I. INTRODUCTION

Traditional ride-sharing, also known as car-pooling, is covered by most personal auto policies (“PAPs”). But transporting passengers for a fee that exceeds the simple sharing of expenses is excluded in most PAPs. Driving personal vehicles for a profit is the impetus for Transportation Network Companies.

A Transportation Network Company (TNC) is an organization that arranges transportation for a fee using a technology platform such as mobile application (App) or website. TNCs create online Apps that connect riders and drivers. Drivers use the online Apps to sign up to provide rides for a fee. The TNC takes a portion of each fee. In order to open a TNC account, potential passengers first download the App and must provide credit card information for billing purposes and agree to the terms and conditions for use. The TNC terms and conditions generally indicate that the TNC is not the transportation provider and disclaims the safety of the driver among other disclaimers and notices. TNCs typically have driver requirements such as minimum age limits, valid driver’s license, current vehicle registration and insurance, at a minimum. Once the account is created, a potential rider simply logs onto the mobile App, enters his/her location and is matched with a driver in the vicinity.

The three most widely used TNCs are UberX (available in 53 countries and more than 140 U.S. cities), Lyft (available in at least 60 locations) and Sidecar (available in Boston, Charlotte, Chicago, Long Beach, Los Angeles, Oakland, Marin and other San Francisco Bay Area cities, San Diego, Seattle and Washington, D.C.).

Regulation of TNCs is in its infancy. The first government agency to impose standards for a TNC was the California Public Utilities Commission (“CPUC”). It was there that the term Transportation Network Company was coined. Currently, many questions exist regarding proper regulation of this new service as well as how to fill any insurance coverage gaps. Regulation of the traditional taxi or limousine service is much more developed. Historically, taxis and limousines are licensed by the state or municipal transportation authority. Taxis and limousines are required to be inspected and drivers must be properly licensed typically through a commercial driver’s license. In addition, taxi operators are required to have commercial insurance in effect 24/7/365 that protects passengers and third parties (i.e., pedestrians or other drivers) in the event of an accident. Taxi drivers and their trade associations argue that TNCs are in the same business as taxis because they transport passengers for a fee and should be subject to the same insurance and licensing requirements.

TNCs have gained in popularity in dozens of U.S. cities over the past few years. However, new business ventures often come with new risks.

The insurance issues associated with TNC activities arise because TNC drivers use their personal cars for that commercial activity but do not have commercial auto insurance. Drivers who are often new to the transportation business are transporting people they do not personally know. This activity has traditionally been the realm of commercial taxis. PAPs generally exclude this exposure by what is commonly called a “livery exclusion.” Livery exclusions were written

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because transporting passengers for a fee adds exposure and creates more risk than was contemplated by existing personal auto insurance rates or coverages. Personal auto insurers are concerned that they are experiencing losses from these additional exposures because their policyholders do not inform them that they drive for TNCs. From the personal auto insurer’s perspective, this activity translates into increased risk of loss due to: 1) additional miles driven; 2) heightened geographic hazard caused because TNC drivers typically find matches in urban, high traffic locations; 3) more people in the car that can be injured; and 4) the additional risk caused as drivers rush to accept matches and pick-up and deliver passengers in a timely manner.

II. COVERAGE ISSUES

Major coverage gaps will exist unless the TNC provides full commercial coverage, the driver buys a commercial auto policy, or the livery exclusion is amended.

Even when TNCs provide commercial coverage, the TNCs may not provide uninsured/underinsured motorist (“UM/UIM”) coverage, medical payments coverage, comprehensive coverage or collision coverage that the drivers had purchased in their personal auto policies. Drivers are often unaware of the extent of the livery exclusions and therefore do not seek additional endorsements or commercial auto coverage to pay for losses caused while the vehicle is being used for livery. The resulting gaps in coverage could impact not only the driver and their personal vehicle but also any person suffering damages.

Coverage gaps for TNC drivers exist because TNC drivers are not required to maintain commercial coverage. Instead, TNC drivers are normally covered by a combination of the driver’s personal auto insurance and the TNC’s commercial insurance to cover the TNC activities. This creates issues because the typical PAP excludes coverage for public or livery conveyance. As a result, most TNC drivers’ PAPs do not provide coverage when the driver is using their vehicle to transport passengers for a fee. The livery exclusion in PAPs applies to liability insurance, medical payments, personal injury protection in no-fault states, comprehensive (otherwise known as other than collision), collision coverage and UM/UIM coverage.

Liability insurance provides coverage for bodily injury or property damage caused by an auto accident for which the insured is legally responsible. In addition to payment for bodily injury and property damage, Personal Auto Policies typically provide defense costs such as legal fees. Most Personal Auto Policies are written on a split-limits basis. Policies written on a split-limits basis are stated with three types of limits: bodily injury per person, bodily injury per accident and property damage per accident. For example, if the policy limits are stated as 100/300/50, the limit of liability for bodily injury per person is $100,000 with a cap of $300,000 for bodily injury due to the accident and a maximum payment for property damages of $50,000. The alternative is to write policies on a combined single limit basis.

Medical payment coverage applies regardless of fault and covers bodily injury to the named insured as well as family members and any passengers in the auto at the time of the accident.
Personal injury protection provides coverage for basic expenses such as medical costs an insured and his or her family may incur in a no-fault state. Roughly one-fourth of states in the U.S. have a form of no-fault automobile laws meaning they allow auto accident victims to collect benefits from their own insurers regardless of who was negligent.

