

PORTFOLIO COMMITTEE NO. 6 – TRANSPORT

INQUIRY INTO PRIVATISATION OF BUS SERVICES

Supplementary questions: Mr. Jamie Sinclair and Mr. Greg Balkin – Transit Systems

Answers are to be returned to the Committee secretariat by Tuesday 28 June 2022.

Size of operation

1. What is the largest bus operation you have run and how does it compare in terms of staff and bus numbers to the latest Sydney metro contract you have been awarded?

The largest bus operation Mr Sinclair has run is the NSW Government's former STA Region 6 – Inner West Government Contract while he was employed by the State Transit Authority (STA). Mr Sinclair worked for the STA for 39 Years. Greg Balkin is the Chief Operating Officer of the Australian Public Transport (APT) Division of the Kelsian Group with Senior Executive responsibilities for the operating fleet of 3200 buses and 28 ferries and a workforce of over 5600 employees. The APT Division operates significant metropolitan route service contracts throughout Australian.

As an overall entity, Transit Systems / Kelsian has bus operations in Sydney with 830 buses and 1861 staff, Adelaide with 872 buses and 1582 staff, Western Australia with 844 buses and 1419 staff, Victoria with 161 buses and 258 staff and Go West (WA) with 287 buses and 300 staff. There are also operations in Singapore operated by our sister company, Tower Transit.

Training

2. How does your driver training compare with the 2 week, one on one training that was offered by STA?

Transit Systems West Services offers up to 5 days training with a Senior Trainer on road, then a further (minimum) 5 days with a "Buddy" and this can be extended where the Senior trainer and the "Buddy" believes the trainee has potential, however, needs further training.

When compared against the 2 week, one on one training that was offered by STA, Transit Systems West training exceeds that. Additional classroom training concentrates on individual units of competency. Transit System West Services designs training material that has been contextualized to the Transit Systems bus operations.

Drivers gain additional knowledge and skills with a focus on customer service, safe vehicle operations, transporting passengers with disabilities, work health and safety, fatigue, and improved driving techniques. Transit Systems West classroom training also provides new drivers an understanding of on road driving expectations and KPI's associated to driver performance.

Training is provided by Transit Systems West Service employees who hold the recognized Trainer and Assessor qualifications and have extensive Bus Driving experience.

Break times

3. How many drivers are allocated runs that require them to drive for two (2) hours without being allocated a break?

12 drivers per Monday to Friday out of 806 drivers on the road at the same time. Transit Systems West Services schedules are constructed to comply with the relevant enterprise agreement or Copied State Award and in line with the fatigue regulations within the National Heavy Vehicle regulations.

4. How many drivers are allocated runs that require them to drive for three (3) hours without being allocated a break?

No drivers are allocated runs that require them to drive for three (3) hours without being allocated a break. Transit Systems West Services schedules are constructed to comply with the relevant enterprise agreement or Copied State Award and in line with the fatigue regulations within the National Heavy Vehicle regulations.

5. How many drivers are allocated runs that require them to drive for four (4) hours without being allocated a break?

No drivers are allocated runs that require them to drive for four (4) hours without being allocated a break. Transit Systems West Services schedules are constructed to comply with the relevant enterprise agreement or Copied State Award and in line with the fatigue regulations within the National Heavy Vehicle regulations.

6. How many drivers are allocated breaks at times and places where there is no access to toilet facilities, meal rooms, etc.?

No drivers are allocated meal breaks at times and places where there is no access to toilet facilities, and they are provided with walking time to the closest facilities. Meal breaks rostered to drivers comply with the relevant enterprise agreement or Copied State Award.

Wages

7. Has the NSW Government raised concerns with Transit Systems about the two-tiered workforce in region 6?

The NSW Government did not raise concerns with Transit Systems West Services about the two-tiered workforce in region 6. Transit Systems West Services committed to preserving the terms and conditions of the Copied State Award for transferring government employees and at the same time used an existing enterprise agreement appropriate for the private sector validly made by the Fair Work Commission (and with terms and conditions better than the comparable federal award). Transport for New South Wales (TfNSW) discussed with Transit Systems West Pty Ltd in or about July 2020 the effect of having two industrial instruments applying to drivers in region 6 during the operation of the contract. Transit Systems West Services pointed out that having two different enterprise agreements operating in the same region already occurs in Sydney in regions other than Region 6, and TfNSW tenders ask tenderers to address how they will manage employees doing the same work in the same region covered by different agreements.

8. Are you aware of the Fair Work Commission 2018 decision whereby any wage increases granted were to be automatically passed onto transitional awards unless a party sought exemption?

