licensees.

[63] Fleet size was a contentious issue for the taxi industry historically. In times of economic recession, drivers would flood the market, resulting in lower returns for all drivers. As a result, caps on fleet size for taxis were introduced and have been a long-standing feature of the regulation of the taxi industry.

[64] The VTA makes the point that there is a cap on fleet size for taxis and licensees must apply to the Board for approval of additional vehicles. The VTA argues that failing to

impose caps on TNCs like Lyft is “like writing a blank cheque” which would lead to the destruction of the taxi industry. The VTA maintains that TNS fleet sizes can be established by the Board based on geographic area and time of day to ensure that needs for peak periods and weekends are met without worsening congestion during daily rush hours. The VTA’s concerns about unlimited TNS fleet size are shared by other Submitters who express the concern that it would allow TNS to dwarf taxi fleet size and destroy the competitive balance in the transportation industry.

[65] The VTA and the Group of Prospective Ride-Hailing Drivers recommend a maximum TNS fleet size of 2,300 to 2,500 vehicles in the Lower Mainland. They say this would double the number of vehicles-for-hire on the road, expand consumer choice, limit congestion and pollution and the economic displacement of taxi licenses. Fleet size can be increased if warranted by data once it has been collected and analyzed by the Board. Other Submitters (such as the Mayor of Burnaby) advocate that only those applicants who demonstrate the greatest commitment to corporate and social responsibility should be afforded larger shares of the market than other applicants. The Board notes that s. 28(1) does not contemplate preferential treatment of applicants based on these types of considerations.

[66] Many Submitters referenced a September 3, 2019 letter from the Minister of Transportation and Infrastructure to the Board Chair which they believe should guide the Board in its decision-making. That letter reads in part:

I am writing today to relay widespread concerns related to the introduction of ride hailing services that I believe the Board should be mindful of as it reviews incoming applications and data is collected. Please note this letter is intended to show support for the consideration of these concerns and should not be taken as a general policy directive.

I would like to acknowledge your insistence on the requirement to ensure any new services approved must “promote sound economic conditions in the transportation business”.

I appreciate that in making the policy decisions, you stated that while there are no limits on fleet size at this point, the board will monitor TNS performance data and may review fleet sizes when data is available. You also note that one of your policy principles is that negative impacts should be reviewed in a timely way to ensure the viability of the taxi industry alongside TNS services and that the taxi industry does not experience serious economic dislocation before a supply or cap decision occurs.

[67] This letter is therefore supportive of the concerns expressed about fleet size and the impact of TNS on taxis. It does not bind the Board, nor does it purport to do so. Had the Minister wanted to provide a general policy directive to the Board relating to the exercise of the Board’s powers and duties under s. 6(5) of the Act, she could have done so. Instead, as the letter makes clear, consideration of the concerns identified “should not be taken as a general policy directive”.

[68] Some Submitters cite the New York and California experience with unlimited fleet sizes and no minimum wage regulations. As a consequence of driver income and congestion concerns, New York has recently introduced fleet size limits and minimum wage regulations for TNS drivers and California has passed legislation recognizing ride hailing drivers as employees. These Submitters express concerns about regulating these areas after TNCs are operational.

[69] In response, Lyft makes the point that a TNS business model only works when there are sufficient drivers to satisfy demand. Artificial limits on supply lead to higher prices and longer wait times. Lyft also says that, because there is currently no data to support what a limit on a TNS fleet size should be, imposing one at the outset would be arbitrary and not evidence based.

[70] The Board has determined that, at this point in time, it is not prepared to impose limits on Lyft's fleet size because of the experiences of other jurisdictions with Lyft's operations. The 2019 amendments to the Act and Regulation set out the regulatory framework under which TNCs must operate in this province. The Board is given authority to establish TNC licence terms and conditions and has flexibility to adjust by making any needed changes to them if circumstances warrant. TNCs are required by their licences to provide data to the Board, which facilitates evidence-based decision-making. The Act also establishes fines and other penalties for non-compliance (such as suspension or cancellation of the TNSA).

[71] Unlike the situation in B.C., in the jurisdictions where concerns have been expressed about Lyft, there typically was no protective regulatory framework in place governing TNS operations. Similarly, there was no data available to make evidence-based decisions, a problem that has been addressed by the legislative amendments to include data-providing requirements for both TNS and taxis as determined by the Board.

[72] The Board recognizes the potential risks of an unlimited fleet size but also accepts that a flexible supply of TNS drivers and vehicles is part of the TNS business model. This is due, in part, to the fact that most drivers only operate part-time and in accordance with their own personal schedules and market incentives. Unlike taxis, which can be used to provide rides 24 hours a day, TNS vehicles are private vehicles that may be used for purposes other than offering rides for much of the day. At any given time, a low percentage of TNS drivers may be actively providing service and this percentage varies based on demand.

[73] The Board views the setting of caps on fleet size at the outset of TNS operations as inappropriate because of the specific nature of the TNS business model and the lack of an empirically substantiated basis for setting fleet size at this time. Additionally, and in contrast to many other jurisdictions, B.C. has required all TNS drivers to have a Class 4 driver's licence. The Board expects that this additional requirement will likely result in a slower ramp up of TNS than occurred in other jurisdictions.

[74] The TNS model should be given a fair opportunity to succeed. Although the Board is not limiting Lyft's fleet size at this time, it will be closely monitored by the Board. If, as data is collected from Lyft, other TNCs and taxis, the Board sees there to be an evidentiary basis for the imposition of maximum fleet size as a term and condition of its TNSA, it may do so at that time, as provided for under s. 31 of the Act. In this way, supply and demand can be balanced with the aim of meeting public need for service, providing sound economic conditions, and addressing environmental concerns.

[75] The Board will impose rigorous data requirements on TNCs like Lyft. The Act requires TNS operators and taxis to make this data available to the Board and this requirement will be enforced. A data warehouse at the Ministry of Transportation and Infrastructure is operational and ready to accept data and provide it back to the Board in a format suitable for analysis. While other regulators may have encountered challenges in imposing restrictions on TNCs after they commenced operations, the Board has the statutory power to impose a cap on fleet size at a later date. As noted, under the Act, regulatory sanctions for any non-compliance can be imposed.

b. Rates and other differences

[76] Taxi rates are set by the Board and are based on a flag rate plus time and distance charges. They are consistent among companies in an operating area. Taxis do not compete on price. TNS are premised on dynamic or variable pricing, with rates responding to changing demand circumstances. Dynamic or variable pricing is defined to mean:

... a flexible approach to setting the cost of a product or service. Prices may vary to reflect changing market conditions or to incentivize behaviour. For example, companies may implement dynamic pricing based on current market demand to increase supply, and regulators may implement dynamic pricing based on peak travel times to reduce congestion.