Collision coverage pays for damages to an insured’s owned vehicle resulting in an accident with another vehicle or an inanimate object. Comprehensive coverage, also known as other than collision coverage, protects against all property damage except that covered by collision insurance or excluded in the policy. Uninsured motorist coverage provides compensation to the insured and their family members when a driver causes losses and does not have insurance coverage. Underinsured motorist coverage pays the insured or their family members after a driver causes losses that exceed the negligent driver’s policy limits.

The largest TNCs partially resolved the issue regarding the livery exclusions in Personal Auto Policies by providing liability, UM/UIM and comprehensive/collision coverages while the vehicle is being used to transport passengers for a fee. However, an issue remains regarding the point at which the vehicle is being used for a livery service. The issue is compounded by the fact that livery exclusions vary between policies making it impossible to conclusively state when personal driving stops and commercial driving begins for each driver. The question that each TNC driver must answer, based on his or her own personal auto policy language, is when does his or her personal auto coverage stop and the TNC’s commercial policy begin?

There are three exposure periods in the TNC business model. Period 1 is characterized as the point when the driver logs into the TNC application but is not matched with a passenger. Period 2 is when a match is made and accepted but the passenger has not yet entered the vehicle. Period 3 is when the passenger has been picked up and is in the TNC driver’s vehicle. Ambiguous language in the policy exclusion can cause confusion regarding which policy, commercial or personal, covers each period and may lead to coverage disputes over claim payments.

<table>
<thead>
<tr>
<th>TNC Coverage Periods</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period 1</td>
<td>Pre-Match</td>
</tr>
<tr>
<td>Period 2</td>
<td>Match accepted -&gt; passenger pick up</td>
</tr>
<tr>
<td>Period 3</td>
<td>Passenger in the vehicle</td>
</tr>
</tbody>
</table>
The California Department of Insurance held an investigatory hearing on March 21, 2014 relating to insurance issues and Transportation Network Companies (TNCs). As a result of the hearing, Insurance Commissioner Dave Jones made the following recommendations:

- Require TNCs to provide $1 million commercial liability insurance that begins the moment a driver switches on the app
- Requiring TNCs to provide $1 million uninsured/underinsured coverage to protect the driver and passenger
- Requiring TNCs to provide insurance policy information to TNC drivers to carry in their cars
- Requiring TNCs to disclose to drivers that their personal auto insurance coverages may not apply while they drive for the TNC
- Requiring TNCs to provide comprehensive and collision coverage for the driver's auto if the driver has those coverages on the driver's own policy

Several TNCs have attempted to resolve the issue by purchasing primary liability and UM/UIM coverage for exposure Periods 2 and 3. According to its website, UberX maintains a “commercial insurance policy for ridesharing with $1 million of coverage per incident.” The website also states that the, “policy covers drivers’ liability from the time a driver accepts your trip request through the app until the completion of your trip. This policy is expressly primary to the driver’s personal auto policy. An additional insurance policy covers drivers when they are logged into the Uber app but have not yet accepted a trip request.” UberX also maintains “uninsured/underinsured motorist coverage (UM/UIM) of $1 million per incident for bodily injury, in case another motorist causes an accident and doesn’t carry adequate insurance.”

UberX maintains contingent comprehensive and collision coverage with limits that mirror the drivers’ PAP in Periods 2 and 3. Lyft carries contingent comprehensive and collision coverage with a $2,500 deductible and a $50,000 maximum for physical damage to your vehicle.” UberX also maintains excess policies for Period 1 but include much lower limits. The chart below shows the insurance coverage provided by UberX, Lyft and Sidecar as described on their websites. Currently the coverage provided by the largest TNCs during Period 1 is secondary or excess meaning that it only pays claims if and when they are denied by the personal auto carrier. There has been debate about the exposure in Period 1 and its similarity to exposure in a typical PAP. TNCs argue that Period 1 does not include any increased exposure caused by TNC activities. The reasoning behind this argument is that the driver does not yet have a passenger in the vehicle and is driving a known, rated vehicle. The contrary argument is that Period 1 presents an increased exposure because drivers are distracted while looking at the TNC App on their cellphone to find a passenger and may be rushing to locations that show passengers ready for pick-up. It is undisputed that Periods 2 and 3 include increased exposure due to having passengers in the car, loading and unloading passengers, and finding safe areas for pick-up and drop-off and perhaps driving unfamiliar routes. Others may argue that the exposure is increased in all three time periods because drivers-for-hire are more frequently in urban, often highly congested areas. Urban, highly congested areas are known for higher frequency of accidents and therefore are associated with higher insurance rates. Several states have identified the insurance coverage concerns and enacted legislation to fill some, but not all, of the coverage gaps.
<table>
<thead>
<tr>
<th>TNC</th>
<th>Insurer</th>
<th>Period 1</th>
<th>Periods 2 &amp; 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Raiser LLC/UberX¹</td>
<td>James River</td>
<td>Contingent Liability ($50,000 per person/$100,000 per accident/$25,000 property damage)</td>
<td>• Commercial Auto Liability &amp; Uninsured Motorist/Underinsured Motorist Coverage up to $1 million per occurrence</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Contingent Collision &amp; Comprehensive equal to the amount maintained by the driver in their personal auto policy ($1,000 deductible)</td>
</tr>
<tr>
<td>LYFT² (valid in all states except New York)</td>
<td>James River</td>
<td>Contingent Liability ($50,000 per person/$100,000 per accident/$25,000 property damage)</td>
<td>• Commercial Auto Liability &amp; Uninsured Motorist/Underinsured Motorist Coverage up to $1 million per occurrence</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Contingent Collision &amp; Comprehensive up to $50,000 per accident ($2,500 deductible)</td>
</tr>
<tr>
<td>SIDECAR³ (liability limits differ for the state of Washington and Chicago, IL)</td>
<td>Nautilus Insurance Company</td>
<td></td>
<td>• Commercial Auto Liability &amp; Uninsured Motorist/Underinsured Motorist Coverage up to $1 million per occurrence</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Liability Limits ($50,000 per person/$100,000 per accident/$30,000 property damage)</td>
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<tr>
<td></td>
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<td></td>
<td>• Contingent Collision $50,000 per accident ($500 deductible)</td>
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III. INSURANCE COVERAGE ISSUES

