

February 6, 2019

Los Angeles City Council Transportation Committee  
Los Angeles City Hall  
200 N. Spring Street  
Los Angeles, CA 90012

#11  
Date: 2-13-19  
Submitted in Tran Committee  
Council File No: 19-0104  
Item No.: 11  
Public

**RE: Taxi Industry Opposition to Councilmember Blumenfield's motion to repeal Taxi Board Rule 415(c)**

Transportation Committee Members,

We are writing to express our strong opposition to the motion put forward by Councilmember Blumenfield on January 29th to repeal Taxi Board Rule 415(c). The proposed motion would effectively place an unnecessary ban on rooftop taxi advertising signs that can be deployed appropriately and safely and that are in compliance with the state vehicle code.

The elimination of our drivers' right to install rooftop taxi advertising signs, even the traditional lighted taxi toppers that have been safely deployed in this City for over 30 years, would take away a potential source of meaningful extra income for hardworking taxi drivers. This would be a critical blow to the competitiveness of our industry, which has struggled in an increasingly competitive market. And it would cut short an opportunity for the City of Los Angeles to encourage innovation and growth in the taxi industry.

Our drivers face many challenges, including rising fuel costs and competition from ridesharing. When TNCs like Uber and Lyft arrived in Los Angeles, we urged the Council to demand a level regulatory field. Instead, we were told that we should innovate to better compete. This motion, if passed, would take away one more way in which we are able to compete.

Companies like Firefly are helping offset these challenges by developing an extra source of income for our drivers without requiring more time spent on the road or increasing fares. By continuing to allow our drivers to earn extra income through this means, you are supporting our drivers, as well as jobs that support local families, and allowing for greater economic activity throughout the Los Angeles region.

We are particularly concerned about the unintended consequences of the proposed new and contradictory interpretation of LAMC Section 87.54, which would now apply to taxis and not just vehicles with mobile billboards parked for the primary purpose of advertising. If this new interpretation was applied, every single taxicab could be impounded simply for possessing a top light on our vehicles, as we are required to do.

Before considering this motion, we urge the Transportation Committee to first allow the Taxicab Commission to complete a full analysis of the proposed change. We are confident that the returned analysis will find that the current system – including Taxi Board Rule 415(c) – is not only legal, but safe, and that Councilmember Blumenfield's motion is deeply flawed and unnecessary.

Please consider the economic survival of our drivers and the taxi industry and decline to consider this motion.

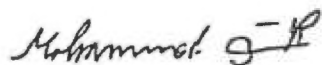
Sincerely,



Andrey Minosyan  
President & CEO  
Independent Taxi Owners Association



Yevgeny Smolyar  
President  
LA Checker Cab



Mohammed Pourrastegar  
President  
United Independent Taxi Drivers, Inc.



Julie Bank  
Chair

February 12<sup>th</sup>, 2018

Rabbi Joel Thal Simonds  
Executive Director

Jeremy Cronig  
Jennifer Haarmann  
Abbi Hertz  
Lisa Laffer  
Teddy Levitt  
Nick Melvoin  
Michelle Sampson

Councilmember Mike Bonin, Chair  
Los Angeles City Council Transportation Committee  
Los Angeles City Hall  
200 N. Spring Street  
Los Angeles, CA 90012

**RE: REJECT THE PROPOSED BAN ON DIGITAL ROOFTOP  
ADVERTISING**

Dear Chairman Bonin,

The Jewish Center for Justice provides social justice, education and leadership development from a modern Jewish platform. Like many nonprofit organizations seeking to make the world more just, JCJ relies upon pro bono services to achieve our desired results. One of our sponsors is Firefly, which helps deliver our social justice messages to specific geographies across the state. But that's not why JCJ opposes the Blumenfield Motion.

We have come to learn that the Motion would disallow taxi drivers from earning much-needed, additional income without requiring any additional hours worked. Taxi drivers in Los Angeles struggle to make a living wage despite the long hours worked and the dangers of being behind the wheel in myriad driving conditions day and night.

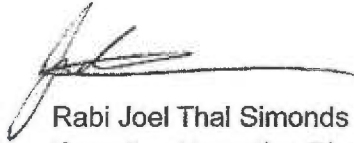
As a social justice organization, we believe drivers have the right to make proper use of the one "vehicle" they have to increase their financial prosperity, and stripping away Taxicab Rule 415(c) is not, on its face, a policy that JCJ willingly supports.

This era is marked by a lack of economic opportunity for the oppressed, a lack of safeguards for the underserved, and a lack of respectful discourse about the challenging issues of our time. You, as a City Councilmember, have inspired me and JCJ's membership with your ability to time and again rise above these societal shortcomings. You consistently find ways to pave a path toward understanding. You remain a beacon of hope for immigrants, the disenfranchised and the exact people and communities that JCJ serves,

which undoubtedly includes the very taxi drivers who would be negatively impacted by the passage of this Motion.

We hope you can lead the Transportation Committee toward a positive outcome on this seemingly contentious issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joel Thal Simonds', with a long horizontal line extending to the right.

Rabi Joel Thal Simonds  
Founding Executive Director, Jewish Center for Justice

**cc:**

Councilmember Nury Martinez  
Councilmember Paul Koretz





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OF THE CITY  
OF LOS ANGELES

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February 11, 2019

Councilmember Mike Bonin, Chair  
Los Angeles City Council Transportation Committee  
Los Angeles City Hall  
200 N. Spring Street  
Los Angeles, CA 90012

Dear Chairman Bonin,

As you consider regulations related to electronic advertising on vehicles operating within the City of Los Angeles, we wish to communicate to you our support of Firefly and the allowance of digital advertising on taxicabs and Transportation Network Companies (TNC), such as Uber and Lyft vehicles operating within the City of Los Angeles.

Last year, the Los Angeles Police Protective League created a community partnership with Firefly. As part of that partnership, Firefly helped us promote our Operation Blue Christmas, which helps families in need, who have a relationship with division-based police officers, enjoy the Christmas holidays during their time of crisis or pain. We appreciate this opportunity to raise awareness of programs that aim to assist the community. We also believe that there is much more that can be gained through this partnership including assisting in the recruitment of new LAPD officers. We would appreciate the ability to pursue that further as our Department struggles to hire enough recruits to keep up with attrition.

In addition to community partnerships, there is great potential for public safety-related applications with regards to digital advertising on taxicabs and TNC vehicles. For example, based on our understanding of the technology used by Firefly, their digital signs would be able to geo-target messages to specific areas of the City, including issuing digital Amber Alerts. While Los Angeles drivers are used to seeing text-based amber alerts while on our streets and highways, the Firefly technology would allow for the display of images of the missing child, the suspect, or the vehicle involved.

Finally, digital advertising such as Firefly, can be an important income source for taxicab and TNC drivers. We know that many of these drivers work long hours to make ends meet, yet they are an important link of the modern transportation network. Additional, steady income will assist in ensuring those drivers can make a livable wage.

Determining how to regulate new technologies is always difficult. We are hopeful that the City and the industry can work collaboratively together to establish rules and regulations that will ensure safety, update our regulations to meet the realities of today's technology and potentially explore advertiser/vendor partnerships in the form of revenue streams or in-kind services that will help meet the City's needs.

We appreciate your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig Lally", with a stylized, cursive script.

Craig Lally  
President  
Los Angeles Police Protective League

Cc: Councilmember Nury Martinez  
Councilmember Paul Koretz



816 Cacique Street  
Santa Barbara, CA 93103  
(805) 884-8481  
[www.PATHSantaBarbara.org](http://www.PATHSantaBarbara.org)

February 8, 2018

Councilmember Mike Bonin  
Los Angeles City Council  
City Hall  
200 N Spring Street  
Los Angeles, CA 90012

**RE: Opposition to Motion to ban digital rooftop taxi advertising**

Dear Councilmember Bonin,

People Assisting the Homeless (PATH) is a non-profit whose mission is to end homelessness for individuals, families, and communities. We work to help people find permanent housing and maintain a healthier and more stable lifestyle. We are writing to express our concern with the Motion by Councilmember Blumenfield that would ban digital advertising on taxis for two very important reasons.

First and foremost, any proposal to reduce economic opportunity for drivers must be studied at length given the rising cost of living in conjunction with reduced wages earned by taxi drivers. We witness firsthand the effects of lost wages and we urge caution when considering wage limitations on historically low-wage sectors.

