



**STAFF REPORT  
ACTION REQUIRED**

**2015 Ground Transportation Review: Taxis, Limos and Uber**

<b>Date:</b>	September 8, 2015
<b>To:</b>	Licensing and Standards Committee
<b>From:</b>	Executive Director, Municipal Licensing and Standards
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2015\Cluster B\MLS\LS15018

**SUMMARY**

In 2012, two companies, Hailo and Uber, began operating in Toronto. Both used a smartphone application to connect passengers with municipally-licensed taxis and municipally-licensed limousines, respectively. This new technology processed payments via credit card through the passenger's account, and used GPS to allow passengers to track the location of the vehicle. In the public's view, these 'apps' created a convenient and efficient way to connect with taxicabs and limousines.

Hailo operated as a licensed taxicab broker until November 2014, when it made a decision to withdraw from the North American market, while Uber continued to operate and expanded to dispatch municipally-licensed taxicabs without obtaining a licence.

In September 2014, Uber launched a new ground transportation service in Toronto called UberX, which connects passengers with unlicensed vehicles-for-hire. Since that time, UberX has been embraced by the public and now accounts for an estimated 17,000 trips a day. Uber's operations are putting significant pressure on regulated taxicab and limousines.

Uber's use and encouragement of unlicensed vehicles-for-hire concerns the City, particularly with respect to uncertain insurance coverage and the processes used to screen and manage unlicensed drivers, which pose a risk to public safety.

In November 2014, in response to Uber's unregulated operation in Toronto, and significant concerns for the safety of the public, the City brought a court application seeking an injunction to require Uber to stop operating unless it obtained taxicab broker and limousine service company licences. In July 2015, the court decided that Uber's operations were not captured within the definitions "taxicab brokerage" or "limousine

service company". A report from the City Solicitor on the litigation will be presented to City Council at its September 30, 2015 meeting.

At its July 2015 meeting, City Council directed Municipal Licensing and Standards (ML&S) to undertake a review of the operations of Uber and similar technology-based companies, including the interests of the public in the technology and impacts on the current taxicab and limousine industries.

During the months of July and August, staff conducted a Ground Transportation Review of taxicabs, limousines and Uber. This review included: conducting stakeholder roundtables, posting two online surveys and procuring Ipsos Reid to conduct independent research with the public and industry on this matter.

During the consultations, all members of the taxicab and limousine industries agreed that Uber is significantly impacting business. Whether it was drivers stating they are making less income, or fleet operators indicating that they cannot rent taxicabs, or brokers stating they cannot get drivers, there was consensus that Uber's operations are having a negative impact on regulated taxicabs and limousines. The industry felt strongly that Uber should be subject to the same regulations and restrictions as the rest of the industry, including: regulated fares, vehicle standards, insurance and vehicle licenses.

Conversely, there is a strong sentiment amongst Toronto residents that people should be able to choose whether they want to use Uber or licensed taxicabs. A majority of residents feel that having both Uber and taxicabs provides Toronto with a competitive marketplace. Residents also expected that the City will make regulations to protect passengers' personal safety and help ensure safe driving behaviour in Uber vehicles.

Overall, this research indicates that although the taxicab and limousine industries feel that Uber should be banned, there is strong public support for the services Uber provides.

There is no question that the manner in which Uber entered the Toronto market and used unlicensed vehicles, as they have done world-wide, has caused wide-scale disruption of established ground transportation industries. Cities, states and countries around the world are all reacting to these changes, and have done so in various ways. This report provides a jurisdictional scan outlining these responses.

This report recommends amending the definitions of taxicab broker and limousine service company to address the recent court decision. This will ensure that all technology-based brokerages, such as Uber, are captured within the current regulatory regime.

The report recommends that taxicab fares be reduced, by dropping the cost to enter the taxicab from \$4.25 to \$3.25. This recommendation benefits consumers and helps taxicabs stay competitive.

The report also recommends that a further review of the Taxicab bylaw be undertaken, with a view to reducing regulatory burden and increasing competitiveness. In addition to increasing administrative and operational efficiencies, it provides an opportunity to reframe the manner in which the City regulates taxicab service broadly. It will also attempt to address the 23 outstanding City Council and Committee taxicab directives.

The report further recommends that a review of the Limousine bylaw be undertaken with a goal to update and modernize, while also considering the appropriate level of regulation and the interest of the public.

Both of these reviews will provide the City with an opportunity to revisit and potentially reframe its role in these industries. The ultimate goal is modernizing regulations and increasing opportunities for the taxicab and limousine industries to compete within the current landscape of ground transportation in Toronto.

The report recommends a separate review on the issue of accessible private ground transportation, including responding to previous Council directions in this regard. This review will assess current delivery of services, identify gaps, and focus on identifying opportunities to expand accessible service. The ultimate goal will be to ensure that those requiring metered on-demand wheelchair accessible ground transportation service, are receiving equivalent service levels to that of non-accessible service. To this end, the report recommends issuing 100 new Toronto Taxicab Licences (TTLs). This responds to the continued unmet demand for wheelchair accessible taxicab service, and continues to advance the City's goal to move towards service equivalency for Toronto's taxicabs.

Recommendations #7 and #8, taken together, respond to the fact that UberX operates in Toronto at a scale that warrants regulatory oversight. These recommendations respond to the significant public interest in UberX, while addressing the City's public safety concerns.

This report recommends that City Council, subject to proof of the availability of adequate insurance, direct staff to undertake the development of regulation that would permit private vehicles-for-hire, including UberX, to operate.