A. Insurance Company Perspective

ISO’s PAP excludes liability coverage, “… bodily injury or property damage arising out of the ownership, maintenance or use of a vehicle while it is being used as a public or livery

³ Sidecar Legal Terms and Conditions as well as Insurance Coverage Amounts. Retrieved from https://www.side.cr/policies/insurance/ #898022v1

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conveyance. There are a few exceptions such as, operating an auto as a volunteer service for a nonprofit charitable organization or a governmental agency, transporting physically or mentally handicapped persons or persons 60 years of age or older or a shared-expense car pool.

Other common livery exclusions exclude “damages arising out of the ownership, maintenance, or use of a vehicle while it is being used:”

- to carry persons for a charge,”
- “for commercial purposes,”
- “for compensation,”
- “for a fee,”
- “for hire”

Other policies exclude “any auto you are driving while available for hire by the public.” Livery exclusions commonly apply to: medical payments, personal injury protection, collision and comprehensive (other than collision), as well as UM and UIM coverage. The subtle nuances of the various livery exclusions are called into question as regulators, insurers and consumers attempt to identify coverage gaps between the personal auto policies owned by TNC drivers and the commercial policies owned by TNCs.

Generally, exclusions are used by insurers because the exposures are thought to be above and beyond those found in a typical policy for the type of property or activity being insured. Another reason for the exclusion may be that the coverage is associated with a rating plan for coverage of an alternate insurance product. Driving for a TNC fits both of those descriptions as it blurs the lines between personal and commercial risks and is considered extraordinary to the typical personal auto policy. In order to include the risk in a personal auto policy, insurers would need to adjust their rating for the commercial exposure. This would increase the cost of personal auto policies for all insureds regardless of their involvement in TNC activities. It would be unfair to ask all insureds to subsidize those additional risks while only a small percentage of insureds are actually exposed to them.

The general factors used to determine auto insurance rates are listed in the chart below. It should be noted that not all insurers use every factor and that some state laws prohibit or limit the use of some of the risk classification factors. TNC drivers typically go to urban, congested areas in order to find matches. Urban areas are typically associated with a higher frequency of accidents and therefore command higher insurance rates. Normal use such as driving to work or school typically means fewer miles driven and results in lower rates whereas commercial use such as TNC driving could mean more miles driven and higher frequency of loss. Additionally, TNC

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4 The Insurance Services Office Inc. (2014, December) “Ride-Sharing Arrangements through Transportation Network Companies.”

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drivers may be distracted as they are checking one or more applications on their mobile device for matches or using the GPS tracking to determine delivery routes.

<table>
<thead>
<tr>
<th>Factors That Affect Auto Insurance Rates</th>
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</thead>
<tbody>
<tr>
<td>Territory</td>
</tr>
<tr>
<td>Normal use of auto (to work or school)</td>
</tr>
<tr>
<td>Age</td>
</tr>
<tr>
<td>Gender</td>
</tr>
<tr>
<td>Marital status</td>
</tr>
<tr>
<td>Driving record</td>
</tr>
<tr>
<td>Driver education</td>
</tr>
<tr>
<td>If student - grade point average</td>
</tr>
</tbody>
</table>

A Casualty Actuarial Society study on ride-sharing found that “rideshare drivers who put in about 1,000 miles a year could expect to pay $10 to $200 a year to obtain coverage for period one. Full-time drivers in Colorado would pay $1,000 to about $1,500 and full-time drivers in San Francisco would pay an additional $3,000.” Milliman also studied the impact of ridesharing drivers in Period 1 and determined that, “the net result on the personal auto insurance market to all policies was $0.70/policy.” Proponents of commercial ride-sharing believe it will increase road safety due to fewer intoxicated drivers on the roadways and fewer personal vehicles due to the additional options for public transportation.

Personal auto carriers are beginning to voice their concerns over ride-sharing services. Many believe that engaging in livery service is a material change to the insurance contract and therefore the insurer may legally cancel the policy. Even if the insurer does not to cancel the policy initially, it may choose not to renew the policy at the end of the contract term. Insurers are concerned about the increased risks not considered under a typical personal auto policy but should be considered if the vehicle is used to transport passengers for hire. Insurers are also concerned that TNC drivers will not disclose the fact that they drive for a TNC. The variances in language used for livery exclusions and the determination of which exposure period the accident took place create additional costs for the insurer that are ultimately passed on to all policyholders.