As a champion homeless advocate, we applaud you for your herculean efforts to support this imperiled population. As such, you are acutely aware of the rising housing costs and the lack of widespread affordable housing options that fail to meet growing demand. Any policy that would serve to prohibit direct sources of income to these drivers and their families will could potentially create severe unintended consequences.

Second, nonprofits such as PATH rely on the benefits these advanced technology signs provide. We are working with companies such as Firefly and this readily available resource assists us in our outreach efforts to Los Angeles' homeless population. Whether we use the screentime to increase awareness with our targeted populations or to present a solution to an occurring crisis to the public, this partnership helps our cause at no expense, allowing PATH to dedicate more funding toward services. Our outreach efforts focus on the individuals that are currently living on the streets and as such cannot be reached by mail, email, or phone. Firefly delivers our messaging in a direct and effective way as the drivers are already traveling throughout our City.

We urge you to carefully consider greater deliberation and, if necessary, a rejection of this Motion. Thank you for your ongoing support of PATH's mission to serve those in need.

Sincerely,

A handwritten signature in black ink, appearing to read "Tessa Madden Storms", written over a horizontal line.

Tessa Madden Storms  
Senior Director of Development and Communications

**Cc:**

Councilmember Paul Koretz  
Councilmember Nury Martinez  
Councilmember Herb Wesson

Jason Newton  
3060 W Olympic Blvd, APT 310  
Los Angeles, CA 90006

February 12, 2019

Dear Transportation Committee Members,

When I was notified that L.A. City Council is considering a ban on the digital rooftop advertisement boards, I knew I needed to voice my opinion.

As a husband and a father, it is my duty to make sure I am able to provide to the best of my ability for my family. As a rideshare driver, I am constantly driving through the streets of Los Angeles. When Firefly was introduced, I knew this was another opportunity for me to make extra income without having to work odd hours.

Firefly is not only important to drivers, but to the City as well. Local shops take advantage of advertising to increase their businesses and their revenue. The City benefits from this because residents keep expenditures in Los Angeles, therefore increasing the City's revenue. Why is there discussion for this to be removed?

Since I signed up with Firefly, I have noticed more attention, from both drivers and passengers, about the digital board. Whether it is a conversation starter for my passengers, or helping fellow drivers sign up so they can earn additional income, Firefly has been a positive impact for our City.

As tourists visit and sit in my car, they ask about the local restaurant that is advertised on my board, which helps the mom and pop shops grow their business and customer base. As locals get in the car, it becomes a conversation starter when certain corporations or non-profits are advertising. Firefly has made my vehicle more appealing, they are safe, and have helped spread information about Los Angeles, throughout all of Los Angeles. It is a platform designed for the betterment of Los Angeles.

We must allow Firefly to continue to operate. It is a benefit to tourists, residents, drivers, and the City itself.

Sincerely,

*Jason Newton*



Jason Newton  
3060 W Olympic Blvd, APT 310  
Los Angeles, CA 90006

Jason Newton



Los Angeles City Council Transportation Committee  
Los Angeles City Hall  
200 N. Spring Street  
Los Angeles, CA 90012

February 10, 2019

Dear Transportation Committee Members:

I'm currently a full-time member of the gig economy. It's amazing to me that I'm able to participate in these new work platforms, and I'm extremely thankful that I'm working during a time where I can benefit from their flexibility and possibilities. Ten years ago, I would not have the opportunities available to me to provide for my family that I am blessed with today.

While driving for Uber, I also work with the company Firefly to place a mobile digital advertisement on my car. In return, I receive \$300 a month. It's that easy for me, and it's become a much-needed additional source of income for myself and my family. I don't have to work additional hours and there is no requirement or bonus for me to drive any longer than I need to. This boost in income actually allows me to get off the road sooner, and spend valuable time with my family.

Banning mobile digital advertisements would only place further strain on community members who are already stretched thin. I've lived in Southern California all of my life, and the cost of living only increases each year. People are in desperate need of additional options for income. Tech-driven companies like Firefly are providing these options and opportunities for your community.

The City should be actively encouraging companies like Firefly who are providing residents with further flexible work options, not impeding them. The sign on top of my car isn't just promoting paid advertisements, it's also advertising information for nonprofit, city and community groups free of charge, as well as collecting important data that is then made available to cities and government groups, free of charge. We need to be working together to build and create the cities we want to live in in the future – from collecting data to fostering growth and providing additional work opportunities for the residents who live here.

As a government commission, you have a responsibility to do the least harm. Banning Firefly and companies like it would have no positive effect, but it would definitely be harmful to hundreds of families and ultimately the community itself. I'm asking the commission to please remember the incredible benefits this company provides your residents and the city itself when making this decision. Please allow me to continue working and providing for my family.

Thank you for your time.

Sincerely,

*Philberto Garcia*

Philberto Garcia

**Joel Bourne**  
35713 Poplar Crest Road  
Wildomar, CA. 92595

February 4, 2019

To the Transportation Committee:

My family and I benefit from Firefly because the extra income tremendously helps. I'm permanently disabled myself and can only drive for my form of income. If the rules are changed, and Firefly is banned from operating in Los Angeles, I will lose \$300 a month of needed income that allows me to provide for my family.

I would recommend Firefly to anyone who drives especially those who drive in Los Angeles. They're a great company to work for and are all about giving back to the Los Angeles community.

This is a major new policy change that limits innovation and modernization and is unnecessary.

Sincerely,

*Joel Bourne*

Joel Bourne



Feb. 12, 2019

Los Angeles City Council Transportation Committee  
Los Angeles City Hall  
200 N. Spring Street  
Los Angeles, CA 90012

Transportation Committee Members,

My name is Liron Alchadeff and I'm a full-time driver for both Uber and Lyft. I'm writing to you today because I've benefited a lot from Firefly, a business that your commission has the opportunity to save.

As everyone knows, Los Angeles is an expensive city to live in. The extra \$300 a month that I receive from Firefly is incredibly helpful. As an Uber driver, it's especially helpful to pay for gas and car maintenance costs. Beyond that, it provides an additional way for me to support my family. \$300 is no laughing matter, and goes a long way towards paying for our living costs. It may not mean much to you, but to us it's crucial. I consistently recommend Firefly to my family and friends as a way to gain extra income.

I also know first-hand that the mobile advertisements we drive with are not a nuisance or a distraction. My customers love the signs, and my rating has actually increased since I made the addition! I get positive feedback and compliments from multiple people each day I drive. I don't believe that these advertisements are a nuisance to the public or a distraction. They are only on when I'm driving my vehicle for ridesharing, and is removed when I'm done.

Speaking for my family, it's incredibly important to us that Firefly not be banned in Los Angeles. I know we aren't the only family that depends on this income. You'd be hurting my family and countless others. Please consider my request and do not ban Firefly.

Sincerely,

*Liron Alchadeff*

Liron Alchadeff





## Francisco Gonzalez

9325 San Luis Ave, Apt #B  
South Gate CA, 90280

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February 6, 2019

Transportation Committee Members:

My name is Francisco Gonzales, and **I absolutely oppose the proposed ban to Firefly.** Partnering with Firefly is a big help for me in providing for my baby girl. The money I earn from my Firefly goes to paying for housing, my transportation, food, clothing, and entertainment.

I believe in the difference Firefly makes in my life, which is why I recommended my family to partner with them. I have two of my cousins driving for Firefly and four of my friends driving for Firefly as well. We all have families to support so I really appreciate Firefly.

Please help protect Firefly from any bad regulations and help keep them operating.

Sincerely,

*Francisco Gonzalez*

Francisco Gonzales



Amanda Emerson  
215 W. 7th St. #19  
Long Beach, CA 90813

February 11, 2019

Los Angeles City Council Transportation Committee  
Los Angeles City Hall  
200 N. Spring Street  
Los Angeles, CA 90012

Transportation Committee Members,

My name is Amanda Emerson and I am a resident of the City of Long Beach who uses Firefly as a supplemental income. Pairing up with firefly has benefited me in so many ways. As a single mother it adds a little extra income to make sure that I can be able to take care of my son and pay all my bills in a timely manner. A good example, I applied for Firefly because I needed the extra income since I was on bed rest for 4 months because I had spinal surgery.

I think it's important that Firefly not be banned from L.A. county not only because I receive extra income from them, but because they're helping businesses get noticed more by advertising on their signs. The world today is moving so fast into the future with technology and rideshare, Firefly is definitely big a part of the continuing innovation.