This would permit the operation of private vehicles-for-hire while providing basic regulatory oversight to increase public safety. The only company that is currently dispatching private vehicles-for-hire is Uber, although this regulation would allow for additional market entrants.

Subject to City Council's direction, the financial impacts to the City will be presented through the 2016 budget process as appropriate.

The Legal Services Division was consulted in the development of this report.

## **RECOMMENDATIONS**

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**The Executive Director, Municipal Licensing and Standards recommends that:**

1. City Council amend Toronto Municipal Code, Chapter 545, Licensing to:
  - a) Update the definitions of Taxicab Broker and Limousine Service Company to explicitly provide that technology-based brokerages, including Uber, are within the existing regulatory regime.
  - b) Amend the definition of Taxicab to clarify the distinction between taxicabs and limousines.
  - c) Explicitly state that a Taxicab Broker and Limousine Service Company may only contract and/or connect passengers with municipally-licensed taxicabs and limousines, respectively.
2. City Council amend the Toronto Municipal Code, Chapter 545, Appendix C, "Tariff A", to reduce the initial cost, referred to as 'the drop fee', from \$4.25 to \$3.25 effective November 1, 2015.
3. City Council direct the Executive Director, Municipal Licensing and Standards to review provisions of the Municipal Code related to taxicabs and report back to Licensing and Standards Committee by January 2016 with recommendations to lessen regulatory burden and enhance competitiveness in the municipally-licensed taxicab industry, as outlined in Attachment 1, including reviewing:
  - a) current fare structure;
  - b) vehicle requirements;
  - c) vehicle inspections; and
  - d) taxicab training.
4. City Council direct the Executive Director, Municipal Licensing and Standards to review the limousine industry and report back to Licensing and Standards Committee by January 2016 with recommendations to update and modernize the municipally-licensed limousine service, as outlined in Attachment 1, including reviewing:
  - a) required 20-minute pre-booked time;
  - b) minimum fare of \$70/hour for the first two hours; and
  - c) ratio requirements for stretch limousines.
5. City Council direct the Executive Director, Municipal Licensing and Standards to undertake a review of the current state of accessible ground transportation options for the public, and provide recommendations to enhance the service, including responding to outstanding directives, identifying possible funding sources to mitigate the costs of providing the service, and examining the need for incremental taxicab licence issuance.

6. City Council authorize the issuance of 100 new Toronto Taxicab Licences (TTLs) to drivers on the waiting list, in order to advance the availability of metered on-demand wheelchair accessible taxicab service, commencing November 1, 2015.
7. City Council direct the Executive Director, Municipal Licensing and Standards to seek confirmation from the Financial Services Commission of Ontario of the approval and availability of insurance products for "Transportation Network Companies" and their drivers that could adequately protect passengers, drivers, and members of the public from risks associated with the operation of "Private Vehicles-for-Hire".
8. Once the Financial Services Commission of Ontario provides the confirmation referenced in Recommendation #7, City Council direct the Executive Director, Municipal Licensing and Standards, to report back to Licensing and Standards Committee at the earliest opportunity with the regulation to license new ground transportation providers commonly referred to as "Transportation Network Companies" (TNCs), and to permit the provision of a "private vehicle-for-hire" option. The report shall address, but not be restricted to, potential regulatory requirements that:
  - a) Prior to being issued a licence, a TNC shall:
    - i. Provide proof, to the satisfaction of the City, that it has obtained adequate insurance to operate as a TNC;
    - ii. Provide proof, to the satisfaction of the City, of the adequacy of the TNC's processes with respect to criminal background screening, driving record screening, motor vehicle inspections, and electronic record keeping; and
    - iii. Enter into an agreement to indemnify the City against any loss related to the use of that TNC's private vehicles-for-hire.
  - b) TNCs obtain insurance coverage at a similar level to taxicabs and limousines that is sufficient to protect the drivers of and individuals using private vehicles-for-hire;
  - c) TNCs conduct criminal background and driving record checks of their drivers;
  - d) TNCs ensure that vehicles used by drivers are mechanically inspected by a licensed mechanic in a manner similar to taxicabs and limousines;
  - e) TNCs maintain and submit records as a part of a mandatory audit process to ensure compliance with the regulations;

- f) TNCs pay a licence fee on a flat-rate or per-ride basis, or combination thereof, that ensures full recovery by the City of the cost of creating, administering, and enforcing a TNC licence category; and
  - g) The TNCs licence may be subject to revocation for non-compliance.
9. City Council direct the Executive Director Municipal Licensing and Standards and the Deputy City Manager and Chief Financial Officer to report, as part of the 2016 Budget process, on the funding necessary to implement and enforce the adopted recommendations.

### **Financial Impact**

The 2014 Taxicab Industry review and subsequent directives from Council resulted in approximately 23 outstanding review items, some of which are substantial, i.e. – Fleet Operator Licensing. The outcomes of this report may result in additional and significant regulatory review initiatives of the Taxicab and Limousine industries, including the matter of accessible ground transportation, and a potentially new licensing category for Transportation Network Companies. This volume of work cannot be sustained with the current level of staffing in ML&S.