We were not aware of the Fair Work Commission 2018 decision whereby any wage increases granted were to be automatically passed onto transitional awards unless a party sought exemption until it was raised by the Rail, Tram and Bus Union (RTBU) in July 2021. The Fair Work Commission decision occurred before Transit Systems West Services employed any transferring former STA employees covered by a Copied State Award.

- (a) Did Transit Systems apply for an exemption to the 2018 ruling from the Fair Work Commission that its wage determinations should be passed onto transitional awards?

Transit Systems West Services did not apply for an exemption to the 2018 ruling from the Fair Work Commission as the 2018 ruling did not apply to the company as it had no employees to which the ruling applied when the ruling was made. Transit Systems West Services did not apply for an exemption to the 2019 or 2020 Fair Work Commission wage determinations in 2019 or 2020 as it was not aware of the process requiring it to do so prior to July 2021.

- (b) If an exemption from the national wage case decision was not sought, then why didn't you pay the Fair Work Commission rises or at least the difference between the Fair Work Commission mandated ones and the copied state award from 2018?

Transit Systems West Services had no obligation to pay the Fair Work Commission rise in 2018. Regarding 2019 and 2020 we refer to the answer in the previous question.

9. The transitional legacy rises from the copied state award were only payable up to January 2020 and then stopped. Did it not occur to you at that point that your employees on that transitional award would not be paid either the legacy rises or the Fair Work Commission rises as a result of your decision not to pay?

The statement that transitional legacy rises from the copied state award were only payable up to January 2020 is incorrect. There was a 2.5% increase in the copied state award on 1 January 2020 which Transit Systems West Services paid to its Copied State Award-covered employees through to January 2021. The rates of pay in the Copied State Awards were significantly higher than the rates in the Passenger Vehicle Modern Award.

Transit Systems West Services understood that the copied state award would apply for 5 years (to 1 July 2023) unless replaced by an enterprise agreement. Transit Systems West Services did not consider the employees to be underpaid for the industry and had commenced bargaining for an enterprise agreement in April 2021 which would set the new and higher rates of pay.

- (a) After the issue was pointed out by the union, did you seek external legal advice which confirmed that Transit Systems was in fact underpaying its workers by virtue of not passing on the Fair Work Commission mandated rises?
i. Why at that stage did you not make good on your obligations?

After the issue was pointed out by the RTBU in July 2021, Transit Systems West Services sought external legal advice on its obligations to pass through the Fair Work Commission Annual Wage Review Panel's National Wage Decision increases to Copied State Award Covered employees. In seeking to understand an area of highly complex law and which would have a significant practical impact on the business, Transit Systems West Services regrets that it took three pay periods or 6 weeks to obtain the advice, and to then process the entitlements due to some 692 employees from a driver workforce of 1202.

10. Why do you think that the requirement for the tenderer also being the legal entity directly employing bus drivers was put in place?

Transit Systems West Services does not know why the requirement for the tenderer also being the legal entity directly employing bus drivers was put in place.

- (a) Has the NSW Government attempted to enforce tendering requirements upon Transit Systems, whereby the tendering entity has to also be the employing entity?

The NSW Government has not attempted to enforce tendering requirements upon Transit Systems whereby the tendering entity has to also be the employing entity.

11. Are you aware that the peak body for private bus operators, BusNSW, agreed in this inquiry that Transit Systems actions have brought it into disrepute?

Transit Systems West Services is not aware that BusNSW agreed in the inquiry that Transit Systems actions have brought it into disrepute.

Transport Workers' Union survey

12. Is Transit Systems concerned about the results of a survey conducted by the Transport Workers' Union that found:

- (a) 67% of respondent drivers believed that unachievable timetables and inadequately resourced routes are putting drivers under pressure to drive unsafely?

Transit Systems West Services is aware of an industry wide survey undertaken by the Transport Workers' Union (TWU) in 2019 where the actual figure quoted by the TWU was 60%, not 67%. We were not invited by the TWU to participate in the survey and are not aware of the specifics of the results or those that pertain to Transit Systems West Services or in the regions that we operate specifically.

- (b) 74% of drivers believed that a lack of buses or drivers servicing routes placed pressure on drivers to drive unsafely?

Transit Systems West Services is aware of an industry wide survey undertaken by the TWU in 2019 where the actual figure quoted by the TWU was 47% not 74%. We were not invited by the TWU to participate in the survey and are not aware of the specifics of the results or those that pertain to Transit Systems West Services or in the regions that we operate specifically.

- (c) Drivers felt pressure from company management to take various actions to meet unrealistic timetables and servicing requirements, including but not limited to skipping breaks (39%), omitting pre-inspection of vehicles (26%), drive quickly to make up time (25%) and break the law (19%)?

