

Report of **Head of Licensing and Registration**

Report to **Licensing Committee**

Date: **9 September 2014**

Subject: **A proposed policy – digital advertising screens in licensed vehicles**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The Council has an existing policy in respect of 'Corporate Livery' on wheelchair accessible vehicles. That policy controls the type of advertising to ensure it matches the principles of the Advertising Standards Agency and the Corporate image of Leeds City Council.
2. An application has been made by a licensed Hackney Carriage driver to extend the scope of corporate advertising by fitting digital media screens in a licensed vehicle. The technology, the scope of advertising and changes to the various policies and conditions would need the approval in principle of the Licensing Committee and final approval by the Executive.
3. The main issues in considering the application are the use of screens in licensed vehicles are attendant safety issues in how they are fitted, the scope of media advertising and the impact upon existing policies and conditions.

Recommendations

4. That Members note the information in this report and consider whether to approve in principle this policy proposal along with the control measures identified in the body of the report. If Members do approve they should direct officers to prepare a report for the consideration of the Executive to approve.

1 Purpose of this report

- 1.1 A proposal has been submitted by a digital media company to display advertising and entertainment content on screens fitted in the back of head restraints in licensed vehicles. An application for a variance to existing conditions and policy has been submitted by a licensed Hackney carriage Proprietor.
- 1.2 It should be noted that such a policy would not be approving this supplier for sole provision of this type of service or equipment in vehicles; the policy will allow any supplier of similar technology to approach licensed vehicle proprietors with their proposals. This report provides the necessary controls and framework that all suppliers and proprietors must meet.

2 Background information

- 2.1 There is an existing relative policy in respect of Corporate advertising and that policy requires that the Corporate advertisement which covers the whole of the vehicle is approved and the subject of control measures. Members will note the reference in information from the proposing company, in this case DigiCAB Media, that they also supply exterior advertising but will not allow the digital screen product to be fitted to licensed vehicles that has existing corporate advertising that does not match with their products. In effect this means there must be a 'trade off' by a licensed driver, who cannot have both corporate advertising and this product unless the 'corporate 'wrap' corresponds with the product advertised by DigiCAB Media. That is an issue that only the licensed drivers need to be alert to and does not affect decision making for Members.
- 2.2 Licensed vehicles would be fitted with a simple 3G enabled system built in to a 9" screen fitted into the back of a head restraint. Satellite technology updates the content on a regular basis from a central point of control.
- 2.3 Enquiries by Officers reveal this facility is already in place in Hull, York, Sheffield and Wakefield licensing authorities. Members will note that the DigiCAB Media literature refers to.
- 2.4 **Appendix 1** and **Appendix 2** are the company's explanatory documents that will give Members more information. Also in the background documents Members will see two web-sites that might also be helpful to Members to view adverts on Youtube.

3 Main issues

- 3.1 The media company making this proposal intend to offer it to Hackney carriage and Private Hire vehicles. In the context of Hackney carriage vehicles the difficulty is the conflict that has been explained earlier, but this is easily overcome with the control measures in the company and assurances about the content of issues displayed on the screen from the company and the Council's control measure.
- 3.2 In respect of Private hire vehicles it is an entirely new proposal but one that would be supported by the trade. Members are advised that primary legislation concerns the ability to distinguish the appearance between a taxi and private hire vehicle but

that piece of legislation would not extend to precluding Private Hire vehicles having similar technology available in their vehicles. In fact it might provide improved revenues streams for the private hire industry as well as the Hackney Carriage trade and demonstrating that the Council has a wide approach to being an enterprising Council to benefit all of its citizens.

- 3.3 Officers have considered the legal implications for the Council which are at paragraph 4.5 of this report along with the safety issues highlighted below.
- 3.4 The starting point is public safety and a further consideration is protecting the liability of the Council. The focus is on the head restraint and a recognition of being a major safety feature to reduce whiplash injuries in collisions. What we know is that when the vehicle was manufactured it met an exacting European Standard in respect of safety and head restraints are a part of those considerations. It follows that the questions to focus on in respect of this proposal are:
- Does the fitting of a screen in an 'after-market' head restraint conflict with the integrity of the vehicles European Whole Type Approval.
 - Is the insurance in respect of the licensed vehicle affected in any way?
 - If the 'after-market' head restraint is adjustable, will the leisure needs of the rear seat viewing passenger overtake the necessity for correct adjustment of the head restraint for the front seat passenger.
- 3.5 On the first of those issues it is not for the Council to undertake detailed enquiries on behalf of this or other media companies or to support the licensed applicant's request. The onus for demonstrating compliance and safety should remain firmly with the supplier and the licensed applicant.
- 3.6 The report author raised the following questions with the Royal Society for Prevention of Accidents (RoSPA).
- "Does the fitting of media screens in head restraints compromise passenger safety?"
 - "If I change to a head restraint that is not standard to the vehicle is that a potential safety concern?"

The response was :

" I have spoken to RoSPA's Head of Road safety with regard to your enquiry.

There could be potential problems if a new head restraint that was not designed for the vehicle is fitted. Check with the vehicle manufacturer that the new head restraint is suitable for the vehicle before buying."

Members may feel that this view supports the suggestion that responsibility for producing public safety supportive documentation is not for the Council to research.

- 3.7 This should be overcome on a case by case basis with the supplier of the equipment and the proprietor of the licensed vehicle supplying individual

accredited statements of conformity for each vehicle in which it is proposed to fit media screens. The minimum standard would be a technical approval declaration from the vehicle manufacturer.