Sincerely,

*Amanda Emerson*

Amanda Emerson



# An Economic Analysis of the Impact of Rooftop Messaging Smart Screens on Taxi and Shared Ride Drivers in the City of Los Angeles

**Greg Autry, PhD<sup>1</sup>**  
Marshall School of Business  
University of Southern California

February 12, 2019

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<sup>1</sup> This report is commissioned by CALinnovates, a technology advocacy coalition. The views expressed are those of the author only, and do not reflect the view of his affiliated institution.

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## Summary

Several cities in the United States, including the City of Los Angeles, recently encountered the phenomena of Rooftop Messaging Smart Screens (RMSS), a digital advertising and civic communications system utilizing roof mounted digital screens on taxi cabs and shared ride vehicles. This paper examines the impact of RMSS on taxi and shared ride drivers in Los Angeles.

Traditional methods of mobile advertising on taxis and other commercial vehicles as well as private cars have long included static signage on trunks, roofs and even full vehicle “wraps.” Digital advertising systems have also been in place inside of taxis for some time. While these methods provide some income to fleet operators or drivers they offered no meaningful value to the cities where the vehicles operated.

I conclude that RMSS promises to upend the traditional paradigm of mobile advertising in a positive way, delivering significantly greater returns to individual drivers and offering a real-time, mobile messaging platform for public entities. Specifically:

**RMSS offers supplemental income for drivers with no capital or additional time requirement.** - *Denying access to RMSS advertising in Los Angeles would reduce the relative income of an already struggling group of workers and reduce their entrepreneurial activities, leaving them at the mercy of Transportation Network Company (TNC) platforms that set fares, driving them further toward poverty.*

**RMSS promises to stimulate the Los Angeles economy.** - *Equipping the Los Angeles taxi fleet with RMSS could stimulate up to \$16 million in primary spending with a significant multiplier effect resulting in secondary economic activity of many tens of millions of dollars. The ride-hailing fleet offers an even larger impact.*

**RMSS offers city agencies real-time public communications to Angelinos with no capital investment or maintenance.** - *While instant communications with Angelinos would be very desirable to a variety of city and other public agencies, including emergency service providers and law-enforcement, deploying and maintaining a massive network for digital signs across Los Angeles would cost tens of millions of dollars.*

**RMSS offers local businesses the best solution for affordable and viably targeted advertising.** - *Denying access to RMSS advertising in Los Angeles would unfairly disenfranchise small and minority-owned firms and sustain one more advantage for their large, non-L.A.-based competitors, shifting revenues and higher paying jobs outside the city.*

### The Difficult Circumstances of Professional Drivers

In a seminal 2006 paper, Blasi and Leavitt detailed the deplorable working situation of Los Angeles taxi drivers.<sup>2</sup> Their study found that the average driver was working 72 hours per week and earning less than \$9 per hour net.<sup>3</sup> A more recent 2018 paper<sup>4</sup> paints a somewhat rosier wage picture of \$14.33 per hour for Los Angeles taxi drivers, approximating the city's minimum wage.<sup>5</sup>

In any case, a large number of these drivers are immigrants and heads of households struggling to establish a life in Los Angeles, put children through school and somehow save for retirement. They are usually working without any benefits beyond those they are legally required to pay for themselves. Blasi and Leavitt report these drivers are most often dependent on federal or state healthcare programs such as medical. It is clear this group of individuals is badly in need of additional income. Specifically, these drivers need revenues from the 56%<sup>6</sup> of their miles driven and hours worked which currently are unpaid.

### A Rare Opportunity for Increased Income

Mobile advertising is nothing new in itself; taxis and other commercial vehicles as well as private cars have long been decorated with fixed advertising signage on trunks, roofs and even full vehicle "wraps." Digital advertising systems have also been in place inside of taxis for some time. While these traditional systems provided some income to fleet operators or drivers they offered no value to the cities.

Among the leaders in the emerging RMSS market, the company Firefly is offering to install its display system on taxis and private shared ride vehicles, such as those associated with Uber and Lyft, at no charge and paying full-time drivers a flat rate that averages \$300 per month. That equates to \$3,600 a year paid directly to the worker, resulting in an instant wage increase of roughly 20% for most drivers.

Such a marginal increase in income results in an immediate higher standard of living for the drivers and their families. Other opportunities for wage increases invariably require monetary and time investments by the workers in education or in equipment. Time and capital are resources drivers are entirely lacking in and such an opportunity is extremely rare for them.

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<sup>2</sup> Blasi, Gary, and Jacqueline Leavitt. "Driving poor: taxi drivers and the regulation of the taxi industry in Los Angeles." *Project funded by the UCLA Institute of Industrial Relation and published in* (2006).

<sup>3</sup> Specifically, Blasi and Leavitt report owner-operator taxi drivers earning an average \$8.63/hr. net of vehicle costs and lease taxi drivers earning an average \$8.46/hr. net of their lease cost.

<sup>4</sup> Hall and Krueger. "An Analysis of the Labor Market for Uber's Driver-Partners in the United States." (2015) [https://s3.amazonaws.com/uber-static/comms/PDF/Uber\\_Driver-Partners\\_Hall\\_Kreuger\\_2015.pdf](https://s3.amazonaws.com/uber-static/comms/PDF/Uber_Driver-Partners_Hall_Kreuger_2015.pdf)

<sup>5</sup> The U.S. Bureau of Labor Statistics (BLS) May 2017 Occupational Employment Statistics (OES) reports an average of \$16.31 per hour for all California taxi drivers. It appears that the Blasi and Leavitt study does a more thorough job of including all operational costs into the net hourly wage figure.

<sup>6</sup> Blasi and Leavitt report from LADOT data that only 43.6% of taxi miles are paid miles.

This income opportunity may be large enough to motivate drivers to eschew residing in jurisdictions where they cannot obtain this extra free income. It would be hard to imagine, for instance, a two-driver family staying in a city that would deny \$7,200 a year for the support of their household. In the greater Los Angeles area, drivers can easily move a few miles across a border and reap that reward in adjacent cities.

#### Surviving in an Increasingly Unaffordable L.A. Housing and Rental Market

The cost of living in Los Angeles has grown increasingly unsustainable for lower income households. According to a study by real estate website Zillow<sup>7</sup>, families in the bottom third of income that own homes must spend 83% of their income on housing, compared to 30.8% for wealthy families in the top third of incomes. The report found even more dire circumstances for low-income Angelenos families that rent their homes in Los Angeles and must pay higher shares of their income on rent than similar families in Philadelphia, New York, Boston, or even San Francisco. In fact, lower-income families would need to spend 121% of their income to afford a typical rent in Los Angeles, even at the bottom third of the rental market. That is the definition of unaffordable housing.

When housing and rent expenses consume such large portions of low-income families' budgets, it leaves little to no room for savings or other safety nets. Preventing these families from earning supplemental income from RMSS would be a grave policy miscalculation for any City intent on improving living conditions for low-income families and seeking to combat increasingly unaffordable housing costs.

Significantly, workers in the lowest income quartile have a very high Marginal Propensity to Consume (MPC). They will spend this additional money and do so rapidly.<sup>8</sup> In fact, analysis of data from the BLS Consumer Expenditure Surveys demonstrates that individuals in the lower four deciles of income, *spend more than they receive in additional income*.<sup>9</sup> A driver earning \$30,000 is in the second U.S. income decile and will spend approximately 140% of any additional income (see Figure 1), creating a multiplier effect. \$3,600 delivered to such an individual will result in \$5,040 in primary economic activity. This means, for example, that given a \$100 bonus, such a worker may be able to take his or her family out for a weekend activity that costs a total of \$140.