[77] "Surge pricing" is defined to mean a "type of dynamic pricing utilized by the TNS industry where prices vary to reflect changing market conditions by increasing in times of greater demand". Surge pricing is used by TNCs in times of peak demand, when taxis must maintain their set metered rates. Some Submitters say that surge pricing allows TNCs to "cherry pick" trips.

[78] The BCTA and two unaffiliated taxi companies believe that TNS will discourage taxi drivers from working full time which will mean the ability to provide services to seniors, accessibility patrons, WorkSafeBC and ICBC claimants would be adversely affected. This proposition was not further explained and appears to be speculative.

[79] Other Submitters, such as the BCTA, make the point that TNS applicants are able to apply for a geographic operating area that goes from Whistler to Hope, whereas taxis are restricted to their historical operating areas, which they say is an obstacle to improving taxi

services. They point to the 2018 Hara Report which recommends that taxis be permitted to move more freely across municipal boundaries. The Board notes that, in its consultations with taxis and TNCs in July 2019, stakeholders were advised that the Board would consider taxi operating areas once it has taxi and TNS data following experience with TNS. The Board also notes that changes to taxi operating areas will have a significant economic impact on the taxi industry and consultation with taxi companies is required before this can be done. Currently, the Board does not have data to enable it to determine if, where and how taxi boundaries should change. Without this data, the Board is not able to make informed decisions about where any revised boundaries should be drawn.

[80] It was also proposed that approval should only be granted to applicants that voluntarily set their rates to mirror taxi rates. The Board notes that s. 28(1) of the Act does not contemplate preferential treatment of applicants based on this type of consideration.

[81] Imposing equivalent rates was the subject of consideration by the 2019 Select Standing Committee. Before the Committee, various presenters expressed conflicting views on the necessity for minimum and maximum rates for TNS operators. Select Standing Committee members recognized the prominent role of dynamic pricing in the TNS business model generally and concluded that dynamic pricing “should be encouraged” although they did not agree on recommending limitations on surge pricing. The Select Standing Committee ultimately recommended that a minimum per-trip price that is not less than the cost of public transit be imposed and that the Board monitor data to determine whether there is a need for implementation of a different base rate or cap on pricing.

[82] The Board considered the issue of rates both during its 2018 consultation with the taxi industry and in its development of TNS policies. In September 2018, the Board published an Industry Advisory which permits taxi companies to lower metered taxi fares in off-peak hours for app-hailed trips starting in September 2019. In 2019, the Board also published its Operational Policy that presumptively sets TNS rates at the taxi flag rate for each region, recognizing that rates must be considered on a case-by-case basis on each application.

[83] Like the Select Standing Committee, the Board accepts that dynamic pricing is central to Lyft’s TNS business model. Dynamic pricing is the mechanism by which the supply of vehicles is adjusted to respond to passenger demand. The intended effect of dynamic pricing is to reduce wait times at peak periods by incentivising drivers and to lower costs at off peak periods to encourage trips. The Board does not accept the submission that dynamic pricing is discriminatory in purpose or effect. The price of countless goods and services are dictated by market conditions. The use of up-front pricing will mean that passengers will be aware of TNS rates and will have the choice of accepting or declining the service, including at times of surge prices. Those who are unwilling or incapable of paying the surge prices will still have the option of using taxis or public transit.

[84] The Board concludes that allowing Lyft to charge flexible rates and use dynamic pricing will encourage healthy competition in the passenger transportation industry and promote sound economic conditions in this province.

[85] As with fleet size, the Board recognizes that it does not have data on the impact of TNS rates in B.C. The Board has determined that, in order to address some of the expressed concerns, it will include licence terms and conditions setting Lyft's rate at the Region 1 taxi flag rate and prohibiting the use of coupons or discounts to lower rates below the minimum.

[86] Other areas which are said to create inequities between TNCs and taxis include differences between insurance coverage (TNS insurance is cheaper and more flexible than taxi insurance), employer obligations (taxi licensees are required to pay their drivers minimum wages and provide statutory benefits such as holidays whereas TNC drivers are characterized as independent contractors), taxi cameras (taxis are required to have cameras in some areas whereas TNS are not), and taxis are required to provide services 24 hours a day every day of the week. Some other Submitters note discrepancies in how taxis and TNCs are regulated in the following areas: operating regions, low emission vehicle requirements, vehicle age requirements, types of booking and fare payment, requirement for in-vehicle cameras, trade dress/identifiers inside and outside vehicles and provision of accessible services. Insurance rates are established by the Insurance Corporation of British Columbia, not the Board. Some of the other inequities referred to are either established by taxi companies (such as the provision of service seven days a week, 24 hours a day) or were implemented by the Board at their request (such as the taxi camera requirement). Others, such as vehicle age and identifiers, are dealt with in the legislation.

[87] The Board will include licence terms and conditions requiring Lyft to submit operational data (including driver earnings). Data parameters will be monitored by the Board and minimum rates can be adjusted in the future. Future decisions on TNS rates will be evidence-based as per the Data Requirements Rule established by the Board and by the licence terms and conditions. The Board notes that its finding is consistent with the recommendations made in the 2019 TNS Report to include data monitoring to assess whether minimum rates or rate caps needed to be set.

[88] To the extent Submitters advocate for equitable terms and conditions as between taxis and TNCs, the fact that there may be inequities is not a basis for rejecting a TNS application and nothing in the Act suggests this to be the case.

c. Predatory Pricing

[89] The threat of predatory pricing is one of the main concerns expressed by many Submitters. It is argued that Lyft loses money because it does not charge passengers the true cost of the service. Instead, incentives are paid to drivers and discounts and promotions are provided to its customers. This results in TNS drivers providing services below cost. Failing to charge the true cost of the service in order to drive competitors out of

business constitutes predatory pricing. These Submitters also argue that Lyft will use its deep pockets, low fares, and inflated supply of vehicles to destroy the taxi industry and other competition, which is contrary to the public interest.

