Supporting Innovation; Closing TNC Insurance Gaps

Setting a Reasonable Standard to Properly Insure Transportation Network Company Activities and Protect the Public

Background

Services offered by transportation network companies (TNC) are a relatively new trend in major cities across the country. Transportation network companies, such as UberX, Lyft, and Sidecar, use smartphone communications technology to connect individuals who want a ride with drivers for a fee. Because the drivers generally use their personal vehicles, there are questions whether they have the proper insurance coverage as ***the typical standard personal automobile insurance policy contains a "livery" exclusion which applies when the vehicle is being rented out, or used to carry passengers for hire. Consequently, most personal automobile insurance policies do not cover any damages or losses when a car is being used for commercial ride-sharing.***

As is often the case with anything new, there is very little in statute or regulation that deals specifically with TNC programs or insurance coverage for this purpose. However, the National Association of Insurance Commissioners (NAIC) and more than 20 state insurance departments and public service commissions have issued consumer alerts or advisories highlighting the potential insurance gaps in coverage for TNC activity and encouraging TNC drivers to talk with their insurer to understand their exposure.

The California's Public Utilities Commission was the first regulatory body to regulate these activities. However in 2014 many state and local legislative and regulatory bodies around the country have grappled with how to address TNC activities. State legislatures including Arizona, California, Colorado, Connecticut, District of Columbia, Florida, Georgia, Illinois, Maryland, North Carolina, New Jersey, Oklahoma, Pennsylvania, Rhode Island, Virginia and Washington have considered legislation. Most recently in California, the Legislature sent (AB 2293) which creates a firewall protecting personal auto insurance from subsidizing commercial activities to Governor Jerry Brown. On the other hand, Illinois Governor Pat Quinn vetoed legislation that would have provided a uniform statewide approach to insurance issues and consumer protections. Earlier this year, Arizona Gov. Jan Brewer vetoed House Bill 2262 which would have forced personal auto insurers to cover the riskier driving behavior of TNC drivers. Colorado Gov. John Hickenlooper signed legislation that sets up the framework for TNCs to provide primary insurance coverage for all commercial activity including when the driver logs onto their app and is available for hire through the time period when they have a passenger in the vehicle and until the driver logs off the app and is no longer available to accept rides.

PCI Supports Innovation and Strong Consumer Protections

To support innovation and allow these new businesses to grow, it is vitally important that the vehicles used in TNC services are properly insured and the public is protected. ***Specifically, the drivers and their passengers need to understand that the driver's personal auto policy will not cover damage or losses arising when the car is used in a transportation network program.*** We support the development of clear guidelines so everyone knows where they stand regarding insurance coverage for transportation network services. PCI has been actively seeking to establish appropriate disclosures for drivers and passengers as well as clarity regarding what insurance coverage is being provided, when it's being provided and by whom. PCI opposes legislative efforts to shift the commercial insurance risk and costs of TNC programs on to other motorists.

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Transportation Network Company Questions and Answers

TNC drivers have personal automobile insurance and the TNCs say they have $1 million commercial liability insurance, isn't that enough coverage?

- The insurance gap isn't about how much insurance there is, it is about when it applies. Coverage for supplied by the TNCs when drivers are looking for a match is "contingent" on the driver's personal lines policy not providing coverage. While the TNCs may interpret personal auto insurance policies as providing some coverage for TNC activities, insurers clearly do not interpret their policy language that way. Personal auto insurance policies are not intended to cover the higher risks associated with using a car for commercial purposes. Just about every standard auto insurance policy contains some form of a livery exclusion which means carrying passengers for hire. ***As a result, any damages or losses sustained when the car is being used for TNC activities will not be covered by the personal auto policy***. Additionally it will not provide coverage for the driver or passenger if they are hit by an uninsured or underinsured driver. There is also no coverage to repair the driver's vehicle if it is damaged while in use as a ride-sharing vehicle.
- PCI is advocating for clear guidelines regarding when the TNC coverage applies. Without clarification, the TNCs could challenge each and every coverage determination made by a personal auto insurer. That means delays in compensating the victims and costs incurred with handling claims and litigation for the personal lines insurers, costs that are reflected in the loss costs that affect the premiums of every driver in the state, in effect subsidizing the economic activity of TNC drivers and companies.

What type of insurance coverage is appropriate?

