

**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.

R.12-12-011  
(Filed December 20, 2012)

**JOINT REPLY COMMENTS OF THE SAN FRANCISCO MUNICIPAL TRANSPORTATION  
AGENCY AND SAN FRANCISCO COUNTY TRANSPORTATION AUTHORITY ON THE  
ASSIGNED COMMISSIONER'S RULING REOPENING THE RECORD FOR FURTHER  
COMMENTS REGARDING THE DISCLOSURE OF TNC ANNUAL REPORTS FROM 2014-  
2019 ON WHETHER THE TIMESTAMP DATA FOR EACH TNC TRIP SHOULD BE  
AGGREGATED**

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## I. INTRODUCTION

Pursuant to the Assigned Commissioner’s May 9, 2023 Ruling Reopening the Record for Further Comments Regarding the Disclosure of TNC Annual Reports from 2014-2019 on Whether the Timestamp Data for Each TNC Trip Should be Aggregated (the “Ruling”), the San Francisco Municipal Transportation Agency (“SFMTA”) and the San Francisco County Transportation Authority (“SFCTA”) (collectively, “San Francisco”) submit these joint reply comments to the opening comments filed by Lyft, Inc. (“Lyft”) and Uber Technologies, Inc. (“Uber”) on June 15, 2023.

## II. DISCUSSION

### A. Lyft argues the same flawed claims made in previous comments.

Lyft cites three research papers and an expert statement to recycle claims previously rejected by the California Public Utilities Commission (“Commission”). The central claim of these papers is that some field or combination of fields in a record (or among a set of linked records) within a database uniquely distinguish that record from others in the database. This is uncontroversial. It is trivial to identify a unique record in a database; databases commonly include an index specifically for this purpose. For example, any record in a database may be uniquely identified by its row number. The problem is that Lyft mischaracterizes uniquely identifying a record within a database of records with identifying *a person* from data in the database. Consider the following example in Table 1. In this case, there are only two records, and any field (index, origin zipcode, destination zipcode, origin departure time, destination arrival time) can individually or in combination uniquely identify each record. But none of this information alone or in combination with other sources allows someone to associate either record with a real person.

*Table 1: Example of Uniquely Identifiable Records in a Database that do not Implicate Personal Information*

Index	Origin zipcode	Destination zipcode	Origin departure time	Destination arrival time
0	94118	94110	09:35:07	9:54:59
1	94606	94501	12:20:20	12:44:31

The studies allude, and the expert statement clearly states, “[p]eople can be re-identified from trip data.”<sup>1</sup> But crucially, none of these demonstrate this claim. In fact, one of the studies articulates this clearly:

Uniqueness does not implies [*sic*] identifiability, since the sole knowledge of a unique subscriber trajectory cannot disclose the subscriber’s identity. Building that correspondence requires instead sensible side information and cross-data base analyses similar to those carried out on medical or Netflix records. To date, there has been no actual demonstration of subscriber re-identification from mobile traffic datasets using such techniques – and our study does not change that situation.<sup>2</sup>

Another study admits, “the utility of the anonymized location data will be decreased, potentially by a significant amount.”<sup>3</sup>

Finally, these studies consider datasets that uniquely track individuals through linked records over periods of 3 to 15 months. The Transportation Network Company (“TNC”) data in question does not link any two records together with a rider ID, so even if these studies *did* demonstrate a risk to privacy, the findings simply would not apply.

In summary, Lyft attempts to conflate *uniquely identifying a record*, which is trivial and not a risk to privacy, with *identifying the person* associated with that record. But they fail to supply any compelling evidence to demonstrate this claim, and the research they cite admits this has never been done.

## **B. Uber argues the same flawed privacy claims made in previous comments.**

San Francisco acknowledges that the Ruling asked parties to comment on the “appropriate balance between providing public access to the timestamp data while safeguarding against potential privacy risks.”<sup>4</sup> However, neither Uber nor Lyft have advanced arguments that would warrant a departure from the Commission’s previous conclusions that non-aggregated timestamp data *does not*

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<sup>1</sup> Declaration of Drs. Whittington and Sun in Support of Lyft’s Opening Comments on the Ruling, filed on June 15, 2023, at p. 9.

<sup>2</sup> *On the anonymizability of mobile traffic datasets* (April 14, 2015). Marco Gramaglia and Margo Fiore. <<https://arxiv.org/pdf/1501.00100.pdf>>

<sup>3</sup> *Anonymization of Location Data Does Not Work: A Large-Scale Measurement Study* (September 2011). Hui Zang and Jean Bolot. <<https://doi.org/10.1145/2030613.2030630>>

<sup>4</sup> Ruling, at p. 2.

constitute a privacy risk.<sup>5</sup> As in previous comments,<sup>6</sup> Uber proffers that timestamp data should be exempt from disclosure under Government Code sections 7927.700 and 7927.705, as well as California’s Consumer Privacy Act.<sup>7</sup> Yet Uber only offers base assertions that these exemptions apply without offering any supporting case law, analysis, or other supporting proof that disaggregated timestamp data poses a privacy risk for either riders or drivers. Notably, Uber asserts that “as with geolocation data, publicly disclosing disaggregated timestamp data endangers the safety and privacy of passengers.”<sup>8</sup> But the study cited by Uber to support this statement relied on exact latitude and longitude coordinates, data which the Commission has consistently held to be confidential,<sup>9</sup> including in the Proposed Decision withdrawn by the Ruling.<sup>10</sup>