[90] Many warn that predatory pricing by a company like Lyft has the potential to wipe out the taxi industry in the Lower Mainland. Were that to occur, and Lyft then withdrew from Region 1, there would be no passenger directed vehicle services available. Regulated rates should be imposed on TNS to protect the taxi sector and permit taxis to compete based on service quality. Many Submitters also say that allowing flexible taxi rates or enabling taxis to operate as a TNC is inadequate because the purpose of predatory pricing is elimination of competition and, in any event, it would not promote sound economic conditions.

[91] The Board observes that the notion of predatory pricing must be distinguished from robust competition. Importantly, predatory pricing is regulated by the *Competition Act*, which makes the practice an offence. If a TNC (like Lyft) engages in such prohibited practice in this jurisdiction, it can be held accountable under the *Competition Act*. Any person in possession of evidence to support such a practice is able to bring it to the attention of the federal Commissioner of Competition, who investigates predatory pricing complaints. The Board considers the regulation by the federal regime provides sufficient safeguards to prevent predatory pricing by Lyft or to punish for it where it occurs.

Economic Impact on Taxis

[92] A number of Submitters argue that Lyft's business model will cause significant financial losses to taxi companies and drivers even though they provide the same service. According to these Submitters ride hailing companies like Lyft flood the market with drivers, and pay inadequate wages to their drivers, which in turn results in destructive competition to the taxi industry and loss of investment. They point to experiences in other jurisdictions, including Calgary, San Francisco, and New York, where the taxi market share has declined while trip volumes have expanded for TNS. Many Submitters warn of significant adverse consequences for taxi drivers and taxi owners, such as loss of income.

[93] For example, one taxi company operating in Washington, D.C. (D.C. Yellow Cab) wrote that the impact of TNS on their business was immediate. Dispatch and street hail trips declined 15% in one year and up to 40% within three years. Its fleet size serving the evening hours and after weekend bar closure market decreased from 120 cars in-service to 40 cars. The total vehicles and drivers in 2012 were 650. The current level is approximately 450 vehicles. During the same time the TNS fleet has grown to 120,000 vehicles registered to operate in the D.C., Maryland, and Virginia area.

[94] Blue Line Taxi, which operates in Hamilton, Ontario, says the arrival of Lyft in its area of operation was almost immediate and catastrophic. Trip volumes decreased by 40%, taxi licence values dropped by 70% and many taxi drivers were lost to ride-hailing

companies like Lyft. Similar concerns were raised by Calgary's Checker Transportation Group.

[95] As well, many Submitters argue that licence holders who have made significant investments on their licence will lose those investments. They point to cities such as Toronto where licence-share values fell from \$360,000 to \$30,000 and New York where they fell from one million dollars in 2013 to less than \$200,000 in 2018. Syd's Taxis *et al* estimate VTA members have third party loans with taxi licences as collateral to a value of about \$500 million. Some Submitters comment on the suicides experienced in New York as a result of the loss of medallion values.

[96] Many studies and submissions were provided to the Board to demonstrate the potentially negative economic effect of TNS on the taxi industry, including:

- A study addressing the impact of TNS on the taxi industry in New York. It documents a close to 50% reduction in fare trips by yellow cabs, between 2012 and 2019 which it says was "incontrovertibly the result of ride hailing companies". Between 2015 and 2019, daily rides by yellow cabs declined by 155,000 per day while TNS rides increased by 606,000 rides per day. The author states that most of the TNS growth occurred outside of the Manhattan. In 2015, yellow cabs' share of fare trips was 86% and this declined to an estimated 45% of fare trips in 2019. The author stated the shrinkage is "almost certainly the pronounced differences in convenience and certitude between street hailing and app-based phone hailing".
- A study documenting the rise in TNS trips at several locations. At American airports between 2014 and 2018, the share went from less than 10% of paid trips to over 70% of paid trips. In San Francisco, average taxi trips per vehicle fell from 1,400 in 2012 to close to 400 trips in 2014, in a linear descent. Figures provided for Seattle show a linear decline in taxi trips between 2015 and 2017, albeit not as dramatic as in San Francisco. Some data is also provided for Washington D.C., the San Francisco Airport, and New York City. The author states that upon the entry of TNS into a market, the market share of taxi trips typically declined, and the total number of vehicle-for-hire trips increased. He states that there is a "reduction in the total number of taxi trips between 15% and 45% dependent on the maturity of the taxi market, and the extent to which TNCs have developed their services". The author notes that with TNS introduction to the B.C. market, there may be a loss in medallion values, loss of business earnings, and reduced driver earnings. Other economic impacts include a lessening of service levels, company closures and consolidated dispatch.
- A submission to the Select Standing Committee said that when TNS were introduced in Calgary, taxi market share decreased, and the total number of taxi trips declined. Another made by Benn Proctor states taxi fares may decline as much as 15% to 25% as a result of TNS operations.

[97] The market for licence shares, the impacts on their value and the potential impact of TNS on taxis was also discussed in the 2018 Hara Report. In the Executive Summary the point was made that shortages in taxi services in urban areas is evidenced by the development of private markets to exchange or lease scarce operating taxi licences for significant sums of money. In the discussion about the structure of the taxi industry, the Report provides an explanation of the taxi licence-share market:

... in urban areas, where taxis are in short supply, the right to operate these taxis is a valuable commodity. It is common practice for BC taxi companies to offer shares in the ... licence. These are termed licence-shares. These are private sales, not on the public record and not endorsed by the PT Board or the municipality ...

The revenue paid to the licence-share holder varies by region and can be substantial. In interviews, industry stakeholders report that the right to operate a taxi leases for as much as \$5,000 per month in Vancouver, \$2,000 per month in larger municipalities surrounding Vancouver, and much less elsewhere.

After the initial sale of the licence-share by the taxi company, there is an ongoing market in which licence shares may be bought and sold. These are also private sales, not on the public record. However, going rates of exchange will be commonly known in the industry. Day-shift licence-shares and night-shift licence-shares may have different prices.