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<sup>7</sup> <https://www.zillow.com/research/q2-2018-affordability-21286/>

<sup>8</sup> Carroll, Christopher, et al. "The distribution of wealth and the marginal propensity to consume." *Quantitative Economics* 8.3 (2017): 977-1020.  
<http://www.econ2.jhu.edu/people/ccarroll/papers/cstwMPC.pdf>, last accessed February 9, 2019

<sup>9</sup> Hobijn, Bart, and Alexander Nussbacher. "The simulative effect of redistribution." *FRBSF Economic Letter* 21 (2015). <https://www.frbsf.org/economic-research/publications/economic-letter/2015/june/income-redistribution-policy-economic-stimulus/>, last accessed February 9, 2019

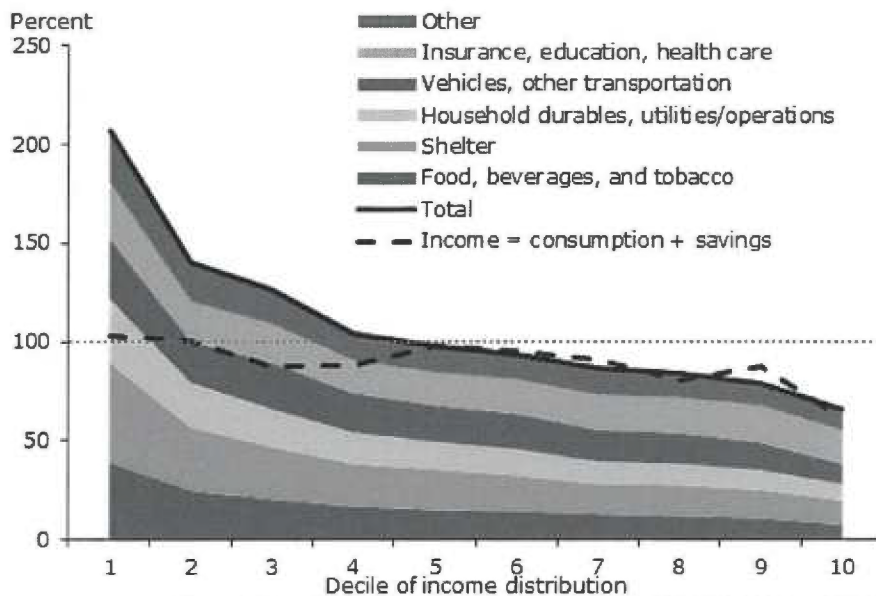


Figure 1 Marginal Propensity to Consume. Source: Federal Reserve Bank of San Francisco

The Los Angeles Department of Transportation (LADOT) report of January 2017 concludes that there are 2,361 taxis in Los Angeles.<sup>10</sup> Equipping each of these with a RMSS unit at the Firefly rate and factoring in the MPC data (above) would deliver almost \$12 million in primary stimulus to the Los Angeles economy annually.<sup>11</sup> As most of this money will be spent at retail, the secondary impact of this stimulus is likely to be subject to a multiplier of 1.4 resulting in a first-year impact of more than \$16 million. This estimate presumes 100% driver participation and should scale proportionally. So, assuming that only 25% of taxis are RMSS equipped in a particular year the primary and secondary stimulus could estimate to be \$4 million.

While exact data on the number of ride-hailing cars operating within the boundaries of the City of Los Angeles is unclear<sup>12</sup>, Uber recently reported they had *added* 12,000 drivers in the “greater Los Angeles area” and were seeking an additional 15,000.<sup>13</sup> It is reasonable to assume there are at least 10,000 such drivers within the city proper, with at least 25% driving full time. Setting the full-time driver population equal to the taxi market suggests a

<sup>10</sup> LADOT, “Los Angeles Taxi Cab Review and Performance Report” (2018) <https://ladot.lacity.org/sites/g/files/wph266/f/Los%20Angeles%20Taxicab%20Review%20and%20Performance%20Report%202017.pdf> , last accessed February 9, 2019

<sup>11</sup> \$300/mo. x 12 = \$3,600/yr. x 140% = \$5,040 x 2,361 cabs = \$11,899,440

<sup>12</sup> Notably an RMSS system would potentially be capable of providing aggregate data to assist in answering this question and the question of how much time vehicles spend in and out of LA proper.

<sup>13</sup> Pasadena Star News, “Uber Looking to Hire 15,000 More LA Area Drivers” (April 17, 2017) <https://www.pasadenastarnews.com/2017/04/17/uber-looking-to-hire-15000-more-la-area-drivers/> , last accessed February 9, 2019



potential maximum stimulus of \$16 million for ride-hailing or \$32 million a year for the combined taxi and ride hailing fleets. I believe this is a conservative estimate, though obviously, it will take some time for the fleets to be so equipped and it is unlikely all full-time drivers will be recruited. It is also possible that competition will increase the payment amounts to drivers. Nonetheless, the conclusion that the driver-side stimulus from a mature RMSS industry in the City of Los Angeles will be in the tens of millions of dollars annually is well-grounded, and this stimulus will indirectly increase tax revenues with no cost to the city.

#### Benefits to Other Local Businesses Owners

Monopolization of advertising, based on scale, is a significant tool that large firms use to leverage their size against small competitors in all markets.<sup>14</sup> Regional and national chain retailers benefit from the current state of mobile advertising which covers a larger area, filled with their outlets. A national fast food chain, gas station or convenience store with locations across the city and region needn't worry about where the ad is at any particular time as it is likely to be in proximity to one of their stores. Even if it is not, the consumer viewing the ad is sure to be near one of their stores in the near future. This barrier to market entry makes is a huge disadvantage to minority owned firms in Los Angeles.

Access to geofencing and location aware advertising allows small businesses to compete against large chains that dominate traditional, untargated advertising. For example, the owner of a small, independent restaurant in South Central LA cannot afford to be running static ads on taxis or busses that spend the vast majority of their time outside of her neighborhood. Nobody seeing their ad at Los Angeles International Airport or cruising around cities beyond Los Angeles is going to take advantage of the little restaurant's nightly special. Similarly, a local corner shop simply cannot afford to make their neighborhood customers aware of their own offerings.

Even local advertisements on bus stops and the like fall short because they are of limited supply and their static nature doesn't allow vendors to adjust. With RMSS when the restaurant is empty, the owner can instantly up the ads and if she fills her tables cut them off so as not to waste expenditures. The geographic and temporal precision of RMSS advertising is the only medium that can level the playing field for these businesses. It offers significant economic value to those businesses most in need of city support.

Locally owned corner shops, restaurants and boutiques are traditionally disadvantaged by the inadequate customer parking in older, crowded strip malls or traditional street front store locations. Their large chain operator competitors are able to leverage their massive advantages in capital to secure prime corner locations and build out and maintain large parking areas. Consequently, in addition to other economic drivers, a greater percentage of

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<sup>14</sup> Lynn, Gary S., et al. "New media in marketing redefine competitive advantage: a comparison of small and large firms." *Journal of Services Marketing* 13.1 (1999): 9-20.  
<https://www.emeraldinsight.com/doi/abs/10.1108/08876049910256041> , last accessed February 9, 2019

their small business customers utilize taxi and rideshare services. Allowing the RMSS industry to subsidize the taxi and ride-hailing operators helps to level the economics of the parking lot for locally owned firms.

Denying access to RMSS advertising in Los Angeles would unfairly disenfranchise small and minority-owned firms and sustain the advantages of their large, chain competitors. This will further accelerate the domination of large, non-LA-based retail chains across the city. These chains export their profits to support staff in out-of-state operational centers, evading Los Angeles' progressive wage and labor regulations. Similarly, these firms maintain their highest value upper management positions in headquarters outside the city. Local firms keep their wages and owner's earnings in Los Angeles.

#### For the City

Instant communications with Angelinos would be very desirable to a variety of city agencies, including emergency service providers and law-enforcement. Deploying a massive network of hundreds of signs across Los Angeles would cost tens of millions of dollars. Maintaining that infrastructure would require millions of dollars annually. RMSS offers a perfect solution.

RMSS providers, like Firefly, are proactively volunteering to support city agencies as well as affiliated non-profits with pro-bono messaging. They are also taking advantage of their real-time updates to participate in publicizing AMBER Alert notifications, which are reliant upon the timely dissemination of information about an abducted child. It's possible to imagine a wide number of scenarios in which transmitting a message *and* images to the public, across the city, would be of significant value.

It is further worth noting that increasing the economic viability of the taxi and ride hailing fleets offers the city significant non-monetary benefits. Los Angeles is globally notorious for its dedication of valuable real estate to parking lots and structures. These asphalt lots and concrete structures are also a visual blight on the city. Taxis and ride-hailing vehicles reduce demand for parking. They also enhance the attractiveness of public transportation by making the last miles commute more practical for many long-distance commuters arriving at Union Station from the Inland Empire, Orange County or the San Gabriel Valley.

#### Conclusion

Implementation of Rooftop Messaging Smart Screens in Los Angeles would improve the lives of some of the hard-working Angelinos at no cost to these lower income residents. These systems would also clearly contribute positively to the local economy, potentially injecting tens of millions of dollars annually, including up to \$16 million in primary spending from equipping the Los Angeles taxi fleet. This contribution will indirectly increase tax revenues with no cost to the city.

The RMSS systems also offer many other positive externalities including improved marketing access for local businesses, reduced demand for parking and help in supporting the point-to-point transportation solutions that local residents and commuters depend on. Meanwhile, prohibiting taxi and rideshare drivers from earning this supplemental income from RMSS, at a time when low-income Angelinos are facing housing and rental that is already unaffordable and getting worse, would be a particularly harmful policy choice for any City officials that otherwise seek to address homelessness and housing affordability.