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TNC-related claims impact the duty to defend as well as the duty to indemnify. Under all standard personal auto policies, insurers have a duty to indemnify the insured for covered damages and also have a broader duty to defend. Because the duty to defend is broader than the duty to indemnify, an insurer may have to pay defense costs even if it can ultimately prove that the accident occurred during an excluded time period, such as Period 3.

The driver’s involvement in TNC activities may lead to:

- confusion regarding which insurer has a duty to defend.
- delays in the litigation process
- increased legal and administrative costs.

While the duty to indemnify is more straightforward it is also impacted by TNC activities. Claims involving TNC drivers require more analysis to determine which insurer, personal auto or commercial, must indemnify the TNC driver. Insurers must determine the time period during which the accident occurred and in some cases analyze the livery exclusions to determine which insurer has the duty to indemnify.

Currently, the largest TNCs have obtained coverage through surplus lines producers. Surplus lines insurers are non-admitted companies not regulated to the extent of most personal auto insurers. Surplus lines carriers are not subject to state regulatory approval of their rates and forms nor are they covered by state guarantee funds. Non-admitted companies often lack the same level of transparency regarding business practices and financial solvency as do admitted insurers. Surplus lines insurers frequently take on new types of risks or high risk activities because they are experienced with using flexible rating plans involving large amounts of judgment in setting their pricing and in adapting policy language to more specifically contain the coverage they are willing to provide. Unlike personal auto carriers, surplus lines companies do not typically work directly with consumers or the public so TNCs need to establish procedures for claims. The claim process needs to be clearly described to their drivers and passengers including the process to submit claims, investigation procedures and how payment will be distributed.

Personal auto insurers should consider customer outreach to inform policyholders of their stance regarding ride-sharing and any available coverage options. Policyholder education campaigns should identify exposures created by ride-sharing not generally contemplated in standard personal auto policies. Companies should be able to answer policyholder questions regarding policy exclusions, exposure periods created by ride-sharing arrangements, coverage gaps and options for additional coverage. Companies should inform producers about their policies regarding ride-sharing and give them the tools they need to answer policyholder questions.

Disclosures to insurers regarding ride-sharing could include:

- Definitions of terminology such as ride-sharing, transportation network company, and coverage periods.
• Court interpretations of common livery exclusions.

• Identification of any legal barriers to canceling policies due to the driver’s involvement in ride-sharing.

• Disclosure of state mandated coverage for TNCs including when the coverage begins and ends.

• Listing of the options for insurers to determine if consumers are participating in ride-sharing and whether or not the response qualifies as a warranty or a misrepresentation affecting possible rescission of the policy.
  
  o Potential options include listing a question on:
    ▪ Initial application,
    ▪ Survey or questionnaire and
    ▪ Renewal form.

B. Driver Perspective

TNCs have provided drivers with a way to earn extra income in their spare time at the push of a button but drivers seldom ask questions about potential liability or hidden risk exposures. TNCs attempt to limit their liability through disclaimers. One disclaimer on a TNC’s website states: “You agree that the entire risk arising out of your use of the services, and any third party good or services obtained in connection therewith, remains solely with you, to the maximum extent permitted by applicable law.” The disclaimer goes on to state, “This disclaimer does not alter your rights as a consumer to the extent not permitted under the law in the jurisdiction of your place of residence.”

The above disclosure reiterates the importance for regulators and legislators at the state and/or municipal level to put measures in place before accidents occur and consumers are left without coverage or recourse for losses.

Roughly 25 state insurance departments have issued bulletins cautioning consumers of the potential limitations of insurance coverage. Additionally, three states have passed legislation setting coverage requirements for TNCs to protect consumers. Several additional states are debating legislation setting clearer insurance coverage rules and standards. The NAIC has published two consumer alerts to explain coverage issues and identify what consumers can do to protect themselves. The NAIC is also in the process of updating its NAIC Consumer Shopping Tool for Auto Insurance as well as A Consumer’s Guide to Auto Insurance to include information regarding the use of TNC services.


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Driver awareness communications could include the following information:

- Standard personal auto policies often include exclusions for transporting passengers for a fee.
  
  o Drivers should read their personal auto policy to determine if exclusions exist and if so, at what period the exclusion goes into effect.
  
  o Drivers should contact their insurer or agent to inform them of their decision to participate in commercial ride-sharing arrangements as a driver and discuss the details of their policy to determine coverage options. Some insurers may cancel or non-renew insureds that drive for TNCs. If this happens the driver will need to find an alternate insurer. It is illegal in all states to drive without insurance. In some states this may result in fines, suspension of driving privileges or repossession of the vehicle.

- The availability of coverage through the TNC with which they intend to do business.
  
  o Drivers should read the TNC’s insurance policy to determine what period their commercial auto policy begins and ends in the livery process.
  
  o Drivers should also determine what coverage is available through the TNC.
    
    ▪ Drivers should ask about the liability limits, coverage for medical payments, personal injury protection in no-fault states, comprehensive (otherwise known as other than collision), collision coverage and UN/UIM coverage.
  
    ▪ Drivers should determine if defense costs are included in the TNC’s commercial auto policy or who would cover the cost of legal fees if they were to be sued.

- If coverage gaps exist between when the personal auto policy ends and the commercial auto policy begins, drivers should consider purchasing additional coverage. Additional coverage may be available through the personal auto insurance carriers as an endorsement to their policy or as a separate commercial policy.

