

GOVERNMENT OF WEST BENGAL
TRANSPORT DEPARTMENT
12, R. N. MUKHERJEE ROAD, KOLKATA-700001

No: 4450-WT/3M-05/2015

Dated: 07.12.2015

NOTIFICATION

In exercise of the powers under Section 93 of the M.V. Act, 1988 read with the provision of Sub-rule (1) of Rule 196A of West Bengal Motor Vehicles Rules, 1989 (as amended) the 'Directives' to regulate the operational activities /conduct of the On-Demand Transportation Technologies Aggregators (ODTTA), as given below, are hereby notified.

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DIRECTIVES

1. **Connotation of On Demand Transportation Technologies Aggregators (ODTTA) with reference to Rule 196A of the WBMVR, 1989 (as amended) :**
 - (i) An On Demand Transportation Technologies Aggregator (hereinafter termed as 'ODTTA') must be a registered entity under the laws of India.
 - (ii) The ODTTA must be a digital intermediary / marketplace operator that canvasses or solicits for a passenger to connect with a driver having the requisite qualifications and operating an appropriately licensed vehicle under the laws of India and must be compliant with all applicable Rules /Regulations prescribed under the Motor Vehicles Act, 1988 as applicable and the relevant provisions of Information Technology Act, 2000, including the intermediary guidelines and the Rules made thereunder.
 - (iii) The ODTTA must not own or lease any vehicle, employ any driver or represent itself as a taxi service, unless also registered as a taxi operator under the applicable law(s).
 - (iv) The ODTTA shall be considered a transportation service provider if it applies its own brand to the means of transport it seeks to make available on its platform.
2. **Requirement of License – No company shall act as an ODTTA within the State of West Bengal unless such a company has obtained an Agent's license from the Transport Department of the State Government or any of its instrumentalities appointed as Licensing Authority for the purpose in terms of Rule 196A of the WBMVR, 1989 (as amended).**
3. **Licensing Authority – For issuance of license to any ODTTA operating in the State, the State Government in the Transport Department or any of its instrumentalities appointed for the purpose shall be the Licensing Authority.**
4. **Application for issue of license - Application for license under this set of directives shall be made in writing to the Licensing Authority appointed by the State Government in the Transport Department in the Form as specified in Rule 196A of the WBMVR,1989(as amended) and shall be accompanied by the following:**
 - (i) Documents satisfying that the applicant company is registered under the Companies Act, 1956 or a partnership firm registered under the Indian Partnership Act, 1932 and under the relevant provisions of the I T Act, 2000.
 - (ii) Proof of address of the organization within the State for registered service of process along with Trade license and details of the Office-in-charge of the organization located in the State.

- (iii) *Minimum 50 (fifty) consent letters from the permit holders of public service vehicles. (The owner of any public service vehicle can give consent to an ODTTA for service.)*
- (iv) *A duly sworn-in/ notarized affidavit along with an undertaking to the effect that the terms and conditions of the license issued will be fully complied.*
- (v) *Sufficient proof of the availability of skilled manpower and infrastructure facilities required for operation of an on -Demand Transport Technology platform including an “ **ODTTA 24x7 Control Room**” on the ground fully equipped with professionally competent IT-educated staff accessible on-line/by communication facility like Telephone, E-mail, etc.*
- (vi) *Fee at the rate specified in **Schedule A** as set out in Rule 196A of the WBMVR, 1989 (as amended) .*

5. Operational details in respect of ODTTA

(a) The Licensee must –

- i) Provide an address within the area of operation in the jurisdiction of the Transport Department of the State Government for registered service of process along with details of the Office-in-Charge.*
- ii) Maintain accurate and up-to-date records of all the owners, drivers and vehicles from the State using the Licensee’s On-Demand Transportation Technology platform and to make them available on demand to such Authority (ies) of the State Government in the Transport Department or any of its instrumentalities as may be required.*
- iii) Ensure that its web or mobile application is fully compliant with the Permit conditions of the vehicle being operated by the drivers using the Licensee’s On-Demand Transportation platform provided that only Licensee’s and/or his/her duly authorised entities who are deemed to be Transport Service Providers under this set of directives shall be required to comply with this clause.*
- iv) In case any ODTTA operates in any form/format/design whatsoever, without the license being granted by the State Government or any of its instrumentalities so authorised for the purpose, it will attract such penal action as may be specified in accordance with the relevant law of the land.*