Subject to the outcomes of this report, it is anticipated that additional staff resources will be needed to undertake the consultations and bylaw reviews, and the relevant enforcement. Consideration will be given, as part of the 2016 Budget process on an increase to the 2016 Operating Budget which may include new staff complement of up to 10 positions plus consulting fees at an approximate cost of \$1.8 million Gross. The Net cost of these positions will be subject to the outcomes of this report and an identified funding source.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

### **DECISION HISTORY**

February 19, 2014, City Council adopted the Taxicab Industry Review Final Report with amendments, which created the Toronto Taxicab Licence, an owner-operated and wheelchair accessible taxicab, among other changes to the industry.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.LS26.1>

January 21, 2015, Licensing and Standards Committee directed staff to provide information regarding the licensing regimes of the Standard and Ambassador taxicabs and the process for reinstating taxicab regulations for Standard taxicab owners that existed prior to February 19, 2014.

<http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getDecisionDocumentReport&meetingId=9796>

March 24, 2015, Licensing and Standards Committee directed staff to prepare the necessary bylaw amendments to reinstate the Standard Taxicab regulations that were in effect prior to the bylaw that was enacted on June 13, 2014.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS2.1>

May 5, 2015, City Council deferred consideration of Item LS3.5 from the Licensing and Standards Committee on bylaw amendments to reinstate the Standard Taxicab regulations that were in effect prior to the bylaw that was enacted July 13, 2014, until such time as City Council considers a report from the City Solicitor with respect to the Court decision on Uber.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS3.5>

July 7, 2015, City Council direct the City Manager to report to the September 30 and October 1, 2015 meeting of City Council on an analysis of the effect of the use of Uber's car-pooling app, known as UberPool, would have on ridership of the Toronto Transit Commission.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.MM8.12>

July 7, 2015, City Council direct the Executive Director, Municipal Licensing and Standards, to review the operations of Uber and technologies like it, including the interests of the public in the technologies and their impacts on the current taxicab industry.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.MM8.28>

## **ISSUE BACKGROUND**

Uber is a company that operates internationally and connects passengers with vehicles-for-hire. It currently operates in Toronto without a licence. Uber began operating in Toronto in 2012 by dispatching licensed limousines to passengers through a service called UberBlack. In 2013, UberTaxi began dispatching licensed taxicabs to passengers. In September 2014, UberX began dispatching unlicensed, personal vehicles to passengers.

In November 2014, in response to Uber's continued operation in Toronto, and significant concerns for the safety of the public, the City commenced a court application for an injunction to shut down Uber's operations unless it obtained taxicab broker and limousine service company licences.

In July 2015, the court found that Uber is not captured by the current definitions of taxicab broker and limousine service company.

At its meeting on July 7, 8 and 9, 2015, City Council directed ML&S to undertake a review of the operations of Uber and technologies like it, including the interests of the public in the technologies and their impacts on the taxicab and limousine industries.

The review was directed to include:

- What bylaw changes are necessary to bring new and emerging technologies into regulation as part of the City's for-hire ground transportation industry;
- How the City can ensure public safety and consumer protection are maintained;
- How the City can ensure a level playing field is established and maintained with respect to commercial insurance, driver training, equality of fares and other licensing issues; and
- Ensure the recommended changes are reviewed at least every five years, or when deemed necessary before that time.

### **Ground Transportation Review**

Between July and September of 2015, staff undertook a review of ground transportation – including taxicabs, limousines, Uber and other similar technologies. Staff undertook the following consultations and research:

- 1. Conducted stakeholder meetings:** During July and August, staff engaged 80 participants through 7 stakeholder meetings with taxicab and limousine industry representatives. Stakeholders included: taxicab drivers, taxicab owners, limousine industry representatives, taxicab brokerages other special interest groups.

In addition to these meetings, staff held three meetings with executives from Uber, Lyft and GataHub, three technology-based dispatch companies. These meetings sought to understand business operations, technology capability, and issues of public safety and consumer protection, including insurance coverage.

- 2. Created a dedicated website:** Provided an overview of the process, including scope of review and ways to participate.
- 3. Posted an online survey for the public:** During August, staff posted an online survey for the general public. There were over 73,000 responses collected on the opinions of Toronto's ground transportation system.
- 4. Posted an online survey for industry stakeholders:** During August, staff posted an online survey for industry stakeholders. This survey resulted in 6,300 responses from those identifying themselves as industry stakeholders, including UberX drivers.
- 5. Hired Ipsos Reid to conduct research:** Conducted independent qualitative and quantitative research through surveys, focus groups and interviews.
  - **Survey:** Representative online survey of 1,004 Toronto residents; Ipsos verified that the sample is representative of the population of the City of Toronto by age, gender and region.
  - **Focus Groups:** 6 focus groups with residents of Toronto, comprised of taxicab/limousine users and Uber service users.
  - **In-Depth Interviews:** 6 with Taxicab drivers, 6 with Limousine drivers, 6 with UberX, UberXL, UberSelect drivers and 6 with accessible taxicab users.

## **COMMENTS**

The City has regulated and licensed the taxicab and limousine industries for more than 100 years and limits the number of vehicles that transport passengers for a fare, pursuant to its authority under the *City of Toronto Act, 2006*.

The regulation of taxicabs and limousines has undergone numerous changes throughout the years, with the most significant reforms having occurred in 1998, 2005 and 2014.

