

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on
Regulations Relating to Passenger Carriers,
Ridesharing, and New Online-Enabled
Transportation Services.

Rulemaking 12-12-011
(Filed December 20, 2012)

**REPLY COMMENTS OF CALINNOVATES.ORG REGARDING BACKGROUND
CHECK REQUIREMENTS FOR TRANSPORTATION NETWORK CARRIERS
THAT TRANSPORT UNACCOMPANIED MINORS**

Dated: November 23, 2015

Mike Montgomery
Executive Director
CALinnovates
548 Market St., Ste. 28585
San Francisco, CA 94104
Telephone: (415) 570-9303
Email: mike@calinnovates.org

TABLE OF CONTENTS

	Page(s)
I. INTRODUCTION	1
II. COMMENTS	2
A. The Commission Should Regulate in a Manner that Supports, Rather than Stifles, Innovation.	2
B. In this Proceeding, the Commission Should Require State-of-the-Art Background Screening Practices Rather than Decades-Old Approaches.	4
III. CONCLUSION.....	5

TABLE OF AUTHORITIES

	Page(s)
<i>California Public Utilities Commission Decision 13-09-045</i>	4
<i>Cal. Public Utilites Code §5352</i>	5

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on
Regulations Relating to Passenger Carriers,
Ridesharing, and New Online-Enabled
Transportation Services.

Rulemaking 12-12-011
(Filed December 20, 2012)

**REPLY COMMENTS OF CALINNOVATES.ORG REGARDING BACKGROUND
CHECK REQUIREMENTS FOR TRANSPORTATION NETWORK CARRIERS
THAT TRANSPORT UNACCOMPANIED MINORS**

I. INTRODUCTION

Pursuant to Rule 6.2 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure, and the Assigned Commissioner and Administrative Law Judge’s Ruling Requesting Comment on the Appropriate Background Check Requirements for Transportation Network Company Drivers Who Transport Unaccompanied Minors, CALinnovates.org (“CALinnovates”) respectfully submits these Reply Comments to the Opening Comments of the Greater California Livery Association, the San Francisco Taxi Workers Alliance (“SFTWA Opening Comments”), San Francisco International Airport and the San Francisco Municipal Transportation Agency, HopSkipDrive, Inc., and Christopher B. Dolan.

CALinnovates is a non-partisan technology advocacy coalition representing numerous sectors in the industry, including TNCs operating in the rideshare industry. CALinnovates seeks to foster an environment of regulatory certainty, promote consumer choice, and support pro-investment policies.

As technology platforms advance, a powerful opportunity exists to address some of the challenges facing consumers and governmental entities, including a decidedly modern approach to consumer safety and convenience. In this proceeding, CALinnovates urges the Commission to take advantage of this opportunity, by regulating in a manner that promotes innovation, and by endorsing modern background screening techniques rather than decades-old approaches.

II. COMMENTS

A. The Commission Should Regulate in a Manner that Supports, Rather than Stifles, Innovation.

It is vital for the government to set regulatory standards based on modern methodologies and evidence that guarantee strong safety protections for all consumers. Customers need to trust that their drivers are committed to keeping them safe and that the drivers are thoroughly and properly vetted before they are allowed to transport a passenger in a TNC vehicle. There can be no compromise on public safety. At the same time, industry must have the space to innovate and find cutting-edge solutions that provide the best methods to meet consumers' demand for safe and effective transportation options.

In CALinnovates' experience, industry innovation has provided the key to meeting consumer needs as well as public policy priorities in a number of areas.

An example of the technology ecosystem's ability to provide consumer benefit while addressing vital public policy concerns is how the technology community has responded to the music industry's ongoing struggle to fight piracy. This challenge put unwitting consumers at risk while stifling the industry's bottom line. Yet entrepreneurs were able to employ innovative new business models that allow for ad-supported free-to-the-user music streaming platforms to

evolve. This evolution has cut by 54 percent millennials' desire to pirate music.¹ Music streaming platforms allow consumers to easily find the music they want on an ad-supported basis while responding to the needs of regulators and industry to curb rampant content theft. This has occurred without the need for new, heavy-handed copyright reform legislation as an overlay on the current system or the imposition of increased statutory damage models or felony streaming regulations that would only serve to stifle innovation, investment, consumer choice and competition.