(b) In order to promote passenger safety -

The Licensee must

- i) Ensure that the On-Demand Technology Transportation Aggregator’s web or mobile application that connects drivers to and with the riders displays for the rider a clear and visible picture of the driver and a picture or description (including license plate number) of the vehicle and such other details as may be necessary so as to enable the rider to verify that the driver of the vehicle is actually the person whose details the rider has received via the on demand technology transportation aggregator.*
- ii) Have the ability to track centrally the real-time physical GPS location of the vehicles that make themselves available for duty on the Licensee’s on-demand transportation technology platform provided that the Licensee’s must also ensure that their web or mobile application can track and is interoperable with the physical GPS device fitted with the vehicle (One [1] vehicle, one[1] Aggregator , to begin with)*
- iii) Develop and include a feature in the mobile application that provides riders the ability to share their location with minimum five (5) persons/bodies/entities/organisations within their safety network.*
- iv) Develop and include a feature in the mobile application that gives riders the ability to contact the local Police in case of an emergency/any unforeseen situation endangering human life.*
- v) Enable the driver and the physical GPS device fitted to the vehicle to be connected to the data network of On-Demand Technology Transportation Aggregator’s platform whenever the driver or the vehicle is available on a Licensee’s On-Demand Transportation Technology platform including from when a trip is booked to when a trip ends provided that the Licensee must ensure that their web or mobile application is interoperable with the physical GPS device fitted to the vehicle.*

- vi) *Ensure that the vehicle shall be fitted with CCTV device of uniform specifications, and such device shall be so activated and connected to the Central Control Room (CCR) of the Licensee as to enable it to keep track of the real time happenings inside the vehicle with particular focus on the movement/conduct of the driver of the vehicle on the move carrying passenger(s). The Licensee shall keep back-up of the CCTV footage of every vehicle operated on its platform at least for 3 (three) days and shall be required to share any part of or the whole of such CCTV footage with the law enforcing authorities / Licensing Authority or any other Authorities, as and when required or asked for by the State Government in the Transport Department.*
 - vii) *Verify the antecedents of each driver wishing to use the On-Demand Transportation Technology platform through any registered /accredited Security Agency before engagement by ODTTA and sharing the data with the law enforcement agencies, as and when required , unless otherwise decided*
 - viii) *Data stored on the Server, not being location-specific, of the ODTTA have to be shared with Licensing Authority/Law Enforcement Authority and/or any other Authority as may be specified by the State Government in the Transport Department, as and when required in public interest.*
 - ix) *Verify vehicle information registered on the On-Demand Transportation Technology platform with the information available with the Ministry of Road Transport and Highways, Government of India and/or the Transport Department of the State Government at regular intervals including the vehicle driver mapping during the hours of actual operation.*
 - x) *Obtain the following up-to-date records relating to the driver:*
 - I. a recent coloured photograph of the driver;*
 - II. the driver's driving license;*
 - III. the driver's vehicle license plate number;*
 - IV. current Home address of the driver;*
 - V. Permanent Home address of the driver ;*
 - VI. RBI KYC Bank Account details of the driver;*
 - VII. Driver's contact information including mail id, if any;*
 - VIII. Self attested EPIC card and PAN card of the driver;*
 - IX. Residential address proof of the driver;*
 - X. Contact details and address of two family members, and in case no family member of the driver is there, contact details of two neighbours of the driver.*
 - xi) *Obtain the following up-to-date records relating to the driver's vehicle:*
 - I. Certificate of Registration as prescribed under the applicable laws of India;*
 - II. Certificate of Fitness as prescribed and issued under the applicable laws of India;*
 - III. Permit or any other document as prescribed and issued under the applicable laws of India, including, but not limited to, an All India Tourist Permit or a State Tourist Permit , as the case may be;*
 - IV. Chassis or engine number; and*
 - V. Insurance policy covering for third party risks as prescribed from time to time under the applicable laws of India.*
 - VI. Have the ability to track the real-time GPS location of the vehicles that make themselves available for duty on the Licensees' On-Demand Transportation Technology platform provided that the Licensees must also ensure that their web or mobile application can track and is interoperable with the physical GPS device fitted to the vehicle.*
- (c) *Policy of zero tolerance for discrimination or discriminatory conduct*
- I. Licensee must establish a policy of zero tolerance for discrimination or discriminatory conduct while a driver is logged into the On-Demand mobile application and submit the policy at the time of application for license. Discriminatory conduct, among others, may include:*
 - i) refusal of service;*

