

Submission
No 32

INQUIRY INTO NSW TAXI INDUSTRY

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Date received: 21/01/2010

SUBMISSION BY THE
AUSTRALIAN TAXI DRIVERS ASSOCIATION

TO THE

SELECT COMMITTEE ON THE NSW TAXI INDUSTRY

OF THE

LEGISLATIVE COUNCIL OF THE NSW PARLIAMENT

January 2010

Australian Taxi Drivers Association

TAXIS
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"a fair share of a fair fare..."

A New Direction for Taxis and Taxi Drivers

The Australian Taxi Drivers Association has long determined to set a new direction to develop respect and self-respect for all taxi drivers. For far too long we have been disunited and disadvantaged - and there is a circularity in that situation. There are over 60,000 taxi drivers, and, separately we are worked over and picked upon by all the other participants in the industry.

Given that we pick up about thirty passengers a shift, and generally work a twelve hour day; the service relationships are mostly OK. To be sure, not many other workers can predict that, in a year they will be robbed by fare evaders eight times, and physically assaulted at least once every three years. It's comforting that there is only one murder a year, and that the murderer usually gets caught. It is of much less comfort to be aware that the requisite security systems are manifestly inadequate.

But passengers are the only source of income, and the service we give is our only product.

Notwithstanding the media beat-ups, the average of, substantiated, complaints from passengers is one in 30,000 trips. About once in every three years. We are the only reliable and available 24/7 Public Transport mode, and the only one in which multiple users can share the fare and save.

Taxi passengers do not have to meet Public Holiday surcharges, and fares are regulated.

We are an industry of first and of last choice entry. Taxi driving is a great start for new workplace entry, and for many it's the only exit choice after displacement from 'regular' work. For some it does become a career. For perhaps most, they are only driving 'in-between' having a proper job. Only up to one quarter of drivers can ever be 'owner-drivers' - three quarters will always remain 'bailee-drivers'. But all of us have the same issues and problems, and solutions.

And the reality is that, for most, it's a job that pays about \$12.00 an hour, cash-in-hand, pre-tax. If you work the unregulated hours that are available, you can make up to \$1000 a week. If you want a family, a life, and drive safely you earn about \$120 a day average. What you don't get are annual paid holidays, sick pay or public holidays off. Overtime is your own time, and the risks of non-payment for fares are a certainty. There is a 'late night surcharge', which adds about 4% to the income of a night driver, but in no way makes up for the extra risks and stress.

It's time to effect a change. The change will come only from united action by taxi drivers, for taxi drivers and this is our objective : **A fair share of a fair fare in a safe driving workplace.**

It's a simple enough slogan, but there is a complex underlying structure, which requires action at many different levels. That Australia is Federation of States, will differing rules and regulations makes the task more complex. That one monopolistic player currently dominates the industry makes the task more able to be done, and gives us greater public support.

That taxi drivers will unite to do it for themselves is inevitable. One day we will have

- 50% of the fare
- \$20.00 an hour
- 38 hours a week
- Safe Working Conditions
- Certainty of Payment
- Annual Leave, Sick Pay and Superannuation
- Downtime and Paid 'Dead Running'
- Legal Access to Safe Kerb space
- Participation in Industry Forums
- Recognition of Taxi Driver Interests

We want these basic rights in our own lifetime. To achieve that we need to be united, and to be heard.

Regrettably these changes and reforms will not come from the Government or the Regulator, NSW Transport & Infrastructure. The initiatives that were announced have been so far modified and redirected that the influence to resist change, and the power to effect the will of the dominating stakeholders remains the outstanding characteristics of the taxi industry.

The monopolistic nature of the NSW Taxi Industry, which has been constructed with such intricacy as to benefit the provider of credit charge facilities, the networks whose obligatory membership is enhanced by legislative self empowerment, and the 'absentee landlord' owners of taxi plates whose wealth is guaranteed by Governments, must be confronted with a marketplace competitive alternative.

The founders of the Taxi Drivers Association's have, for the last few years, been developing a comprehensive taxi system which uses internet technology to integrate passenger job offers to on-line taxi drivers with a secure credit payment providing travel and transaction reporting with interactive accounting facilities. It provides a lower cost of surcharges to passengers and a higher level of accountability for drivers. It comes as a web based system operating on mobile phones, making it immediately available to all users with the need for extra devices, and beyond the control or limitations of taxi networks.

Quite unequivocally, the objective is to compete with the major commercial exclusivity of Cabcharge, and to provide a complementary and alternative service for passengers dissatisfied with Network Booking Services. The system aims to minimize any opportunities of fraud or chargeback claims such as have caused the excessive rates and charges of the current systems.