Licence-share prices are influenced by uncertainty about the future. Given the expected entry of TNCs like Uber and Lyft into the market, the future revenue levels of taxis remain uncertain. Thus, the present value of licence-shares has fallen substantially, even though the current fees paid to holders continue to flow. Like other investments, licence-share value is also influenced by prevailing interest rates and other general economic conditions.

[98] Many Submitters are concerned that Lyft will use its deep pockets, low fares and inflated supply of vehicles to destroy competition, including the taxi industry. They say this destructive competition is contrary to the public interest and to the promotion of sound economic conditions. For this reason, they believe that the regulation of prices charged is the minimum required to protect the public interest in sound economic conditions. Lyft counters by saying that its services empower people to get out of their cars, explore their communities, support local businesses and stay out longer knowing they will have safe, reliable transportation home.

[99] We live in a market economy and competition is the norm in marketplaces. The prospect of taxis losing market share to TNS and experiencing declines in absolute levels of ridership can occur as a natural consequence of marketplace adjustments. While the Board is sympathetic to the prospect that taxi licence holders may experience a drop in their licence-share value, the Board has never sanctioned the market for such shares, nor does it have the authority to do so. Taxi licensees created the market for them, and they invested

as investors or used them as collateral. As with any investments, there are associated risks and impacts. The introduction of ride-hailing has been a point of public discussion and consultation in B.C. for approximately seven years. As a consequence, there has been ample notice regarding the possible introduction of ride-hailing in this province.

Impact on Transit Ridership

[100] Some Submitters say if Lyft is permitted to operate in B.C., the transit industry would be “decimated”. They point to the information provided by Stephen Hill to the 2019 Select Standing Committee on Crown Corporations, and a November 14, 2018 paper entitled “Understanding the Recent Transit Ridership Decline in Major US Cities: Service Cuts or Emerging Modes?”. The authors of this paper say their research suggests that “past research findings that TNCs and other emerging modes either increase or do not affect transit ridership ... are likely incorrect”. They go on to say:

... Our results show that the introduction of bike share in a city is associated with light and heavy rail ridership, but a 1.8% decrease in bus ridership. Our results also suggest that for each year after TNCs enter a market, heavy rail ridership can be expected to decrease by 1.3% and bus ridership can be expected to decrease by 1.7%. This effect increases with time as TNCs increase in use. The effect of TNCs is substantial – after 8 years this would be associated with a 12.7% decrease in bus ridership.

While bike share is a sustainable mode of transport, the consequences of a shift from public transit to TNCs go beyond the effect on transit agencies. Recent research suggests that this shift results in a large increase in traffic congestion ..., which may result in most travelers being worse off.

[101] The Progressive Intercultural Community Services Society maintains that economists and transportation agencies have noted that public transit usage declines about 10% with the introduction of ride hailing. It suggests that integration of public transit into Lyft’s App would allow customers to incorporate public transit into their mobility plans such that ride hailing could be used for the “first or last mile” of their travel. The City of Burnaby agrees and says that TNS mobile apps and service models that propose to integrate with public transit should be prioritized over those that do not.

[102] In response, Lyft points out that it has partnered with over 60 agencies across the U.S. and Canada to help improve access to transit through first-last mile and community transit partnerships. Even in cities without formal partnerships, Lyft services provide essential access to transit. For example, since launching in Toronto in December 2017, Lyft has provided thousands of rides to Metrolinx stations, with Union Station being the number one destination.

[103] The 2018 Hara Report, in the discussion on the transformative implications for the economy, notes that with higher reliability and transportation service volume, people no

longer worry about being able to secure transportation home after enjoying a restaurant or bar. It finds:

... A survey of San Francisco's residents taken prior to the growth of Uber and Lyft, found that 43% agreed or strongly agreed that they would go out for night entertainment more often if a taxi could be reliably had within 15 minutes. Of this number 23% strongly agreed.

As households become more accustomed to plentiful vehicle-for-hire service, vehicle ownership choices also change. In the same San Francisco survey, 13% of residents agreed or strongly agreed they would consider giving up their vehicle if taxi service was reliably available within 15 minutes. More recently, a 2018 study of four United States cities found that the availability of TNCs was associated with a new reduction in vehicle ownership and an increase in public transit usage.

The long-term impact of expanded vehicle-for-hire on public transit is still playing out. However, there is the potential for significant net gains for households, the economy, and the environment.

Separately, greater availability of vehicles for hire will also enable more cost-effective provision of public transit under many circumstances. This includes the provision of accessible transportation, as well as transportation on low-volume routes and better service at route endpoints (the "last mile").

[104] The Board finds that there is not a sufficient evidentiary basis for concluding that approving Lyft's Application will adversely affect public transit ridership in this province. Data will be collected on the impacts of TNS and analyzed by the Board. The Board will also engage in discussions about that data with TransLink and B.C. Transit on a regular basis.

Increased Congestion and Greenhouse Gas Emissions

[105] Most Submitters maintain that increased traffic congestion and greenhouse gas (GHG) emissions arising from additional TNS vehicles on the road will result if Lyft's Application is granted. The Minister, in her September 3, 2019 letter to the Board, also expressed concerns about a potential increase in congestion which she suggests "should factor heavily into future decisions around fleet size limits". Mention was also made of a 2007 Ministerial Policy Directive about the government's GHG reduction policy. As a result of this Directive, the Board established an Eco-Friendly Taxi Policy for Metro Vancouver and the Capital Regional District which sets a requirement that non-accessible taxi vehicles be eco-friendly. This was later extended to sedan limousines and to other areas of the province.

[106] The VTA and other Submitters argue that the Board should support measures to reduce GHG emissions when considering Lyft's application. Growth in congestion

attributable to TNS will make it difficult to meet the government's GHG emission target reductions of 40% by 2030.