- The insurance marketplace is always evolving with new product offerings. PCI is advocating for legislative and regulatory approaches to ride sharing that protect the public while not stifling insurers' ability to innovate and develop products to meet marketplace demands. However, TNC drivers should talk with their insurer about how they plan to use their vehicle to ensure they are protected if an accident occurs. Driving a car as a livery presents higher risk than normal personal use of a car. Insurance coverage needs to specifically apply to these activities.

What concerns do insurance companies have regarding ride sharing programs?

- The insurance industry wants to ensure that the personal and financial safety of consumers, passengers and drivers are protected. Currently there are not clear guidelines to ensure that vehicles used in these programs are properly insured. It also is not always clear when the TNC's coverage is activated, which could leave drivers uninsured while they are on the road. The potential for coverage gaps put everyone at risk.

What changes do insurers want to see?

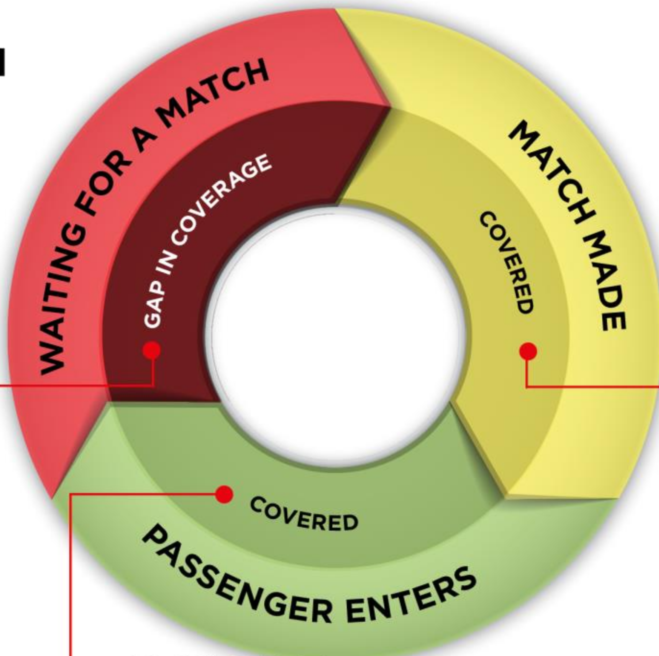
- TNC drivers should have insurance that specifically covers transportation network activities and does not leave gaps in coverage. Transportation network program participants (car owners, drivers and passengers) should have disclosures on coverage issues as part of contracts/usage agreements so they can know where they stand regarding insurance coverage while they're involved with a transportation network program. Additionally, vehicle owners have a responsibility to purchase insurance appropriate to the way they use their vehicles.

TNC Insurance Coverage Periods

TNC drivers are providing services during all three periods, therefore the TNC coverage should be primary and apply exclusively during all three periods to close the insurance gap

PERIOD 1
APP ON

A GAP EXISTS
TNCs only provide 50/100 contingent coverage. There is also no uninsured (UM)/underinsured (UIM) motorist coverage, medical payments coverage, comprehensive, collision or other optional coverages.



PERIOD 2
Passenger not yet in car

$1,000,000 COVERAGE
Also includes UM/UIM and medical payments coverage where required. Comprehensive and collision coverage if the driver has purchased this for their personal policy.

PERIOD 3
Passenger in vehicle

$1,000,000 COVERAGE
Also includes UM/UIM and medical payments coverage where required. Comprehensive and collision coverage if the driver has purchased this for their personal policy.

When TNCs' coverage is contingent on the drivers' personal lines insurer denying a claim, there is uncertainty that creates opportunities for disputes. Each claim has to be reviewed and if the personal lines insurer denies coverage, the TNC can dispute the insurer's coverage determination. This process creates delays in compensating victims, higher claims handling costs and legal fees.

TNC insurance coverage should be primary and apply exclusively at all times while a driver is signed up for the program. This approach establishes a bright line regarding coverage and reduces the opportunity for disputes.

PCI is composed of more than 1,000 member companies, representing the broadest cross section of insurers of any national trade association. PCI members write more than $195 billion in annual premium, 39 percent of the nation's property casualty insurance. Member companies write 46 percent of the U.S. automobile insurance market, 32 percent of the homeowners market, 37 percent of the commercial property and liability market, and 41 percent of the private workers compensation market.