It also offers taxi drivers an opportunity to increase their productivity by being able to accept forward offers at any time, and to plan their day's work, whilst also obtaining a fair share of the reduced surcharge.

Progressively it will assist the Taxi Drivers Associations to better present their case to Government, their needs to the Regulator, the true state of the industry to the Independent Pricing and Regulatory Tribunal and the Industrial Relations Commissions, and to air their grievances.

The outcomes, and reporting, of the Parliamentary Inquiry will be a significant component for changes, and ideally will result in the sort of reforms to the industry initially made public, but since effectively withdrawn. The ATDA is however somewhat sanguine as to those results.

Starting January 26th, 2010 the ATDA is assisting in the launch of TAXIS – www.taxis.net.au

A. The Adequacy of Government Reporting Standards and Regulation of the Industry, and its impact on services

Much of the deliberations of the Cook Taxi Task Force were focused on taxi industry reporting standards, and the Network Standards that emerged after a twenty year hiatus of "temporary standards" reflect the substance of that work. The Report is of course yet to be published, and possibly the key anomaly of the standards as they are now being manipulated has been addressed.

One of the first comments made by Alan Cook was the incredibly voluminous nature of taxi regulations, and the likeliness of all the complexities either been read or understood by driver participants. This has never been addressed.

The fundamental issue is that Standards and KPI 6 define the taxi pick-up time as the time from a booking required by the customer to the time the taxi turns its meter on. The booking commences (and is counted) when the taxi company accepts the request and starts processing that request.

KPI 6.1 provides for a standard of 85% of pick-ups within 15 minutes of the booking being made. KPI 6.3 provides for 99% to be picked up within an hour.

These Standards have never been met.

Yet the NSW T&I regularly publishes statistically inept graphs and data, the last of which claims 93% pick-up within 15 minutes whilst the actual percentage, from data supplied to IPART, is 67%. A formal statement from the ATDA noting, as requested at a meeting with the Director General in October 2009, and detailing the issue has yet to be favoured with a reply.

The reporting standards are adequate, and the travelling public of NSW could ideally be assured of an appropriate level of booked taxi services, if those standards were being met.

Instead, the Government, through NSW T&I, are falsely misrepresenting the KPI's and are attempting to delude the public. The benchmark upon which the 93% pick-up figure is derived is from taxi driver acceptances of network job offers, less passenger 'no-shows'.

That certainly indicates that taxi drivers are doing their job, and also that the average pick-up from acceptance is 4.9 minutes. It is not a measure of network performance which adds 2.7 administration time and loses 26% of passenger jobs.

Network results against agreed key performance indicators is sub-standard.

Even when all possible subtractions are made from passenger bookings for no-shows, off-loads, ring -backs and double bookings are made the inescapable conclusion is that almost three million bookings go astray - almost one quarter of all bookings. The network booking system is a failure.

Given that every taxi at some point turns its meter on, from a hiring, booked or otherwise, the integrity of reported data is fundamentally unsound.

Reliance on reported data for validation of the quality of customer services is further and substantially flawed by the fact that data is, at best, from a relatively small part of total services. All of this refers to network booked services. For the WATS fleets there is a positive discouragement on disabled passengers to use the booking system. For the standard fleets of "Whites " and "Silvers" the substantive numbers using the technically illegal "trunk" booking services would distort the overall booked patterns.

And, overall, bookings are no more than one in six of all trips, hail or rank hirings.

Which goes to the next point.

How many taxi trips are made in Sydney, or in NSW in a year ?

No one really knows, other than that is, than the Networks and their coordinating management, who once famously said " at the touch of a button , I've got it all".

The ATDA has calculated some 70 million trips in Sydney, and IPART appears to have adopted this measure. Until there is a body of reliable data, much of what takes place in the fare setting and regulatory areas is based on supposition.

On the basis of public comment, and of media hyperbole, the level of taxi services is inadequate. NSW T&I must largely bear the responsibility for not only the current state of affairs , but also for their unwillingness or ineptitude at improvement.

Regrettably, wheelchair users still get the worst of those services.

B. The Provision of Government Subsidies and the Nexus Plates.

Subsidies to the taxi industry are in fact limited to assistance provided to disabled passengers, and to benefits flowing from the Nexus Plates.

Taxi drivers do not receive any form of Governmental subsidy.

The TTSS costs, according to the last IPART Report some \$22 million in 2007/08 and assists disabled passengers with up to \$30 of their fare. It is a much welcome benefit to them, and the ATDA is of the view that this should be altered such that the maximum fare payable by any disabled person be \$30 or half the fare, whichever the lesser amount.