[107] Various studies were cited for this point, including:

- A study about traffic congestion in San Francisco which concluded that TNS are the largest contributor to vehicle hours of delay, increased vehicle miles travelled and reduced speed of vehicle movement. The study concluded that the contribution of TNS volumes and TNS pick-ups and drop offs were the largest factor in the city's significant congestion growth and were greater than the combined effect of population growth, employment growth and network changes.
- A study of the impact of ride hailing on the future of American cities states that even with highly optimistic assumptions about shared ride adoption, TNS growth adds substantially to traffic in major cities. Mileage increases because most riders are shifting from transit or high occupancy vehicles, without any reduction in single occupancy vehicle use. Another factor that increases mileage is deadheading between passenger trips. Traffic flow interruptions and the resulting impact on congestion result from the increase in passenger pick-ups and drop offs. Without public policy interventions, traffic congestion reduces the economic and social quality of life in urban areas.
- A study on the impacts of vehicles for hire in Manhattan estimated that, between 2015 and 2018, average daily trips by yellow cabs and TNC combined increased by 85,000. This resulted in an estimated slow-down of between 4.6% and 7% in travel speed and a significant increase of 28,000 hours each day spent by people travelling in cars. For every additional minute that a vehicle is driven in the central business district, this slows down other vehicles, so their collective travel is extended by about two minutes.

[108] Lyft's response is that its founding vision was to reduce cars on the road by increasing vehicle occupancy and eliminating the need for personal vehicle ownership. Lyft refers to a 2019 Toronto study on the impact of TNS which concludes that it is unclear whether TNS contribute to congestion.

[109] Steps taken by Lyft to address congestion issues in the areas where it operates include:

- partnering with transit to solve problems such as late-night service, first and last mile gaps and providing ride options in underserved communities;
- incentivizing Lyft Shared rides to increase vehicle occupancy; and
- working collaboratively with local organizations to improve safety and efficiency of curb pick-ups and drop offs.

[110] Traffic congestion is a complex issue, particularly as it relates to the Metro Vancouver area, and there are a number of contributing factors. The 2018 TNC Report

emphasized that, without data, anticipating the effects that TNCs may have on traffic congestion in B.C. is challenging. It was stressed that collecting and monitoring traffic data and continuing to review the experiences of other jurisdictions for solutions to any traffic or congestion-related problems arising from the introduction of TNS was important.

[111] The Board has decided that it will monitor congestion in select high traffic areas of Lyft's TNS operations. Baseline data will be determined and changes in congestion as a result of TNS will be monitored. If that data provides an evidentiary basis for finding TNS are associated with increases in congestion in B.C., it will take appropriate steps at that time (such as setting caps on fleet size).

Increased Fatalities and Accidents

[112] The VTA argues that the increased activity on public roadways from TNS leads to more car accidents, and more traffic fatalities. Professor John Barrios of the University of Chicago has been studying this issue. Professor Barrios found that the arrival of TNS is associated with an increase of approximately 3% in the number of fatalities and fatal accidents, both for passengers and pedestrians. In the U.S., that is about 1,000 people.

[113] With respect to the arguments made about increases in accidents and fatalities resulting from TNS, the Board finds that the evidence submitted in support of this point to be insufficient to draw causal conclusions in the Canadian context. As such, Lyft's Application will not be denied on the basis of this factor.

Treatment of TNS Drivers

[114] Many submitters say that TNS drivers typically work long hours, earn less than minimum wage, receive no benefits and lack the ability to unionize. The B.C. Federation of Labour and other Submitters refer to, among others, a study in the U.S. which is said to provide evidence that the introduction of ride hailing has led to significant declines (53%) in the earnings of drivers in the transportation sector. Two other American studies are cited, both of which show low wages for TNS drivers. One of these studies, by Mishel, estimates the driver "wage" of another TNS operating in other jurisdictions, when adjusted to be comparable to employee wages, averages only \$9.21 per hour.

[115] The VTA, Syd's Taxis *et al* and others say that Lyft improperly characterizes TNS drivers as independent contractors rather than employees to immunize itself from the statutory responsibilities placed on employers. The VTA argues that the Board should establish appropriate terms and conditions (such as a minimum wage) for TNS drivers.

[116] Lyft believes its drivers are classified correctly as independent contractors. It states that, on a national basis in the U.S., 91% of its drivers drive for less than 20 hours a week and over 75% drive less than 10 hours per week. Drivers have told Lyft that the flexibility to drive when and where they want is extremely important to them. To the extent that the B.C. Federation of Labour argues that stable employment and assessment of applicants

should be based on how they will treat their workers, Lyft maintains such matters are outside the jurisdiction and scope of the Board's review.

[117] On November 28, 2019, the VTA asked the Board to take immediate steps to ensure it did not grant Lyft's Application on the basis of a complaint filed by the United Food and Commercial Worker's Union seeking declarations that: (a) Lyft was violating ss. 6(1) and (3) of the *Labour Relations Code*; and, (b) its drivers are employees for purposes of the *Code*. A similar request was made by Syd's Taxi *et al* on December 6, 2019. The Board declined these requests, as it did not consider the fact that a complaint had been filed with the Labour Relations Board to constitute a sufficient basis for declining to consider a special authorization application made under the Act.

[118] The Board will require Lyft, as a term and condition of its licence, to provide quarterly information on drivers' earnings and hours in a format prescribed by the Board to enable the Board and others to monitor TNS labour and employment practices. The Board can publish this information. If data shows that earnings are low, the Board can consider whether rate or fleet change measures should be taken.

Wheelchair Accessibility

[119] The final concern expressed by many Submitters relates to the maintenance of accessible transportation. They say that Lyft does not provide wheelchair accessible service to customers requiring accessible vehicles. The City of Richmond recommends that TNS vehicles have the same accessibility requirements as taxis.

[120] In its Application, Lyft states that it has been an active participant in the regulation process regarding wheelchair accessible vehicles in other jurisdictions in North America. Currently, Lyft has wheelchair accessible vehicle operations in ten regions in North America, including the City of Toronto.

[121] Lyft also points to its Anti-Discrimination Policy and its onboarding materials which include education modules reminding drivers that they will be serving a diversity of customers, including riders who might have limited hearing, vision, or mobility. This type of inclusionary training to support people with disabilities and others was encouraged in the 2018 TNC Report.

[122] Due to its reliance on private vehicles, TNCs do not generally provide wheelchair accessible services and there are concerns that, once TNCs are operational in this province, there will be a reduction in wheelchair accessible services and increased wait times for those requiring them. The Regulation requires Lyft to pay a \$0.30 per trip fee to the government to be used for accessibility programs, which was a recommendation made in the 2019 TNS Report to offset the fact that TNCs do not provide wheelchair accessible services. The Board considers the per trip fee to be sufficient to facilitate the availability of wheelchair accessible services.