Another example of industry's ability to serve consumers in a vital way while addressing core regulatory desires is in the area of transparency in government through the use of public data. For far too long, public data hasn't been fully available to the public unless requested through freedom of information requests. However, a growing group of civic-minded startups have forced government agencies to evolve by sharing the anonymized data with all comers. This data has been used to provide constituents and elected officials alike greater insight into areas formerly lacking in transparency, including budgets, spending, permitting and building violations. Each of these examples and many others have been made available not through rigid adherence to regulatory structures of the past, but through flexible, forward-looking mandates that recognize the value and importance of regulatory modernization and the need to embrace marketplace innovations for the value they bring to society.

CALinnovates is pleased that the Commission has recognized in this proceeding that innovation and technological advances are important factors that must be given weight in the

¹ PRNewswire.com, Availability of "Freemium" Music Cuts Down on Piracy, <http://www.prnewswire.com/news-releases/availability-of-freemium-music-cuts-down-on-piracy-according-to-new-calinnovates-survey-300143870.html> (last visited Nov. 23, 2015).

regulatory process.² The Commission should hold to those principles in addressing the question of background checks for TNCs transporting minors.

B. In this Proceeding, the Commission Should Require State-of-the-Art Background Screening Practices Rather than Decades-Old Approaches.

There is significant evidence in this proceeding that Trustline’s decades-old technology relies on incomplete and outdated information that even the federal government has criticized as incomplete.³ In contrast, there are safer, state-of-the art background checking techniques available that avoid the flaws of the Trustline process.⁴ In opening comments, no party offered evidence proving that the older Trustline process is more effective at protecting children from harm than modern screening techniques.

Despite this, several parties argued in opening comments that any newer and better technological approaches should only be used in addition to, rather than in place of, older approaches.⁵ This proposal is a classic example of regulatory overreach: simply layering a new level of regulation onto an antiquated process, instead of seeking the most effective and efficient way to protect consumers.

The approach urged by these parties would impose significant costs that hamper industry’s ability to innovate. While cost is certainly not the primary factor when it comes to protecting children, imposing unnecessary and redundant costs on industry can chill innovation

² See, e.g., Decision 13-09-045, at 62.

³ *Opening Comments of Shuddle, Inc. Regarding Background Check Requirements for Transportation Network Carriers That Transport Unaccompanied Minors*, at 1-2, 4-5; Declaration of Christian Moore Supporting Opening Comments Of Shuddle, Inc. Regarding Background Check Requirements For Transportation Network Carriers That Transport Unaccompanied Minors (“Moore Dec.”) ¶¶ 14-19; U.S. DEPT. OF JUSTICE, THE ATTORNEY GENERAL’S REPORT ON CRIMINAL HISTORY BACKGROUND CHECKS, 14-18 (2006) [Attached as Appendix C to Shuddle Opening Comments on Phase Two of Proceeding].

⁴ *Opening Comments of Shuddle, Inc. Regarding Background Check Requirements for Transportation Network Carriers That Transport Unaccompanied Minors*, at 6-12; Moore Dec. ¶¶ 7-13.

⁵ *Opening Comments of the San Francisco Taxi Workers Alliance*, at 3; *Opening Comments of San Francisco International Airport and San Francisco Municipal Transportation Agency*, at 3-5; *Comments of HopSkipDrive, Inc.*, at 6-7; *Opening Comments of Christopher B. Dolan/The Dolan Law Firm*, at 5-6.

and investment, which can unnecessarily withhold products from ever reaching the market, depriving consumers and the economy while harming competition and technological advancement. Imposing these regulatory barriers would deprive consumers of choice and would not be in keeping with the Commission’s statutory obligation “to secure to the people adequate and dependable transportation by carriers operating upon the highways.”⁶

The approach urged by these parties also locks in the standard of a bygone era, creating a false sense of security for consumers by implying that these old standards remain the “gold standard” for safety decades after they were adopted despite the presence of modern tools that can better address the foundational issue of consumer safety. Adhering to older, less effective regulatory approaches, the Commission would decrease rather than increase industry’s incentive to innovate and find newer and better ways to meet the very demanding standards set by the concerned parents who are TNCs’ customers.

III. CONCLUSION

CALinnovates urges the Commission to seek the most effective and efficient means of protecting public safety, rather than continue to require use of an outdated system that is now long past its prime. TNCs transporting minors should be held to a high standard for protecting public safety, but should be able to use innovative methods to meet those standards, such as those available through state-of-the-art background screening techniques.

⁶ Cal. Public Utilities Code § 5352.

Dated: November 23, 2015

Respectfully submitted,

By: /s/ Mike Montgomery
Mike Montgomery

MIKE MONTGOMERY
Executive Director
CALinnovates
548 Market St., Ste. 28585
San Francisco, CA 94104
Telephone: (415) 570-9303
Email: mike@calinnovates.org