It is important to note that in some instances a TNC driver may not be the named insured on the personal auto policy. Standard personal auto policies are designed to provide coverage for the insured and their family members. Family member is a person related to the named insured by blood, marriage, or adoption and who resides in the named insured’s household. A child who lives away for college may also be covered under the standard policy. If the TNC driver is someone other than the named insured, the driver needs to make sure that they are covered under the personal auto policy.

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C. Passenger/Third Party Perspective

Passengers see TNCs as a tool for increased mobility, a cutting edge service that provides a popular alternative to taxi services. Passengers and third parties not involved in TNC transactions can be completely unaware of the hidden dangers but are not immune to damages caused by the increasing use of TNC applications. Passengers who are injured in a TNC accident should be covered through liability coverage. Third parties who are using the roadways as drivers or even pedestrians should be covered through liability coverage for losses caused by the TNC driver. In order to make this a reality, state legislation and local ordinance must close the coverage gaps by defining the periods to be covered by personal or commercial auto policies, determine who must maintain coverage during each period, and set the required minimum liability limits as well as additional coverages such as medical payment coverage, collision, other than collision, and UM/UIM coverages.

TNCs should make information available about their insurance coverage in each state or city readily available. They should define the exposure periods on their website and identify which periods are covered and to what extent by their commercial auto policy. They should include whether the policy is primary or secondary and if it includes medical payments, collision, other than collision coverages for the driver, and uninsured and underinsured coverage.

Additionally, TNCs should provide easy to read disclosures. The disclosures should inform passengers regarding insurance matters including who would pay for losses in case of an accident during each period of the TNC service.

IV. POTENTIAL SOLUTIONS TO COVERAGE ISSUES

A. Review Established Insurance Options

The first step in regulating TNCs is to determine what state or local entity has authority over TNCs. Regulatory authority varies from state to state.

In California, TNCs are regulated on a statewide level by the Public Utilities Commission (“CPUC”) while taxis are regulated by the municipalities.

While TNC activities create many coverage issues, there are also a variety of solutions possible. The ideal insurance solution is for TNC drivers to have full coverage on a full time basis. To achieve that, the least complex approaches are that either the driver would purchase commercial coverage or the TNC would provide full coverage for all three TNC activity periods.

Commercial auto coverage purchased by the TNC driver does not appear to be a realistic option at this time. Commercial auto insurance for livery exposures typically costs between $5,000 and $7,000 per year, which some argue is too expensive for TNC drivers. To date, there has been no evident movement toward creating a commercial policy tailored to the TNC paradigm of part livery risk part personal auto risk. If such a product were to be made available it would require

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that the TNC driver be committed enough to the livery trade to buy commercial coverage. Also, it would need to be available at a price that is within reason compared to personal auto coverage.

Nor have TNCs filled the void. So far, in unregulated environments TNCs have been successful in explicitly or implicitly transferring some or all of the responsibility for buying insurance onto the driver. Thus, the personal auto insurer is engaged in sorting out which claims are covered and in creating a coverage response of its own.

To put the burden back on the TNC and assure there is full coverage in place, the regulator must mandate full coverage at limits and deductibles that are responsive to the exposures. Recent legislation in California and Colorado imposed important coverage mandates but still allow for coverage gaps at least for UM/UIM and physical damage coverages. Unless the personal auto insurer acts to amend its coverages, coverage gaps will remain despite the new statutory requirements.

Unless TNCs change their business model and agree to provide full commercial coverage for TNC drivers, a more complex hybrid of coverage between the TNC and the personal auto policy will need to be created.

B. Potential for new products/coverage options

Policy endorsements are being developed for PAPs to fill coverage gaps. These endorsements will be a valuable tool to close gaps for TNC drivers willing to purchase them.

In fact, these hybrid insurance products, adding some level of coverage for TNC activities onto PAPs, are being developed as this paper is being written. They are being introduced by innovative insurers willing to take on the calculated risk and be the first to gain market share in an evolving and growing space.

Because the products are not being standardized, but are being developed by different insurers, they will likely establish coverage via different methods for different time periods. The new products present many concerns for insurance regulators, including but not limited to, the cost for the new hybrid coverage.

In California, only one company made a filing for hybrid TNC/PAP insurance as of January 1, 2015. That filing, made by National General Insurance Company, offers an endorsement to a PAP deleting the livery exclusion but only during Period 1. With regard to cost, National General is implementing a vehicle use factor for TNC use.

Outside of California, Erie Insurance Company offers an endorsement that makes the TNC driver’s PAP excess for TNC activity for any insured with a business classification on their personal auto. It covers all three time periods. As of January 1, 2015 it is available only in
Illinois and Indiana, but the company expects to eventually offer it in all 12 states in which it sells insurance.  

According to the Insurance Journal, USAA plans to offer auto insurance coverage in Colorado that will protect TNC drivers from the moment their mobile apps are turned on until they are matched with a passenger. “The pilot program, which will begin in February, extends a member’s existing auto policy coverages and deductibles, and costs about $6-$8 more per month, or roughly $40-$50 more for a six-month insurance policy, according to the carrier.”

In developing these new hybrid insurance products, TNCs may need to share with participating insurers any statistical information they track regarding driver and passenger characteristics, delivery patterns, hours of operation and any other factors relevant for determining insurance rates. One way to accumulate information on TNC driver behavior may be the use of telematics installed in driver vehicles.

The ISO is considering modifications to its Personal Auto Program by refining the livery exclusion and defining the coverage periods excluded in most PAPs. The ISO is also considering a new coverage option to encompass TNC activities under the Personal Auto Program.