Summary

[123] Many of the factors identified by various Submitters opposing Lyft's Application are overlapping and largely based on experience with TNS generally or Lyft in other jurisdictions. From the Board's perspective, it bears emphasizing that the TNS amendments to the Act have been crafted with these other jurisdictional experiences and "lessons learned" in mind. In most jurisdictions where concerns have been raised about Lyft's operations, there was no comparable or any regulatory framework in place governing TNS. The TNS legislative amendments not only require TNCs and taxis to provide data to the Board (such as data relating to wait times, distribution of trip routes, trip refusals, driver earnings and hours, and accessible/non-accessible trip statistics), but the Act also provides the Board with flexibility to adjust TNSA terms and conditions where the data collected reveals the need to do so. As well, the Act establishes high fines and penalties associated with non-compliance.

[124] The Board is satisfied that: (a) there is a public need for the service proposed; (b) Lyft is a fit and proper person and has the capability to provide that service; and, (c) properly regulated, Lyft's Application promotes sound economic conditions in the passenger transportation industry in the province. The Board has taken steps in crafting the terms and conditions of Lyft's licence to ensure that it is able to monitor and assess Lyft's operations as they unfold and to respond where data establishes the necessity of a regulatory response.

5. Conclusion

[125] For the reasons set out above, the Board approves Lyft's Application with the terms and conditions established in Appendix 1 (general terms and conditions), Appendix 2 (minimum rates), Appendix 3 (data requirements), and Appendix 4 (supplementary terms and conditions respecting TNSA apps). All four appendices form part of Lyft's licence.

[126] As a term or condition of this licence provided by the Board, you must provide the Registrar any information and data that the Board or the Registrar may request. Information on the current data requirements and submission process are specified in the Trip Data Submissions Guide and Specifications document available on the [Passenger Transportation Branch website](#). At a minimum, weekly data submissions are required. Completed submissions are due within five business days of the end of the period that the data covers.

Appendix 1

General Terms and Conditions

Lyft Canada Inc.
dba Lyft

Special Authorization	Transportation Network Service Authorization
Terms & Conditions of Licence	
<p>“Board” means the Passenger Transportation Board “Registrar” means the Registrar, Passenger Transportation</p>	
A. Legislative Requirements	
Vehicle Identifier	Each motor vehicle operated under this authorization must display, at the times and in the form and manner required by the Registrar, a vehicle identifier that is: (a) issued to the licensee by the Registrar; or (b) authorized by the Registrar to be issued by the licensee.
Data Requirements	The licensee must provide to the Registrar any information, including personal information, and data that the Registrar or Board may require, and as may be set in any applicable supplemental terms and conditions and orders of the Registrar or Board, within time periods that the Registrar or Board may require, which may include, without limitation, information and data set out in section 28(5) (a) to (c) of the <i>Passenger Transportation Act</i> .
Hailing	Motor vehicles may be hailed under this authorization only through the use of the transportation network services approved under this authorization.
B. Passenger Transportation Vehicles	
Accessible Passenger Directed Vehicles	An Accessible Passenger Directed Vehicle must be operated in accordance with the <i>Motor Vehicle Act Regulations</i> including Division 10 (<i>motor carriers</i>) and Division 44 (<i>mobility aid accessible taxi standards</i>), as amended from time to time, and in accordance with any other applicable equipment regulations and standards.
Apps	Fares and payments must be calculated and paid for through the use of an online platform that complies with applicable supplemental terms and conditions, policies, standards and orders of the Board.

	Apps must also comply with supplemental terms and conditions policies, standards or orders of the Board.
C. Originating Areas & Other Requirements	
Originating Area:	Transportation of passengers may originate from the following Originating Areas: <input type="checkbox"/> Region 1 – Lower Mainland, Whistler
Destination Area:	Transportation of passengers may terminate at any point in British Columbia and beyond the British Columbia border when engaged in an extra-provincial undertaking.
Geo-Fencing	TNSs operating in the City of Vancouver (in Region 1 above) must geo-fence off the areas listed below in (a) to (c) on cruise ship days to prevent drivers from picking up passengers: (a) Canada Place Way between Howe Street and Burrard Street; (b) Howe Street between Canada Place Way and Cordova Street; and, (c) Burrard Street between Canada Place Way and Cordova Street. The Board will post a link to the city’s cruise ship schedule, when available, in March or April of any year.
Fleet Size	There are no initial limits on TNS fleet size at this time. The Board will monitor TNS performance data and other relevant data and may review fleet sizes when data is available.
Driver Earnings	Individual driver earnings and hours worked must be tracked, and this data must be provided within the time frames set and, in the manner required, by the Board.
Transfer of a licence:	This special authorization may not be assigned or transferred except with the approval of the Board pursuant to section 30 of the <i>Passenger Transportation Act</i> .
<i>Liquor Control and Licensing Act</i> <i>Cannabis Control and Licensing Act</i>	The licensee must at all times ensure passenger directed vehicles under their licence are operated in compliance with the <i>Liquor Control and Licensing Act</i> and the <i>Cannabis Control and Licensing Act</i> .

Appendix 2

Minimum rates

TNS Operating Region	Regional Districts	TNS Minimum Rates
1. Lower Mainland, Whistler	Metro Vancouver Fraser Valley Squamish-Lillooet	\$3.35

These rates include GST

The use of coupons or discounts by TNSs to lower rates below the minimum rate is prohibited

Appendix 3

Data Requirements

[Data Requirements](#), effective September 3, 2019, as amended from time to time, apply.

I. Purpose

To establish data requirements for licensees who hold, or are deemed to hold, a Passenger Directed Vehicle Authorization (PDVA) or a Transportation Network Services Authorization (TNS).

II. Legislation

Section 28(5) of *Passenger Transportation Amendment Act* states that –

The board must establish as a term or condition of a passenger directed vehicle authorization or transportation network services authorization that the licensee must provide to the registrar any information, including personal information, and data that the registrar or the board may require, including, without limitation, information and data respecting

- (a) the motor vehicles, and the drivers of those motor vehicles, operated under the authorization,
- (b) the availability of the motor vehicles, at given points in time, for hailing by methods permitted under the authorization, and
- (c) trips taken by passengers transported in accessible passenger directed vehicles or trips taken by passengers transported in non-accessible passenger directed vehicles, or both, including
 - (i) trip rates,
 - (ii) wait times,
 - (iii) pick-up times and locations, and
 - (iv) drop-off times and locations.

