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Ride-Sharing Restrictions Target Uber to Protect Public

Commentary by Mark J. Stempler

Broward County has just passed some of the strictest regulations on Uber and other proclaimed ride-sharing transportation companies in this country.

Uber says that those regulations will force it to stop operating in the county. Apparently Uber, reportedly valued at \$40 billion, cannot afford to do business in Broward if it has to comply with the same or similar regulations imposed on competing for-hire vehicle services operating in Broward, like taxis and limousines.

Uber, Lyft and similar companies are classified in Broward County, and in many jurisdictions across the U.S., as transportation network companies, or TNCs. Broward defines a TNC as an individual, corporation or other entity "that uses a digital platform to connect passengers to drivers who use any vehicle to provide for-hire ground transportation services."

Some TNCs say they are not a transportation provider because they do not own vehicles or pick up passengers hailing a vehicle on the street. Some TNCs portray their services as providing a technology platform that pairs a passenger looking for a ride with a driver willing to make that trip for a price.



Stempler

By making a request on the TNC's web-based application, a driver nearby is alerted and dispatched to pick up the passenger wherever he or she is, and take him or her to a specified destination.

That is the same, or at the very least substantially similar, to the core function of a taxi. Some cab companies even have their own digital applications. But, the big difference, up until now, was that taxis and other for-hire transportation providers are regulated.

For example, taxis in Broward have to meet vehicle insurance requirements, and must comply with county-run background checks, registration and licensing requirements, vehicle inspection requirements, limits on the number of taxis that can operate, and county-mandated fare rates. Now the county has applied some of those requirements to TNCs, and has implemented enhanced background checks for all for-hire chauffeurs.

The insurance issue was significant because of the constraints imposed by Florida law. Florida law requires continuous 24-hour commercial insurance coverage for for-hire vehicles. Further, the insurance for for-hire vehicles must be provided by a carrier that is a participant in the Florida Insurance Guaranty Association.

In Broward, Uber advocated for gapped coverage, or certain levels of coverage only during the period of time a driver was alerted to a fare through the time the last requesting passenger departs from the TNC vehicle. In addition to violating Florida law, such an insurance framework could lead to a host of coverage issues.



Uber says stricter regulations passed by Broward County on ride-sharing transportation companies will force Uber to stop operating in Broward County.

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The primary purpose of the regulations is to protect the public, and help promote safety and reliable service. But the secondary consequence of the regulations is that they provide a level playing field for TNCs and taxis. Forcing regulations on one participant of the for-hire transportation industry while allowing another participant to operate without regulation is simply unfair.

In the context of fair competition, the Broward ordinance amendments do not go far enough. The county did not set minimum rates that TNCs can charge passengers. This means TNCs can undercut the county-prescribed rates that taxis must charge. That is good for consumers if TNCs charge less, but obviously it is bad when TNCs decide to charge more.

Uber, for example, uses "surge pricing" when demand for its services is high. One potential scenario is that Uber undercuts taxi rates, which causes the taxis to downsize or go out of business. That will result in increased demand for TNCs, which would likely result in more "surge pricing."

Consumers could wind up paying more than the prescribed taxi fares. Consumers will not be able to predict the cost of the service. That will have severe consequences for residents who depend on this type of transportation, for instance, elderly residents who need to get to doctor appointments, or the pharmacy or grocery store or disabled residents who cannot operate their own vehicle. They and the public at large will not have the predictability of what their rides will cost.

Whether Uber makes good on its threat to pull out of Broward remains to be seen. Ultimately, that is its decision alone. Presumably, Uber can afford to continue to do business in Broward. Further, it is a large market, and Uber intends to maintain a presence in neighboring Miami-Dade and Palm Beach counties.

Reportedly, Uber's issue is that the regulations do not fit its business model. Uber has pulled out of regulated markets before, like in Auburn, Alabama, San Antonio, Texas, and the state of Nevada. However, it is still fighting to get back into those mar-

kets.

What Broward County has done is provide a regulatory framework for Uber to operate in the county so that the public is better protected. If Uber does not want to abide by Florida law or play by the same and similar rules

as its competitors, then that is its business decision.

Mark J. Stempler is a West Palm Beach shareholder with Becker & Poliakoff, where he focuses his practice on construction litigation, government law and civil litigation. He may be reached at mstempler@bplegal.com.