October 10, 2019

Mr. Jeff Marootian
Director, District Department of Transportation
55 M Street SE
Washington, DC 20003

Dear Director Marootian:

We have received the invitation from your Department for comments on the Terms and Conditions for Dockless Bikes and Scooters for 2020. We appreciate your decision to extend the public comment period for at least a few more days to October 10 so additional individuals and ANCs have the opportunity to submit their views and recommendations. We would like to submit a few comments and also request that DDOT provide for a longer public comment period so issues and options related to the dockless bike and scooter programs for calendar year 2020 can be more fully considered.

Like many other ANCs, we have found few District programs have generated more response -- positive and negative -- than the dockless bike and scooter programs. Our constituents have urged that the programs should be adjusted to strike a better balance between mobility, access, and safety for riders and others who use the streets, bike lanes, and sidewalks.

We believe it would be useful for DDOT to organize a much more robust public engagement process on the subject of the dockless bike and scooter programs, now that people in the District have had a year or so to use these vehicles and see and interact with them on our roadways and footways. The DC Council and many other groups are discussing possible changes in the way dockless bikes and scooters are operated, maintained, and regulated under District law. This is an ideal time to pause and take an in-depth look at how the bike and scooter programs are evolving, how riders are using the vehicles, how the programs affect and are perceived by others, how liability and insurance regulation can be equitable with coverage for other types of vehicles, and how different jurisdictions have dealt with similar challenges.

We urge that the entire dockless bike and scooter program be reviewed in greater depth and refined to accommodate what we have learned as well as the experience developed in other jurisdictions with new laws and regulations covering these forms of transportation. DDOT should work in close coordination with the Council, ANCs, residents, operators, and interest groups involved in these issues to ensure that the most effective and up-to-date laws, regulations, and Terms and Conditions that apply to the dockless bike and scooter programs.
We are attaching a list of problems with the programs and possible solutions, echoing concerns of our colleagues in ANC3D, including several serious operational and legal matters:

- Pedestrian safety on sidewalks shared with these vehicles is not being protected.
- Helmets are recommended but rarely used by dockless bike and scooter riders.
- Dockless bikes and scooters often are parked blocking sidewalks and public rights of way.
- Riders of dockless bikes and scooters do not always follow traffic laws and traffic signals.
- Data are not available to permit full evaluation of dockless bike and scooter programs.
- Rebalancing processes create safety hazards, especially in rush hour.
- Current liability and personal injury insurance does not cover either the riders or others who may be injured or harmed by operation of dockless bikes and scooters.

We hope the suggestions will be helpful to DDOT in formulating its policies and balancing interests in service to users of dockless bikes and scooters with the safety and well-being of pedestrians and other residents and visitors in the District. Thank you for your consideration.

Sincerely,

Brian Turmail
Chairman

Enclosure: Problems and Possible Solutions for Operation of Dockless Bikes and Scooters

cc. Ward 3 Councilmember Mary Cheh
   Rich Harrington, Mayor’s Liaison to ANC3B

This letter was approved by the Commission by a vote of \( \frac{5}{5} \) at a duly noticed regular public meeting on October 10, 2019, at which a quorum was present. (Three of the five members constitute a quorum.) With that vote, the Commission also designated the Chairman or his designee to represent ANC3B on this matter.
Problems and Possible Solutions for Operation of Dockless Bikes and Scooters

1. PEDESTRIAN SAFETY on sidewalks shared with these vehicles is not being protected.

The city has adopted the goals of “Vision Zero” aiming to see zero fatalities and serious injuries to travelers in the District’s transportation system by the year 2024, including pedestrians, bicyclists and others on the roads and sidewalks. But it does not appear that safety for riders or others is effectively protected or prioritized in the Terms and Conditions. Would the provisions be written as they are if the key consideration were concern for crashes or collisions between bikes/scooters and pedestrians, or bikes and scooters with each other?