## Glossary of Terms, Abbreviations and Acronyms

**Geofencing:** A software technology utilizing the global positioning system to ensure that services on mobile devices, such as advertising, are relevant to the specific geographic area in which they operate.

**Marginal Propensity to Consume (MPC):** The marginal propensity to consume (MPC) is the proportion of an aggregate raise in pay that a consumer spends on the consumption of goods and services, as opposed to saving it. In general, lower paid workers spend more of their marginal income, in fact they often spend more than they receive. The MPC is the primary factor in estimating the strength of a multiplier for economic stimulus.

**Rooftop Messaging Smart Screens (RMSS):** a digital advertising and civic communications system utilizing roof mounted digital screens on taxi cabs and shared ride vehicles.

## Memorandum

To: Firefly

From: Gibson, Dunn & Crutcher LLP

Date: February 5, 2019

Re: Analysis of Motion Concerning Firefly Devices by Los Angeles City Councilman Blumenfield

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### I. EXECUTIVE SUMMARY

You have asked us to analyze the legal arguments in a motion that Los Angeles City Councilman Bob Blumenfield presented to the City Council's Transportation Committee on January 29, 2019, requesting that City entities "take enforcement action against persons who operate vehicles" with a Firefly device. *See* Exhibit 1. In particular, the motion asserts that Firefly devices violate the California Vehicle Code, Los Angeles Municipal Code section 87.54, and Los Angeles Municipal Code sections 71.19-71.21. We have concluded that the arguments in Councilman Blumenfield's motion are premised on numerous legal errors, including the following:

- California Vehicle Code section 25400 specifically allows drivers to add lighting equipment and light-emitting accessories to their vehicles, including static and dynamic digital displays, if these displays meet certain requirements. The motion incorrectly asserts that Firefly devices exceed the illumination limit set forth in section 25400. In fact, independent test results demonstrate that the devices comply with the illumination limit.
- Certain provisions of the California Vehicle Code authorizing a pilot program for digital advertising on public buses do not create an inference that such ads are allowed *only* on public buses, as the motion asserts. Those statutory authorizations were enacted because then-existing state law specifically *disallowed* such ads on public buses; no such limitation exists in state law with respect to private passenger vehicles.
- Municipal Code section 87.54, the ordinance governing "mobile billboards" on cars parked or left standing in Los Angeles, does not implicate Firefly devices placed on taxis or TNCs. This ordinance was passed to address the particular nuisance of large billboards attached to vehicles or trailers (a) whose primary purpose is advertising and (b) that are parked for hours or days on end. The City itself has explained in federal court that this ordinance is *limited* to those circumstances—a position that the motion now seeks to contradict. In addition, section 87.54 cannot apply to Firefly devices on



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taxis because their primary purpose is not advertising.

- The motion incorrectly asserts that L.A. Board of Taxicab Commissioners Rule 415(c), which allows rooftop digital advertising on taxis, “is not consistent” with state and local law and therefore should be repealed. To the contrary, neither the California Vehicle Code nor the Municipal Code prohibits digital ads on taxis and therefore Rule 415(c) is entirely consistent with existing law.
- Firefly devices do not violate Municipal Code sections 71.19, 71.20, and 71.21. First, those ordinances do not apply to vehicles operating with Transportation Network Companies like UberX and Lyft. Second, the ordinances do not limit Firefly devices on taxis because (a) those rules, by their own terms, do not prohibit advertising on taxis, and (b) taxis are expressly permitted to display rooftop advertising under Rule 415(c).

This memorandum was prepared at your request to be shared publicly, including with members of the Los Angeles City Council. We at Gibson Dunn understand that you do not intend to waive any privileges or protections applicable to other materials or matters by sharing the memorandum publicly.

## II. BACKGROUND

Firefly is a smart city communications platform that deploys digital screens on the roofs of passenger vehicles operated by taxi drivers and drivers who use their own cars in collaboration with UberX and Lyft, which are Transportation Network Companies (“TNCs”) licensed by the California Public Utilities Commission. Firefly devices are similar to the iconic triangular “toppers” on yellow cabs but they utilize innovative technology to display “situationally aware” advertisements and other messages using LED screens. Firefly’s technology enables Los Angeles taxi and rideshare drivers to supplement their income from transporting passengers while engaging in their regular work routine and without working additional hours.



Councilman Blumenfield’s motion characterizes Firefly displays as “digital billboards” and “dynamic message signs (DMS).” Unlike the mobile billboards on vehicles parked or left standing that are the subject of Municipal Code section 87.54, however, Firefly devices do not run ads when the car is turned off because they are powered by the car battery. In addition, Firefly devices add no additional vehicles on the road, nor do they add additional vehicle miles travelled to existing taxis and rideshare vehicles.

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The motion would have the City Council “request the Department of Transportation and the Los Angeles Police Department to take enforcement action against persons who operate vehicles with attached DMS devices within the City of Los Angeles,” such as a Firefly device.<sup>1</sup> This is based, at least in part, on an assertion in the motion that during a November 2018 meeting, the City Attorney’s Office informed Firefly that installation and operation of its devices in Los Angeles is “illegal under state and City law” and that Firefly is now “[d]isregarding that admonishment.” We understand that Firefly disputes the motion’s characterization of the meeting with Michael Nagle and other staff of the City Attorney’s Office. We understand that the assertion made by Mr. Nagle about the legality of the Firefly device came (1) before Firefly representatives provided key information regarding their technology to the City Attorney’s office and (2) prior to the staff from the City Attorney’s office reviewing Firefly’s independent brightness testing. Moreover, it is well-established that the informal, unwritten opinions of individuals members of a City Attorney’s office are given little to no deference in court. *Yamaha Corp. of Am. v. State Bd. of Equalization*, 19 Cal. 4th 1, 12-13 (1998).<sup>2</sup>

## III. ANALYSIS

### A. The California Vehicle Code Allows Firefly Devices.

#### 1. Section 25400 specifically authorizes vehicles to attach exterior, light-producing devices and nothing in the statute excludes digital or dynamic messaging.

California Vehicle Code § 25400 provides that “[a]ny vehicle may be equipped with a lamp or device on the exterior of the vehicle that emits a diffused nonglaring light of not more than 0.05 candela per square inch of area.” This section imposes four specific limitations on such devices, specifically:

- May not emit light that is brighter than 0.05 candela per square inch of area;
- May not display red to the front, and may not resemble nor be installed within 12 inches or in such position as to interfere with the visibility or effectiveness of any required lamp, reflector, or other device upon the vehicle;
- Must be limited in size to an area of 720 square inches; and

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<sup>1</sup> It bears noting that the motion represents a highly unusual effort to attack a specific company and its lawful activity by legislative decree without affording the target an opportunity to respond before threatening adverse action, consistent with elementary principles of fairness and due process.

<sup>2</sup> A claim of “admonishment” here implies that individual attorneys of the City Attorney’s Office are authorized to issue undocumented verbal commands to private citizens respecting fundamental rights, which not even judges do.

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- When the device is rented or leased, it must be limited to those vehicles operated either primarily within business or residential districts or municipalities, or between business districts, residential districts, and municipalities in close proximity.

So long as a device meets these criteria set forth in Section 25400(a)-(c), under state law the vehicle can be adorned creatively with any sort of light or device that emits light as the driver pleases. Section 25400 is indifferent to whether the authorized lighting is digital or whether the display is static or dynamic.

## **2. Firefly devices satisfy all requirements of Section 25400.**

The Firefly display is at its core a device attached to the roof of a passenger vehicle that emits diffuse, non-glaring light through LED panels. These devices are capable of displaying static or dynamic messages or advertisements within the applicable illumination limit. Notwithstanding claims in the motion, we understand Firefly's devices are fully compliant with each of the requirements of Section 25400 as explained below.

1. Firefly engaged independent professional engineers to perform testing of the devices, using advanced equipment and software, to ensure that the device's level of brightness will fall within the limit imposed by section 25400. This engineering study demonstrates that Firefly devices do not exceed the illumination limit.
2. The LED panels on the Firefly device measure 32 inches by 12 inches for a total of 384 square inches. This is well below the 720 square inch threshold.
3. The Firefly device emits no red light, or any light for that matter, to the front of the vehicle.
4. The Firefly device does not resemble and is not installed within 12 inches of or in a position that interferes with, any other required lights on the vehicle.
5. Firefly installs the device only on taxis and full-time CPUC-licensed TNC vehicles that operate "either primarily within business or residential districts or municipalities, or between business districts, residential districts, and municipalities in close proximity."

