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LAWA ADA ACCESS ADVISORY COMMITTEE

Report and Recommendation Re Granting Uber Authorization to Pick-Up

Travelers at Los Angeles International Airport and Ontario Airport

May 20, 2015

INTRODUCTION

In early January 2015 LAWA's ADA Access Coordinator, Larry Rolon, passed a request from LAWA management (Management) on to the ADA Advisory Committee (Committee) requesting the Committee to determine the extent of concern within the disability community regarding Uber providing transportation services to the public at LAWA airports. That request also contained some guidance on the nature of the information sought which included: 1) how the company (Uber) complies with 49 CFR 37 (transportation services for individuals with disabilities); 2) the level of disability related training Uber drivers receive; 3) Uber policies on transporting service animals; 4) in vehicles capable of transporting persons in wheelchairs, the extent of training of drivers for securing wheelchairs and the extent of inspection to ensure properly functioning equipment; 5) how disability related complaints are addressed; 6) the nature of disability requests received and the outcome of those complaints; 7) and, any other pertinent information. The Committee's responses to most of these questions follow as well as additional information. Some of the issues raised by Management could not be determined.

The Committee organized a public hearing inviting Uber, community members with disabilities and organizations that represent or assist persons with disabilities. The initial hearing

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was held on January 21, 2015. A transcript of the oral proceedings is available. Because the Committee believed the turnout for the first hearing was not well attended by persons with disabilities, the Committee scheduled a second hearing on February 18, 2015, and redoubled efforts to get information to persons with disabilities requesting the attendance and participation. The February 18 hearing was better attended. A transcript of the oral proceedings at the second hearing is available. Uber attended both hearings with multiple representatives and provided some information to Committee members. Prior to the public hearings, Uber was provided a copy of the topics upon which Management wants information.

UBER'S PRESENTATION

Uber's presentations focused on describing its service and defining its view of the relationship with its authorized drivers. Essentially, Uber contends that its authorized drivers are independent contractors.¹ Uber contends that it is not a transportation provider, but rather, it provides electronic links to connect a potential rider with a driver using his or her own vehicle and it acts as a payment service. It contends it has an overall company policy that prohibits discrimination of any kind including discrimination against persons with disabilities. It claims it communicates its anti-discrimination policy against persons with disabilities and other disability related standards to new drivers when they apply to be Uber drivers. Uber sends its policy to new drivers by email. Uber cannot verify whether a driver reads and understands the policy. Apparently, Uber sends similar communications to the drivers quarterly, again with no

¹. After the hearings concluded, at least one news article indicated that Uber and some of its drivers or former drivers are actively engaged in litigation concerning the status of drivers as Uber employees or independent contractors. The Committee is not aware whether the courts have yet decided this issue.

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verification that the drivers read or understand the information. There is no additional training on what any of Uber's non-discrimination policies mean and how they are applied in any given situation. Uber drivers are not generally trained on how to tie-down a wheelchair for transportation. As discussed below, there may be a limited number of vehicles with tie-down capabilities and drivers that have the knowledge as to how to tie-down a wheelchair and secure its occupant for transport.

New drivers are background checked by a third-party contractor for Uber. These checks are not done annually. Apparently, Uber has no on-going background information after the initial screening unless an incident occurs that leads to a suspension or cancellation of the driver's license. Uber claims that all vehicles used by its drivers are safety checked initially, but there are no subsequent safety inspections. Uber drivers are required to have minimum California driving insurance. Through orders from the California Public Utilities Commission, Uber is required to have a \$1,000,000 insurance coverage in addition to that of its driver's.

At both hearings Uber spent a good deal of time addressing what it claims are programs to encourage and enhance the transportation experience of persons with disabilities. Uber contends that it has two programs to assist persons with disabilities one called UberWAV and the other named UberASSIST.

UberWAV consists of using "non-emergency medical" transportation vehicles to transport wheelchair users. These vehicles are usually mini-vans or full-size vans. Uber claims it has 10 of these vehicles available within the City of Los Angeles. Uber admits it has no similar vehicles to serve Ontario Airport. This service, it claims, is available in Los Angeles,

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San Diego, San Francisco and five other communities outside of California. Non-emergency medical transportation vehicles are generally used to transport mobility-limited, non-driving persons from their residence to hospitals, clinics and medical offices for appointments. The cost when used in this fashion is usually billed to medical insurance, perhaps with a co-pay. Most of these vehicles are emblazoned with “Non-Emergency Medical Transportation” or some similar description on the sides and sometimes the front and rear of the vehicles. No information was provided as to how many Uber patrons with disabilities have been transported generally or specifically for drop-off at LAX utilizing UberWAV.² Apparently, this service cannot be used to transport persons with disabilities to or from Ontario Airport. Committee members generally expressed discomfort with UberWAV because it had only a small number of vehicles available compared to the geographic area served by LAWA and because the fares are closer to what these services bill insurance companies for their service and are very high and not at all comparable to other Uber fares. There is serious concern that those riders needing van transportation cannot afford to use the service at all. Due to costs, UberWAV may not be a viable transportation option for persons with disabilities. Additionally, no information was provided to explain what Uber would do if all 10 special vehicles were already engaged in trips to or from medical facilities.

