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THE REGULATION OF TAXI AND LIMOUSINE INDUSTRIES IN PENNSYLVANIA: CREATING A REGIME THAT ENCOURAGES COMPETITION, ENABLES INNOVATION, AND PROTECTS CONSUMERS

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Temporary Rulemaking for the Taxi and Limousine Industries

Agency: Pennsylvania Public Utilities Commission

Proposed: August 27, 2016

Comment period closes: September 26, 2016

Submitted: September 19, 2016

Docket number: L-2016-2556432

PA Bulletin Doc. No. 16-1485

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The Pennsylvania Public Utility Commission (the Commission) has requested comments pertaining to proposed temporary regulations governing the taxi and limousine industries.¹

The Project for the Study of American Capitalism at the Mercatus Center at George Mason University is dedicated to advancing knowledge about the effects of government policies that favor particular firms, industries, or occupations. Program scholars conduct careful and independent analyses that employ economic and legal scholarship to assess policy from the perspective of the public interest. Therefore, this commentary does not represent the views of any particular affected party but is designed to assist the Pennsylvania Public Utility Commission as it explores these issues.

To address changes in for-hire transportation, the Commission has been charged with promulgating temporary regulations related to 11 regulatory subject areas, which are outlined below.² Before addressing these subject areas, we would like to make a single, overarching point regarding the regulation of taxi and limousine industries in Pennsylvania: Both economic theory and data suggest that competition, rather than regulation, is the most effective means to achieve the twin goals of protecting consumers and ensuring safe and reliable service.

In the attached research on taxi regulations, we provide a policy framework for evaluating why, when, and how to regulate these increasingly innovative and changing industries.³ It provides more detail—including a case study—on the anticompetitive effects of certain regulation in today’s for-hire transportation market. The research also suggests that taxi regulators should focus on removing barriers to entry, price controls, and mandated business practices.

As the Commission correctly recognizes, for-hire transportation has experienced substantial changes in recent years as technology, customer demand, and expectations have changed.⁴ Moreover, the competitive challenges created by ridesharing apps have put pressure on the taxi and limousine industries to adapt to changing market conditions. As a result, how the Commission regulates is more important than perhaps ever before.

We have organized the areas that the Commission has been charged to evaluate into the three broad categories discussed in our paper—barriers to entry, price controls, and mandated business practices (several of these areas can fall into multiple categories)—to offer a framework for understanding the effects of taxi regulations.

I. Barriers to Entry

- A. “vehicles’ age and mileage, including procedures to petition for exceptions to age and mileage standards”
- B. “driver requirements, including criminal history background check requirements and driving record requirements”

1. Temporary Rulemaking for the Taxi and Limousine Industries, 46 Pa.B. 5538 (proposed August 27, 2016).

2. Act 85 of 2016, P.L. 664, No. 85 § 1601-M (2016).

3. Michael Farren, Christopher Koopman, and Matthew Mitchell, “Rethinking Taxi Regulations: The Case for Fundamental Reform” (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2016).

4. Temporary Rulemaking for the Taxi and Limousine Industries, 46 Pa.B. 5538.

- C. “vehicle requirements, including compliance with environmental, cleanliness, safety and customer service standards, including special safety requirements for children”
- D. “requirements for continuous service and exceptions for unexpected demand and personal health and safety”

II. Price Controls

- A. “taxi tariffs, including rate and tariff change procedures for both meters and digital platforms”
- B. “limousine tariffs, including rate and tariff change procedures”
- C. “procedures for cancellations, no-shows and cleaning fees”

III. Mandated Business Practices

- A. “the use of log sheets and manifests, including the storage of information on digital or other electronic devices”
- B. “metering addressing the use of a variety of technologies”
- C. “marking of taxis, including advertising”
- D. “the operation of lease-to-own taxi and limousine equipment”

As we discuss in our attached paper, there should be no barriers to entry at the firm, vehicle, or driver levels; there should be no price controls; and there should be no exhaustive rules governing business operations or service provision.⁵ By limiting competition, these types of regulations have yielded higher prices, lower quality, and antiquated technologies and practices. By removing these barriers, the Commission can arrest the precipitous decline of the taxi and limousine industries in the face of changing technologies and ensure that the industries’ future is characterized by continued competition and innovation.

In addition, in those instances where the Commission is deciding how and when to regulate, we propose a simple framework for principled regulatory reform:⁶

1. **Start with a blank slate.** Regulators should constantly approach their task as if they are starting anew. If you were to design regulations from scratch today, what would they look like?
2. **Define the nature of the problem.** Begin by identifying a systemic market failure that the regulation is aiming to address. This step requires a regulator to clearly (1) explain how the normal process of market competition is not working and (2) assess the factual basis for this market failure. Simply wanting to improve a product or service is admirable but falls far short of justifying regulatory intervention that might undermine competition.

5. Michael Farren, Christopher Koopman, and Matthew Mitchell, “Rethinking Taxi Regulations,” 23.

6. *Ibid.*, 15-17.

- 3. Identify alternative solutions.** Once a systemic market failure has been identified, a number of alternative approaches to address it should be identified as well. Ultimately, there may be no need for regulatory intervention if other approaches resolve the problem better or more efficiently than regulation would. The list of potential alternatives should include the alternatives of deregulation and of doing nothing, as well as an open-minded assessment of how the current set of public policies might be contributing to the problem.
- 4. Define the costs of each solution.** Every available option will require trade-offs of some sort. Regulators must define and, if possible, quantify the costs associated with each solution to the problem, including both the monetary and nonmonetary costs. Regulators should also explicitly recognize the potential for unintended consequences. Regulators should also include analysis of the “do nothing” solution.
- 5. Define and quantify the expected benefits of the regulation.** Once the costs of each alternative are understood, it is necessary to weigh them against the benefits of each approach. Maintaining the profitability or even continued existence of established firms should not be counted as a benefit of regulation since artificial protections of industry come at the expense of consumers and taxpayers.
- 6. Measure benefits and costs.** Both benefits and costs must be defined and measured in a scientific, technical way. In cases where the benefits and costs cannot be accurately quantified, the subjective nature of these trade-offs should be explicitly acknowledged.

It is important that the Commission—using this framework as a guide—analyze the impact that barriers to entry, price controls, and mandated business practices may have on (1) continued competition within the taxi and limousine industries, (2) these industries’ ability to compete with other for-hire transportation services like Uber and Lyft, and (3) the capacity of these industries to adapt and change to fit consumer preferences and economic realities. If the Commission fails to implement such analysis, it may promulgate regulations that hinder, rather than help, the taxi and limousine industries as well as consumers that have come to rely on these services.