### **Overview and scale of the Taxicab Industry in Toronto**

- Approximately 5,000 licensed taxicabs
- Approximately 10,000 licensed taxicab drivers – primarily full-time drivers
- Numerous other participants, such as fleet operators and brokers who employ hundreds of people
- Taxicabs transport approximately 65,000 rides/day (~ 1.9 million rides/month)
- Taxicabs are available through pre-booking, but are also the only transportation vehicle permitted to pick-up "street hails"
- Taxicabs are required to charge the fare prescribed by the City

### **Overview and scale of the Limousine Industry in Toronto**

- Approximately 950 licensed limousine owners
- Approximately 1,400 licensed limousine drivers
- The volume of limousine trips taken in the City is not known
- Limousines are available only through pre-booking with a Limousine Service Company
- Limousine regulations require a prescribed flat rate minimum of \$70/hour for the first two hours

### **Uber Operations in Toronto**

Uber originated in San Francisco, California and has expanded its operations globally. It created a smartphone application that connects passengers with drivers of vehicles-for-hire.

Uber has had "explosive" growth over the past year and is now operating in over 330 cities worldwide, however, in most of these jurisdictions, they are unregulated. Regulators across the world are dealing with the use of technology and the emergence of the "sharing economy", including the disruption it is causing in established industries.

Uber began operating in Toronto in 2012 by dispatching licensed limousines to passengers through a service called UberBlack. In 2013, UberTaxi began dispatching licensed taxicabs to passengers. In September 2014, UberX began dispatching unlicensed, personal vehicles to passengers.

## **Overview and scale of Uber in Toronto**

During consultations with the City, Uber provided data in respect to its Toronto operations:

- Greater than 500,000 UberX rides/month
- Approximately 10,000 UberX driver-partners
- Average "active" tenure of a driver is 3 months
- Approximately 300,000 UberX passengers have used the service (growing by 15,000 to 20,000 new users each week)

Through "the Uber app", passengers can select from the following options, which are a mix of municipally licensed vehicles and private vehicles-for-hire, as follows:

### UberTaxi

- Dispatches 1,300 **licensed taxicabs**
- Charges the tariff rate

### UberAccess

- Dispatches 50 **licensed taxicabs** that are accessible (Toronto Taxicab Licences – TTLs)
- Charges the tariff rate

### UberBlack, UberSUV

- Dispatches 500 **licensed limousines**
- Charges a rate based on distance and time (not currently permitted)
- Allows customers to order limousines on-demand (not currently permitted)

### UberX, UberXL, UberSELECT

- Dispatches ~ 10,000 **unlicensed private vehicles-for-hire** in various formats
- Rate charged is variable and subject to surge pricing
- Drivers do not hold a city-issued licence
- Vehicles do not have security equipment and have not been inspected by City
- Insurance coverage is unknown
- Currently no regulatory oversight

### UberPool

- The launch of UberPool occurred in Toronto during the Pan Am Games on a pilot basis – it does not currently operate in Toronto, although Uber has stated its intention is to launch this service in Toronto
- UberPool permits UberX rides to be shared between several passengers who do not know each other and are travelling the same direction
- The UberX fare is split between the passengers automatically through the smartphone application.

- This service is not carpooling and can be described as 'taxicab sharing' or 'jitney' service
- UberPool does not conform with existing bylaws and is not currently regulated

## **Insurance Comments**

The City of Toronto has not received satisfactory proof that the insurance coverage Uber purports to have is sufficient to meet the City's expectation in respect to public safety and consumer protection.

During the court application, Uber sought a "sealing order" to protect the disclosure of their insurance policy, by claiming that it was proprietary. The court ruled against them, and Uber subsequently filed a "certificate of insurance" for a "standard non-owned policy".

Of particular concern is the nature of insurance held by Uber drivers. Uber "requires" drivers to maintain third party liability insurance coverage. However, personal automobile policies contain an express exclusion for using an automobile to carry paying passengers. As a result, drivers and therefore passengers are at risk if an Uber driver has not advised his/her insurance company that the driver is using his/her personal automobile for driving Uber passengers. An Uber driver who has not informed an insurer may be exposed to a number of consequences including the denial of coverage and the voiding of the insurance policy. There are additional comments on the insurance concerns in Attachment 1 including a warning issued to drivers by the provincial regulator, Financial Services Commission of Ontario (FSCO).

The development and procurement of a suitable insurance product is a mandatory requirement before a regulatory regime to permit the operations of Uber or other currently unlicensed operators could be considered. The level of protection afforded to the public in taxicabs and limousines ought not be compromised or lessened.

## **Industry Consultations**

### **Summary of Findings – Roundtables and Ipsos Reid interviews**

City staff undertook a series of industry participant stakeholder roundtables to seek information related to the impact of Uber's operations on taxicab and limousine industries and how the City might change regulations to 'level the playing field'.

There was agreement amongst all members of the taxicab and limousine industries that Uber is significantly impacting their businesses. Whether it was drivers stating they are making less income, or fleet operators indicating that they can't rent taxicabs, or brokers stating they can't get drivers to work anymore, there was consensus that Uber's operations are having a negative impact on regulated taxicabs and limousines. The industry felt

strongly that Uber should be subject to the same regulations and restrictions as the rest of the industry, including: regulated fares, vehicle standards, insurance and vehicle licences.

**Taxicab drivers** indicated that they are "losing income because customers are choosing to take UberX because it is cheaper". There was general frustration with the high fares in taxicabs, but no agreement on whether or not the city should lower the fares. Some drivers "use the UberTAXI app as a way to connect with passengers in addition to traditional brokerages". Taxicab drivers stated "Uber should be subject to the same regulations".

**Taxicab Owners** felt that "Uber being permitted to operate in an unregulated way gave Uber an unfair advantage". Many saw permitting Uber to operate in Toronto as the "demise of the industry", including devaluing the lease and sale prices for their taxicabs.