Therefore, Firefly devices satisfy all requirements of Section 25400.

### **a. Firefly offered compliance documentation to the City Attorney's Office**

We understand that Firefly shared the engineering study demonstrating that its devices meet the illumination limit during its November 2018 meeting with the City Attorney's office. We believe Firefly has made an exceptional effort to proactively test and verify its compliance with the Vehicle Code's brightness limitations.

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- b. The motion provides no documentation of CHP's determination about Firefly's devices and the City refused to perform of its own inspection

The motion asserts that the California Highway Patrol has “determined” that Firefly’s devices are “not in compliance” with Vehicle Code section § 25400. It also states that the devices exceed the brightness limitation of Section 25400 as measured in candelas per square inch. The motion offers no support for this purported CHP determination, however, nor does it explain by what method a brightness analysis, if any, was performed.

Subsequently, it is our understanding that a taxi driver requested that the Los Angeles Department of Transportation inspect an installed Firefly device on their taxi, as required by L.A. Board of Taxicab Commissioners Rule 415(c), which allows rooftop digital advertising on taxis. However, we are informed that staff in the City Attorney’s Office prevented LADOT from proceeding with its inspection of the Firefly device, denying LADOT the ability to determine for itself whether or not the device meets all applicable state and local requirements.

- c. Section 25400 does not explicitly authorize particular device types

In addition to not specifically referencing digital or dynamic messaging displays, the Vehicle Code does not specifically provide that static taxi-topper lighted advertising displays are permitted under Section 25400. Yet many cities across California, including the City of Los Angeles, point to Section 25400 as one of the requirements for a taxi to be allowed to display rooftop advertising in their jurisdiction. In fact, the City of Los Angeles has regulated, inspected, and approved rooftop-mounted advertising signs on taxis since at least the 1990s under L.A. Board of Taxicab Commissioners Rule 415(c) as long as the displays have met the requirements of Section 25400.

Section 25400 specifically lists neither static advertising light devices nor digital or dynamic advertising displays—and need not do so to authorize them, because both types are permitted when they are devices on the exterior of a vehicle that emit diffuse, non-glaring light that does not exceed 0.05 candela per square inch of area. The fact that digital and dynamic message signs did not exist at the time that Section 25400 was adopted does not mean that the statute’s broad permission can be read to exclude the technologies of today. *Ni v. Slocum*, 196 Cal. App. 4th 1636, 1652 (2011) (recognizing that “new technologies can comply with old statutes”); *Sony Corp. of Am. v. Universal City Studios, Inc.*, 464 U.S. 417, 456 (1984).



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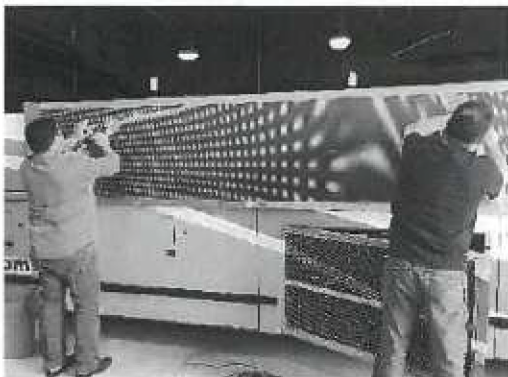
Dozens of other Vehicle Code provisions demonstrate that, in fact, thousands of types of illuminating accessories are allowed under the Vehicle Code. Distinct statutes govern fog lights, spotlights, loading lights, flood lights, light bars, running lights, fender lamps, etc. Section 25400 is essentially a catch-all permission for any light-emitting fixture installable on a vehicle as long as the device meets the brightness, size, and other criteria.<sup>3</sup> The Vehicle Code does not prohibit digital displays.



**3. Statutes authorizing digital advertising pilot program on public buses do not limit advertising on *private* passenger vehicles.**

The motion erroneously asserts that digital advertisements are permitted “only” with respect to certain public bus systems. No California statute expressly establishes such a restriction and the motion does not claim otherwise.

Beginning in 2011, the State Legislature authorized certain public bus systems to display digital ads on their sides. The motion apparently takes this to imply that *only* buses can display digital advertising. This is wrong. The Legislature acted because public buses had been specifically *disallowed* from displaying such ads, and the legislation to allow such ads said nothing about digital advertisements outside the context of public buses.



The development of the statutes at issue shows this. From 1959 on, buses were only permitted to have strip-like green lights, to backlight identification or destination information. Cal. Vehicle Code § 25350. In 2006, a statute permitted buses to display this same information (“directly related to public transit service”), except *digitally*. Cal. Vehicle Code § 25353. Then, in 2011, the Legislature decided to let certain public buses run digital *advertisements*. Cal. Vehicle Code §§ 25353.2 & 25354 [repealed].

A new law was enacted in 2011—not because these statutes, for the first time in California history, authorized digital advertisement on any and all

<sup>3</sup> Two appeals courts already have warned state officials not to read the Vehicle Code’s lighting laws too narrowly. In these cases, state court judges rebuked police for illegally stopping individuals based on purportedly unauthorized lights on their cars—in one case, because of supposedly unlawful blue lights on a hood; in another, because of a purple neon light on the front plate. Both courts found that Section 25400 authorized the lights at issue. See *People v. Jacinto*, No. G032220, 2004 WL 1426982, at \*4 (Cal. Ct. App. June 25, 2004); *People v. Hernandez*, 110 Cal. App. 4th Supp. 1, 2-3 (2003).

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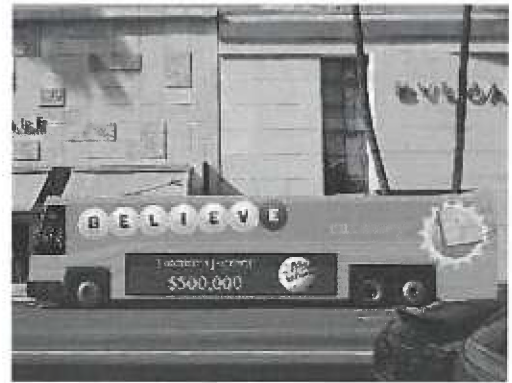
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vehicles, but because such ads on public buses had been specifically forbidden. General principles of statutory construction forbid a law in one context being read to impliedly create dramatic legal changes in separate contexts. *California Redevelopment Assn. v. Matosantos*, 53 Cal. 4th 231, 260-61 (2011) (quotation marks and bracket omitted) (“It would be unusual in the extreme...to adopt such a fundamental change only by way of implication.... [D]rafters of legislation do not, one might say, hide elephants in mouseholes”); *California Chamber of Commerce v. State Air Res. Bd.*, 10 Cal. App. 5th 604, 625 (Ct. App. 2017) (“We are not persuaded the Legislature would have silently, or at best obscurely, decided so important and controversial a public policy matter”); *Covarrubias v. Cohen*, 3 Cal. App. 5th 1229, 1238 (Ct. App. 2016).

The 2011 legislation authorizing digital ads on public buses also was necessary because, under then-existing law, illuminations allowed on buses could not exceed 720 square inches. California law now allows far bigger digital ads on certain public buses through the pilot program, of up to 4,464 square inches—or *15.5 x 2 feet*.

The Legislature was rightfully concerned about the safety of digital ads on public buses because the ads would be more than six times larger than the displays authorized by section 25400; they would be placed directly at the eye level of other drivers on the road; they would not be limited in their brightness; and they would expose state and local authorities to potential liability. As a result, the statutory authorization is styled as a pilot program and is fairly prescriptive. The material fact is that the Legislature nevertheless chose to *authorize* digital public bus ads—and acknowledged that such ads are “now utilized by the transit systems in New York and Chicago, and other cities across the nation are considering implementing this option.” A.B. 607, c. 529 § 1(d) (2011) (amending Cal. Veh. Code § 375).<sup>4</sup> The Antelope Valley Transportation Authority has stated that the California Highway Patrol “supported” the program.<sup>5</sup>



<sup>4</sup> There is no presumption that new vehicle technology is unlawful unless expressly approved by the State. In fact, the Vehicle Code, most of which as presently codified, dates from the 1950s, is one long story of the Legislature updating the law to catch up to and reflect advancing technology. A typical provision, for instance, will only apply to “vehicles manufactured after January 1, 1969.” Cal. Veh. Code § 24600.