The UberASSIST program is, according to Uber representatives, intended to train some Uber drivers in how to assist senior citizens and other persons with disabilities into a vehicle and teach the driver to stow any equipment such as walkers, folding wheelchairs, etc. The assistance

². One person with a mobility disability complained, essentially, about the stigma attached to using vehicles identified as non-emergency medical transport for non-medical transportation.

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may also include guiding a blind person to a vehicle and assisting them to enter it. According to Uber's representatives, it is available in four cities including San Diego, but not Los Angeles County or anywhere in the Inland Empire. Uber asserts that UberASSIST will be available in Los Angeles within six months from the first public hearing (June 2015). It is important to note that when and if the program starts, Uber does not intend to train all of its drivers in assistance techniques. Uber admits that in other areas, only approximately 20% of its drivers opt-in for training for UberASSIST.

COMMENTS BY PERSONS WITH DISABILITIES

The largest support for approving Uber to pick up passengers at LAWA airports came from persons with vision impairments or those who advocate for them, with one exception. An email from Mitch Pomerantz, a vision impaired individual who uses a guide dog, and who is the former ADA Coordinator for the City of Los Angeles, adamantly opposed authorizing Uber to pick up at the airport. One person with a disability who uses a wheelchair for mobility enthusiastically endorsed Uber airport service, admitting that he has never used Uber. Another person with a disability and wheelchair user expressed great concern over the cost of the UberWAV service and its affordability for persons with disabilities. The public comments lead to the conclusion that Uber service is supported generally by persons with vision impairments and the opinion of persons who are mobility impaired wheelchair users is divided.

PRELIMINARY COMMENTS BY ADVISORY COMMITTEE MEMBERS

At the conclusion of the hearings, the Chair requested preliminary opinions from committee members to help in drafting this report. Overall, the support for Uber to obtain

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permission to pick up fares at the airports was ambivalent. The concerns of the committee members centered on the following: the cost of Uber and particularly UberWAV; training of drivers in ADA compliance and how to serve individuals with disabilities day to day; wait time for persons with disabilities; the lack of complaint tracking; vehicle safety; adequacy of insurance coverage; the inadequacy of on-going criminal background checks after the initial background check; and, the lack of universal driver training on how to assist persons with disabilities.

CONCLUSIONS SPECIFIC TO MANAGEMENT'S CONCERNS

As noted at the beginning of this report, Management listed specific areas of concern for the Committee to consider, the following responds to these concerns based upon the facts known and disclosed during the public hearings:

- *How Uber complies with 49 CFR 37 (transportation services for individuals with disabilities):* This is essentially a legal question beyond the scope of the Committee's expertise. It should be directed to the City Attorney based upon the facts stated in this report and those contained in the transcripts of the public hearings.
- *Level of disabilities related training Uber's drivers receives:* In the best light, the training on ADA compliance for drivers and disability civil rights is minimal. The Committee believes it is far below the levels of training generally accepted by LAWA for any other vendors. In as much as Uber believes it has no obligation to train its independent contractor drivers other than sending the initial email to a new driver with a similar email sent quarterly. It may be problematic for LAWA to impose a greater

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training requirement, unless LAWA under takes responsibility to train the individual drivers.

- *Policies on Service Animals:* Uber’s representatives consistently stated that any discrimination against riders with service animals is against corporate policy and any offending driver will be terminated from the program. Nevertheless, there is ongoing litigation in California over discrimination by Uber drivers regarding service animals. The LAWA ADA Coordinator can supply additional information to Management on the pending litigation.
- *If a vehicle is capable of securing a person in a wheelchair, how is proficiency inspected and maintained:* Uber did not provide any information about accessible vehicles with tie-down capabilities owned by its independent contractor drivers. Uber did inform the Committee that the UberWAV program uses non-emergency medical transport vehicles specifically to transport individuals in their wheelchairs and have tie-down capabilities. Uber stated that training of drivers for tie-down proficiency is the responsibility of the owner of the non-emergency medical transport vehicles as an independent contractor.
- *How are disability related complaints handled and what kind of disability related complaints have they received, and how were they addressed:* Uber claims that complaints regarding service or treatment of disabled riders receive the highest priority. Uber claims that it can follow the complaints and produce a computer report but failed to provide one to the Committee. Uber apparently does not generate reports to follow complaints and outcomes, although it has the capability to do so.

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OTHER CONSIDERATIONS BEYOND THE SCOPE OF THE TASK ASSIGNED THE COMMITTEE

- The Committee recommends that Management seek legal advice on its ability to enter into an enforceable agreement with Uber that can control the conduct of Uber's independent contractor drivers.
- Consider the impact of Uber's inability to provide accessible ride service for persons with disabilities at Ontario Airport.
- Consider how Uber plans to provide equal access for persons with disabilities when the vehicle sent in response to a rider call cannot accommodate the individual, a service animal or the rider's equipment.

Respectfully submitted,

LAWA ADA Access Advisory Committee

By

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Chairperson