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TO PARTIES OF RECORD IN RULEMAKING 12-12-011:

This is the proposed decision of Commissioner Matthew Baker. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's December 5, 2024 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ MICHELLE COOKE
Michelle Cooke
Chief Administrative Law Judge

MLC:hma
Attachment

Decision (**PROPOSED DECISION OF COMMISSIONER BAKER MAILED
10/30/2024**)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 12-12-011

**PROPOSED DECISION ADOPTING BACKGROUND CHECK
REQUIREMENTS FOR TRANSPORTATION NETWORK COMPANY DRIVERS
WHO TRANSPORT AN UNACCOMPANIED MINOR, AND ADOPTING
MONITORING AND REPORTING REQUIREMENTS**

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**PROPOSED DECISION ADOPTING BACKGROUND CHECK
REQUIREMENTS FOR TRANSPORTATION NETWORK COMPANY DRIVERS
WHO TRANSPORT AN UNACCOMPANIED MINOR, AND ADOPTING
MONITORING AND REPORTING REQUIREMENTS**

Summary

This decision requires any Transportation Network Company (TNC) driver who wishes to be eligible to transport an unaccompanied minor in California to pass the fingerprint-based background check requirements previously adopted in Decision 97-07-063, and any additional background checks that the TNC may wish to administer.

Each TNC whose drivers intend to transport unaccompanied minors in California must file an informational Advice Letter describing how the TNC implements live trip tracking accessible by parents and/or guardians; the safety procedures at pickup and drop-off locations; and how the TNC implements driver training on issues specific to transporting an unaccompanied minor. Each TNC shall maintain current insurance requirements for trips transporting unaccompanied minors.

In their Annual Reports, each TNC shall specify if the ride reported on, involved the transport of an unaccompanied minor.

Commission staff will monitor the above requirements, as well as incident and annual data reporting requirements for trips involving unaccompanied minors to determine whether staff should impose additional background and reporting requirements in the future.

This proceeding remains open.

1. Background

1.1. Factual Background

As part of its regulatory authority, the Commission has established the types of background checks required for transportation providers whose services include the transport of minors. In 1995, the Commission opened Rulemaking 95-08-002 to address how to regulate a new market niche form of passenger state corporations (PSCs) that specialized in the common carriage of infants and children, along with parents, guardians and child-care providers accompanying the infants and children. Decision (D.) 97-07-063 (a/k/a the TrustLine Decision) adopted rules for specialized PSC carriers whose operations “primarily concern, or specialize in, the transportation of unaccompanied infants and children.” The Commission ordered those specialized PSC carriers primarily transporting unaccompanied infants and children to have their drivers, and others in physical contact with the infant and children passengers, fingerprinted and undergo a criminal background check through the California Department of Justice’s TrustLine Unit.¹ D.97-07-063 did not define the word “primarily” but that was not a concern at the time since the PSC providers (known as Infant and Child Common Carriers or “kids’ shuttles”) specialized in the transport of children. The TrustLine Decision acknowledged that some of the carriers may also be “engaging in chartered youth bus operations,” although there is no indication if

¹ The California Legislature established the TrustLine Registry in 1993 as a tool for parents seeking a way to review and verify caregivers’ backgrounds for their children. Administered by the California Department of Social Services and the California Child Care Resource and Referral Network, TrustLine is a database of individuals who provide child care and have cleared background checks in California. (See www.trustline.org/.) The core components of TrustLine are (1) access to and searches of state and federal criminal databases not accessible to the general public; (2) provision of information to the public about the TrustLine status of an individual through a toll-free number; and (3) maintenance and continual updating of the list of TrustLine registered individuals. (Health and Safety Code §1596.62.)

the youths were exclusively minors or over the age of 18.² For our purposes, the record in the TrustLine Decision appears to deal with transport services for passengers who are infants or minors. The Commission did not have to address whether the TrustLine background check protocol should apply to transportation providers who offered its services equally to both adults and children or primarily to adults and, to a lesser extent, to minors.

1.2. Procedural Background

Fifteen years after the TrustLine Decision, the Commission asserted its regulatory authority over another new mode of transportation service offered by Transportation Network Companies (TNCs). TNCs provide passenger transportation services by way of an online-enabled application or platform to connect passengers with drivers. That assertion of authority, over TNCs, now includes the need for the Commission to address (1) what the TrustLine Decision meant by “primarily” when a TNC provides transportation services to both adults and unaccompanied children; and/or (2) whether the word “primarily” is surplusage such that any TNC driver who transports an unaccompanied minor (*i.e.* a person under the age of 18 who is being transported while unaccompanied by either a parent or a custodial adult) must undergo a TrustLine background regardless of the percentage breakdown of the variety of transportation services that the TNC provides.

On December 20, 2012, the Commission opened the instant rulemaking to adopt safety, regulatory, and reporting rules for TNCs. While the larger companies such as Lyft and Uber targeted its transportation services to adults,

² D.97-07-063 at 3, fn. 3.

the Commission learned that there were some smaller TNCs who wanted to specialize in providing transportation services to minors.³

On April 28, 2015, the Assigned Commissioner and Administrative Law Judge issued their *Ruling Amending the Scoping Memo and Ruling for Phase II of Proceeding* and included the following issue within the scope of the proceeding: “Should the Commission require that all TNCs transporting unaccompanied minors comply with the requirements set forth in D.97-07-063?”⁴

On October 26, 2015, the Assigned Commissioner and Administrative Law Judge issued their *Ruling Requesting Comment on the Appropriate Background Check Requirements for Transportation Network Company Drivers who Transport Unaccompanied Minors* and invited the parties to comment on the following questions:

1. Should the California Public Utilities Commission (Commission) require that any TNC intending to retain drivers to transport unaccompanied minors ensure that each driver successfully completes the TrustLine Registry application and the Live Scan request forms in order to become a driver for that TNC?
2. Does the TrustLine Registry process provide sufficient background check information? Explain your response.
3. Should the Commission allow any TNC, who intends to retain drivers to transport unaccompanied minors, perform a background check protocol for each driver that is

³ As a result, the Commission issues two different TNC permits. If a TNC is only transporting adults it receives a TNC Permit. If the TNC is only transporting unaccompanied minors, it receives a TNC-K Permit which contains the following instruction: ‘Said Carrier shall comply with the requirement that TNCs which primarily transport unaccompanied minors must comply, at a minimum, with the background check requirements articulated by the Commission in D.97-07-063 to use the TrustLine Registry for their drivers.’ (See TNC-K Permit specimen.)