The WATS Driver Incentive Scheme in effect reduces the fare otherwise payable by not permitting a driver to leave the meter on whilst unloading a wheelchair passenger. It is however totally funded from fees collected for Operator Authorisation and specifically designated as a Taxi Industry Fund separate from consolidated funds. It is not a subsidy funded by Government.

That it is only able to be claimed by the driver in respect of jobs booked through the Networks is however unreasonable and unfair.

The greater issue is the Nexus Plates.

Possibly as a result of the Sydney Morning Herald's recent articles on the NSW Taxi Industry NSW T&I belatedly published the two reports by Deloitte's into the issues of the so-called Nexus Plates. They made interesting reading as to the levels of incompetence and neglect by the bureaucrats of the former Ministry of Transport.

They established that there had been no improprieties by the Ministry. Since it was not part of the scope of inquiries, naturally no comment was made as to the behaviour or actions of the recipient Networks.

What was not addressed, therefore, was the financial advantage obtained, in whatever forms, by the Networks upon whom some 92 sets of unrestricted taxi plates and WATS plates had been bestowed. There was comment by the Minister that the arrangements would be put in order, and that no retrospective requirements would be placed on those vehicles / plates. The not insignificant benefit obtained over so many years of leasing out the unrestricted plates, and of the relatively few matching WATS plates appears to be of neither interest nor concern. There is no indication that the new consolidated arrangements will be a source of funding to a much depleted State Consolidated Revenue.

That benefit has been estimated at between three and four million dollars a year being lease fees and network fees charged by the Networks to operators of both the unrestricted and WATS the taxis involved in these arrangements. Over the years the accumulated benefits would be close to one hundred million dollars.

The ATDA has for several years suggested that the Networks could use a portion of those accumulated funds to pay for the "dead running" of WATS vehicles to distant pick-ups and to achieve at least part of the intended function of the Nexus Plate to actually assist and improve the WATS in passenger services.

The ADTA serves notice that the Nexus Plate issue is not now dead and buried.

C. The Effect of Unrestricted Supply of Taxi Licenses

For many years the Ministry of Transport maintained the spurious claim of having an unrestricted supply of taxi plates available. This no doubt technically fulfilled the requirements of the National Competition Council, but that those plates were only short term plates leased at \$60,000 a year, was sufficient deterrent to ensure that no such plates have been issued. At over twice the market price the demand was unsurprisingly absent.

Taxi drivers do have a fear of a 'flood' of new investor owned plates, which would exacerbate the over supply of taxis early week. If such new entrants were restricted to owner/drivers the market is seen to be likely to self regulate, such that cabs on the road (the chief objective for intending passengers) would balance supply and demand.

In a situation where, and as proposed by the ATDA, the owner/driver is required to be a principal driver, and where his bailee / employees are entitled to minimum shift hours, any individual taking on a plate license, and all the attendant responsibilities and costs, will do so in a measured manner unlikely to 'flood' his market.

Such conditions would be an obvious deterrent to non-driving investors.

One of the many lesser issues is that, from available statistics, about a third of cabs are not on the road at immediate past-peak times. The reasons for this anomaly need be addressed. A related issue is the unproductive nature of the current industry where a taxi plies for hire, vacant, half the time. The despatch system is functionally inadequate, and that is a target of the new system about to be introduced by www.taxis.net.au

D. Anti-competitive Activities and National Competition Council Rulings

Over six years ago the NSW Taxi Drivers' Association President, Michael Jools , challenged the Australian Competition and Consumer Commission's ruling to continue an exemption from Third Line Forcing Restrictions granted twenty five years before to Taxi Co-ops which authorised their power to penalize drivers and operators who did not exclusively use the Cabcharge payment systems.

The ACCC was required to terminate the exemption and that was the first step towards breaking the anti-competitive nature of the taxi industry. The ACCC has taken another step, and, before the Courts is an action against Cabcharge for other breaches of Competition Law.

The National Competition Council's comments in the 2002 Report noted that NSW was in breach of competition guidelines, and suggested a withholding of Federal funding to NSW. The essentially spurious development of notionally available plates was the clever solution to this issue. Virtually all new plates in Sydney have since been for WATS vehicles. However, and anecdotally, the 350 plates promised to be available to Lime Taxis at its start-up, diminished to 50 – and made that fleet unable to be commercially independent. At the same time, many of the hitherto dormant WATS Nexus Plates held by other Networks were made operative on new WATS vehicles. Thus the Ministry was legitimately able to deny further new WATS plates as demand had been matched.

Yet another issue arises where, on the basis of ensuring the integrity of the Taxi Transport Subsidy Scheme (TTSS) and preventing driver and passenger abuse, the then Ministry proposes that all taxis be regulated to be equipped with a meter connected to the Credit Card / EFTPOS device so that only the actual fare on the meter can be charged without showing extra charges or tips.

