



February 7, 2019

Senate Finance Committee Chair Liz Krueger
Assembly Ways and Means Committee Chair Helene E. Weinstein
Joint Legislative Budget Committee on Workforce

Public Comment on S7508 / A9508 Part GGG
Digital Marketplace Worker Classification Task Force

Dear Honorable Chairs and Members of the 2020 Joint Legislative Budget Committee on Workforce:

The Livery Base Owners consists of over 250 small community car service bases in New York City, which serve approximately 150,000 New Yorkers each day. Our passengers are residents of the outer boroughs and upper Manhattan who may or may not speak English as a first language. Our bases are equipped to serve these passengers because most of our membership are immigrants as well; we come from the same communities as our passengers.

LBO recognizes the need to protect workers in today's "gig economy." App-based services, typically headquartered in California's Silicon Valley, have a history of enriching themselves at the expense of the communities they serve. Exhibit "A" is the current state of the Yellow Cab industry in New York City. But Legislators must also understand the devastating effect those mega-corporations have had on us as well.

In 2014, our segment of the for-hire vehicle industry operated over 25,000 affiliated vehicles. However, that year marked the entrance of the app-based operators such as UBER, who gobbled up market share and lured our drivers away with signing bonuses. As a result, in the beginning of this this year, 2020, the number of affiliated vehicles in the community car service sector has dropped to approximately 9,600 vehicles (a loss of more than 15,000 vehicles). In the past year alone, we have lost 26% of our member bases.

LBO is concerned that the Digital Marketplace Worker Classification Task Force (“Task Force”) will lump together all of the entities in the for-hire car service sector. We are all different: there are small community car service bases, black car bases, luxury limousine bases, and UBER/LYFT. In the City of NEW York, UBER/LYFT have been classified as “high-volume for-hire vehicle services.”

In recognition of the different market position and capabilities of the various parts of the industry New York City Local Law 149-2018 created a formal legal distinction between traditional livery and “high-volume for-hire services” such as Uber and Lyft which dispatch more than 10,000 trips in one day. The purpose of this distinction is to recognize that those entities are in an advantageous economic position against competing livery bases and the drivers they dispatch to. And, it provides the legal structure for lawmakers to being to regulate them accordingly. For example, the New York City has mandated high-volume for-hire vehicle services to provide minimum wage to their drivers. Our bases were specifically exempted from these requirements in recognition of who we

are – small “mom and pop” businesses that lack the capacity, scope of operations, and measure of control over our affiliated drivers.

LBO is concerned that our small community car service bases will be put out of business if their affiliated drivers are deemed to be “dependent workers.” Community car service bases are simply call dispatch centers. We receive calls from the community, and connect each passenger with a driver. We do not split fees with our drivers. Rather, any driver with a livery medallion can affiliate with a livery base. In order to affiliate with a base, the driver pays a fee. Once the driver picks up the passenger and completes the trip, the driver keeps the money earned. Due to the demographics of our passengers, most of our rides are paid in cash. Keep in mind, our passenger profile is New York’s immigrant community, and our average cost of ride is about \$8.00.

Community car service bases do not control when a driver works. We do not restrict any driver’s ability to receive dispatches. We do not mandate that any driver accept any ride. **Our bases do not pay the drivers.** We do not own or lease the vehicles that drivers operate. And, the drivers typically receive dispatches from our affiliated bases as well as UBER and LYFT throughout the day. The service providers do not coordinate these dispatches; rather, the drivers take it upon themselves to select whose rides to accept based on their own individual criteria. Therefore, if our affiliated drivers were deemed to be “dependent workers” under the legislation, it would be incongruent with the reality of our business model, as well as the true level of agency exercised by our affiliated drivers.

As the Legislature considers the Executive proposal to create a Task Force, we respectfully request that LBO's concerns are incorporated. We ask the Legislature to expand the Task Force's timetable to at least one-year, in order to hold public hearings throughout the State, and ensure all stakeholders are heard. Additionally, we ask the Legislature **REJECT** the Executive proposal to authorize the Department of Labor make worker classifications by rule.

We look forward to working with the Legislature on this important issue. We will be reaching out to you individually for meetings so our small sector of the for-hire-vehicle industry is put in the proper context as you grapple with the complexities of protecting New York's workforce.

Respectfully Submitted,

Cira Angeles
Livery Base Owners