⁴ *Ruling* at 4, ¶G.

different from the TrustLine Registry process? [subparts omitted]

4. Should the Commission permit all licensed transportation entities, including TNCs, TCPs, and PSCs, that transport unaccompanied minors, to select between TrustLine and a second background check protocol, if the Commission determines that a second protocol is sufficient to meet the Commission's requirements?

The Greater California Livery Association, San Francisco Taxi Workers Alliance, San Francisco Municipal Transportation Agency, San Francisco International Airport, HopSkipDrive, Shuddle, and Lyft filed comments.

On April 26, 2016, the Commission issued Decision (D.)16-04-041, *Decision on Phase II Issues and Reserving Additional Issues for Resolution in Phase III*. Therein the Commission acknowledged the "gray area that we must address concerns those TNCs whose operations are not exclusively devoted to the transportation of unaccompanied minors. As D.97-07-063 did not define the word 'primarily,' there is some uncertainty as to how much or what percentage of a TNC's business must involve transporting unaccompanied minors before it is considered a TNC operation that 'primarily' transports unaccompanied minors for the background requirements of D.97-07-063 to be triggered."⁵ But the Commission opted not to define "primarily" and instead ordered that the TrustLine Decision background check requirements will be applicable to TNCs who primarily transport minors and instructed the Assigned Commissioner to place some parameters on the term "primarily."⁶

Similarly, on November 13, 2017, the Commission issued D.17-11-010, *Decision on Phase III.B. Issue: Criminal Background Checks for Transportation Network*

⁵ D.16-04-041 at 27.

⁶ *Id.*, and 57, Ordering Paragraph 6.

Company Drivers. D.17-11-010 ordered that TNCs must conduct background checks for TNC drivers consistent with Pub. Util. Code §5445.2 (which codified Assembly Bill 1289⁷) along with additional requirements that the Legislature left up to the Commission to adopt. D.17-11-010 declined to “require a TNC that does not primarily transport minors to conduct a biometric (*i.e.*, the use of a person’s physical characteristics and other traits) background check of a TNC driver.)”⁸

The scoping memos issued after D.16-04-041 and D.17-11-010 continued to include the question within the scope of the proceeding of the necessary background checks for drivers who transport minors. (*See Phase III.B. Scoping Memo and Ruling* (April 7, 2017) at 2 [“Background check requirements that should be applicable to TNCs”] and 7 [“Requirements that should be applicable to TNCs concerning the incidental transportation of minors”]; *Amended Phase III.B. Scoping Memo and Ruling* (June 12, 2017) at 2 and 8; *Phase III.C. Scoping Memo and Ruling* (April 27, 2018) at 2-3; *Amended Phase III.C. Scoping Memo and Ruling* (October 25, 2019) at 6; and *Third Amended Phase III.C. Scoping Memo and Ruling* (December 09, 2021) at 9, Section 3.6, ¶3 [Transportation of Minors] [“Should TNCs that don’t primarily transport minors be required to allow only drivers who have been certified by TrustLine to transport minors when authorized by legal guardians? What other requirement should be applied to these drivers or these rides?”].)

1.3. Recent Developments

Prior to D.16-04-041’s adoption, Uber Technologies, Inc. (Uber) represented to the Commission that it was not in the business of transporting

⁷ Stats. 2016, Ch. 740.

⁸ D.17-11-010 at 3.

minors as Uber's policies prohibited minors from using its service. (See Uber's 2016 Plan regarding Unaccompanied Minors.) However, Uber's position changed in the fall of 2023 when Uber launched its teen accounts (a/k/a Uber Teens) transportation service in jurisdictions outside of California. As a result, Uber and the Commission's Consumer Protection and Enforcement Division (CPED) engaged in a series of discussions and communications where it became apparent that there was uncertainty over the meaning of the term "primarily" which would need to be resolved by the Commission.

Thereafter, on February 29, 2024, Uber launched Uber Teens in California, which provided TNC transport to unaccompanied minors, from the ages of 13-17, with various monitoring and safety measures in place. This new business venture prompted CPED to send a warning letter to Uber in which it "strongly recommend[ed] that Uber discontinue providing trips to unaccompanied minors until the pending motion has been resolved in the R.12-12-011 proceeding or the Commission has otherwise clarified the rules." On March 14, 2024, Uber filed its "*Motion Requesting an Assigned Commissioner's Ruling to Establish the Threshold for 'Primarily' Transporting Unaccompanied Minors.*" (*Motion.*) Uber asserts that while its TNC business does not primarily concern, or specialize in, the transportation of unaccompanied infants and children, given the small fraction of trips that transporting unaccompanied minors represents on Uber's platform, a formally established threshold will ensure the TNC industry will know when, if ever, the percentage of a TNC's business might reach that threshold. The *Motion* also summarized the discussions between Uber and CPED regarding Uber's plans to launch a service for unaccompanied teens.⁹

⁹ *Motion* at 3-5, citing to letter from Terra Curtis, CPED Interim Director to Jane Lee, Uber (January 5, 2024), and letter from Terra Curtis to Ashley Fillmore, Uber (February 16, 2024).

On June 7, 2024, the Assigned Commissioner issued his *Ruling Requesting Comments on Uber Technologies, Inc.'s Request to Establish the Threshold for Primarily Transporting Unaccompanied Minors* and invited the parties to answer a series of questions regarding Uber's proposed service for teens. The parties were invited to address the following topics:

- background check requirements for TNC drivers
- additional safety protocols;
- insurance requirements;
- parental controls;
- data reporting requirements
- background check costs.