It would prevent charges been made where the meter had not been turned on, but would also erode even further the chance of getting a tip. But in the interests of TTSS integrity, relating to a very small percentage of total trips , a device would be mandated for all taxis. At issue is that only one such device fits the specs.

This is an anti-competitive regulation by stealth approach. It favours the dominant player to the exclusion of others on the basis of a relatively minor issue which could be addressed in a variety of other solutions.

The ADTA is of the view that neither Government nor Regulator will take action or adopt policies that reduce the power and influence of the dominant stakeholder which effectively controls the booking / despatch and payment systems at an excessive cost to passengers and drivers alike. Only by the emergence of a competitive alternative system will the current system be forced to review its own practises.

E. Performance of the Wheelchair Accessible Fleet

From the IPART reports of Key Performance Indicators published in 2009 from the Ministry of Transport's sources it can be seen that the Zero 200 Network also loses bookings, but not as many as the non-WATS Networks. Only 9% of bookings were not accepted by drivers, and it would appear that only about 50% of bookings needed to be called a second time, compared to nearly three times for standard cabs.

Pick-ups, (less 820 no-shows) equaled acceptances, unlike the standard cabs, and the standard of 80% within 15 minutes fell short to 68% (similar to standard cabs). Average pick-up time was an improved 8.8 minutes.

Given that a changeover of drivers is not permitted until 5pm, and the seven day on-road requirement, it is curious that only 335 of the 476 in the fleet were on the road at 4pm.

With a 36% increase in WATS fleet numbers since 2007 the actual patronage has actually declined in the last year. This is not really indicative of fleet usage since records are only of Network bookings and the Zero 200 management encourages disabled passengers to make private bookings.

Anecdotally again, there are still many complaints from disabled passengers about the levels of service standards and of the difficulties in obtaining a taxi.

An issue which requires clarification is the obligation on Government to provide universally accessible public transport. For taxis, does this mean that all taxis will have to be accessible by disabled / wheelchair users, or does it mean that all disabled / wheelchair users have equal access to taxis measured by the time taken from booking to pick-up ?

Relying on the rather dubious statistics available, the pick-up time is only one minute longer for disabled users and the reliability of pick-up is almost absolute and certainly better than standard pick-up rating. Some would say that the problem is solved. But it is not. The eventual statutory requirement is universal accessibility, plain and simple, and without statistical sophistry.

The solution is to hand, with the development of a Universal Cab. With the positive support of a forward looking government, NSW can lead the world into a better Taxi Public Transport Model. The design resources are already on hand.

NSW T&I needs clarify the requirements placed on WATS Operators such that the future growth of taxi numbers is directed at WATS vehicles. There is a major misapprehension amongst WATS drivers that they must fulfill a quota of wheelchair jobs to maintain their licenses. This misapprehension is reinforced by internal network memorandum and by Zero 200 management.

The license condition that WATS vehicles must be on-road ten hours a day, seven days a week, is not only ridiculous and impossible, but also dangerous and unsafe. It is in fundamental breach of Occupational Health & Safety obligations, and needs urgent review. That it is not, in the event, being enforced is manifestly clear from the Ministry's own KPI reports.

The WATS model is essentially a one-out owner/driver operation. Economically and practically it is not a bailee model. The ATDA is aware of widespread exemptions already given to breach the 'no-changeover between 1pm and 5pm' rule. We would also point out that the financial benefit of the \$1000 plate lease flows to the licensee and not to the driver, whose pay-ins remain largely the same as for standard vehicles, but whose revenue from fares is lower.

F. Effectiveness of the WATS Driver Incentive Scheme.

The incentive of \$7.70 towards a WATS driver represents about nine minutes of waiting time to unload his passenger, which is about a reasonable time allowance and it removes that burden from an already disadvantaged passenger. Where it fails is that the incentive is only available to a job booked through the Network / WATS network systems and not to privately pre-arranged trips.

In light of the Zero 200 stated recommendations to passengers that they are best advised to make private arrangements, this is an inappropriate limitation.

Notwithstanding an incredibly voluminous set of Regulations, there is also a lack of clarity as to the commencement and termination of a hiring which the regulator has been requested on several occasions to elucidate.

The ATDA refers to its unresponded submissions to IPART and suggests again that the TTSS scheme subsidy for disabled passengers generally (not just those in wheelchairs) be altered such that the maximum fare payable by a passenger be \$30 rather than being the maximum subsidy. The extra costs involved, and the probable extra usage by disabled passengers, could well be covered by the Networks as was envisaged in the original issue of the "Nexus Plates".

