

Decision No. 134436

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

YELLOW CAB CO. OF SAN FRANCISCO,
Complainant,

-vs-

THE PACIFIC TELEPHONE & TELEGRAPH
COMPANY,
Defendant.

Case No. 4472

ORIGINAL

Ackerman, Wayland & Mathews, Lloyd S. Ackerman,
by Willard S. Johnston and Philip S. Mathews,
for Complainant.

Pillsbury, Madison & Satro, James G. Marshall and
Samuel L. Wright, for Defendant.

BY THE COMMISSION:

O P I N I O N

This complaint involves the headings used in the classified sections of telephone directories and the listing of business subscribers under such headings. A licensing ordinance contained in the San Francisco Municipal Code defines the word "taxicab."⁽¹⁾ Complainant, the largest local taxicab company, asserts that certain competitors are listed in the classified section of defendant's directory under headings which

(1) San Francisco Police Code, San Francisco Municipal Code, Part II, Chapter VIII, Article 16. Section 1116 states in part that a "taxicab * * * is and shall mean every motor-propelled vehicle of a distinctive color or colors and/or driver's seat separated from the Passenger's compartment by a glass partition and/or of public appearance such as is in common usage in this country for taxicabs and/or operated at rates per mile or for waiting time, or for both, and equipped with a taximeter used for the transportation of passengers for hire over the public streets of the City and County of San Francisco and not over a definite route and irrespective of whether the operation extends beyond the boundary limits of said city and county and such vehicle is routed under direction of said passenger or passengers, or of such persons hiring the same."

indicate that they render taxicab service, although such competitors use automobiles which are not "taxicabs" under the local ordinance definition of that term. An order is sought directing the telephone company to refrain from listing such competitors under headings which refer to taxicab service. Complainant contends that the listings mentioned are misleading and unlawful, and discriminate against telephone subscribers who operate vehicles which are "taxicabs" under the local ordinance.

Defendant's directories are in two sections. Residence and business subscribers are listed alphabetically in the first section. The second section is known as the classified telephone directory, in which business subscribers may receive an additional listing, without further charge, under certain "business headings." Such headings are intended to be general descriptions of types of businesses. "Automobile Renting" and "Taxicab Service" are two of the general headings. There are also various "specialty headings" or "buying service headings", created for advertising purposes, and under which business subscribers may be listed upon payment of the charges specified in the company's rate schedule. Among the specialty headings are the following: "Automobile Renting - Limousine", "Automobile Renting - With Drivers", "Automobile Renting - Without Drivers", "Taxicab Service - Metered", "Taxicab Service - Mileage Rate", "Taxicab - Limousines - see Automobile Renting - Limousine", and "Taxicabs - Water".

Defendant Pacific Company and its subsidiaries (including Southern California Telephone Company) issue some 73 classified telephone directories covering service rendered in five western states. All but four of these classified direc-

tories contain the heading "Taxicab Service".⁽²⁾ Likewise, the word "taxicab" is in general usage in the headings of classified directories of the so-called "Bell System" throughout the United States.

In practice, when a telephone subscriber wishes to avail himself of a listing in the classified section of the directory, defendant directs his attention to the available headings. If the subscriber elects to be listed under "Taxicab Service", and states that he is engaged in the taxicab business, he is accorded a listing under that heading. The telephone company does not undertake to determine whether any business subscriber is operating pursuant to local ordinances, or has complied with state statutes relating to his business or profession.

It is the opinion of the Commission that the defendant, in using the words "Taxicab Service", did not intend to provide for a technical classification, covering vehicles operated for hire, upon the basis of being equipped with taximeters or otherwise; but that such heading was designed to classify services rendered by means of vehicles for hire for point-to-point transportation, and not operated on schedule. We believe that no general heading of this character should be given a strictly technical meaning. In many instances the telephone company issues one classified directory for several municipalities. The local ordinances of such communities may contain different

(2) The four classified directories which do not carry the taxicab service heading are those issued for Corona, the communities of Newhall and Palmdale in Southern California, Glenn and Tehama Counties, and the Golden Gate International Exposition at San Francisco. Historically, in the San Francisco and Bay Counties directory, the general heading "Taxicab Information", established in 1910, became "Taxicabs and Automobile Livery" in 1920, "Taxicab Service Business" in 1926, and "Taxicab Service" in 1934.

technical definitions of words of a generally descriptive nature, such as "taxicab", "theatre", "church", "hotel", etc. In a single city, two or more ordinances, each designed for a particular regulatory purpose, may and do vary in defining such descriptive words.

If the position taken by complainant is correct it follows that defendant telephone utility, as to each of the thousands of listings in its classified directories, must construe (and resolve in the event of conflict) the local ordinance definition of words used in directory headings, and must then investigate each subscriber who desires a listing. The magnitude of such an undertaking is apparent from the fact that a single classified directory, that issued for San Francisco in 1939, contains over 53,000 listings. We do not believe that a telephone utility could or should attempt to determine whether a subscriber has complied with all local or state regulations which may be applicable to the subscriber's business or profession. The interpretation and enforcement of such statutes and ordinances is not one of the responsibilities assumed by a utility when it undertakes to furnish telephone service to the public. We find that the practices of defendant hereinabove reviewed are not discriminatory or unlawful under the provisions of the Public Utilities Act, and are not violative of any rule or regulation of or on file with this Commission.

O R D E R

Evidence on the above complaint having been taken by Examiner Cassidy at a public hearing, briefs having been filed, and based upon the record and upon the factual find-

ings contained in the above Opinion,

IT IS ORDERED that Case No. 4472 be and it is hereby dismissed.

Dated, San Francisco, California, this 24th day of August, 1940.

Rich Riley
James DeWitt
Raymond J. ...
H. ...
Justus J. ...
Commissioners.