Uber, HopSkipDrive, and SEIU Locals filed opening and reply comments on June 28, 2024, and July 12, 2024, respectively.

1.4. Submission

The submission date for the appropriate background check for unaccompanied minors was July 12, 2024, when reply comments were filed.

2. Background Checks

2.1. Ruling and Comments

The *Ruling* posed the following questions on background checks:

- In addition to TrustLine, are there other background check providers that offer equivalent services (i.e., checking applicants against FBI fingerprint records, the California DOJ's Criminal History System, and the Child Abuse Central Index of California)?
- List and describe any measures that involve establishing the safety and trustworthiness of drivers. Do the measures have comparable outcomes to that of a TrustLine background check? Provide an explanation.

- What new or additional background check or other safety provisions should the CPUC require to ensure the safety of any unaccompanied minor using a TNC to travel?

2.1.1. Party Comments

Uber argues that its background checking process is more comprehensive than TrustLine.¹⁰ Uber claims it checks motor vehicle records and criminal history annually and continuously monitors for what it terms “disqualifying criminal offenses.”¹¹ Uber argues that this approach is better than a one-off fingerprint check for the following reasons:

- The background check that Uber uses relies on the driver’s full name, date of birth, Social Security Number, and driver’s license number, checking various databases.¹² Uber argues that fingerprinting is unnecessary because Uber’s background check searches many of the same databases in addition to other databases TrustLine does not check.¹³
- Uber argues that fingerprint databases are unreliable.¹⁴
- Drivers who have “certain allegations of interpersonal incidents” are disqualified for driving for Uber Teens.¹⁵

HopSkipDrive argues that TrustLine is the most comprehensive option for fingerprint-based background checks, but there could be some alternative fingerprint-based background check process or combination of checks that would be equivalent. For example, HopSkipDrive claims that there are

¹⁰ Uber *Comments* at 2-11.

¹¹ *Id.*, at 3.

¹² *Id.*, at 3-4.

¹³ *Id.*, at 11.

¹⁴ *Id.*, at 8-10.

¹⁵ *Id.*, at 7.

alternatives to background checks that query the FBI and California Department of Justice's records. But HopSkipDrive does not know of any alternatives to TrustLine to access the California Department of Justice's Child Abuse Central Index (CACI). As such, HopSkipDrive recommends the Commission continue to mandate the use of TrustLine for the transportation of unaccompanied minors.¹⁶ If the Commission intends to add any additional background check requirements, HopSkipDrive suggests that they should apply to any TNC that transports unaccompanied minors.

Next, HopSkipDrive describes its own standards for drivers, which includes five years of caregiving experience, and urges the Commission to implement a requirement that any TNC driver transporting unaccompanied minors must have five years of caregiving experience.¹⁷ HopSkipDrive proposes that TNC drivers should meet the following criteria as part of their background check:

- Drivers should undergo fingerprint-based background checks against the FBI and California Department of Justice databases and should either be checked against CACI or attest that they have never been registered in CACI.¹⁸
- Drivers should be trained in the issues associated with transporting unaccompanied minors.¹⁹

HopSkipDrive also proposes the following additional safety procedures:

- A pickup safety procedure should be implemented by TNCs. This procedure should include the following: ride schedulers must be able to designate a requirement that

¹⁶ HopSkipDrive Comments at 5.

¹⁷ *Id.*, at 6-7.

¹⁸ *Id.*, at 10.

¹⁹ *Id.*

minors be met by a designated adult at drop-off; the ability for guardians and/or ride schedulers to view the trip in real-time; minors should not be able to schedule rides for themselves; and TNCs should apply stricter requirements to name based background checks.²⁰

SEIU Locals argued that only entities solely dedicated to transporting unaccompanied minors should be permitted to transport unaccompanied minors. Specifically, SEIU Locals do not trust Uber to act safely, citing an alleged track record of Uber putting the company's interests before those of drivers and a "long string of ongoing sexual assault lawsuits against Uber" that SEIU Locals argues demonstrates Uber is not able to keep drivers and riders safe.²¹

2.1.2. Reply Comments

Uber reasserts that fingerprint-based background checks should not be required to transport unaccompanied minors.²² Uber argues that fingerprint-based background checks are not comprehensive.²³ Uber states that it agrees with HopSkipDrive on the availability of alternatives to TrustLine and that there could be alternatives to CACI-based background checks.²⁴ Uber attests that it has measures in place to prevent those who have been convicted of child abuse from being allowed to transport unaccompanied minors.²⁵

HopSkipDrive argues that Uber misrepresents TrustLine as a "static" database and that fingerprint-based background checks should be required in

²⁰ *Id.*

²¹ SEIU Comments at 3.

²² Uber Reply at 3-5.

²³ *Id.*, at 3-4.

²⁴ *Id.*, at 4.

²⁵ *Id.*, at 5.

addition to a name-based background check.²⁶ HopSkipDrive argues that “the use of both name- and fingerprint-based background check systems provides the most comprehensive and safe solution to protect unaccompanied minor passengers,”²⁷ citing fingerprint-based background checks as being more accurate and TrustLine providing updates on arrests and convictions that occur after the background check is processed.

HopSkipDrive also argues that Uber fails to provide any alternative to TrustLine’s checks that are not reliant on fingerprints, especially CACI.²⁸ HopSkipDrive disagrees with Uber’s position that TrustLine is redundant and thus unnecessary, arguing that the safety and assurance provided by TrustLine compared to other background check procedures outweighs the redundancy.²⁹

SEIU Locals agree with HopSkipDrive that any TNC transporting unaccompanied minors should be subject to heightened background checks for those services.³⁰

2.2. Discussion

We must first determine if the Commission can, or if it is even necessary for its regulatory purposes, to define the word “primarily” in determining whether the TrustLine background check requirements should be applied to any TNC driver who transports an unaccompanied minor. In undertaking this task, we must remember that the TrustLine Decision used the word “primarily” while discussing businesses that were exclusively engaged in the transport of infants

²⁶ HopSkipDrive Reply at 1-4.