It might well be more expedient to allow for unloading of disabled passengers as a part of the fare, provided the cost were not an imposition on the passenger.

And, as much an issue is the exclusivity of transaction processing by Cabcharge, even at a lesser rate than its 10 to 11% surcharge. There appear to be so many reasons for the system not to be changed that the underlying motivation is itself suspect.

G. Government Response to Past Reviews and Recommendations, and
H. Transparency and Accountability and the non-publication of past reviews.

We attach an example of the mantra-like response made by both the former Ministry of Transport and NSW Transport & Infrastructure to so many of the letters addressed on behalf of our members and our Association. Classically a bureaucratic non-response. The same attitude prevails when a more detailed response eventually arrives that quotes 'fulfilled' recommendations without answers to any of the issues.

The two reviews by Deloitte's of the Nexus Plates, whose publication was hastened by the recent Sydney Morning Herald's reporting, confirm only that successive Governments and their operative Departments were merely deficient in procedures and conclude that they were in no way culpable of impropriety. Be that as it may, the issue of failure of intent is not addressed. As an individual, still bound by non-disclosure agreements, in relation to my activities on the Taxi Task Force then chaired by Alan Cook, I am still angry at the non-publication of that report and of its minority reports.

Perhaps this Inquiry might properly require me to table those reports.

In the one Report made public, the Madden Report into Taxi Security systems, some of the critical recommendations as would assist in forestalling assaults on taxi drivers have been so ignored in the recent review of security specifications as to question the whole purpose of that Task Force.

It may be no more than an obsession, but we at the ATDA are left with a conclusion that the inaction and perversion of action are deliberate. Changes and recommendations of which we are aware would improve the safety, security and performance of the industry, but they come at a potential for increased costs to taxi operators, plate owners and the Networks. They do not bring any potential for increased revenues, and thus are to be opposed.

Even the relatively minor recommendations that fares could be paid prior to the termination of a journey were rejected as leading to taxi driver impropriety. On the way through "pre-pay" has been accepted for buses as a means of improving traffic flow. That such a regulatory amendment might reduce the huge cost to taxi drivers of fare evasion and "runners" is of no consideration.

It probably won't improve action on what is contained in the many still secret Reports, but the opportunity to publically review the contents would be appropriate.

I. Appropriateness and Accountability Mechanisms of Industry Appointments.

In the best of all possible worlds, there would be no issue as to key Governmental or Regulatory persons taking up employment within an industry immediately related to their prior roles. It would not happen.

In our real world a degree of accountability would have probably best been served by an open register of taxi license plates, such that the innuendoes of inappropriate benevolence in granting plate licenses would not have arisen. For the future there is still the opportunity to make public the ownership of newly issued plates.

In the situation at present where the immediate past Director General of Transport has become a senior executive in the dominant industry player's commercial enterprise, there is surely no reason to assume that his Corporation would behave with anything less than propriety and resile itself from any transactions that could be seen as in any way compromising its integrity.

J. Regulatory Structure in Other Jurisdictions and Optimal Frameworks.

The regulatory structure of other States vary considerably. South Australia is in the process of adopting a modern security system which leaves our minimalist approach as an abomination. The requirements in some States for the driver to self-insure leaves our, albeit flawed, regulations as superior. There should be a uniform and national approach, and we suggest the framework for reforms as put to the NSW Government as our response to the initial package announced. Much more is needed to address all the issues, but the single most effective starting point will be the implementation of the National Award.

TAXI INDUSTRY REFORM

An alternative approach from taxi drivers, who have too many vacant hours behind the wheel to accept the 'wisdom' of either the NSW Government or that of the Taxi Council.

We believe there are other ways which would better serve the interests of passengers and of drivers. We also believe that taxis are essentially a public asset as well as the only unsubsidized mode of public transport, and that there should be a public benefit rather than monopolistic gain.

We are worried about "a flood of taxis", because already, for much of the week, there are too many vacant cabs in Sydney. More cabs will mean less money for drivers.

But if the reforms are carried out properly, there will be more taxi users and more fares: the costs for both passengers and drivers will stop increasing month by month, and the end result will be ...

A fair share of a fair fare....

NSW TAXI REFORMS -- TOWARDS A NEW TAXI SYSTEM

This is an industry-wide potential solution to the need for reform of the taxi industry and offers complementary social and economic benefits. The concepts are radical, and will be strongly opposed by the current dominant and dominating interest groups. Many cabbies will also disagree. But the prospects suggested would be of immediate and effective consequence, and would be achievable with minimal disruption to the existing service framework.