The Passenger Transportation Regulations, which will be in force on September 16, 2019 states:

32 (1) In this section:

“amending Act” means the *Passenger Transportation Amendment Act, 2018*, S.B.C. 2018, c. 53;

“pre-existing licence” means a valid licence that, on September 15, 2019, authorizes one or more motor vehicles to be operated as passenger directed vehicles.

(2) It is a term and condition of every pre-existing licence that the licensee must provide to the registrar any information, including personal information, and data that the registrar or board may require for the purposes of

- (a) more effectively bringing the amending Act into operation, or
- (b) addressing transitional difficulties encountered in bringing the amending Act into effect.

III. Applicability

The data requirements in this document apply to:

- (a) a licensee with a Passenger Directed Vehicle Authorization (PDVA) whose licence expressly authorizes motor vehicles to be hailed from the street;
- (b) a licensee with a PDVA whose licence does not permit hailing and flagging from the street; and
- (c) a licensee with a Transportation Network Services Authorization (TNSA).

IV. Definitions

In this document:

- “**act**” means the *Passenger Transportation Act*, as amended on September 16, 2019;
- “**board**” means Passenger Transportation Board;
- “**data requirements**” means the requirements set out in section V of this document;
- “**fare**” means the total transportation charges and taxes for a trip including any surge- or variable-pricing adjustment and excluding any gratuities;
- “**limousine service**” means a service provided by a licensee required in section III (b) of this document; S.B.C. 2018, c. 53;
- “**licence**” means a licence issued under the act and includes a Passenger Directed Vehicle Authorization or Transportation Network Services Authorization;
- “**licensee**” means the holder of a valid licence and to which this rule applies pursuant to section 1 of this document;
- “**registrar**” means the Registrar of Passenger Transportation appointed under the act;
- “**taxi service**” means a service provided by a licensee referred to in section III (a) of this document;
- “**TNS**” means a Transportation Network Service as defined in the act.

V. Data Requirements

The board requires licensees to provide the following information:

1. Licensee Information

- a. User Id number
- b. Application Id number

- c. Passenger transportation (PT) licence number
- d. National Safety Code (NSC) number

2. Trip and Shift Classification

- a. Service type – taxi service, TNS service, limousine service
- b. Start date of submitted trip data
- c. End date of submitted trip data
- d. Data and time of file creation

3. Shift, Driver and Vehicle Information

- a. Vendor shift ID
- b. Vehicle registration number
- c. Province/State in which the vehicle is registered
- d. Driver's licence number
- e. Province/State in which the driver is licenced
- f. Start of driver's shift or login into the dispatch system
- g. End of driver's shift or logout from the dispatch system

4. Trip Data

- a. Shift ID
- b. Trip ID
- c. Trip type (accessible, conventional, pre-booked, service animal)
- d. Trip status (Completed, cancelled by requester, no-show of requester, refused by driver)
- e. Hail type (flag, phone, interactive voice response request (IVR), application-based request (app), request via website)

5. Trip Initiation

- a. Date/Time when the trip request was initiated or assigned.
- b. Time elapsed from call initiation to call answer by the dispatcher or IVR system (for IVR and phone hails)
- c. Degrees latitude of the requested pickup location
- d. Degrees longitude of the requested pickup location

6. Trip metrics

- a. Trip duration
- b. Trip distance

c. Fare of the trip

7. Pick-Up and Drop-off times and locations

- a. Date and time of arrival at the requested passenger pick-up and drop-off location
- b. Date and time of departure from the requested passenger pick-up and drop-off location
- c. Degrees latitude of the requested passenger drop-off location
- d. Degrees longitude of the requested passenger drop-off location

VI. Implementation Schedule

Type of Service and Effective Date of Rule

TNS - September 16, 2019

TNS operating in small communities with population less than 10,000 as defined by Statistics Canada - TBD

TNS must collect this data from the date that they start operating. Additional information relating to the submission deadlines and format will be provided separately.

Appendix 4

Supplementary Terms & Conditions Respecting TNSA Apps

[Supplementary Terms & Conditions Respecting TNSA Apps](#), effective September 16, 2019, as amended from time to time, apply.

A. Purpose

To establish supplemental terms and conditions of licence about apps provided or used by a licensee with a transportation network service authorization (TNSA) to provide transportation network services (TNS).

B. Legislation

The *Passenger Transportation Act* defines transportation network services (TNSs) as services “respecting the connection of drivers of passenger directed vehicles with passengers who hail and pay for the services through the use of an online platform.”

Section 28(3) states:

The board may establish terms and conditions that apply to a special authorization included in a licence, if issued, including, without limitation, terms and conditions respecting any of the following:

(a) equipment or technology that must be installed, used or carried on or in motor vehicles operated under the authorization and the inspection, testing, adjustment, display and use of that equipment or technology;

....

(d) if the licence is to include a transportation network services authorization,

(i) information that must be displayed or carried on or in the motor vehicles or made available to passengers through the use of the licensee's online platform, or both.

C. Scope

1. These terms and conditions encompass:

(a) software applications (apps) that a licensee, driver or passenger uses to provide or access TNS; and

(b) information transmitted, processed, stored or displayed using an app described in (a) above.

D. Definitions

2. For the purposes of these terms and conditions:

“**act**” means the *Passenger Transportation Act*;

“**app**” means application software that provides a driver or passenger with access to the TNSA licensee’s online platform;

“**board**” means Passenger Transportation Board;

“**estimated fare**” means a specific fare or range of fares calculated before a ride starts, presented to the passenger as a quote or estimate and which may be replaced by a fare calculated at the end of the ride based on actual travel time and actual travel distance;

“**fare**” means the total transportation charges and taxes for a ride including Any variable-price adjustment and excluding any gratuities;

“**geo-fencing**” means a location-aware application that has been programmed with geo-graphical boundaries or areas to limit the pick-up or drop-off of passengers to locations authorized in a licensee’s terms and conditions of licence;

“**licence**” means a licence issued under the Act that has a TNSA;

“**licensee**” means the holder of a valid licence to which these terms and conditions apply pursuant to section 1 above;

“**registrar**” means the Registrar of Passenger Transportation appointed under the Act;

“**up-front fare**” means a firm fare that is calculated before a ride starts and paid when the ride ends.