Many people who walk in our ANC area have encountered scooters and bikes using the same sidewalks, approaching pedestrians from the rear and startling them. Sometimes the scooters and bikes cause people to jump out of the way to avoid being struck by those vehicles or to protect other family members and pets. Some riders, especially on scooters, are not experienced with using that type of transportation and are not in full control of the vehicle. Generally scooter riders do not give pedestrian a warning of their approach. Even where there is a bike lane, the most common place for scooters to ride along busy streets is the sidewalk. In the downtown area where bikes and scooters are prohibited from using sidewalks, many riders still choose to do so, creating multiple hazards for pedestrians. And when the scooters are moving at 10 miles per hour on a sidewalk, that means that the scooters are going significantly faster than anyone walking, which increases the risk of collisions and chances for injury to pedestrians and riders. A collision can cause a serious fall that could result in a head injury or broken bones including hip injuries for the pedestrian and perhaps equally serious injuries for the rider, which can prove fatal in some cases. (Older individuals often do not recover from a broken hip.)

Proposed Solutions:
(1) All dockless vehicles should be required to have a mechanical warning device, such as a bell, to allow riders to warn pedestrians that they are approaching from behind. While currently non-dockless bicycle riders are allowed to use voice warnings as an alternative to a bell, the increasing number of vehicles on sidewalks as a result of the dockless program warrants a change of this policy for dockless vehicles in DDOT’s Terms and Conditions. In addition, we recommend that the Council and DDOT should give serious consideration to changing this rule for non-dockless bicycles as well.

(2) The allowable speed of scooters and bikes on sidewalks should be set lower than 10 mph.

(3) Operators should be required to encourage their riders to give warnings to pedestrians when approaching pedestrians and to slow down when any pedestrians are present.

(4) Riders should be instructed to use bike lanes where they are available rather than riding on the sidewalk.

(5) Metropolitan police and park police should be encouraged to enforce the prohibition against riding on the sidewalks in the downtown area. Fines should be levied. If fines are not paid by the riders after a specified period, the applicant should pay the fines by applying the charge to the credit card of the rider involved in the infraction.

2. HELMETS ARE RECOMMENDED BUT RARELY USED by dockless bike and scooter riders.

Helmets are not available to users of dockless bikes and scooters at the point where they start a ride, and no direct financial incentive is provided for riders to use helmets or any financial disincentive for not using helmets. Riders can supply their own helmet. DDOT’s Terms and Conditions require that upon request an operator must provide a free helmet to a customer, to be delivered within 14 days of the request but this seems like a long lead time if a customer wants to use a bike or scooter.

Proposed Solutions:
(1) The use of helmets by riders should be encouraged and incentivized by the operators.
(2) Could the 14-day delivery period for free helmets to be delivered be reduced? It would be useful to hear from operators on how many people have requested a helmet and how this has worked. Could helmets provided on the spot for a fee? There are lightweight foldable helmets that could be attached to a slot in the scooter or provided through hubs or kiosks at popular stops, electric charging stations, etc. Several companies offer foldable helmets, including Vingloo [https://vingloo.com/product/foldable-bike-helmet-3-2/] and Closca [https://www.wired.com/story/closca-collapsible-helmet/]

3. PARKED DOCKLESS BIKES AND SCOOTERS often block sidewalks and public rights of way.
Dockless vehicles, particularly scooters, are frequently left in the middle of a sidewalk. In spite of DDOT Terms and Conditions requiring that parked vehicles leave at least 5 feet of clear space on a sidewalk, sometimes dockless bikes and scooters are not even pulled to the side but are resting across much of the width of the footway where people are trying to walk. Vehicles left in the sidewalk are bothersome and dangerous for pedestrians as well as other bike or scooter riders. Persons in wheelchairs or using other assistive devices are especially likely to be inconvenienced. People with visual difficulties also can face a high risk of tripping or falling over bikes or scooters left in the middle of a sidewalk. Persons who illegally park an automobile pay a fine. The same rule makes sense for riders who park a dockless vehicle in a location that is dangerous or impedes safe use of the sidewalk or street by others.

Proposed Solutions:

(1) Operators should be required to educate their users to park dockless vehicles to the side of the sidewalk, out of the way of pedestrians.

(2) If operators have to move or remove a vehicle that has been illegally parked, the operators should impose a fine against the credit card used by the rider who last used the vehicle.

4. RIDERS DO NOT ALWAYS FOLLOW TRAFFIC LAWS AND TRAFFIC SIGNALS.

Proposed Solutions:

(1) Riders should be informed by the operators that they are required to obey all traffic laws and signals, or they will be liable for fines and costs injury or harm to other people and vehicles.

(2) Police and others with enforcement authority should enforce the rules governing bike and scooter riders, issue citations and levy fines against violators.