Transit Systems West Services is aware of an industry wide survey undertaken by the TWU in 2019. We were not invited by the TWU to participate in the survey and are not aware of the specifics of the results or those that pertain to Transit Systems in the regions that we operate specifically.

13. Does Transit Systems intend to take any steps to address any of these concerns?

Transit Systems West Services has mechanisms in place for staff to raise any concerns. Transit Systems West Services developed the Bus Driver Resilience Program (BDRP) in conjunction with funding from the National Heavy Vehicle Regulator (NHVR) which enhanced community safety and heavy vehicle bus driver's wellbeing by improving both the resilience of our bus drivers nationally and the organisations capability to implement protective factors through management training.

Resilience focused on the process of negotiating, managing and adapting to significant sources of stress, change, adversity, or trauma experienced by Drivers. The BDRP delivered emotionally engaging presentations that built resilience and positive mental health in the workplace. Through storytelling and adult based learning principles the program shared practical and evidence-based strategies to manage workers wellbeing both at home and in the workplace and assisted individual "bounce back" in the face of adversity and stress. The program focused on building organizational workplace resilience through good management and enhancing personal resilience and was based on the following modules;

- increasing resilience
- managing the stress response
- challenge unhelpful thinking and
- mental wellness protective factors (diet, exercise, sleep)

The BDRP was available on BLINK, the employee online communication App, utilised across our national APT bus operations and continues to be accessible to all employees.

Transport for NSW and BusNSW submissions

14. In its submission to this inquiry, the private bus industry's peak body, BusNSW said that "Ownership of assets (buses and depots) and decisions regarding contracted bus services (which includes routes, timetables and bus stops) remains with the NSW Government." Is this correct?

The submission to this inquiry, by the private bus industry's peak body, BusNSW saying that "Ownership of assets (buses and depots) and decisions regarding contracted bus services (which includes routes, timetables and bus stops) remains with the NSW Government, is not entirely correct. In NSW, we operate from 4 Government owned depots and 2 privately owned depots. Responsibility for routes, timetables and bus stops remain with the NSW Government.

- (a) What inspection regime do they maintain to ensure compliance?

The inspection regime Transit Systems West Services maintains to ensure compliance, is performed under performance-based contracts that have KPI's that are reviewed monthly and / or annually. RMS undertakes independent audits of each bus in its Transit Systems West and Transit (NSW) Liverpool fleets annually. In addition, TfNSW engages annually independent companies to audit the fleet and depots' conditions and presentation.

15. In Transport for NSW's submission they said that "TfNSW continues to retain control of the routes, timetables and bus stop locations. TfNSW will continue to set performance standards and monitor performance, to ensure service quality." Is that correct?

Transport for NSW continues to retain control of the routes, timetables and bus stop locations, and TfNSW continues to set performance standards and monitor performance, to ensure service quality.

16. Transport for NSW requires certain routes to function, stops to exist, and particular KPI's to be maintained, is that correct?

Transport for NSW does require certain routes to function, stops to exist, and particular KPI's to be maintained.

17. Is it correct that Transport for NSW also provides additional payments as rewards to bus operators like yourselves for meeting certain KPI's and other measures?

Transport for NSW does provide additional payments as rewards to bus operators for meeting certain KPI's and other measures.

Services

18. Under the current contract structures, is it conceivable that a situation could arise wherein it is more cost effective to Transit Services to cancel services than to run them?

Under the current contract structures, it is not conceivable that a situation could arise wherein it is more cost effective to Transit Services West Services to cancel services than to run them.

19. How would a timetable structure with more frequent services i.e., less commuters on each individual bus, affect the profitability of Transit Services?

A timetable structure with more frequent services i.e., less commuters on each individual bus, might affect the profitability of Transit Systems West Services but we are unable to state with specificity what effect on the profitability of Transit Systems West would be without more detail of any proposed timetable structure.

20. What level of consultation would Transit Services expect from Government prior to carrying out any alterations to the bus services they operate (routes, stops, fares, frequency, minimum standards)?

Transit Systems West would expect a similar level of consultation from TfNSW prior to carrying out any alterations to the bus services we operate (routes, stops, fares, frequency, minimum standards) as currently occurs.

- (a) Would it be common for Transit Services to lobby Government for changes to bus services in the service of their interests as a for-profit entity?

It would be uncommon for Transit Systems West Services to lobby Government for changes to bus services in the service of their interests as a for-profit entity.

Complaints

21. Is information on Transit Systems' mechanisms on complaints registers or data on commuter satisfaction made publicly available and easily accessible for commuters who may wish to lodge a complaint or register their satisfaction with a service?

Information on Transit Systems West Services mechanisms on complaints registers or data on commuter satisfaction is made publicly available and easily accessible for commuters who may wish to lodge a complaint or register their satisfaction with a service.