C. Spreading the insurance burden between TNCs and TNC drivers

Assuming hybrid policies become readily available, regulators that chose to do so may be able to require TNCs and TNC drivers to share the burden of providing insurance for TNC activities. This can be accomplished in a number of ways. Regulators can require:

- TNC drivers to maintain coverage in Period 1 and TNCs to maintain coverage in Periods 2 and 3.
- TNC drivers to maintain primary coverage up to a certain limit (for example $100,000) while requiring TNCs to maintain excess coverage that pays for accidents resulting in damages above the primary limit.
- TNC drivers to maintain primary coverage in Period 1 up to a certain limit (for example $100,000) while requiring TNCs to maintain excess coverage in Period 1 and primary coverage in Period 2 and 3.
- Various combinations of the above.

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D. Coverage amounts and types

Regulators must also decide what amounts and types of insurance to require.

1. Coverage Amounts

It is crucial to determine coverage amounts high enough to protect persons and property injured or damaged in a TNC accident. Regulators can look to other states for guidance on the amounts of coverage to require. California requires $1 million in TNC insurance while a passenger is in a TNC vehicle. (2014 Cal. Legis. Serv. Ch. 389, A.B. 2293) Regulators may also look at the amounts required for other transportation providers such as taxis and limousines for guidance. If those amounts were set in the distant past, they may need to be adjusted for inflation.

Regulators may also consider establishing coverage amounts by the defined TNC time period. Some regulators require lower coverage amounts during Period 1, because there is no passenger in the vehicle at that time. However, this practice results in less coverage for a third party hit during Period 1. The San Francisco accident that killed 5 year-old Sofia Liu and injured her mother and brother occurred during Period 1. Consumer groups argue that injury or death should not be worth less merely because it occurred in one period instead of another.

2. Coverage Types

- Liability. Liability coverage must be required to protect passengers and third parties injured by TNC drivers.

- UM/UIM. In order to adequately protect consumers, regulators should consider requiring UM/UIM in the same amount as liability coverage. While TNCs argue that some taxicabs are not required to provide UM/UIM, the better practice is to require TNCs to maintain this coverage. Otherwise, a passenger injured in an accident caused by an uninsured or underinsured motorist may be left without recourse.

- Comprehensive and collision. This coverage is necessary to protect the TNC driver’s car. While liability insurance provides coverage for an injured passenger, it does not provide coverage for damage to the driver’s car. Because the livery exclusion applies to comprehensive and collision coverages, drivers currently have no way to obtain comprehensive and collision coverage for TNC activities unless they separately purchase a commercial policy, which is currently cost prohibitive.

- Medical payments. This provides coverage for medical expenses not covered by liability insurance.
V. PUBLIC COMMUNICATION, EDUCATION AND OUTREACH

Legislators and regulators should communicate with TNC drivers and passengers about the insurance issues.

Many regulators have found that media (TV, radio, newspaper, and blogs) are very interested in the ride-sharing issue and a good avenue for presenting accurate, unbiased information to the public.

Because this is a new and rapidly changing industry, public education and outreach is critical to ensure that TNC drivers and passengers are aware of potential coverage gaps and limitations.

Public service announcements (PSAs) or consumer alerts can be a great tool in relaying information to both drivers and passengers. Unlike a news story, regulators/legislators can control the message, and provide detailed information.

TNC drivers and passengers, by definition, use smart phones. Information should be easily available, in a mobile-enabled format, on insurance department web sites.

State insurance departments should post alerts on their websites informing consumers of potential coverage gaps and how to remedy them. This should include information about any newly available hybrid Personal Auto Policies that expressly provide coverage for TNC drivers.

Regulators should require:

- TNCs to prominently post their insurance policies on their websites along with disclaimers about any potential coverage gaps.
- TNCs to disclose to drivers whether damage to the drivers’ cars will be covered by the TNC’s policy in the event of an accident.
- TNCs to provide their drivers with insurance information including the claims handling process.
- TNCs to revise their mobile applications to provide a link to insurance information, including claims handling information for all passengers.
- TNCs to electronically notify its mobile application users whenever it changes any coverage types or amounts on its insurance policy.
VI. CONCLUSION

TNCs create a new option for public transportation and recognize the increase in consumer to consumer communication. New technologies and business ventures often present risks not previously contemplated by state and local laws. Regulators and legislators can resolve risk exposure concerns by putting laws in place that eliminate coverage gaps. If not clearly defined, shifting coverage between personal auto and commercial coverage could be costly and inefficient as well as leave gaps in coverage. TNC laws should clearly define the terminology and identify the insurance coverage and limits required during each period. The chart in Appendix A contains a list of local ordinances and state legislation currently in place regarding transportation network companies.
# APPENDIX A - OVERVIEW OF CURRENT LEGISLATION