²⁷ *Id.*, at 2.

²⁸ *Id.*, at 4-5.

²⁹ *Id.*

³⁰ SEIU Locals Reply at 3.

and children. In that context, the word “primarily” has no useful meaning or direction because that was the only service in which the “Infant and Child Common Carriers” were engaged. The TrustLine Decision could just as easily have omitted the word “primarily,” and the holding of the decision would have been the same – *i.e.*, drivers who transport unaccompanied minors must undergo a TrustLine background check. As such, the word “primarily” is redundant or surplusage to the phrase “concern, or specialize in, the transportation of unaccompanied infants and children.”

Another reason for disregarding the word “primarily” is that it is impossible to define in the context of a TNC that provides transportation services to both unaccompanied minors and adults. “Primarily” is commonly understood to mean “for the most part or mainly.”³¹ Uber has been providing transportation services exclusively to adults, as required by Commission law, until it began to offer its Uber Teens transportation service in the fall of 2023 outside of California. When a TNC like Uber offers transportation service to both adults and minors, many potential options for how to determine if Uber is a TNC that is “primarily” transporting minors? For example:

- Do we look at all of Uber’s operations and take the number of overall rides provided on a yearly, monthly, weekly, or daily basis in all of its California service territories and then divide that number by the various service categories and then calculate what percentage of the rides are provided to unaccompanied minors?
- If less than 50% of Uber’s total rides provided are to unaccompanied minors, is the “primarily” threshold met?
- Would a sliding scale be employed so that if the percentage of rides provided to unaccompanied minors was less than 1% then the definition of primarily would not be met, whereas if the

³¹ www.merriam-webster.com “

unaccompanied minor rides total around 40% of the overall rides provided would that amount be considered “primarily”?

- Must the total number of rides for unaccompanied minors be greater than 50% of the total rides provided to be considered “primarily”?

This final approach is Uber’s recommendation,³² and it has a simplistic numerical appeal.

But to adopt Uber’s suggestion overlooks the reason why California has adopted heightened background check requirements when a service is provided to unaccompanied minors. When an adult is being tasked to provide a service to a minor, the adult is placed in a position of trust, responsibility, and control over California’s most vulnerable citizenry – children. Not conducting a fingerprint-based background check to identify adults with disqualifying arrests or criminal records would place the unaccompanied minor in a potentially dangerous, if not life-threatening situation. That is why California Assembly Bill 506,³³ codified as Section 18975 of the Business and Professions Code, requiring that administrators, employees, or regular volunteers of youth service organizations undergo a background check that includes fingerprinting. While the impetus for the legislation involved organizations such as the Catholic Church and the Boy Scouts of America,³⁴ the concern over the need to screen via fingerprint background check to protect minors applies equally here when a TNC wishes to utilize an adult driver to transport an unaccompanied minor – the safety of the unaccompanied minor is of paramount importance. As such, Uber’s suggestion that “primarily” be tied to a numerical percentage would be contrary to

³² See Uber’s *Motion* at 3, fn 7, citing to Rev. & Tax. Code § 6477.1(b)(5); Labor Code § 515(e); and Bus. & Proc. Code § 22949.85(a)(6).

³³ Stats. 2021, Ch. 169.

³⁴ See Concurrence in Senate Amendments AB 506 (Gonzalez) as amended June 28, 2021

California's strong public policy for requiring fingerprint-based background checks before permitting an adult to provide a service to an unaccompanied minor.

In sum, while it was aspirational on our part to think that the word "primarily" could be defined by understandable and workable parameters, as noted, *supra*, the TrustLine Decision could just as easily have omitted the word "primarily" and the holding of the decision would have been the same — *i.e.*, drivers who transport unaccompanied minors must undergo a TrustLine background check. We conclude that the better regulatory and safety approach is that if a TNC driver intends to transport an unaccompanied minor, that TNC driver must undergo a criminal background check such as TrustLine that includes fingerprinting.

In reaching this conclusion, the Commission does not dispute that Uber's current background check process checks a larger number of databases than TrustLine. But that fact does not constitute a convincing argument for why fingerprinting should be excluded from the background check requirements for transporting minors. In short, even though it is possible that fingerprinting may largely overlap with other background check methods, we agree with HopSkipDrive that a specialized background check process is necessary to transport unaccompanied minors and that TrustLine is the best available provider of background checks for this need.

Having dispensed with the need to define 'primarily,' we must next determine which background-checking services beyond TrustLine (such as CACI or Checkr) should be used. The Commission acknowledges that Uber's Checkr background check for all drivers searches more databases than are searched in TrustLine, whether a potential driver is listed on one of "several databases used

to flag suspected terrorists” (one of the examples Uber uses to describe the utility of their background check provider, Checkr) is not germane to this subject. On the other hand, Checkr does search databases which include lists of sex offenders. Uber argues that these databases would make TrustLine’s access to CACI redundant, but Uber’s comments do not provide data that make it sufficiently clear whether these databases are truly equal or superior. In reply comments, Uber argues that it already can prevent convicted child abusers from driving on the platform. However, CACI collects data on those who have been convicted as well as those who are a suspect in a substantiated³⁵ report of child abuse, and it is unclear if Checkr has the legal permission to collect or access this same information.³⁶ This is important because not all cases of child abuse result in convictions and the risk produced by a potential TNC driver who is a suspect in a substantiated report of child abuse harming a child is too great to ignore.

Thus, Uber’s background check process for transporting adults is insufficient for protecting more vulnerable unaccompanied minors due to the

³⁵ Section B, block 2. The finding that allegations of child abuse or severe neglect are not unfounded is.

SUBSTANTIATED – Defined by Penal Code section 11165.12(b) to mean circumstances where the evidence makes it more likely than not that child abuse or neglect, as defined, occurred.