<sup>5</sup> Antelope Valley Transit Authority, Digital Bus Advertising (2015), <https://caltransit.org/cta/assets/File/2015%20Fall%20Conference/Presentation%20Files/MKTG-Stretching%20-%20Williams.pdf>.

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In short, legislation authorizing digital advertising pilot programs on public buses does not support an inference about digital ads in contexts *other than* public buses, and the statute does not limit advertising on *private* passenger vehicles.

**B. Municipal Code Section 87.54 Does Not Apply to Taxis or TNCs with Firefly Devices.**

The motion asserts that Firefly devices fail to comply with Municipal Code section 87.54, the ordinance governing “motorized mobile billboards” on cars parked or left standing in Los Angeles.<sup>6</sup> Section 87.54 implements the City’s authority under California Vehicle Code section 21100(p).

Vehicle Code section 21100 enumerates certain rules a city may adopt to regulate advertising on vehicles and, in subdivision (p), specifically authorizes a city to regulate advertising signs on vehicles parked or left standing upon a public street. Importantly, with respect to vehicular traffic rules, where state law does carve out authorization for local regulation, such as in Section 21100, that authorization must be “strictly construed.” *Rumford v. City of Berkeley*, 31 Cal. 3d 545, 550 (1982). Section 21100(p) specifically authorizes that, “The ordinance or resolution may establish a minimum distance that the advertising sign shall be moved after a specified time period.” Furthermore, a city’s power to regulate an activity in this area of law does not include the power to prohibit the activity unless the statute expressly provides for prohibition. *Barajas v. City of Anaheim*, 15 Cal. App. 4th 1808, 1814, 1817 (1993). Section 21100(p) does not extend to moving vehicles, nor does it authorize a city to prohibit the regulated activity.

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<sup>6</sup> This ordinance states in pertinent part: “A motor vehicle may contain advertising signs that are painted directly upon or are permanently affixed to the body of, an integral part of, or fixture of a motor vehicle for permanent decoration, identification, or display and that do not extend beyond the overall length, width, or height of the vehicle.” This provision applies only to “motor vehicles parked or left standing on city streets,” as the title of the ordinance states.

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**1. The primary purpose of vehicles upon which Firefly devices are installed is not advertising.**

Municipal Code section 87.54 was passed to address the particular nuisance of large billboards attached to vehicles or trailers (a) whose primary purpose is advertising and (b) that are parked for hours or days on end. According to the State Legislature, section 87.54 was intended to regulate a very specific problem: “portable advertising signs on vehicles or trailers [that] are driven to a location where they are detached and parked on city streets for hours, and often several days.”<sup>7</sup> Such large mobile billboards were deemed nuisances because they could block drivers’ vision and traffic, create blight, and swallow up parking spaces. The City itself has explained that the ordinance is *limited* to those circumstances—a position that the motion now seeks to contradict by applying the ordinance to moving vehicles.



The City Attorney confirmed in a 2013 federal court filing that Section 87.54 was enacted as a “tool to be used against *these types* of...signs.”<sup>8</sup> Firefly devices are entirely different from the problematic large mobile billboards addressed by Section 87.54, such as the “Streetblimp” pictured here, the only purpose of which is advertising. Instead, Firefly devices are modern-technology versions of the taxi rooftop displays that have been familiar to Americans for decades, and which are attached to vehicles whose primary purpose is local transportation. In addition, section 87.54 cannot apply to Firefly devices on taxis because their primary purpose is not advertising.<sup>9</sup>

Section 87.54 was not intended to cover the momentary stops made by drivers in the normal course of picking up and dropping off passengers. Vehicles doing so are not “parked

<sup>7</sup> A.B. 2756, c. 615, § 1(a) (2010) (adopting mobile billboard laws); Cal. Veh. Code § 395.5 (defining “mobile billboard advertising display”).

<sup>8</sup> Def. City of Los Angeles’ Mem. of P. & A. in Opp’n to Pl. Sami Ammari’s Mot. for Summ. J., *Lone Star Sec. & Video, Inc. v. City of Los Angeles*, No. 12-cv-04644, 2013 WL 12303890 (C.D. Cal. Nov. 18, 2013) [hereinafter “City of Los Angeles Memorandum”].

<sup>9</sup> Even if Section 87.54 could be construed to apply to taxis, TNCs or other vehicles generally operating with non-advertising primary purposes, the ordinance still would have no bearing on the vast majority of operations of vehicles that carry the devices. Section 87.54, as the motion acknowledges, applies only to vehicles that are “parked or left standing.” In Vehicle Code § 21100(p), the Legislature chose to allow local rules only with regard to “advertising signs on motor vehicles parked or left standing upon a public street.” The vehicles of drivers providing transportation services—*e.g.*, drivers who use the UberX and Lyft app—are, of course, mostly in motion.

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or left standing.” State law specifically excludes being “actually engaged in loading or unloading” passengers from the definition of “parking.”<sup>10</sup> The Legislature itself explained that A.B. 2756 (2010), the anti-mobile billboard statute, was aimed at billboards “parked on city streets *for hours, and often several days*.”<sup>11</sup> The concern was large billboards essentially deposited at a curb, not the far smaller advertisements that appear on vehicles engaged in lawful transportation activity.

Brief pick-ups and drop-offs, do not come within the purview of the anti-mobile-billboard ordinance because the statute authorizing the ordinance is concerned with parking or standing for *durations* well in excess of brief pick-ups or drop-offs. The City itself conceded, in its brief in *Ammari v. City of Los Angeles*, 988 F. Supp. 2d 1139, 1142 (C.D. Cal. 2013), a case involving a challenge to the anti-mobile board law, that the problem with mobile billboards is that they are “left standing on the City streets for an extended amount of time”—a phrase used three times in the brief and relied on by the district court in its decision. The City cannot claim that any stop, however brief, is within the ordinance’s purview.<sup>12</sup>

## **2. The motion contradicts the City Attorney’s position on Section 87.54.**

The position on the scope of section 87.54 reflected in the motion contradicts the City Attorney’s prior position and the Office’s representations to the U.S. District Court for the Central District of California.

Specifically, in 2013, in the *Ammari* case noted above, the City Attorney defended section 87.54 against a First Amendment challenge.<sup>13</sup> The plaintiff claimed that section 87.54 illegally barred *all* advertising by any vehicle stopped or parked in Los Angeles. In defeating the plaintiff’s motion for summary judgment, the City Attorney confirmed to Judge Wright that section 87.54 “distinguish[ed] between vehicles whose primary purpose is advertising and those that have a different primary purpose, *such as carrying passengers*.”<sup>14</sup>

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<sup>10</sup> Cal. Vehicle Code § 463.

<sup>11</sup> A.B. 2756 § 1(a) (2010).

<sup>12</sup> See 2013 WL 12303890 (C.D. Cal.); *Lone Star Sec. & Video, Inc. v. City of Los Angeles*, 989 F. Supp. 2d 981, 986 (C.D. Cal. 2013), *aff’d*, 827 F.3d 1192 (9th Cir. 2016) (“vehicles and trailers carrying mobile billboards were being parked on city streets for long periods of time, sometimes for several days”).

<sup>13</sup> *Ammari v. City of Los Angeles*, 988 F. Supp. 2d 1139, 1142 (C.D. Cal. 2013), *aff’d sub nom. Lone Star Sec. & Video, Inc. v. City of Los Angeles*, 827 F.3d 1192 (9th Cir. 2016).

<sup>14</sup> City of Los Angeles Memorandum, 2013 WL 12303890 (C.D. Cal. Nov. 18, 2013) (citing *Lone Star Sec. & Video, Inc. v. City of Los Angeles*, 520 F. App’x 505, 506 (9th Cir. 2013)) (emphasis added).

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The primary purpose of the taxi drivers whose cars are equipped with Firefly devices is, of course, driving and carrying passengers—not advertising. Indeed, the City Attorney emphasized this when the Office reiterated that section 87.54 governs only those vehicles “left parked on the streets *for extended amounts of time solely for the purpose of advertising*.”<sup>15</sup> Those vehicles, the City Attorney declared, are the ones that “create a public safety risk, create blight and diminish the availability of on street parking for its residents and the business community.”<sup>16</sup> Councilman Blumenfield himself wrote in a 2013 motion that Los Angeles was authorized under section 87.54 to regulate only advertising on cars (1) “parked or left standing” and (2) whose “primary purpose is advertising.” See Exhibit 2.