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<tr>
<th>City</th>
<th>Date Passed</th>
<th>Office</th>
<th>Insurance Requirements</th>
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| Austin, TX        | 9-14        | Austin City Council      | • TNC will provide commercial automobile liability insurance with a minimum combined single limit of $1 million for each occurrence of bodily injury and property damage for accidents involving TNC vehicles in transit, beginning with the time that the TNC driver accepts a trip request on the TNC’s digital network, or during the accepted trip, and ending when the rider departs the vehicle, naming the City of Austin as an additional insured.  
• The policy shall be accompanied by a commitment from the insurer that such policy will not be cancelled or coverage reduced without at least 30 days’ notice. |
| Baton Rouge, LA   | 6-14        |                          | • Transportation network application company shall mean a company operating in the City of Baton Rouge and Parish of East Baton Rouge that uses a digital network or software application to connect a passenger to transportation network services provided by a transportation network operator.  
• Maintain a commercial liability insurance policy that:  
  o Provides coverage of at least one million dollars ($1,000,000.00) per incident for accidents involving a transportation network operator from the time the operator accepts a trip request until the completion of a trip, regardless of whether the operator maintains personal insurance adequate to cover any portion of a claim;  
  o Provides uninsured/underinsured motorist bodily injury coverage of at least one million dollars ($1,000,000.00) per incident;  
  o During the time that a transportation network operator is available for service but not providing service, provides additional bodily injury coverage of at least fifty thousand dollars ($50,000.00) per person and at least one hundred thousand dollars ($100,000.00) per accident, and coverage of at least twenty-five thousand dollars ($25,000.00) for property damage per accident, in the event that the operator's personal insurance policy does not pay; and  
  o Provides that written notice shall be given the taxicab control board upon any cancellation or termination of the policy. |
<p>|                   |             |                          | <a href="https://www.municode.com/library/#!/la/baton_rouge,_east_baton_rouge_parish/codes/">https://www.municode.com/library/#!/la/baton_rouge,_east_baton_rouge_parish/codes/</a>                      |</p>
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<tr>
<td>Birmingham, AL</td>
<td>7-14</td>
<td></td>
<td>• TNC must maintain $1,000,000 for personal injury, property damage or advertising liability during all coverage periods. Ordinance not available online at this time.</td>
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| Chicago, IL        | 5-14        | Chicago City Council    | • At least the following minimum coverage:  
  o (1) commercial general liability insurance with limits of not less than $1,000,000 per occurrence, for bodily injury, personal injury, and property damage;  
  o (2) (i) commercial automobile liability insurance with a combined single limit for bodily injury and property damage of $1,000,000 per occurrence, covering liability resulting from any occurrence arising out of or caused by the operation of a transportation network vehicle (including owned, hired, and non-owned vehicles) while the applicant's transportation network driver has accepted a ride until the completion of the ride; and (ii) automobile liability insurance with limits for bodily injury and property damage not less than the minimum amount required under Section 7-601 of the Illinois Vehicle Code, codified at 625 ILCS 5/7-601(20k/40k/15k), per occurrence, covering liability resulting from any occurrence arising out of or caused by the operation of a transportation network vehicle (including owned, hired, and non-owned vehicles) while the applicant's transportation network driver is logged onto the transportation network provider's Internet-enabled application or digital platform showing that the driver is available to pick up passengers until such driver accepts a ride. |
| Cincinnati, OH     | 11-14       | City of Cincinnati      | • TNC required to carry at least $1,000,000 in combined single limit liability third party coverage per occurrence for death, bodily injury and property during Periods 2 & 3.  
  • The policy shall provide uninsured and underinsured motorist coverage per occurrence for death or bodily injury in an amount at least equal to requirements for other public vehicles as required in Sec. 407-30 of the Municipal Code;  
  • The policy shall act as primary coverage for the driver, driver's vehicle and the passengers of the driver's vehicle during Periods 2 & 3.  
  • A Transportation Network's Driver's personal insurance may satisfy the requirements |

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| Columbus, OH   | 7-14        | Columbus City Council |  ● TNCs are required to provide at least $1 million of commercial liability coverage as well as uninsured and underinsured motorist coverage.  
   ● TNCs must also match the driver’s personal auto coverage for collision and comprehensive (other than collision).  
   ● No vehicle for hire owner's license shall be issued or renewed by the Director without evidence of liability protection. It shall be unlawful to operate or permit the operation of any vehicle for hire until the owner of the vehicle has deposited and maintained on deposit with the Director, evidence of liability protection. The liability protection limit shall not be less than the amount listed below for the specific vehicle for hire to be licensed for liability imposed by law for damages on account of bodily injuries, death or property damages (other than injuries, death or property damages of the owner or vehicle for hire driver) in any one (1) accident resulting from the ownership, maintenance or use of each such vehicle for hire:  
     o Three hundred thousand dollars ($300,000.00) for taxicabs;  
     o Three hundred thousand dollars ($300,000.00) for pedicabs;  
     o Five hundred thousand dollars ($500,000.00) for livery vehicles; and  
     o Three hundred thousand dollars ($300,000.00) for horse carriages.  

https://www.municode.com/library/#!/oh/columbus/codes/ |
| Dallas, TX     | 12-14       | Dallas City Council |  ● From the time a driver indicates that the vehicle is available to accept a ride request, but before the driver has accepted a ride request, the vehicle and driver must be  