INCONCLUSIVE – Defined by Penal Code section 11165.12(c) to mean circumstances where child abuse or neglect are determined not to be unfounded, as defined, but the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect, as defined, has occurred.

https://oag.ca.gov/sites/all/files/agweb/pdfs/childabuse/OAL_approval_final_text.pdf

³⁶ “The information in the CACI is available to aid law enforcement investigations, prosecutions, and to provide notification of new child abuse investigation reports involving the same suspects and/or victims. Information also is provided to designated social welfare agencies to help screen applicants for licensing or employment in child care facilities and foster homes, and to aid in background checks for other possible child placements, and adoptions. Dissemination of CACI information is restricted and controlled by statute.” [Child Abuse Central Index | State of California - Department of Justice - Office of the Attorney General](#)

lack of access to a check of CACI. Moreover, the Commission is not in a position to judge and approve or disapprove the multiple background check processes of each TNC. For these reasons, mandating a single background check provider inclusive of the CACI check is needed.

The public interest requires a fingerprint-based TrustLine background check for any TNC driver who wishes to be eligible to transport unaccompanied minors in California. A TNC may conduct additional background checks through either Checkr, CACI, or any other licensed agency specializing in conducting background checks. With this conclusion, Uber's *Motion* is deemed moot and is denied.

3. Additional Safety Protocols

3.1. Ruling and Comments

The *Ruling* posed the following questions on additional safety protocols:

- What safety protocols and measures do TNCs that transport minors implement in place of or in addition to TrustLine background checks, if any?
- List and describe any alternate or additional safety protocols and measures that do not pertain to establishing the safety and trustworthiness of drivers (e.g., in-app tools parents can use to monitor their children's rides/usage). How was the need for these measures established? How are they implemented?

3.1.1. Opening Comments

Uber claims to have a variety of in-app features that monitor each unaccompanied minor trip and protect minors during the trip through the use of live tracking, with alerts if the trip goes off course, the ability to call the driver's

phone, Uber's Safety Line, or 911 from the Uber app by both teens and guardians, PIN verification, and audio recordings of the trip.³⁷

HopSkipDrive describes their driver training, safety procedures for pickup and drop-off, and real-time ride tracking, and suggests such measures should be required for any TNC that transports unaccompanied minors.³⁸

SEIU argues that drivers who opt-in for Uber Teens should be provided dash cams or other recording devices at no cost. Additionally, SEIU suggests that the CPUC implement a "comprehensive Know Your Rights training to all [Uber Teens] drivers ... administered by a driver advocacy group."³⁹

3.1.2. Reply Comments

Uber argues that their driver screening process is similar to HopSkipDrive's 15-point certification process and agrees with HopSkipDrive that caregiving experience should not be a universal requirement, arguing that such a requirement is appropriate for younger children, not teenagers 13 and older.⁴⁰ Uber agrees with HopSkipDrive about the need for substantial training for drivers of unaccompanied minors and states that it has substantial training available for drivers⁴¹ Uber also agrees with HopSkipDrive that trip tracking features are useful, but does not specifically agree that they should be mandated.⁴²

³⁷ Uber Comments at 10-13.

³⁸ HopSkipDrive Comments at 9.

³⁹ SEIU Locals Comments at 4.

⁴⁰ Uber Reply at 5.

⁴¹ *Id.*, at 5-6.

⁴² *Id.*, at 7-8.

Uber neither agrees nor disagrees with SEIU's suggestion that TNCs should be required to provide dashcams to all drivers transporting unaccompanied minors, instead highlighting that Uber has a feature that allows drivers to record video and audio of their trips with their smartphone.⁴³

HopSkipDrive argues that Uber's list of safety features represents an admission that the transportation of unaccompanied minors requires a high level of safety precautions and that Uber's services for minors should be subject to the same regulations as HopSkipDrive.⁴⁴

SEIU reasserts that drivers should be provided with appropriate training and recording devices "to transport minors safely and to protect themselves from liability or harm."⁴⁵

3.2. Discussion

The Commission agrees with HopSkipDrive that real-time ride tracking and safety procedures for pickup and drop-off should be mandated for trips transporting unaccompanied minors, and every TNC driver who is designated to transport an unaccompanied minor must be trained in these newly implemented protocols. For example, and at a minimum, during the pickup process there must be a method in place to ensure an unaccompanied minor is entering the correct vehicle, such as a unique verifying code that the TNC driver must confirm before commencing the ride. The TNC driver must also have the month and day of an unaccompanied minor's birthday which the unaccompanied minor must confirm before the ride can commence. And during the drop-off process, there must be a feature in place so that the TNC driver knows if the unaccompanied minor must

⁴³ *Id.*, at 10-11.

⁴⁴ HopSkipDrive Reply at 5-6.

⁴⁵ SEIU Locals at 3.

be met by a responsible parent or custodial adult at the drop-off location. Finally, TNCs must provide a form of real-time ride tracking to an unaccompanied minor's parents or custodial adult so that they can monitor the initiation and completion of the ride. Taken together, these protocols will help to ensure that the unaccompanied minors are being picked up and dropped off in as safe a manner as possible. Each TNC must advise the Commission of these new tracking and safety procedures via Tier 1 Advice Letter within 30 days of the adoption of the decision and annually thereafter.

With these new tracking and safety procedures for trips involving unaccompanied minors, we shall require each TNC to monitor and collect data for incidents involving complaints of assault and or harassment,⁴⁶ or any other safety-related incident arising from the transport of an unaccompanied minor. These incidents shall be reported to Commission staff via the Annual Report template that Commission staff shall provide. The Commission believes that a monitoring approach allows TNCs to innovate and evolve their safety practices while setting an expectation of transparency and oversight. If concerning trends

⁴⁶ The data dictionary accompanying the template form gives the following examples of conduct that can constitute an assault or harassment: "Argument, Assault, Attempted robbery, Attempted to physically remove passenger, Discrimination, Discrimination harassment, Entered passenger's home, Fight, General harassment, Homophobic comments, Inappropriate comments, Injured by driver, Interaction with law enforcement, Made passenger uncomfortable, Physical assault, Racist comments, Refused to end ride, Road rage, Spit at passenger, Threats, Threw item at passenger, Urinated in front of passenger, Verbal harassment, Attempted kissing - non-sexual body part, Attempted kissing - sexual body part, Attempted non-consensual sexual penetration, Attempted sexual assault, Attempted touching - non-sexual body part, Attempted touching - sexual body part, Indecent photography/videography without consent, Masturbation / indecent exposure, Non-consensual kissing - non-sexual body part, Non-consensual kissing - sexual body part, Non-consensual sexual penetration, Non-consensual touching - non-sexual body part, Non-consensual touching - sexual body part, Physical sexual assault, Physical stalking, Sexist comments, Sexual assault, Sexual harassment, Solicited sexual act, Unwanted advances, Unwanted touching, Verbal sexual harassment, Verbal threat of sexual assault."

or incidents emerge, the Commission's staff can develop and implement additional safety requirements.