The motion at issue would contradict these well-established positions of the City Attorney’s Office about the application of section 87.54—positions upon which Firefly relied in good faith. The suggestion that this ordinance can now be re-interpreted to apply to vehicles that advertise (1) while driving and (2) whose primary purpose is providing transportation reveals a legally unsound basis for proposing a dramatic new policy change. Among other things, under the new interpretation, potentially every Los Angeles taxicab would be subject to impoundment and drivers subject to punishment simply for having the required taxi top light that reads “TAXI” or “VACANT.”

## **C. Taxi Rule 415(c) Is Consistent With State And Local Law.**

The motion incorrectly concludes that L.A. Board of Taxicab Commissioners Rule 415(c), which allows rooftop digital advertising on taxis, “is not consistent with current state and City law and should be repealed.” To the contrary, neither the California Vehicle Code nor the Municipal Code prohibits digital ads on taxis and Rule 415(c) is entirely consistent with existing law, as explained below.

The motion appears to repeat a similar argument that the City Attorney’s Office recently offered to the Taxicab Commission and that the Commissioners quickly rejected. At the Commission meeting, we are informed that Mr. Nagle claimed that Section 21100(p) of the Vehicle Code necessitated the repeal of Rule 415(c) because, he asserted, it prohibited advertisement signs that extend beyond the height of the vehicle.

In fact, Section 21100(p)(1) states only that, “Local authorities may adopt rules and regulations by ordinance or resolution regarding all of the following matters: ...Regulating advertising signs on motor vehicles parked or left standing upon a public street. The ordinance or resolution may establish a minimum distance that the advertising sign shall be moved after a specified time period.” We understand that when Commissioners pushed back on Mr. Nagle’s position and pointed out that Section 21100 merely gives local authorities the

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<sup>15</sup> *Id.* (emphasis added).

<sup>16</sup> *Id.*

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option to regulate signs on parked vehicles by setting limits on the minimum distance and time within they must be moved, the City Attorney's Office abandoned the position.

The motion also implies that Rule 415(c) is not consistent with Los Angeles Municipal Code sections 71.19, 71.20, and 71.21 (discussed further below). However, Rule 415(c) applies to taxis and expressly permits taxis to display advertising on the roof of the vehicle; Rule 415(c) puts Section 71.21 into practice. Given that sections 71.19 and 71.20 only specify that certain types of signs are required or allowed (instead of imposing any *prohibitions* on types of signs), Rule 415(c) and this section are entirely consistent.

Similarly, Municipal Code section 87.54 does not apply to standard taxi rooftop ads, as the City Attorney itself asserted in its legal brief.<sup>17</sup> Taken together these observations make clear that there is no reason that Rule 415(c) must be repealed due to inconsistency with either state or local law. The attempt to repeal Rule 415(c) on this basis is not required by law, and therefore would amount to a significant policy change. This would have the result, we understand, of removing a source of supplemental income for taxi drivers at a time when competition from new technology companies has reduced taxi trips in Los Angeles dramatically.<sup>18</sup> This matter first should be considered by the Board of Taxicab Commissioners.

#### **D. Municipal Code sections 71.19, 71.20, and 71.21 are inapplicable.**

The motion also asserts that Firefly displays violate Municipal Code sections 71.19, 71.20, and 71.21. These are inapplicable. They appear under the City's code section for *public transportation*—taxis, public buses, ambulances, and “automobiles-for-hire” like black cars or limousines. The automobile-for-hire designation does not include UberX and Lyft, which are regulated at the state level by the California Public Utilities Commission (as Transportation Network Companies, or TNCs). TNCs like UberX and Lyft, as relevant here, are generally not subject to regulation by Los Angeles at the municipal level.<sup>19</sup>

As independent reasons for their non-application here, Section 71.19 says only that automobiles-for-hire “may” display a “for hire” sign and that sightseeing buses “may”

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<sup>17</sup> City of Los Angeles Memorandum, 2013 WL 12303890 (C.D. Cal. Nov. 18, 2013).

<sup>18</sup> Since Uber and Lyft launched in Los Angeles in around 2013, taxi trips have fallen by more than 30 percent. Laura J. Nelson, “Uber and Lyft have devastated L.A.'s taxi industry, city records show,” *Los Angeles Times*, Apr. 14, 2016, available at <https://www.latimes.com/local/lanow/la-me-ln-uber-lyft-taxis-la-20160413-story.html>.

<sup>19</sup> See, e.g., Pub. Util. Comm'n of Cal., *Decision Adopting Rules and Regulations to Protect Public Safety While Allowing New Entrants to the Transportation Industry* (Sept. 19, 2013), <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M077/K192/77192335.PDF>; San Francisco County Transp. Auth., *The TNC Regulatory Landscape* (Dec. 2017), [https://www.sfcta.org/sites/default/files/content/Planning/TNCs/TNC\\_regulatory\\_020218.pdf](https://www.sfcta.org/sites/default/files/content/Planning/TNCs/TNC_regulatory_020218.pdf), at 2.

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display the words “sightseeing bus.” These consumer-protection provisions say nothing about advertising more generally (or *any* regulation of signs other than those specified). Section 71.20 requires *taxicabs* to display their rates and, on their outsides, the taxicab owner’s name, and authorizes “identification” or “vacant” signs; again, there is nothing about advertising (or, again, any regulation of signs other than those specified).

Finally, Section 71.21 provides that all other signs require Board permission. Taxis are expressly permitted to display rooftop advertising under existing Taxicab Commission rules. Specifically, Rule 415(c) of the L.A. Board of Taxicab Commissioners provides that taxicabs “may display commercial advertising in or on the taxicab,” and specifically authorizes “mounted advertising” on the “roof or trunk” so long as it meets the “requirements of CVC25400.”

#### IV. CONCLUSION

For the reasons discussed above, there are significant flaws in the legal arguments in the motion by Los Angeles City Councilman Bob Blumenfield requesting that City entities “take enforcement action against persons who operate vehicles” with a Firefly device. Firefly devices comply with applicable requirements of the California Vehicle Code and the Los Angeles Municipal Code, and there is no basis for concluding that L.A. Board of Taxicab Commissioners Rule 415(c) “is not consistent” with state and local law.



# Los Angeles Daily News

## A proposal to ban rooftop advertising will harm L.A.'s taxi drivers

By Andrey Minosyan, *President of the Independent Taxi Owners Association*  
PUBLISHED: February 11, 2019 at 1:02 pm

Over the last few years, I have witnessed firsthand the challenges our industry has faced in an increasingly competitive market. I've been in the room for the conversations with taxi leaders and city officials regarding new innovations that would directly benefit taxi drivers. One such innovation is digital rooftop advertising which will benefit both taxi drivers and customers.

The benefit for taxi drivers is that the company will directly pay drivers who agree to have these new smart devices on the taxis without requiring any extra time on the road. This immediately provides extra income to drivers without impacting customers or working longer hours.

This is why we are surprised about the recent proposal by City Councilmember Bob Blumenfield that would repeal Taxicab Board rule 415(c) and effectively ban rooftop advertising on all taxi and rideshare vehicles, removing a much-needed, viable income opportunity for taxi drivers already struggling to compete and survive. There is no basis for this Motion, and no studies which would support depriving taxi drivers of this additional source of income.

I have been told about a poll released this week of Los Angeles voters commissioned by CALInnovates found that a majority of voters oppose banning digital rooftop advertising for taxi drivers or any policy that may negatively affect the ability of taxi drivers to earn income. Additionally, I was told that about two-thirds of Angelenos surveyed said they want the Los Angeles City Council and the Taxi Commission to help taxi drivers earn more money without raising prices for customers.

This survey as disclosed to me was heartening to me as it demonstrates that our community supports taxi drivers and the service we provide.

We are focused on competing with rideshare services and that includes providing new opportunities that benefit our drivers.

The proposal pending at City Council would directly harm taxi drivers by eliminating an opportunity to earn an additional \$300 a month. This is no small sum, and would allow our independent drivers to better compete in a crowded market, providing extra money to pay for rising fuel costs and to help support themselves and their families.

The motion is based upon an allegation that digital rooftop advertising signs are not in full compliance with state regulations. LA taxis have had digital rooftop ads in the past and they were all approved by LADOT as part of the regular inspection process. Nothing has changed in the vehicle code since these approvals.

Councilmember Blumenfield's proposed motion is a major departure from the support and encouragement we have received from city officials in the past, and would be a critical blow to our industry's survival.

*To read more:* <https://www.dailynews.com/2019/02/11/a-proposal-to-ban-rooftop-advertising-will-harm-l-a-s-taxi-drivers/>