https://www.municode.com/library/#!/oh/columbus/codes/ |
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<tr>
<td>Dayton, OH</td>
<td>12-14</td>
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<td>• Ordinance does not address insurance requirements for TNCs. Taxicab operators must carry $1,000,000 for bodily injury and property damage. Ordinance not available online at this time.</td>
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<tr>
<td>Houston, TX</td>
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<td>• $1M required commercial automobile liability insurance with a combined single limit for bodily injury and property damage during periods 2 &amp; 3.                                                                                           • Commercial automobile liability insurance coverage no less than the minimum coverage amounts specified in the Texas Motor Vehicle Safety Responsibility Act ($30k/$60k/$25k) during period 1.                                                                 • Insurance policy required must be available to cover claims regardless of whether a driver maintains insurance adequate to cover any portion of the claim; disclosed on the permittee’s Internet-enabled application and website, and maintained in force all times that the TNC offers or provides TNC service.</td>
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<td>Little Rock, AR</td>
<td>** Contacted City for a copy of ordinance. **</td>
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<td>Milwaukee, WI</td>
<td>7-14</td>
<td>Milwaukee Common Council</td>
<td>• Minimum required policy limits are $50k/$100k/$10k during all periods.                                                                 • Uninsured motorist coverage with limits comparable to the respective liability limits for the vehicle are also required during all periods.</td>
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| Minneapolis, MN | 7-14       | Minneapolis                  | • TNCs are required to maintain at least $1 million of commercial liability coverage per...
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| Oklahoma City, OK          | 10-14       | Oklahoma City Council | - Single limit coverage required for each accident or occurrence during period 2 & 3:  
  - $100,000 involving six or fewer seating capacity  
  - $750,000 involving seven to nine seating capacity  
  - $1,000,000 for seating capacity for ten  
- During periods 2 & 3 the TNC is required to provide coverage with minimum limits of ($50k/$100k/$25k).  
https://www.municode.com/library/#!/ok/oklahoma_city/codes/ | Amended by Ordinance 25,002. |
| San Antonio, TX            | 12-14       | San Antonio City Council | - TNC is required to carry minimum liability limits during Period 1 of $50k/$100k/$25k and excess coverage of $200k. Liability coverage must be primary.  
- $1M required for liability and UM/UIM coverage in Periods 2 & 3.  
| Salt Lake City, UT         | 7-14        | Salt Lake City Council | - TNCs are required to carry the same liability insurance limits as other ground transportation companies (taxis and limousines). There is some debate remaining about when this coverage should begin and end.  
- Insurance coverage levels set by determining the highest limits set by the Federal Motor Carrier Safety Administration, Utah Department of Transportation or U.S. Department of Transportation.  
- The required limits at the time ordinance was passed, was $1.5 million per occurrence.  
| Seattle, WA                | 7-14        | Seattle City Council | - TNCs are required to maintain no less than $100,000 per person and $300,000 per accident of liability coverage as well as uninsured motorist coverage with the same minimums. Coverages are required when the for-hire vehicle is 'operating' which includes when: there is a passenger in the vehicle, the office dispatch records show that the vehicle had been dispatched, the for-hire driver has offered transportation services to a passenger.  
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<tr>
<td>Tulsa, OK</td>
<td>8-14</td>
<td>Tulsa City Council</td>
<td>• The driver of the TNV must maintain minimum liability limits of $25k/$50k/$25k.</td>
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<td>• TNC must have a $1 million per incident excess policy as well as step in to pay losses not covered by the driver’s personal auto coverage.</td>
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<td><a href="https://library.municode.com/index.aspx?clientId=14783&amp;stateId=36&amp;statename=Oklahoma">https://library.municode.com/index.aspx?clientId=14783&amp;stateId=36&amp;statename=Oklahoma</a></td>
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<tr>
<td>California</td>
<td>9-14</td>
<td>California Public Utilities Commission</td>
<td>• All TNC coverage amounts must be primary and the TNC insurer maintains the duty to defend and indemnify in periods 2 and 3.</td>
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<td>• TNC insurance shall maintain coverage in the amount of $1 million for death, personal injury, and property damage.</td>
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<td>• TNC must also maintain $1 million uninsured/underinsured motorist coverage from the moment the passenger enters the vehicle until they exit.</td>
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<td>• TNC shall maintain primary liability coverage of at least $50,000 per person/$$100,000 per incident/$30,000 property damage.</td>
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<td>• TNC shall maintain excess coverage for TNC and driver of at least $200,000 during periods 2 and 3.</td>
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<td>• Coverage may be maintained by driver or TNC or any combination of the two.</td>
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<td>• The driver’s personal auto insurer is not required to defend or indemnify the insured while the driver is logged on to the TNCs online-enabled application unless coverage is provided through an amendment or endorsement to their policy providing for such coverage.</td>
</tr>
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</table>

<p>| Colorado        | 6-14         | Colorado Public Utilities Commission | • The TNC or the driver must maintain primary liability insurance coverage for the driver for incidents involving the driver during a prearranged ride in the amount of at least $1 million per occurrence. |
|                 |              |                                      | • While driver is logged into a TNCs digital network but is not engaged in a |</p>
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<tr>
<td>Prearranged ride</td>
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<td>- TNC or driver shall maintain primary liability limit equal to at least the state minimum ($50,000 per person/$100,000 per accident/$30,000 property damage).</td>
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<td>- Coverage can be full time commercial, a personal auto policy rider or endorsement or a corporate liability insurance policy purchased by the TNC.</td>
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<tr>
<td>District of Columbia</td>
<td>12-14</td>
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<td>- TNC must maintain a commercial liability policy with at least $1 million per incident coverage from the time the operator (driver) accepts a trip request until completion of the trip.</td>
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<td>- TNC must provide at least $1 million per incident of uninsured/underinsured motorist coverage.</td>
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<td>- TNC must provide contingent comprehensive and collision coverage of at least $50,000.</td>
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<td></td>
<td>- The driver or TNC must provide primary liability coverage of at least $50,000 per person/$100,000 per accident/$25,000 property damage while operator (driver) is available for service but not providing service in the event that the operator’s personal auto insurance policy does not pay.</td>
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