**Taxicab Fleet Operators** indicated that there is "significantly less demand for taxicabs as the market is saturated by unlicensed vehicles and drivers". They said that they are "unable to rent many of their taxicabs", and estimate 40% remain parked. They indicated that "if UberX continues to operate, they may be out of business within a few months".

**Taxicab Brokerages** stated that "Uber is operating in an unregulated fashion that gives them an unfair advantage". Some reported that "debit and credit card use is down", while others stated that "the number of dispatched calls remains generally the same". Brokerages were not able to quantify call volume impacts.

**Limousine Industry** participants indicated that their business is "less affected by Uber" because limousine clientele is distinct from Uber customers. Many suggested that "limousine drivers should not have to complete City training as it is too long and costly" as limousine companies could offer their own in-house training. Limousine industry participants indicated that they would like to see the City "get back to basics with regulation" and "focus regulation on public safety".

The full report on the City's stakeholder roundtable process and findings can be found in Attachment 1. Full report from Ipsos Reid can be found in Attachment 2.

### **City of Toronto Industry Survey**

Approximately 6,300 individuals completed the online industry survey. 17% identified as being in the taxicab and/or limousine industry, while 83% identified as UberX drivers.

As the majority of respondents were UberX drivers, staff analyzed the taxicab and limousine industry responses separately to ensure responses would be accurately represented.

#### **Survey highlights:**

- 78% of taxicab industry stakeholders identified that the number of taxicab fares had decreased since Uber began operating

- 37% of taxicab drivers are paying less in shift rental rates than last year, while 53% of taxicab drivers are paying the same and 10% are paying more
- 47% of survey respondents agreed, or strongly agreed, that taxicab fares should decrease

The full report on the City's industry survey can be found in Attachment 1.

## **Public Consultations**

The City hired Ipsos Reid to conduct statistically significant and representative qualitative and quantitative research to understand what the public knows and thinks about ground transportation in Toronto, including taxicabs, limousines and Uber.

In addition, the City of Toronto provided an opportunity for the public to participate through an online survey that was posted for three weeks during August. This survey resulted in a record number of responses, supported by Uber advertising the survey.

### **Summary of Findings – Ipsos Reid**

The quantitative research consisted of a representative online survey of 1,004 adult Toronto residents (18+), while the qualitative research consisted of focus groups with various segments of the general population.

### **Demographic-based findings**

The survey respondents were generally evenly distributed across both gender and age variables, and included people with varying education and employment status. The relative findings as it relates to the demographic distribution of participants were:

- Younger residents are more familiar with Uber, while older residents are more familiar with limos.
- Residents 18-34 are most likely to use public transit, taxis or Uber and do so more frequently than older residents.
- Older residents are more likely to feel that the same rules and regulations that apply to taxi services should apply to Uber, while 18-34 year olds are more likely to agree that Uber should be allowed to operate even if it doesn't have as much regulation as taxis or that regulations on taxis should be relaxed to allow them to compete with Uber.

### **Key findings**

- Uber is most strongly associated with the convenient experience it offers, and its position as a cheaper option to taxis and sometimes TTC. It is seen as a 'high tech', fast, accessible offering which provides greater affordability, control and availability of service than its alternatives.
- Taxicab, limousine and Uber services are seen as fundamentally different from each other because of the very different user experiences.
- There is a strong sentiment among Toronto residents that people should be able to choose for themselves whether they want to use Uber or taxicab services and a

- majority feel that having both Uber and Taxicab services provides Toronto with a competitive marketplace. Few feel that Uber should charge the same as taxis.
- Residents also expect that the City will regulate to protect passengers personal safety and help ensure safe driving behaviour among providers.
  - There is the perception by users and non-users that taxicabs and limousines are overregulated, and they do not want to see the same thing happen with Uber, since they expect this will drive up the price.
  - In addition to the City not over regulating Uber, many wished to see a lessening in regulation on taxicabs and limousines in order to make them more competitive.
  - Users and non-users do want to see some minimum guidelines and oversight on Uber, which they want to occur by the City auditing records.

### **City of Toronto Public Survey**

The City survey was available online for three weeks in the summer of 2015. The online survey received over 73,000 responses.

#### **Survey results and highlights:**

- 33% felt that UberX services should have a regulated fare
- 61% believe that the City should monitor and ensure that proper insurance is in place to protect the public, including passengers and drivers
- 67% felt that the City should change regulations that would permit Uber to operate

The full report on the City of Toronto survey can be found in Attachment 1.

The full report on Ipsos Reid findings can be found in Attachment 2.

### **Jurisdictional Scan - Canada**

The following is a summary of the current state of regulatory initiatives, in respect to where Uber is operating in Canada. An international jurisdictional scan, including the U.S., can be found in Attachment 1.

**Ottawa:** Council directed staff to undertake a review of their Taxicab regime, including the role of technology. The City has procured a third-party consultant to undertake the work to review its bylaw.

**Region of Waterloo:** The Region has been revising and merging its taxicab and limousine bylaws for the past year. Currently in public consultation with a draft bylaw that proposes to regulate private vehicles such as "UberX", as "auxiliary taxicabs".

**Edmonton:** Council directed staff to develop a regulation for Transportation Network Companies. Draft bylaw was published for consultation and will be at Committee on September 16, 2015. The Alberta Superintendent of Insurance has indicated their intention to develop a working group to discuss and develop "ridesharing" insurance regulation.