- ii) *using derogatory abusive/uncouth or harassing language directed at the passenger or his/her companion(s); or*
 - iii) *harassing a passenger on the basis of sex, race, caste, creed, religion, or nationality.*
- II. *The Licensee shall, upon receiving a written complaint from a passenger submitted through regular mail or electronic means or otherwise containing an allegation that the driver using the On-Demand Transportation Technology platform violated the zero tolerance policy for discrimination, immediately suspend the driver for the duration of the investigation by the Licensee and report the fact immediately to the Licensing Authority /law enforcing authority and/or any of the instrumentalities of the State Government as may be specified followed by action taken thereon.*
 - III. *A driver shall not refuse to provide service to an individual with a disability solely because the individual's disability results in appearance or involuntary behaviour that may offend, annoy, or in any way inconvenience the driver or another person. However, it shall not constitute discrimination under this paragraph for a driver to refuse to provide service to an individual who by his demonstrative behavior appears to be violent, seriously disruptive, inebriated or uncouth and proves, apparently, threat to public peace.*
 - IV. *The Licensee must implement a zero tolerance policy on the use of drugs or alcohol applicable to any driver, provide Notice of the zero tolerance policy on its website, as well as the procedures to report a complaint about a driver with whom the passenger was matched and for whom the passenger reasonably suspects, that he was under the influence of drugs or alcohol during the course of the ride, and immediately deactivate the said driver's access to the platform upon receipt of a passenger complaint alleging a violation of the zero tolerance policy. The suspension shall last during the duration of the investigation by the Licensee and report the fact immediately to the Licensing Authority or any of the instrumentalities of the State Government as may be specified followed by action taken thereon.*

6. Duties and responsibilities of the permit-holder(s) and driver(s) operating under the licensed ODTTA

- (i) *Every owner of public service vehicle (motor cabs with sitting capacity of up to 6+1 but excluding Meter Taxis) with all valid documents to be plied for hire under any ODTTA will intimate to the Licensing Authority the name and address of the company appointed in his/her behalf as ODTTA, who has been engaged for soliciting and canvassing for hiring of his/her vehicle as an agent.*
- (ii) *Every owner of public service vehicle will submit the authenticated copies of registration certificate and permit of his/her vehicle for which he/she has given consent to ODTTA to the Licensing Authority.*
- (iii) *Certificate of fitness, tax-token, insurance of the vehicle and other documents are to be revalidated by the owner in due time.*
- (iv) *No driver of any public service vehicle shall register himself/herself with an ODTTA unless the permit-holder of such vehicle gives his/her consent to that particular ODTTA as registered under the relevant clause under this set of directives.*

7. Issue of License

- (i) *After scrutiny of a request for a License for an On-Demand Technology Transportation Aggregator, a License shall be issued in favour of the applicant by the Licensing Authority after satisfying itself of the following:*
 - (a) *Documents required for the purpose of issuing license are furnished by the applicant and they are found in order.*
 - (b) *The applicant submits a duly sworn-in / notarized Affidavit and undertakes to comply with all the specified terms and conditions;*

- (c) *The applicant does not hold any license issued under this set of guidelines, and a duly sworn-in /notarized declaration to that effect has to be submitted.*
- (ii) *The license will be issued in the Form specified in Rule 196A of the WBMVR, 1989(as amended).*
- (iii) *The license issued shall be initially valid for a period of 5 (five) years from the date of issue or renewal unless otherwise invalidated provided that the License is renewable for such period as may be specified subject to satisfactory report on its performance by an independent Auditor in keeping with the basic spirit of the provisions of Rule 196A of the WBMVR, 1989 (as amended).*
- (iv) *The license shall be effective in the State of West Bengal only.*