Finally, within six months from the adoption of this decision, Commission staff shall audit (either in person or via data request) each TNC providing unaccompanied minor transport to ensure that drivers have been trained in the new pickup and drop-off procedures, that the pickup and drop-off protocols have been complied with, and that the parents or custodial adults of an unaccompanied minor were able to track the unaccompanied minor's ride.

Uber's reply comments highlight that some safety protocols may be appropriate for young children and inappropriate for older children, like restricting minors from booking rides and designating responsible adults at drop-off locations. While the Commission generally agrees with this sentiment, insufficient evidence has been presented to set safety requirements based on the specific age of an unaccompanied minor (*e.g.*, a 17-year-old vs a 13-year-old).

Based on the comments received, the Commission orders the following additional requirements and safety protocols:

- Each TNC shall adopt and implement real-time tracking and safety procedures for pickup and drop-off for trips that transport unaccompanied minors. Each TNC shall advise the Commission of these newly adopted tracking and safety procedures via an information filing with Commission staff within 30 days from the adoption of this decision.
- With these newly adopted tracking and safety procedures, Commission staff shall monitor each TNC via 1) informational filings from TNCs regarding broad categories of safety protocols, 2) analyzing trends in TNC annual reporting data relevant to complaints of assaults and or harassments,⁴⁷ or any other safety-related incident

⁴⁷ See definition of assaults and harassments, *supra*, at footnote 46.

- arising from the transport of an unaccompanied minor. As needed, the Commission's staff can develop and implement additional safety requirements.
- TNCs that offer services to unaccompanied minors must submit informational filings within 30 days of the adoption of this decision and annually thereafter via Tier 1 Advice Letter that:
 - Describes how they provide a form of real-time ride tracking to an unaccompanied minor's parents or custodial adults so that they can accurately track the initiation and completion of that unaccompanied minor's transport;
 - Describes how they implement safety procedures for the pickup of unaccompanied minors so that the minors know that they are entering the correct vehicle;
 - Describes how they implement safety procedures for the drop-off of unaccompanied minors so that the drivers know if the unaccompanied minor will be met at the destination spot by the minor's parent or custodial adult; and
 - Describes how they provide drivers with training on the transport of unaccompanied minors, including the understanding of the pickup and drop-off procedures.
 - Within six months from the adoption of this decision, Commission staff shall audit (either in person or via data request) each TNC providing unaccompanied minor transport to ensure that drivers have been trained in the new pickup and drop-off procedures, that the pickup and drop-off protocols have been complied with, and that the parents or custodial adults of an unaccompanied minor were able to track the unaccompanied minor's ride.

4. Insurance

The *Ruling* asked whether current TNC insurance requirements are adequate for the transport of unaccompanied minors. The current insurance requirements are as follows:

Period 1: App open - waiting for a match.

- Period 1 - TNCs shall provide primary insurance in the amount of at least fifty thousand dollars (\$50,000) for death and personal injury per person, one hundred thousand dollars (\$100,000) for death and personal injury per incident, and thirty thousand dollars (\$30,000) for property damage. TNCs may satisfy this requirement through: (a) TNC insurance maintained by the driver; (b) TNC insurance maintained by the TNC that provides coverage if a driver does not maintain the required TNC insurance, or if the driver's TNC insurance ceases to exist or is cancelled; or (c) a combination of (a) and (b).
- TNCs shall also maintain insurance coverage that provides excess coverage insuring the TNC and the driver in the amount of at least two hundred thousand dollars (\$200,000) per occurrence to cover any liability arising from a participating driver using a vehicle in connection with a TNC's online-enabled application or platform. TNCs may satisfy this requirement through: (a) TNC insurance maintained by the driver, if the TNC verifies that the driver's TNC insurance covers the driver's use of a vehicle for TNC services; (b) TNC insurance maintained by the TNC; or (c) a combination of (a) and (b).

Period 2: Match accepted - but passenger not yet picked up (i.e. driver is on his/her way to pick up the passenger).

Period 3: Passenger in the vehicle and until the passenger exits the vehicle.

- For periods 2 and 3, TNCs must provide primary commercial insurance in the amount of one million dollars (\$1,000,000). TNCs may satisfy this requirement through: (a) TNC insurance maintained by the driver, if the TNC

- verifies that the driver's TNC insurance covers the driver's use of a vehicle for TNC services; (b) TNC insurance maintained by the TNC; or (c) a combination of (a) and (b).
- Period 3 - TNCs shall also provide uninsured motorist coverage and underinsured motorist coverage in the amount of one million dollars (\$1,000,000) during Period 3 (i.e., from the moment a passenger enters the vehicle until the passenger exits the vehicle). TNCs may satisfy this requirement through: (a) TNC insurance maintained by the driver, if the TNC verifies that the driver's TNC insurance covers the driver's use of a vehicle for TNC services; (b) TNC insurance maintained by the TNC; or (c) a combination of (a) and (b). The policy may also provide this coverage during any other time period, if requested by a participating driver relative to insurance maintained by the driver.⁴⁸

Uber argues that the passenger's age has no bearing on the level of insurance that should be mandated and that TNC liability insurance requirements are already higher than most vehicles that transport teens on a daily basis (*e.g.*, private vehicles, taxis, etc.).⁴⁹

HopSkipDrive argues that California's TNC insurance requirements are already high, and that an increase would disproportionately and negatively impact smaller TNCs like HopSkipDrive. HopSkipDrive believes the current TNC insurance requirements are suitable.⁵⁰

In Reply Comments, Uber agrees with HopSkipDrive that current insurance requirements are sufficient for transporting unaccompanied minors.⁵¹

⁴⁸ Pub. Util. Code § 5433, and General Order 115-G.