## **Summary of Recommendations and Outcomes**

### **Recommendation #1: Amending Definitions of Taxicab Brokerage and Limousine Service Company**

The City of Toronto requires taxicab brokerages and limousine service companies to be licensed. This requirement ensures that when people call for a taxicab or limousine, only a licensed vehicle is dispatched. Requiring this licence also helps the City collect trip data and investigate complaints.

In response to the court decision, it is recommended that City Council amend the definitions of taxicab broker and limousine service company to explicitly provide that technology-based brokerages, including Uber, are within the existing regulatory regime. These amendments will also capture services like UberTaxi and UberBlack within the existing regulatory framework.

#### **Overview**

Staff recommend these bylaw amendments even if Council chooses to direct the Executive Director to report back on permitting 'private vehicles for hire' to operate under regulation. The revised bylaw is necessary to ensure that the City has adequate regulations in place that capture all for-hire vehicles and protect the public interest.

The impetus for these revisions arises out of the court application brought by the City in 2014 against three corporations (collectively "Uber"), seeking a permanent injunction to halt their operations. The central issue was whether Uber was required to obtain taxicab broker and limousine service company licences in order to operate legally. Uber argued that its operations were not captured by the definitions of "taxicab broker", "limousine service company", and "taxicab" set out in Municipal Code, Chapter 545.

The court did not agree with the City and determined that none of the Uber companies were required to obtain licences, as their business model was not captured by the above definitions.

Although staff believe the definitions were intended to licence all types of brokerages, staff recommend that the definitions of "taxicab broker", "limousine service company", and "taxicab" found in Chapter 545, Licensing, be amended to make clear that they require Uber and similar companies that broker taxicab and limousine service using internet-based technology to obtain licences to operate.

Staff also recommend that portions of Article VII, Taxicab Brokers, and Article XXXIX, Limousine Service Companies, be amended to insert an explicit requirement that taxicab brokers and limousine service companies dispatch only licensed taxicabs or limousines and licensed drivers.

### Objectives of taxicab brokerage and limousine service company licensing requirements

The City has required taxicab brokerages, i.e. businesses that take requests for taxicab service and attempt to locate a driver willing to perform that service, to obtain licences since at least 1969. As the primary link between taxicab drivers and customers, taxicab brokers are required, among other things, to dispatch licensed taxicabs driven by licensed drivers and keep a record of transactional information. Brokerages are also required to dispatch a taxicab to the first person requesting service and to record reasons for refusing requests for service.

These requirements are important, as they: support accountability among industry participants and to customers; help ensure consumer protection and the health, safety, and well-being of residents; and foster a stable, effective transportation network.

Chapter 545 of the Municipal Code is silent on the method by which brokerages may take requests for service and attempt to locate drivers willing to provide service. Indeed, several licensed brokerages in Toronto allow customers to request licensed taxicab service on their websites, or using a smartphone application. GPS technology is also used by these brokerages to locate the closest available driver to provide service.

With respect to record-keeping, Chapter 545 currently requires taxicab brokerages to:

- Keep a record of trips taken, including the date and time of dispatch, the place of pickup, and the trip destination;
- Keep a current list of all taxicabs associated with the brokerage;
- Keep a current list of drivers driving taxicabs associated with the brokerage;
- Document the number of requests for service received, the number of trips refused and the reasons for refusal, the number of requests serviced, and all complaints and compliments received;
- Document the number of taxicabs available to provide service at any given time, including when each taxicab went on the road and went off-duty; and
- Record the brokerage fees it charges to taxicab drivers.

The record-keeping provisions do not mandate the mechanism by which these records must be maintained (i.e. paper vs. electronic records) or their specific format.

Records of trips taken facilitate the investigation of public complaints and the City's enforcement of licensing bylaws against other licensees, such as taxicab drivers and owners. For example, ML&S may use brokerage records to identify which taxicab was in a particular location at the time of an accident or other negative incident, or to identify the driver of such a vehicle. In the past, the City has relied on such evidence in proceedings before the Toronto Licensing Tribunal to seek the suspension or revocation of a business licence, or to have conditions placed on it. This information has also been used in criminal proceedings against taxi drivers for alleged crimes committed while providing taxicab service to customers.

Requiring a list of requests for taxicab service provided and refused ensures that brokerages provide service on a first-request, first-dispatched basis to individuals anywhere in Toronto and, if service is refused, that a reason is provided for that refusal. This enables the City to investigate complaints by members of the public that they have been discriminated against on an improper basis such as age or race, have been refused fares, or are receiving inequitable service.

In addition, records that brokerages must keep with respect to the number of requests for service received, serviced, and refused, and any complaints or compliments received allows the City to gauge consumer demand and existing service levels. In the past, and during the most recent Taxicab Review, this information was used to determine the appropriate number of taxicabs to license in the City with a view to minimizing congestion, ensuring service is delivered within a reasonable timeframe, and maintaining the quality of the taxicab industry over the long run.

Information as to fees charged by brokerages to taxicab drivers has been used by the City in the past, in conjunction with information about other costs of operating a taxicab, to assist with setting appropriate meter rates, which was aimed at promoting the long-term viability of the taxicab industry while discouraging dangerous or reckless driving to obtain fares.

Limousine service companies, which are the equivalent of taxicab brokerages for limousine service, were created as a licence category in 2005 as part of a substantial overhaul of the limousine licensing requirements. The records that Chapter 545 requires limousine service companies to maintain are similar in many respects to those required of taxicab brokerages, and the City's objectives in requiring a licence and the collection of this data are the same as for taxicab brokerages, namely: establishing a level of public accountability for businesses that arrange for limousine service in Toronto, ensuring public safety, and protecting consumers.