The NSW Government had advised that taxi plates would be leased for an annually renewable and non-transferable fee of \$28,600. It will continue to permit trading in existing perpetual and 50 year plates, and the announced objective is to increase the number of taxis on the road, to improve service and reliability, and to do so without disturbance to current services or market structure.

The critical factor is the plate fees for these new plates. There has been considerable and divergent comment, and in the event the Government has now put 100 Plate Licenses up for tender.

The closer the fee is to the current market rate of \$32,000 for leases of unrestricted taxi plates, the less will be any long term additional taxis, improvements to passenger services, or taxi plate investor market disruption, and the original intentions of Government will not be realized.

The closer the fee is to the current annual WATS fee of \$1000, the greater would have been the long term increase to the Sydney taxi fleet, to the availability of taxi services to the public, and the effective value of plates will be reduced to a capitalization directly related to the new plate fee. The sky will not fall down. And this will not now eventuate due to the new tender arrangements

Very broadly, should that fee be \$10,000 pa, then at general market rates of return, the existing plates will be valued at about \$200,000, or half the current 'value' on a 5% yield. Other assets rise and fall : why not taxis?

Full industry reform will not however flow from only this adjustment. As it stands, any and all new plates will still have to be registered to an existing authorised taxi network, and will still be under the influence of those dominating entities, whose power and influence has been recently and very publicly revealed.

Our proposed model goes beyond the current structure and envisages a new Taxi Network with which taxis could be registered. We see that network as also offering a new and comprehensive taxi security system, and a new internet booking and allocation system based on 'fee for services' charges. Whilst preserving all the other standard network functions, the cost to the taxi operator will be reduced dramatically, and for those taxis which now obtain but a minimal number of 'radio' booking, the unreasonable fee structure of existing networks will be challenged.

Our proposed model also looks forward to 2020 and the mandatory requirements for universally accessible public transport. Inclusive to the new network will be a "Universal Cab" capable of carrying two wheelchair passenger with up to three additional passengers. They would, in standard / peak demand mode be able to carry six or seven passengers and would be equipped with a taxi meter system properly able to charge multiple fares at discounted rates. At the same time as providing extra WATS vehicles the fleet capacity to move larger numbers will be enhanced.

For all these new network vehicles, a new taxi "lightbar" will be provided as part of the security system. Not only will it have a 360 degree surveillance capacity, but also a programmable "destination" and "seats vacant" signage. The security system will provide 100 days of recording at one frame per second from five cameras, and, in 'alarm mode', the capacity to stream and record live video and audio. An in-car repeater screen will add to the deterrent impact, as well as having remote alarm devices for out-of-car assaults. Traffic monitoring is a flow-on benefit.

We predicate such a new taxi network having within a year some 1000 taxis on line. There would be equal numbers of WATS universal cabs, premium taxis and standard taxis, and, of these we estimate that 300 would have been additional vehicles on road, 300 will be new WATS, and some 400 will be substitution of existing taxi leases on existing vehicles. Equilibrium of supply and demand would be market driven, and beyond the manipulation of industry interest groups.

By directing the issue of new plates at drivers and existing lessee driver operators, the perceived financial impact on current plate licensees would be more limited to an impact on those investors who do not now drive the taxi. Simultaneously there will be an extension to "owner/drivers", whose behaviour, skills and attitudes most closely follow the much applauded London Black Cabs model.

At a rate of, say \$10,000 pa the annual revenue to Government would be substantial, and could even accommodate a seniority discount as well as possible subsidy of the new security system. Prices for WATS could be reviewed as the greater number of WATS on road will logically diminish available wheelchair work per cab.

Consideration could be given to extending the service life of premium vehicles, such as would reduce the cost of providing a better standard of vehicle.

There is also the factor that a lower operating cost per vehicle will influence some / many owner drivers to operate "one-out". This will create a greater market demand response for additional taxis at peak times as the driver will not be limited to having to drive a full shift, and he will take the cost risk choice of not having additional drivers using the car to its limits. Another flow on is the consequential need for one less private vehicle on the road.

Comment has been made that more owner/drivers operating one-out will actually reduce available taxis as "cherry picking" of peak demand will occur. The continued presence of "base cabs" with drivers employed for two shifts, will however ensure taxi supply requirements. And, according to records one third of taxis are off the road at 9.00am and 9.00pm anyway. Better utilization needs be addressed.

The impact on Taxi Fares will not be immediate, as a large part of the existing fleet will be subject to current costs for some time. It will work through quickly, but IPART (the Independent Pricing and Regulatory Tribunal) and the IRC (Industrial Relations Commission) will take a measured response to market changes, and the applied values of leases. Annual fare increases will stop. The extent to which passengers will avail themselves of discounted multiple hirings where technological meter advances offer a cheaper cab ride home, could be significant, and will be appreciable in the new maxi style universal cabs.