E. Transportation Network Services

TNS App Requirements

3. Licensees with a transportation network services authorization (TNSA) must, always:

- (a) provide passengers and drivers with an app that functions in accordance with requirements in these supplemental terms and conditions; and
- (b) maintain care and control of the apps which includes app functions, operation and performance.

Basic App Capabilities & Standards

4. Apps must function in a way that allows passengers to hail and pay for a single ride with the same app.
5. Apps must function accurately and reliably.
6. Apps provided by a TNSA licensee must be capable of:
 - (a) connecting drivers and passengers through its online platform;
 - (b) calculating fares that account for:
 - (i) minimum rates;
 - (ii) distance;
 - (iii) time;
 - (iv) other fees and taxes that may be applicable; and
 - (v) dynamic pricing variables that may be applicable;
 - (c) processing the passenger's electronic payment and transmitting an electronic receipt;
 - (d) complying, in conjunction with the online platform, with the Registrar and Board's "data requirements"; and
 - (e) other functions as necessary to comply with these terms and conditions.

7. Apps:

- (a) must display and transmit information in English; and
- (b) may display and transmit information in other languages.

8. The app must comply with World Wide Web Consortium (W3C) standards for mobile accessibility.

Shielding of Personal Information

9. The app:

- (a) may collect information that identifies a passenger or driver or their contact information (such as first and last name, phone number and email address) and may only use the information as set out in the *Personal Information Protection Act* of B.C.;
- (b) must, shield the following information so information for the passenger is not given to the driver and information for the driver is not given to the passenger:
 - (i) Last name of the driver and passenger;
 - (ii) Phone number of the driver and passenger; and
 - (iii) Email address of the driver and passenger.

Accessibility

10. The app may only request, collect or record personal information about a health condition, disability, or accommodation request of a customer or driver when:

- (a) the provision of that information is voluntary and at the discretion of the app user;
- (b) the personal information that an app-user provides is protected by a password or biometric safeguard that the user may activate or be required to use; and
- (c) the app enables the app-user to change or delete personal information in the app, or provides information to the user on how to change or delete personal information.

11. The app may give the customer the option to receive communication by voice communication or a digital text format that is compatible with third-party accessibility apps.

12. If the licensee operates one or more accessible vehicles in its fleet, its app must give the passenger an option to request a wheelchair accessible vehicle for:

- (a) the transportation of a person in a wheelchair or mobility device; and
- (b) purposes other than transporting a person in a wheelchair or mobility device.

Geo-Fencing

13. The app must have geo-fencing capability.

14. The app must only connect drivers with passengers for pick up within the originating area and drop off within the destination area that is authorized in the licensee's terms and conditions of licence.

Advance Fare Information

15. Based on travel distance and time information that is available when a passenger requests a ride, and before the passenger agrees to a ride, the app must present the passenger, in a prominent manner, either:

- (a) an estimated fare; or
- (b) an up-front fare.

16. When an app presents an estimated fare to a passenger, the app must clearly indicate that:

- (a) the fare is an estimate only; and,

(b) the passenger will be charged based on travel time or distance, or both during the ride.

17. After a passenger has agreed to pay an up-front fare, the app must, at the end of the ride, charge the up-front fare unless:

(a) a change is made to the requested destination or the ride's estimated time or distance diverge by 5% or more from the actual time or distance of travel; and
(b) the app, before the end of the ride transmits the following information to the passenger:

- (i) notice that the up-front fare has been suspended or replaced;
- (ii) the new method and applicable rates for calculating the fare;
- (iii) contact information or an in-app channel to get more information about the change, or to dispute the change.

Pre-Ride Information for Passengers

18. The app must transmit to the passenger the following information before the passenger enters the TNS vehicle:

- (a) the driver's first name;
- (b) the driver's photo;
- (c) the vehicle make, model, colour and BC licence plate number;
- (d) a prominent notice that the above-noted information is important for passenger safety.

Information Records

19. The app must record, at the time the TNS Vehicle is hailed through the app, the following information:

- (a) the time, date and location where and when the passenger is to be picked up;
- (b) the destination where the passenger is to be discharged;
- (c) driver's first name, photo and a unique identifying number for the driver; and
- (d) the make, model, year, colour and British Columbia licence plate number of the TNS vehicle.

GPS Tracking

20. The app must provide real-time GPS tracking and show the passenger the TNS vehicle while travelling to pick up the passenger or while carrying the passenger.

Payment Processing Options

21. A licensee must ensure that drivers using the app:

- (a) only accept payment for a ride that is processed through the app that the passenger used to hail the ride; and
- (b) do not accept payment by cash or by any method or system of payment that is separate from the app.

22. The app may only process payment for a gratuity when the gratuity is at the discretion of the passenger.

Electronic Receipt

23. The app must, at the end of the ride, immediately provide to the passenger an electronic receipt containing:

- (a) the passenger's first name;
- (b) the driver's first name;
- (c) the time and date that the TNS vehicle service was arranged;
- (d) the location and time where and when the passenger was picked up;
- (e) the location and time where and when the passenger was dropped off;
- (f) fare information that includes separate line items for:
 - (i) charges for the ride;
 - (ii) GST included in the fare; and
 - (iii) fare including GST; and
- (g) a separate line item or separate receipt that identifies gratuities the passenger paid for a ride.

Driver & Passenger Ratings

24. The app must allow passengers and drivers to rate one another after a ride.

Service Issue Resolution

25.1 The app must provide passengers with information and a means of contacting the TNSA licensee through the app, by other electronic means or by phone with a number that is toll-free in BC, to:

- (a) address disputes;
- (b) request and obtain lost items; and
- (c) address other service issues or complaints.

25.2 The app must provide the passengers with the e-mail of the Passenger Transportation Branch of the Ministry of Transportation and Infrastructure and indicate complaints not satisfactorily resolved through 25.1 may be e-mailed to the Branch.

Access for Investigators

26. The licensee must provide the Registrar and police a method to access the app and locate a driver or vehicle operating on the licensee's online platform.

F. Dates

Effective Date:
September 16, 2019