5. DATA ARE NOT AVAILABLE to allow full evaluation of dockless bike and scooter programs.
Operators have not been asked or encouraged to submit data crucial to evaluate the dockless bike and scooter programs. Both DDOT and the public need to be able to assess the program as well as the effectiveness of DDOT’s Terms and Conditions affecting deployment of these vehicles. An ongoing evaluation based on fuller data would allow DDOT to make adjustments in the implementation of the dockless bike and scooter programs as well as develop more effective requirements for the 2021 program.

Proposed Solutions:

(1) Require operators to collect and submit information on a periodic basis to DDOT regarding:
   · How many helmets are requested
   · How many incidents of accidents, injuries and their nature are reported
   · How many complaints are received regarding improperly parked vehicles and where
   · How many riders are cited for riding on sidewalks in the area where this is not allowed.

(2) Publish these data as well as other related data on a publicly available website so that citizens can participate in the evaluation of the success of this program along with DDOT.
6. **REBALANCING PROCESSES CREATE SAFETY HAZARDS especially in rush hour.**

Operators send out trucks to pick up and relocate dockless bike and scooters, which can mean large vehicles double parking or otherwise parking illegally, blocking traffic, creating delays, obstructing sight lines for other motorists, pedestrians, and others using bikes or scooters, causing serious hazards for everyone in that part of the transportation system.

Because rush hours are a time of high demand for bikes and scooters, in different places than the vehicles are needed at other times of day, many operators appear to carry out rebalancing of their vehicles during rush hours. That usually means a truck stops on the street, blocking a vitally needed lane during the heaviest traffic of the day. In addition, the vehicles used for rebalancing often stop at corners to load or unload scooters or bikes, thereby forcing other vehicles trying to turn at the corner to make the turn from the second lane rather than the curb lane. That can be dangerous maneuver, especially for pedestrians crossing at the same time. City law and policy should not allow operating practices of the dockless bike and scooter companies to impede use of other means of transportation around the city or cause additional risks of serious safety problems in the transportation system, counter to the Vision Zero goals.

Proposed Solutions:

(1) DDOT should make clear that operators’ rebalancing operations are covered by laws and regulations on illegal parking and will not be allowed to park illegally, especially on main arteries during rush hours.

(2) The police and parking enforcement teams should enforce the laws and regulations when rebalancing vehicles are violating parking rules, issue citations and levy fines, or there will be pressure to prohibit rebalancing of vehicles during rush hour entirely.

7. **CURRENT LIABILITY AND PERSONAL INJURY INSURANCE DOES NOT COVER either the riders or others who may be injured or harmed by operation of dockless bikes and scooters.**

By painful experience, riders and policymakers have discovered that no insurance policies are in place to cover effectively the injuries to riders of dockless vehicles and/or others who are hit or caused to trip or fall by those vehicles, unless the riders hold that type of insurance. Injuries to riders of dockless bikes and scooters are most often covered by the riders’ own health insurance, if the riders are insured, unless the insurance policy specifically excludes use of this type of device. Most U.S. residents rely on their auto insurance to cover injuries to others hurt in the operation of those vehicles, whether owned or rented; but auto insurance in most jurisdictions does NOT provide coverage if an individual hits someone or otherwise causes injury or damage while s/he is using a rented dockless bike or scooter. The operators also do not hold insurance to cover that type of injury or damage, and are not required to do so. Insurance regulation is a matter left to states and the District has authority to require additional insurance to cover riders of dockless bikes and scooters as well as anyone they injure while operating the vehicles. Other jurisdictions have begun to formulate policies to require operators to carry insurance to ensure that people injured in falls or collisions with dockless vehicles are covered, as they would be in traffic incidents involving other automobiles under current insurance regulations. This would seem the equitable approach.

Proposed Solutions:

(1) Each operator should be required to display prominently on each vehicle the information that: riders are using the vehicles at their own risk; anyone that riders injure while using the dockless bikes or scooters is generally not covered by the individual rider’s automobile insurance; and the operator does or does not carry insurance to cover injuries or death to riders or others hurt by scooters.

(2) The District should impose a requirement that all providers of dockless bikes and scooters must hold insurance adequate to cover injuries or death to riders or to anyone else hurt by a dockless bike or scooter, provided that at the time of the collision, incident or injury, the dockless vehicle was rented legally and the rider is not found to be violating any laws or regulations governing use of the vehicle.