⁴⁹ Uber Comments at 13-15.

⁵⁰ HopSkipDrive Comments at 9.

⁵¹ Uber Reply at 8-9.

Neither HopSkipDrive nor SEIU submitted reply comments on the issue of insurance for transporting unaccompanied minors.

The record supports that there is no need make changes to the current TNC insurance requirements.

5. Parental Control

5.1. Ruling and Comments

The *Ruling* queried the parental/guardian role in ensuring their child's safe use of an unaccompanied minor transportation service and whether a parent(s)/guardian(s) would be notified of their child using the service.

5.1.1. Opening Comments

Uber states that parents and guardians must set up accounts for their children for its service. Minors can book rides and parents are notified of every ride request and can follow the trip in real time.⁵²

HopSkipDrive argues that TNCs transporting unaccompanied minors should not allow minors to book rides themselves and that booking rides should be within the purview of parents and guardians.⁵³

SEIU did not provide comments on parental control.

5.1.2. Reply Comments

Uber disagrees with HopSkipDrive's suggestion that minors should not be permitted to schedule rides, arguing that such requirements are more appropriate to small children.⁵⁴ Uber also disagrees with HopSkipDrive's

⁵² Uber Comments at 15-16.

⁵³ HopSkipDrive Comments at 11.

⁵⁴ Uber Reply at 8.

suggestion that parents and guardians should be able to designate a responsible adult at drop-off, citing logistical issues.⁵⁵

Neither SEIU nor HopSkipDrive submitted reply comments on the issue of parental controls.

5.2. Discussion

The Commission agrees with Uber and HopSkipDrive that parents should have control of their child's use of TNCs. We find Uber and HopSkipDrive's parental controls reasonable to enhance the safety of unaccompanied minors. While the Commission recognizes the benefits of HopSkipDrive's recommendation to only permit parents and guardians to schedule or book rides, this restriction could theoretically lead to increased misuse of TNC platforms by minors. While a more restrictive approach may be appropriate for younger minors, there is not sufficient evidence to support a specific proposal or age cutoff.

There is insufficient evidence in the record to recommend the adoption of HopSkipDrive's proposed requirement that only parents and guardians may schedule or book rides. However, the Commission reiterates its "additional safety protocols" requirements, which include requiring TNCs to offer some form of real-time ride tracking for parents and guardians.

6. Data Reporting

6.1. Ruling and Comments

The *Ruling* posed the following questions on data reporting:

- What data, if any, should the TNCs report to the Commission to ensure that unaccompanied minors are safe while unaccompanied by a guardian?

⁵⁵ *Id.*, at 6-7.

- Should such data be collected at a different cadence than the TNCs' annual report data? If so, what's the appropriate cadence to collect this information?
- While the Commission does not collect information that identifies passengers, should TNCs be required to report data that identifies or summarizes rides provided to minors?

6.1.1. Opening Comments

Uber states that the current data reporting requirements will capture sufficient data related to Uber for Teens.⁵⁶

HopSkipDrive argues the CPUC should add a mandatory yes/no field describing whether or not a trip was provided to a minor and whether or not the driver was authorized to provide rides to minors to any reports the Commission requires. HopSkipDrive argues any additional data requirement should align with the current annual data reporting schedule. While HopSkipDrive does not support collecting or reporting data that identifies minors, HopSkipDrive supports reasonable reporting requirements for trips serving unaccompanied minors.⁵⁷

SEIU did not provide comments on data reporting.

6.1.2. Reply Comments

Uber argues that HopSkipDrive's proposed added fields would be redundant with existing reporting requirements.⁵⁸

Neither SEIU nor HopSkipDrive submitted reply comments on the issue of data reporting requirements.

⁵⁶ Uber Comments at 16-17.

⁵⁷ HopSkipDrive Comments at 11-13.

⁵⁸ Uber reply at 9.

6.2. Discussion

TNC Annual Reports already include a field that specifies the Service Type of the provided service. As long as the TNC's Service Type field or equivalent in TNCs' Annual Reports indicates service was provided to an unaccompanied minor current data reporting requirements will capture sufficient data regarding transporting minors. The Commission's Consumer Protection and Enforcement Division staff will provide an updated reporting template with this requirement for the 2025 TNC Annual Report reporting year. The Commission also agrees that data reporting requirements for unaccompanied minor trips should be aligned with the current data reporting schedule. This approach will provide staff with sufficient data without violating the privacy rights of minor passengers.

Therefore, the Commission concludes that TNCs must clearly indicate in their annual reporting whether a trip was provided to an unaccompanied minor and this data reporting requirement will be aligned with the current data reporting schedule.

7. Background Check Costs

7.1. Ruling and Comments

The *Ruling* posed the following questions regarding background check costs:

- For TNCs who primarily transport unaccompanied minors, who pays for the cost of the required TrustLine Registry background check?
- If any TNC driver providing services to an unaccompanied minor were required to pass a TrustLine Registry background check before doing so, should the background check costs be paid by the TNC or the driver?

- If drivers who wish to provide services to unaccompanied minors pay the cost of a background check, how would that fee financially impact those drivers? How could negative impacts of a background check fee on drivers be mitigated?

7.1.1. Opening Comments

Uber claims that requiring drivers to enroll in TrustLine will reduce the number of drivers eligible for Uber Teens and will, in turn, raise prices for the Uber Teens service. Uber also asserts, without substantiation, that this will increase Uber use by teens outside of the Uber Teens program.⁵⁹

HopSkipDrive currently pays for the cost of TrustLine for its drivers, which it claims, without substantiation, is the industry standard.⁶⁰

SEIU did not provide comments on background check costs.

