

Supplement to PPCC 11/12/20 Agenda – Item 8.2.1
(regulation of electric scooters)

Item 8.2.1. *Chris Spitz (Secretary): Dockless electric scooters – local & state regulation status update.*

Federal lawsuit regarding the LADOT’s MDS program:

As a condition of the permit issued to scooter providers under the pilot program, LADOT mandates that providers participate in a “Mobility Data Specification” (MDS) program, by which the companies (such as Lime and Bird) must provide **real-time GPS tracking data** at the start and end of each trip and the full ride route within 24 hours. This allows the City to monitor permit violations and reduce incidents of scooters being abandoned and causing safety issues.

The MDS program – originally developed by LADOT – is now being used by over 80 cities and other public agencies worldwide.

In June 2020, the ACLU filed a lawsuit in federal court against the City (*Sanchez v. LADOT & City of Los Angeles*, Case No. 2:20-cv-05044-DMG-AFM), claiming that LADOT’s trip data-collection requirement violates the Fourth Amendment to the U.S. Constitution and other privacy guarantees; the ACLU seeks an injunction to prevent the collection and maintenance of trip data acquired through MDS.

In July 2020, the City filed a motion to dismiss the lawsuit, arguing that the required data is “anonymized;” that individual privacy rights are not violated; that users have no expectation of privacy with respect to the data at issue and have voluntarily agreed (in user rental agreements) to share this data with third parties; and that the program is within the City’s police power to manage its public right of way and is critical to its regulatory efforts.

The City also alleges that under its “Data Protection Principles,” the trip data collected is non-personal and *is not shared with law enforcement “other than as required by law, such as a court order, subpoena or other legal process.”*¹

The ACLU opposed the City’s motion to dismiss and the Court took the matter under submission in September 2020; at this writing there has been no ruling (11/9/20).

Whether going forward LADOT will be able to continue using the MDS program as a condition of permit issuance is uncertain and won’t be known until the lawsuit is resolved. It’s also unclear what effect a possible ruling of unconstitutionality as to the MDS program (should that occur) would have on the City’s overall scooter-regulation scheme. As noted above, the City claims that the MDS program is “critical to its regulatory efforts.”

More information: <https://cities-today.com/aclu-files-lawsuit-against-los-angeles-over-data-sharing-requirement/>
C. Spitz regulation update: <http://pacpalicc.org/wp-content/uploads/2020/11/Dockless-Electric-Scooters-Update.pdf>

¹On July 20, 2020, in CF 19-1355, the City Council endorsed LADOT’s Data Protection Principles. See Transportation Committee report of 6/24/20: https://clkrep.lacity.org/onlinedocs/2019/19-1355_rpt_tran_7-7-20.pdf and LADOT report of 6/14/20: https://clkrep.lacity.org/onlinedocs/2019/19-1355_rpt_DOT_6-14-2020.pdf (more information about MDS and data protection).