Uber’s discussion of driver privacy in relation to timestamp data is similarly inapposite and confusing. Driver information, including driver names and driver ID numbers have been ruled by the Assigned Administrative Law Judge to be confidential<sup>11</sup> – the Proposed Decision Requiring TNCs to Submit their Annual Reports for the Years 2014-2019 proposes to treat that same information as confidential for the 2014-2019 reports.<sup>12</sup> Here, Uber again only offers conclusory statements regarding driver privacy and again fails to provide any support for its claims that timestamp data could in any way be used to reveal any information about drivers. Moreover, in addition to Uber’s citation

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<sup>5</sup> See generally Assigned Administrative Law Judge’s Ruling on Uber and Lyft’s Motion for Confidential Treatment of Certain Information in Their 2020 Annual Reports, issued on December 21, 2020; Assigned Administrative Law Judge’s Ruling on the Motions of Uber, Lyft, HopSkipDrive, Inc., and Nomad Transit, LLC for Confidential Treatment of Portions of Their 2021 Annual TNC Reports, issued on November 24, 2021; Decision Denying Appeal of Lyft Re: Ruling Denying, In Part, Motions by Uber and Lyft for Confidential Treatment of Certain Information in Their 2020 Annual Reports, issued on May 6, 2022.

<sup>6</sup> E.g. Opening Comments of Uber on the Disclosure of TNC Annual Reports for 2014 to 2019, filed on February 11, 2022.

<sup>7</sup> Opening Comments of Uber to the Ruling, filed on June 15, 2023, at p. 2.

<sup>8</sup> *Ibid.*

<sup>9</sup> See *supra* fn. 5.

<sup>10</sup> Proposed Decision Requiring TNCs to Submit their Annual Reports for the Years 2014-2019 to the Commission with Limited Redactions (“Proposed Decision”), filed on September 30, 2022, revised on March 14, 2023, at pp. 35-37, and withdrawn per the Ruling on May 9, 2023.

<sup>11</sup> See *supra* fn. 5.

<sup>12</sup> See generally Proposed Decision.

to the Driver Privacy Protection Act (“DPPA”) being misapplied in this context,<sup>13</sup> even if DPPA were applicable (it’s not), Uber has failed to show how timestamp data, completely divorced from any driver information, constitutes an invasion of privacy.

### III. CONCLUSION

Uber’s arguments for aggregation of timestamp data fall far short of the showings required under General Order 66-D to claim confidential treatment of information submitted to the Commission and the protocol established in Decision 20-03-014 governing claims for confidential treatment in post-2019 TNC Annual Reports.<sup>14</sup> San Francisco sees no reason why a lower standard for confidential treatment should be used in deciding whether to release 2014-2019 Annual Report timestamp data to the public. The parties thoroughly briefed the issues related to disclosure of the 2014-2019 Annual Report data when they submitted comments on the Third Amended Phase III. C. Scoping Memo and Ruling in February of 2022,<sup>15</sup> and again when the Proposed Decision was released.<sup>16</sup> Neither TNC has presented any new analysis or proof that would warrant a departure from how timestamp data has been treated in other annual report years. For these reasons and those stated in our Opening Comments, San Francisco urges the Commission to make 2014-2019 Annual Report timestamp data available to the public, consistent with the 2020 and 2021 Annual Reports.

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<sup>13</sup> The DPPA applies to information held by State Departments of Motor Vehicles. *See* 18 U.S.C. § 2721.

<sup>14</sup> *See* General Order 66-D, at pp. 2-5; Decision 20-03-014, Decision on Data Confidentiality Issues Track 3, issued on March 16, 2020, at p. 28.

<sup>15</sup> Opening Comments of Lyft on Third Amended Phase III. C. Scoping Memo and Ruling of Assigned Commissioner: Disclosure of TNC Annual Reports From 2014 to 2019 (§ 3.2), filed on February 11, 2022; Opening Comments of Uber on the Disclosure of TNC Annual Reports for 2014 to 2019; Opening Comments of the SFMTA, SFCTA, and San Francisco International Airport (“SFO”) Regarding Release of 2014 to 2019 Annual TNC Reports, filed on February 11, 2022; Reply Comments of Lyft on Third Amended Phase III. C. Scoping Memo and Ruling of Assigned Commissioner: Disclosure of TNC Annual Reports From 2014 to 2019 (§ 3.2), filed on February 25, 2022; Reply Comments of SFMTA, SFCTA, and SFO Regarding Release of 2014 to 2019 Annual TNC Reports, filed on February 25, 2022.

<sup>16</sup> Opening Comments of Lyft on Proposed Decision, filed October 20, 2022; Opening Comments of Uber on Proposed Decision, filed October 20, 2022; Opening Comments of SFMTA, SFCTA, and SFO, filed on October 20, 2022; Reply Comments of Lyft on Proposed Decision, filed on October 25, 2022; Reply Comments of SFMTA, SFCTA, and SFO, filed on October 25, 2022.

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