7.1.2. Reply Comments

Neither Uber nor HopSkipDrive submitted reply comments on the issue of background check costs.

SEIU highlights HopSkipDrive's practice of paying for the cost of TrustLine background checks for their drivers, and advocates for the Commission to require all TNCs to follow this practice.

7.2. Discussion

The Commission agrees with SEIU that if small TNCs like HopSkipDrive can cover the cost of a TrustLine background check, Uber should do so as well. It is Uber's duty to enforce its own Terms of Service and to ensure that California's laws and regulations are followed as they pertain to TNC transportation service, including transport service for unaccompanied minors. Thus we find that each

⁵⁹ Uber Comments at 17-18.

⁶⁰ HopSkipDrive Comments at 14.

TNC must cover any costs of the TrustLine background checks for its drivers who transport unaccompanied minors.

8. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the “Public Comment” tab of the online Docket Card for that proceeding on the Commission’s website. Rule 1.18(b) requires that relevant written comments submitted in a proceeding be summarized in the final decision issued in that proceeding. No public comments were received.

9. Comments on Proposed Decision

The proposed decision of Commissioner Matthew Baker in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission’s Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

10. Assignment of Proceeding

Matthew Baker is the assigned Commissioner and Robert M. Mason III and Debbie Chiv are the assigned Administrative Law Judges in this proceeding.

Findings of Fact

1. Any company wishing to provide TNC services in California must ensure that its drivers satisfy the background-check requirements set forth in D.17-11-010 and Public Utilities Code Section 5445.2.

2. D.97-07-063 and D.16-04-041 govern the requirements for background checks for TNC services to unaccompanied minors in California.

3. To date, the Commission has not defined the term “primarily” that it used in D.97-07-063.

4. To date, the Commission has not determined whether a TNC driver that provides services to both adults and unaccompanied minors must satisfy the background-check requirements set forth in D.97-07-063 and D.16-04-041.

5. Uber intends to offer its Uber Teens TNC service in California to transport unaccompanied minors aged 13-17.

6. Currently, the drivers participating in the Uber Teens TNC service have not undergone the background-check requirements set forth in D.97-07-063 and D.16-04-041.

Conclusions of Law

1. It is reasonable to conclude that the word “primarily” used in D.97-07-063 is redundant and surplusage.

2. It is reasonable to conclude that the word “primarily” used in D.97-07-063 is impossible to define and unnecessary when applied to a TNC that offers TNC services to both adults and unaccompanied minors.

3. It is reasonable to conclude that any TNC driver who intends to transport an unaccompanied minor must undergo and pass the background check requirements set forth in D.97-07-063.

4. It is reasonable to conclude that requiring all TNC drivers who intend to transport an unaccompanied minor to undergo and pass the background check requirements set forth in D.97-07-063, makes Uber’s *Motion* deemed moot and Uber’s *Motion* should be denied.

5. It is reasonable to conclude that the Commission should not impose additional insurance requirements on Transportation Network Companies whose drivers transport unaccompanied minors in California.

6. It is reasonable for the Commission to require each TNC to cover any costs of the TrustLine background checks for its drivers who transport unaccompanied minors.

O R D E R

IT IS ORDERED that:

1. All Transportation Network Companies (TNC) shall require that its drivers who intend to transport unaccompanied minors in California undergo and pass a fingerprint-based background check as set forth in Decision 97-07-063. Each TNC shall cover any costs of TrustLine background checks for its drivers who transport unaccompanied minors.

2. Nothing in this decision prevents a Transportation Network Company from conducting additional background checks, via Checkr, CACI, or any other licensed agency specializing in conducting background checks, of its drivers who intend to transport unaccompanied minors in California.

3. Each Transportation Network Company (TNC) with drivers transporting unaccompanied minors shall adopt and implement real-time tracking and safety procedures for pickup and drop-off for trips that transport unaccompanied minors. Each TNC shall advise the Commission of these newly-adopted tracking and safety procedures via an information filing with Commission staff within 30 days from the adoption of this decision.

4. Commission staff shall monitor each Transportation Network Company (TNC) with drivers transporting unaccompanied minors via 1) informational filings from TNCs regarding broad categories of safety protocols, 2) analyzing trends in TNC annual reporting data relevant to complaints of assaults and or harassments, or any other safety-related incident arising from the transport of an

unaccompanied minor. As needed, the Commission's staff can develop and implement additional safety requirements.

5. Each Transportation Network Company that offer services to unaccompanied minors must submit informational filings within 30 days of the adoption of this decision and annually thereafter via Tier 1 Advice Letter that:

- (a) Describes how they provide a form of real-time ride tracking to an unaccompanied minor's parents or custodial adults so that they can accurately track the initiation and completion of that unaccompanied minor's transport;
- (b) Describes how they implement safety procedures for the pickup of unaccompanied minors so that the minors know that they are entering the correct vehicle;
- (c) Describes how they implement safety procedures for the drop-off of unaccompanied minors so that the drivers know if the unaccompanied minor will be met at the destination spot by the minor's parent or custodial adult; and
- (d) Describes how they provide drivers with training on the transport of unaccompanied minors, including the understanding of the pickup and drop-off procedures.

6. Within six months from the adoption of this decision, Commission staff shall audit (either in person or via data request) each Transportation Network Company providing unaccompanied minor transport to ensure that drivers have been trained in the new pickup and drop-off procedures, that the pickup and drop-off protocols have been complied with, and that the parents or custodial adults of an unaccompanied minor were able to track the unaccompanied minor's ride.

7. Transportation Network Companies must clearly indicate in their annual reporting whether a trip was provided to an unaccompanied minor.

Unaccompanied minor data reporting requirements shall be aligned with the current data reporting schedule.

8. Uber Technologies, Inc.'s *"Motion Requesting an Assigned Commissioner's Ruling to Establish the Threshold for 'Primarily' Transporting Unaccompanied Minors"* is denied.

9. Rulemaking 12-12-011 remains open.

This order is effective today.

Dated _____, at Sacramento, California