The impact on taxi driver earnings will be substantial, unless there are complementary structural reforms. Extra cabs nominally means less work per taxi, and the immediate reaction of many drivers is to oppose any increase in taxi-cab numbers. Extra cabs owned by non-driving investors are totally opposed, and the Minister has actually predicated his reforms on taxi drivers becoming taxi owners. The details proposed indicate however that plate ownership will be open and not restricted to taxi drivers. To that extent we oppose the plans.

If the data supplied to the public by current Networks, and as interpreted by the former Ministry of Transport, is believed, there is no need for additional cabs when 92% of intending passengers are picked-up with 15 minutes. But that statistic is a sheer nonsense and not supported by detailed examination of the data and actual service standards.

Over five million passengers in Sydney out of thirteen million who book a cab every year get neither acknowledgement nor a taxi ride. There is plenty of work available to be matched up to extra cabs, and, at peak demand, there is work available to make working worthwhile.

Much of the industry's problems, for a driver, is that the current system provides an average of \$12 an hour as his take home income. There is a massive excess of cabs in the CBD at non-peak early week times, which a responsible taxi network system could more effectively monitor and smooth out by better job planning, and to be structured as a demand responsive service.

Taxis waste half their shift time and mileage. Reducing the vacant time will dramatically improve earnings – that's why, for a cabbie, Friday night is better than Monday night. It will never be zero vacant time, but the difference between 50% hired and 60% hired is close to double the driver's earnings. A better job system is necessary.

A crackdown on Hire Car touting at the Airport is a functional requirement.

Reducing the cost of an annual plate lease from \$33,000 to \$10,000, and of Network Fees from \$7500 to \$3500 including proper security is going to make a huge difference to operating costs, to the potential advantage of operators and of drivers.

A few extra jobs from a better offer system will add dollars per hour to driver income. Security of payment will save drivers hundreds of dollars.

Finally, a payment system which offers competition will reduce the cost of fares paid on credit by more than a dollar on the average fare.

A new network will be a win for Drivers, Passengers and Government.

For the non-driving taxi investor, the effective State Government guarantee now in place of a 7.5% windfall return on investment will come back to current market rates. Did the Government step in to save other superannuation / investment assets from market fluctuations?

What is the reform which the taxi drivers want for the people of NSW ?

How is that reform to be best effected

- Issue of Taxi Plates for an annual fee of \$10,000 payable monthly in advance, and valid for the effective on-road life of the vehicle to which the plate is attached.
- Taxi Plates to be available only to Authorized Taxi Drivers who covenant to drive the taxi for at least 3 night shifts or 4 day shifts, and who, if accredited operators, can then employ drivers for the remaining available shifts.
- WATS plates to continue to be issued for the current \$1000 per annum fee provided they are attached to a universally accessible WATS taxi-cab and provide taxi-cab services for a minimum of 48 weeks a year.
- Provision for a discount on fees based on taxi driver seniority and years of driving service. We suggest \$500 per year of service after three years experience of driving taxis.
- Specify an audio / video camera security system specifications to ensure a safer taxi workplace environment, with effective deterrent to and apprehension of violent assaults and fare evasions.
- Support the development of a taxi meter device effectively capable of recording fares and multiple fare hirings.
- Support for the development of a vehicle assembly plant to assemble the Universal Cab in NSW and make generally available the most suitable universally accessible taxi-cab.
- Clarification of the employment status of taxi drivers to conform with national employment standards, and update of the NSW Taxi Contract Determination:
- The facilitation by NSW Transport & Infrastructure to accredit a new taxi network which:
 - Provides a comprehensive security system.
 - Provides a booking and offer despatch system.
 - Maintains reporting and regulatory service standards.
 - Offers facilities on a fee for service basis.

At issue is that, despite the exposed culpability of the Ministry and the mendacity of the Networks, and the lack of any intent by the NSW Government to seek redress, compensation or even an accounting for the "nexus plates" fiasco, it would appear that those same Networks are preparing for yet another windfall gain at the expense of the people of NSW.

Just 100 new plates will give the Networks an extra \$1 million in fees a year. Nice, but only the icing.

The real objective behind maintaining and increasing the value of plates, and of limiting their growth, is the excessive \$430,000 price and \$32,000 lease value. It's not just to 'protect' investors currently enjoying a Government Guarantee of 7.5%, it's to maintain the plate 'managers' their plate management fees, brokerage fees and commissions. About \$10m a year.