8. Terms and Conditions of license

- i) *The licensee must not shift the principal place of business in the State as mentioned in the License without taking prior permission from the Licensing Authority in writing.*
- ii) *The licensee shall inform the Licensing Authority in case there is any change in the control or ownership of the Licensee or its area of operations /activities, wholly or partly, in any form.*
- iii) *Every vehicle that is operated for a journey booked via an aggregator platform should:*
 - a) *Be appropriately registered and licensed under the applicable laws of India.*
 - b) *Hold a valid and up-to-date Fitness Certificate issued under the applicable laws of India.*
 - c) *Hold Insurance policy covering for third party risks as specified from time to time under the applicable laws of India.*
 - d) *Have a valid permit issued from the authority concerned for such operations*
 - e) *Tax of the vehicle is to be paid on time.*
 - f) *Have a branding with Logo/ Insignia of ODTTA and specific Trade Dress for the Driver.*
- iv) *The vehicle shall be fitted with CCTV device of uniform specifications, and such device shall be so activated and connected to the Central Control Room (CCR) of the Licensee as to enable it to keep track of the real time happenings inside the vehicle with particular focus on the movement/conduct of the driver of the vehicle on the move carrying passenger(s). The Licensee shall keep back-up of the CCTV footage of every vehicle operated on its platform at least for 3 (three) days and shall be required to share any part of or the whole of such CCTV footage with the law enforcing authorities / Licensing Authority or any other Authorities, as and when required or asked for by the State Government in the Transport Department.*
- v) *The vehicle must be equipped with a GPS tracking device fitted by the owner of the vehicle and such GPS equipment must be interoperable between different Licensees if the vehicle is available on more than one On-Demand Transportation Technology platform. The State Government in the Transport Department or any of its instrumentalities authorised in this behalf in consultation with the institution /organization having expertise in the field shall lay down the standards for such physical GPS devices to ensure interoperability.*
- vi) *The vehicle MUST be equipped with the facility of a physical emergency button with the provision of emitting prescribed sound /light note, when pressed, for ensuring full safety and security of the passengers/driver on board in a conspicuous position and in a place having immediate access to the hirer and such equipment must be interoperable between different Licensees if the vehicle is available on more than one On-Demand Transportation Technology platform. The State Government in the Transport Department or any of its instrumentalities authorised in this behalf shall lay down the standards for such emergency devices in consultation with the Organization/Agency institution having expertise in the field in order to ensure interoperability.*
- vii) *Each owner shall register with the agent submitting the details of his/her vehicle.*
- viii) *The owner may be permitted to exclude or include any driver with due intimation to the agent subject to the conditions laid down herein and any of the conditions as may be specified.*
- ix) *Any driver who has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, or who has been convicted at any time for any cognizable offence within the meaning of any Indian law including fraud, sexual offences, use of a motor vehicle to*

commit a cognizable offence, a crime involving property damage, and/or theft, acts of violence, or acts of terror or acts of creating public disorder shall not be eligible for enrolment with the ODTTA. Verification of the antecedents of the drivers by any registered/accredited Security Agency for the last 7 (seven) years as already specified hereinabove, before engagement by the ODTTA and sharing the data with the law enforcement Agencies /Licensing Authority, if required, is a MUST.

- x) The driver, details of whom submitted by the owner, will be accepted by the agent only after due verification of the records from the appropriate authority and such driver only will be permitted to use the device issued by the agent to the owner.
- xi) Drivers using the On-Demand Transportation Technology platform must be permitted to log-in and log-off the on-demand technology platform at their discretion and must not be prevented from registering themselves or the vehicles they operate on multiple on-demand transportation technology platforms.
- xii) Any driver who wishes to register with an On-Demand Transportation Technology platform must hold a Reserve Bank of India ("RBI") KYC compliant Bank account.
- xiii) The driver must be of decent character with amiable disposition having the ability to converse properly besides being conversant with the technology in use.
- xiv) Driver when using a Licensee's on-demand transportation technology platform must not solicit or accept street hails except under an emergency situation where a human life is in peril/distress.
- xv) The On-Demand Transportation Technology platform must provide a feature to convey to the rider the consideration to be paid by a passenger/rider for the trip undertaken and upon completion of a trip, shall transmit or cause to be transmitted an electronic receipt to the passenger's email address or mobile phone or mobile application or in hard copy documenting the origination and destination of the trip and a description of the total amount paid, if any, and the name of the person or entity on whose behalf the receipt is issued.
- xvi) The rider must be facilitated either via the web or on a mobile app or through a customer service telephone number and an email address to submit their grievances or difficulties faced during travel.
- xvii) The Licensee shall be permitted to digitally provide for all features mandated physically by any applicable scheme or Rule or permit condition made by the Transport Department, Government of West Bengal or any other Department(s) or Organisation so authorised for the purpose.
- xviii) Police helpline number(s) shall invariably be prominently displayed on the back of the front seat of the vehicle in use.