Staff have considered a number of alternatives to licensing, which are discussed in detail in Attachment 1.

#### Amending the definitions of "taxicab brokerage" and "limousine service company"

As part of its decision denying the City's application for a permanent injunction against Uber's operations in Toronto, the court focused on the word "accept", as it is used in the definitions of "taxicab brokerage" and "limousine service company" in Chapter 545. The court held that the word "accept" required an element of human intervention or an undertaking to fulfill the request for taxicab or limousine service. The court determined that Uber acted only as a passive "relay" that sends requests directly to drivers, who are the only parties to in fact "accept" a request.

In support of this finding, the court referred to several sections of Article VII, Taxicab Brokers, and Article XXXIX, Limousine Service Companies, which use the word "accept" in different contexts and determined that "accept" could have only the limited meaning it relied upon.

The court also focused on the use of the word "call" in the definition of "limousine service company", and determined that this could only mean a telephone call. As a result, the court found that Uber's service, which relies on internet-based technology was not captured by the definition.

While staff believe this finding did not: properly take into account Council's original intention in licensing taxicab brokerages and limousine service companies; broadly interpret the meaning of the words "accept" and "call"; or properly characterize Uber's active role in fulfilling requests for taxicab and limousine service, staff nonetheless recommend that the definitions of "taxicab brokerage" and "limousine service" be amended and expanded to ensure that they are understood as capturing Uber's operations and those of similar technology-based brokerages.

In addition to these definitions, the court interpreted the definition of "taxicab" found in Chapter 545. It determined that the definition includes only those vehicles that already hold a licence for one of the four existing classes of taxicab, i.e. an ambassador, standard, accessible, or Toronto Taxicab licence. However, the court determined that any other for-hire vehicles that did not hold a taxicab licence would be captured under the definition of "limousine" found in Chapter 545.

Staff believe that the court interpreted the definitions of "taxicab" and "limousine" in a manner that ensures that all for-hire vehicles are subject to regulation under Chapter 545 and recommend that changes be made to the definition of "taxicab" to clarify this legal distinction.

#### Amending Chapter 545 to include an explicit requirement that taxicab brokerages and limousine service companies work with licensed vehicles and drivers

Article VII, Taxicab Brokers, and Article XXXIX, Limousine Service Companies, of Chapter 545 contain numerous references to licensed taxicabs and limousines and licensed drivers. In particular, the sections that require taxicab brokerages and limousine service companies to keep certain records extensively refer to "taxicabs" and "drivers", i.e. licensed vehicles and persons.

However, Articles VII and XXXIX do not include an explicit prohibition on taxicab brokers and limousine service companies contracting with or dispatching unlicensed vehicles and drivers in an attempt to fulfill requests for taxicab or limousine service.

Staff recommend that Chapter 545 be amended to include an explicit prohibition on any person, regardless of that person's status as a licensed brokerage or limousine company, from contracting with or dispatching any vehicle other than a licensed limousine or taxicab. This prohibition would apply to any individual.

This would further the City's policy goal of creating accountability between taxicab brokerages and limousine service companies and the public, who expect those entities to

contract with and dispatch licensed drivers. Furthermore, such a prohibition would support the goals underlying the City's regulation of all taxicabs and limousines, detailed in the 2014 Final Report - Taxicab Industry, such as public safety and consumer protection, by ensuring that drivers who wish to obtain the substantial benefit of being referred work via a taxicab brokerage or limousine service company have obtained a licence. Though not all taxicab drivers are obligated to contract with a taxicab brokerage, a substantial portion do, and staff feel this measure offers further protection.

By adopting this recommendation, it will ensure that the City can pursue appropriate enforcement measures in the event of non-compliance. A bill will be presented to Council with the necessary bylaw amendments.

**Recommendation #2: Reduce the initial cost to enter a taxicab from \$4.25 to \$3.25**

The initial cost to enter a Toronto taxicab (commonly referred to as the 'drop rate') is currently \$4.25. This is the one of the highest 'drop rates' compared to other cities in Canada and the U.S.

The 2014 Taxicab Review conducted research on the cost of taxicabs. This work indicated that a decrease by \$1 on the drop rate would increase the likelihood of a passenger choosing to take a taxicab. Despite these findings, the City did not have substantial evidence to support that a decrease in the tariff rate would have a meaningful corollary increase in demand to offset the difference.

During the recent consultations, the relatively high cost of taxicabs was a significant issue raised by both the industry and public. It was seen that the cost to take taxicabs was one of the main contributors for passengers shifting to UberX. The industry was not able to provide a specific recommendation, or come to consensus on the extent of the fare change.

The recent Ipsos Reid survey asked: "How much more likely would you be to take a taxi if the base rate was decreased to either \$4.00, \$3.50, or \$3.00". The results showed that 55% of respondents would be more likely to use taxicabs if the 'drop rate' was reduced to \$3.00. A more detailed analysis of this response can be found in Attachment 2.

Based on the findings of the work previously undertaken in the 2014 Review, coupled with the information received through this consultation process, staff are recommending an immediate decrease of the initial drop rate by \$1 to \$3.25. Further consultation in respect to taxicab fares will form part of the taxicab bylaw review as recommended in this report.

This fare reduction will reduce fares to the 2008 level (the last time the fares were increased based on increased gasoline prices). It will benefit consumers and help taxicabs maintain competitiveness in the changing landscape of ground transportation.

