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COUNTIES  
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## STATE REPRESENTATIVE DISTRICT 45

June 7, 2016

Ms. Marina Lao  
Director  
Office of Policy Planning  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Re: Austin TNC Ordinance

Dear Ms. Lao:

I am concerned the City of Austin has placed a public, governmental restraint on the transportation options within the city. While the justification for restraining competition was "safety," the City's actions since adding new regulations have actually made the citizens less safe.

### History

In 2014, the Austin City Council passed an ordinance creating a framework for Transportation Network Companies (TNC) to operate. In 2015, a new council began their term; 10 of the 11 members were new. By the end of 2015, the new council passed sweeping changes to regulate the TNCs. The rationale given to support the changes was: safety.

### Facts

- For years, DWI incidents (arrests and crashes) increased in Austin (Jan. 2012 - Dec. 2013). For the past two years, the incidents have dropped 8% (Jan. 2014 - Dec. 2015). The single difference was Uber and Lyft entered the marketplace in 2014.
- The TNC rules, prior to the new ones passed in 2015, included a list of disqualifying convictions (convictions that would disqualify an applicant from becoming a TNC driver). The new regulations, passed in 2015, stated a list of disqualifying convictions would be added at a future date. After five months, the City Council refuses to pass such a list. Consequently, there is not a single conviction that prohibits an applicant from driving for a TNC.
- City law does not prohibit a convict, of any crime, from driving a taxi.
- There is no data supporting the key claim for changing to burdensome regulations for TNCs: that the city is safer with drivers who have undergone a background check that included fingerprinting.



Soon after Uber and Lyft entered the market in 2014, the three city-granted taxi franchises voiced many concerns. One complaint was in regards to passenger safety. On its face, such a claim sounds feasible. The taxi drivers are fingerprinted for their background checks. Uber and Lyft conduct a background check that does not include fingerprinting. The taxi companies' theory is passengers are safer if their drivers had a fingerprint-based background check. The problem is: there is no data or facts to support such a claim. In fact, there was not a single person who testified stating the citizens of the City of Austin would be safer because of fingerprinted background checks. In addition, the City's actions since creating a new regulatory regime has actually made the citizens less safe.

Additionally, Uber and Lyft informed the City Council they would be forced out of town if the Council passed mandatory fingerprinted background checks. (Such a departure would return the marketplace to the three city-granted taxi franchises (the largest having over 65% of the city-created cap of 915 taxis). The departure would also ensure the revenue flow from taxi drivers paying for their chauffeur's license. Despite knowing the ramifications of their vote, the Council added burdensome regulations and put the City at risk.

Since passing the new regulations and Uber and Lyft ceasing operations, the City has taken steps to further promote the taxi industry. Of note are:

- The City of Austin partnered with The United Way to create a hotline for TNC drivers. The explicit purpose of the hotline was to connect "drivers to other driving opportunities," i.e. to become taxi drivers.
- The City hosted a 3 day job fair with the same goal: connect drivers to other driving opportunities.

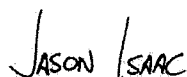
The City is also making attempts to connect drivers with another TNC, GetMe. This TNC is less than a year old and does not have the resources to compete with even the smallest taxi company. In addition, how it gained the operating authority to conduct business in Austin remains a mystery. While all other TNCs were being turned away in 2015 from entering the market, GetMe was shuttled in quickly and quietly, until they were introduced at a City Council meeting.

Moreover, the City is allowing GetMe to operate in Austin despite being in violation of the new regulations. Specifically, GetMe has admitted that it is not in compliance with Ch 13-2-527(B)(1), a requirement that 25% of their drivers have passed a fingerprint-based background check. The new regulations have enforcement powers, but the City has no intention of upholding them. The regulator admitted this on a KUT Public Radio story.

Lastly, at the Thursday May 19th Austin City Council meeting Mayor Adler passed a resolution instructing the City Manager to explore ways that the City could provide business loans to other TNCs to help fill the transportation gap left by Uber and Lyft. This would put the City in the TNC business thus directly picking winners and losers in the market. It is especially troubling because the City could potentially be partnering with companies who are currently operating in violation of our current TNC ordinance.

The above is a very short list of growing concerns. My fear is the city erected a pernicious barrier to competition by adding burdensome regulations under the guise of consumer safety while protecting the decades old taxi monopoly, and picking winners and losers among new entrants. I think it would be appropriate for The Federal Trade Commission to investigate our situation in Austin to make sure the City has not taken any anti-competitive or anti-consumer actions in this process.

Respectfully,



State Representative  
House District 45