9. Application for renewal of license

An application for renewal of license is to be made in the specified Form (Form L AG-A3) to the Transport Department or to the Organization/Agency of the State Government authorised for the purpose at least 30 (thirty) days before the expiry of the license with the following:

- (i) The license in original;
- (ii) Specified fee for renewal of license.
- (iii) Late fee, when the application for renewal is not made within due date, at the prescribed rate.

10. Procedure for renewal of License

- (i) On receipt of the application for renewal of the license the performance of the Licensed Aggregator evaluated by any CAG empanelled auditor on the applicable parameters and terms and conditions as specified will be examined and assessed in detail.
- (ii) The Licensing Authority concerned shall keep the complaints received from the consumers against the Licensee and the ability of the Licensee to address such complaints in view at the time of consideration of the application for renewal of the License.

11. Power of the Licensing Authority to decline issue or renewal of license

The Licensing Authority for reasons to be recorded in writing may decline to issue or renew license or may grant license on such conditions as the Licensing Authority may consider fit and proper in public interest to impose in keeping with the basic postulates of Rule 196 A of the WBMVR, 1989 (as amended).

12. Suspension or cancellation of license

- i) If the Licensing Authority, after giving the Licensee a reasonable opportunity of being heard, is satisfied that a Licensee has failed to comply with any of the terms and conditions as detailed herein or under the License, and the same has not been remedied within 45 (Forty Five) days of receiving written notice of such non-compliance, the Licensing Authority may suspend the License for such period as it may consider expedient to do or cancel the License in keeping with the basic postulates of Rule 196A of the WBMVR, 1989 (as amended) .
- ii) In the cases of where the Licensees operate in more than one State the Licensing Authority concerned shall inform through the Transport Department of the State to the Ministry of Road Transport and Highways, Government of India, of every suspension or cancellation of License.
Provided that every Licensee whose License has been cancelled shall be permitted to apply for another License with the Licensing Authority after a period of six months from the date of cancellation of License.
- iii) On a license being suspended, cancelled, or not renewed, it shall be surrendered forthwith to the Transport Department of the State Government or to the Organisation /Agency authorized by the State Government for the purpose.

13. Inspection of agent's license

An agent shall, on demand by any officer of the State Government in the Transport Department not below the rank of Motor Vehicle Inspector or a Police Officer not below the rank of Sub-inspector or any other officer of the State Government empowered for the purpose, produce his /her agent's license etc. for inspection/verification/scrutiny.

14. Appeal against the order of Licensing Authority

Any person aggrieved by any order of the Licensing Authority for suspension or cancellation may within thirty days of receipt of the order, make an appeal to the Additional Chief Secretary/ Principal Secretary/ Secretary, Transport Department of the State Government, as the case may be.

Provided that for Licensees that are operating in more than one State in India an appeal against the order of the Additional Chief Secretary, Principal Secretary, Secretary Transport Department of the State, as the case may be, shall lie with the Ministry of Road Transport and Highways, Government of India.

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These 'Directives' will come into immediate effect and no ODDTA will operate without a valid licence in terms of these directives after 15th January, 2016.

By Order of the Governor,



Principal Secretary
to the Government of West Bengal

No: 4450/1(1)-WT

Dated: 07.12.2015

Copy forwarded for information to the Superintendent, Bengal Government Press, 38, Gopalnagar Road, Kolkata – 700 027 with the request to publish the Notification in the official Gazette and send 100 (one hundred) copies of the same to this Department for official use.



Joint Secretary


to the Government of West Bengal

No: 4450/2(2)-WT

Dated: 07.12.2015

Copy forwarded for information to:

1. Chief Secretary, West Bengal
2. Additional Chief Secretary, Home Department, Government of West Bengal



Joint Secretary

to the Government of West Bengal

No: 4450/3(65)-WT

Dated: 07.12.2015

Copy forwarded for information and taking necessary action to:

1. Director General of Police, Government of West Bengal
2. Commissioner of Police, Kolkata / Howrah / Bidhannagar / Barrackpore / Asansol-Durgapur / Siliguri
3. District Magistrate (All)
4. Superintendent of Police (All)
5. Secretary, State Transport Authority, West Bengal
6. Regional Transport Officer (All)



Joint Secretary

to the Government of West Bengal