**Recommendation #3: Review and update the taxicab bylaw to reduce regulatory burden and increase competitiveness**

As a result of this review, and to respond to both the public feedback and stakeholder input received, it is recommended that City Council direct staff to review the taxicab bylaw. This review would look for ways to reduce regulation and encourage competition and efficiencies in the taxicab industry. Any bylaw amendments would seek to enhance customer service while continuing to mitigate risk and ensure regulatory oversight.

**Potential Opportunities for Review**

1. flexible fares, where the metered rate is the most a taxicab can charge
2. training requirements and delivery methods
3. review vehicle inspection processes
4. permit taxicabs to pick up more than one passenger, enabling ‘taxi-sharing’.
5. reduce administrative requirements

Staff will engage the industry further on these matters and bring back a report with specific recommendations. This approach would help reduce regulation and licensing costs that could be beneficial to the taxicab industry. Flexibility in fares would enable taxicabs to offer discounted rates which could benefit consumers and increase competition.

**Recommendation #4: Undertake a review to update and modernize the Limousine bylaw**

It is recommended that City Council direct staff to review the limousine bylaw. This review would look for ways to reduce regulation and encourage competition and efficiencies in the limousine industry. Any bylaw amendments would seek to enhance customer service while continuing to mitigate risk and ensure regulatory oversight. This review would seek to enhance customer service while continuing to mitigate risk and ensure regulatory oversight.

**Potential Opportunities for Review**

1. restructuring the minimum fare
2. eliminating pre-booking minimum time
3. requirements for Limousine Service Companies to have stretch limousines

Staff will engage the industry on these matters and bring back a report with specific recommendations.

**Recommendation #5: Undertake a review of Accessible ground transportation**

It is important that the City continue to enable accessible ground transportation options for the public who requires it, and at an equivalency of service that is enjoyed by others who do not require accessible service. In this review, City staff would also address the outstanding directives requesting a review of flat rate providers of wheelchair accessible transportation, review the success of the accessible taxicab initiative and bring recommendations, if necessary, to ensure the City achieves its goal of service equivalency.

**Recommendation #6: Issue 100 new Toronto Taxicab Licences (TTLs) to drivers on the waiting list**

There are currently 425 Toronto Taxicab Licence (TTL) taxicabs operating in Toronto, which is approximately 10% of all taxicabs.

At the April 2015 Disability, Access and Inclusion Advisory Committee, ML&S staff heard from committee members that the increased number of accessible taxicabs provided by the TTLs was not necessarily equating to increased service levels for those who require wheelchair accessible taxicabs.

In response to this continued unmet demand for wheelchair accessible taxicab service, and to continue to advance the City's goal to move towards service equivalency, as outlined in the 2014 Taxicab Industry Review final report, it is recommended that 100 new Toronto Taxicab Licences (TTLs) be issued to drivers on the waiting list. There are currently more than 800 drivers waiting on the list to be issued a TTL.

**Recommendation #7 and #8: Implement a regulatory framework for 'Transportation Network Companies' and 'private vehicles-for-hire' to ensure public safety**

Uber's current operation, primarily in respect to the use of unlicensed drivers and vehicles, presents numerous public safety concerns.

Currently, the City has no oversight of these operations. The unlicensed and unregulated operation of Uber prevents the City from ensuring: adequate insurance is in place, background checks and vehicle inspections have been conducted, driving history is reviewed, or if drivers are adequately trained.

To address this regulatory gap, it is recommended that City Council direct the development of a regulatory framework, which would be modelled on Transportation Network Company (TNC) regulations that can be found in many US states and cities. TNCs are transportation companies that connect passengers with private vehicles-for hire through smartphone technology. Typically, TNCs are issued the licence, but not the individual drivers. Subsequently, the TNC is responsible for ensuring driver compliance with the regulations.

Access to private vehicles-for-hire are only available to those who sign up for the service through a TNC. Drivers are not permitted to pick up street hails, or solicit any work that is not dispatched through the TNC smartphone application.

In typical TNC regulations, the number of drivers and vehicles associated with their company is not limited. Regulations do not typically set the fare, so passengers may pay more or less than a standard taxicab fare and may be subject to surge pricing. A table of example TNC regulations can be found in Attachment 1.

## **Summary**

Since July 2015, City staff undertook an aggressively timed and comprehensive research effort to (a) gauge the public's interest and garner input in respect to taxicabs, limousines and Uber; (b) understand the various regulatory approaches being taken across the world; and (c) understand the impacts to the taxicab and limousine industries in Toronto.

Throughout this review, it has become evident that despite various regulatory and enforcement efforts, Uber has made a significant mark on the established ground transportation systems in more than 330 cities world-wide, and continues to do so.

The use of technology is challenging established industries, highlighting the need for them to adapt in order to compete. In turn, regulators must also contemplate updating regulation to be more reflective of the changing landscape. The recommendations in this report provide the City with:

- a) assurances that technology-based dispatch companies are both regulated and enabled;
- b) the opportunity to reframe the regulatory approach currently in place for the taxicab and limousine industries, including an immediate reduction in taxicab fares and an increase in wheelchair accessible taxicabs;
- c) a response to the interests of the public in ground transportation options; and,
- d) a path by which to mitigate the City's concerns in respect to public safety and consumer protection.

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## **SIGNATURE**

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## **ATTACHMENTS**

Attachment 1: Ground Transportation Review: Findings Report  
Attachment 2: Ipsos Reid Qualitative and Quantitative Research