3.6 Similarly, on the second point; I asked RoSPA the following question:

- Could it affect my insurance ?
- If I fit an 'after- market 'head restraint is it likely to affect my liability in the event of a passenger injury involving whiplash ? This information is in respect of a licensed taxi.

The response was:-

“With regard to insurance this is something that you can only discuss with your insurance provider.”

To look more closely at this issue I rang a reputable insurance broker and asked the same question of them, and their response was to the effect that ... *insurance policies generally carry a requirement that if there is any modification to the standard specification of the vehicle the insurance company must be notified and approve the modification otherwise the policy could be voided.*

3.7 The minimum requirement for licensing purposes would be for the licensed vehicle proprietor to produce appropriate documentation from the insurer approving the detail of the modification. Members are reminded that it is a statutory requirement for the Council to ensure that insurance is in place for that licensed vehicle.

3.8 In respect of the third point. This is the unmanageable issue for the Council if the application is approved. However, the driver can take responsibility for this and can be accountable in respect of any third party injury claims. The documentation supplied by the media company to the driver should detail the readily available safety advice in respect of head restraint positioning and remind the driver that the primary purpose of the head restraint is public safety and not supplying entertainment.

3.9 With the emphasis placed on passenger safety an application, approval and inspection process would need to be in place for the vehicle after fitting and prior to final approval. After fitting, the Council would be presented with a letter of conformity and a disclaimer absolving the Council of any resultant liability and a pre-agreed inspection sheet. The liability will then rest firmly between the supplier of the screens and the licensed proprietor.

3.10 Advertising Agency Standards cover all forms of advertising but nevertheless even conformity to their standards would not necessarily mean that the adverts or footage appearing on the display screens are necessarily those that you would want to see in the presence of business partners or children and there has to be an understanding of this on the part of the media company.

It is important that the Council's values are not undermined and accordingly any advertising that is prohibited by the Council or is not supporting of Council priorities or values would not be permitted (e.g. advertising by pay day loan companies would not be permitted as they are in conflict with the principles of the Council's poverty agenda)

The advertising of alcohol, tobacco or sexual entertainment venues should not be permitted and the Council would consider suspension of the policy or withdrawal of a particular approval in the event of concerns regarding the type of advertising or substantiated complaints.

- 3.11 These requirements are not insurmountable and the benefits to the Council and to passengers in vehicles with some of the potential advertising can be recognised. Certainly, in the context of opportunities for tourism and corporate advertising there are 'pluses', as are potential financial benefits to the licensed proprietor.
- 3.12 If the application included changes to the construction of the manufacturers head restraint fitted to the vehicle at the time of its European design approval then the same issues would have to be satisfied by the driver before approval for fitting.
- 3.13 This application should be seen in the context of digital media already being widely available to the travelling public by wi-fi and streaming in public places and other forms of transport.

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The information contained in this report has not been the subject of consultation with the trade as it is a business opportunity and an individual proprietor's choice and not regulatory issue such as Members normally see.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no significant issues. The principal of the advertising content will already have been approved in accordance with ASA standards but the distinction should be drawn that advertising or other media that highlights international or religious tensions would not be acceptable. Such matters could lead to disputes between passengers or drivers or be offensive to a passenger. Similarly it might be considered inappropriate to have an involvement with local politics (as opposed to Council policies)

4.3 Council policies and City Priorities

- 4.3.1 The Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,
- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time
- Improving customer satisfaction

4.32 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.4 Resources and value for money

4.4.1 As this is an information report there are no resource or value for money issues to consider.

4.5 Legal Implications, Access to Information and Call In

4.5.1 In view of this being a policy matter that enables a personal choice on the part of the licensed vehicle proprietor, the legal implications are limited to overseeing the Constitutional process and the role of the Licensing Committee and Executive policy creation and considering the public safety implications.

4.6 Risk Management

4.6.1 Although there are perceived risks the control measures proposed are considered sufficient to absolve the Council of any liability. It is also important to control what type of technology drivers might introduce into their vehicles and so there would need to be a formal application process and quick inspection of the vehicle so that an accurate record can be maintained of which vehicles have approved screens in them.

There is a resource implication which can be adequately managed and catered for with an administration and inspection fee.

5 Conclusions

- 5.1 That there is a potential consumer benefit and a definite licensed trade benefit in developing an appropriate council policy, which, with endorsement by the Licensing Committee, would benefit the image of Leeds City Council in encouraging enterprise, service to the travelling public and the financial opportunities available to proprietors.
- 5.2 If Members agree that in principle that the benefits identified above are appropriate to the licensing policy and the aims of the Council, the only other issue is those of defining the policy and conditions and ensuring public safety in the fitting of the items and a continued conformity of appropriate media displayed on the screens.

6 Recommendations

- 6.1 That Members note the information in this report and consider whether to approve in principle this policy proposal along with the control measures identified in the body of the report. If Members do approve they should direct officers to prepare a report for the consideration of the Executive to approve.

7 Background documents

Disclaimer to be signed by proposing company prior to Executive approval

Hackney carriage vehicle conditions

Private Hire vehicle conditions

Corporate Advertising policy

Approval information from Humberside City Council, Sheffield City Council, Wakefield City Council and Leicester City Council.

www.DigiCABmedia.com

www.Youtube.com/digicabs

<http://www.rospa.com/roadsafety/adviceandinformation/vehiclesafety/headrestraintswiplash/head-restraint-adjustment.aspx>