But is the Government or the dominant interest groups informing those investors or potential industry participants of the looming possibility of, with the new national Passenger Vehicle Transport Award becoming available to taxi drivers as employees, an effective wage cost of \$25 an hour? On the average of 120 hours per taxi per week that is a labour cost input of \$150,000 a year. From average taxi revenues that leaves about \$80,000 for everything else. Taxis may not be such a good investment after all, and the best endeavours of the NSW Government will have been an exercise in vain.

If operating costs are significantly reduced in lease fees, network fees and insurance costs, the taxi industry is viable. If not, passengers will have a problem, and an impossible stress will be placed on other public transport.

It's worth noting that from Ministry data supplied to IPART only 407 of the 4695 standard (non-WATS) taxis in Sydney are driven (part of the time) by the owner of the plate.

Taxi reform is about changing that percentage.

K. Working Conditions and Entitlements for Taxi Drivers

In NSW taxi drivers fall into two categories – that of the "owner / driver" as the accredited operator of the taxi plate driving his own taxi, or as a "bailee driver" taking out a taxi on bailment. The High Court has determined that, for the purposes of retention from wages for payment of Income Tax, and for requirements to provide for Superannuation, that taxi drivers are not employees of their operator.

There is considerable conjecture and ambiguity, both in NSW and around Australia, as to whether taxi drivers are or are not employees in respect of other relationships with the entities from whom they bail a taxi.

Since the 2003 amendments to Chapter 6 of the NSW Industrial Relations Act, all NSW taxi drivers who bail their vehicle from a bailor are within the ambit of being a bailee. However, the relevant Award or Industrial Relations Determination which details the methods of payment and entitlements only applies to taxi drivers in the Sydney Metropolitan Transport District.

Taxi Drivers in Wollongong and Newcastle could be included if the parties to the NSW Taxi Drivers Contract Determination 1984 were to exercise the 'leave granted' coverage provisions dating back to 1995.

As it stands, drivers in NSW may be bailees, but they lack the coverage or protection of any specific award or determination outside of Sydney. The 'Contract of Bailment' provided for in the Industrial Relations Act is an implied and unwritten agreement. And, in Sydney, as supported by sworn statements to the IRC by officers of the Taxi Industry Association, representing taxi plate owners and taxi operators, the entitlement provisions of the Taxi CD are generally not observed.

That Determination dates back to 1984 and has not, since then, being updated other than for increases in Method II maximum Pay-In rates. It is significantly anomalous to the several employment related Acts and other Awards. To obtain recognition as a full-time driver requires continuous bailment for five shifts a week for between 45 and 60 hours a week. There are no offsets or allowances for part-time bailment, and Annual Leave, in the very rare instances of actually being paid, is paid on the basis of five weeks of thirty eight hours.

Superannuation is recognized in the Determination, but will not be applied until such time as the IRC observes that IPART recommends a specific portion of the regulated taxi fare as the component for Superannuation. IPART, on its part, observes that taxi drivers' notional wages are not within its ambit.

A further level of confusion exists in that taxi drivers in NSW who are not covered by the Contract Determination might be covered by the next most appropriate Award, that of the Transport Industry.

With the development by the Australian Industrial Relations Commission of its 'Modern Awards' which, as the Passenger Vehicle Transport Award will provide national coverage to employees who are taxi drivers, a whole new complexity emerges. That award will certainly provide the sort of equitable working conditions and wages to which all working Australians are entitled.

Should it be applied to the taxi industry as it is currently structured in NSW, the reforms originally announced by Minister David Campbell will pale into insignificance. Reform will be comprehensive and monumental.

The single most significant issue for this Parliamentary Inquiry to unequivocally determine is that bailee taxi drivers are employees of the taxi operator.

The ATDA is firmly of the view that bailee taxi drivers are employees, and that the several clauses and provisions of the IRA support and confirm that relationship in relation to employment remuneration and entitlements.

(IRA 1996 Clauses 343 & 344) & (Part 3 of the Industrial Relations Act)

That drivers are 'deemed employees' is manifestly clear, and in the absence of any award or determination, such as is the case outside of Sydney, taxi drivers must fall within the provisions of the National Award.

In NSW and Victoria taxi drivers are employees in relation to Insurances, and especially for Workers Compensation / Work Cover. In South Australia the Equal Opportunities Commission has determined employee status.

Once the employment status of taxi drivers is definitively determined, many of the current employment conditions will necessarily be updated to conform with at least minimal Australian standards. The current reality is that, because of the confusion deliberately maintained by the Taxi Industry Association and the Taxi Council as well as by the inaction of both NSW T&I and the Office of Industrial Relations, the working conditions of taxi drivers are absolutely sub standard.

There are neither minimum nor maximum hours of work – endangering both passengers and drivers lives.

There is no minimum rate of pay, nor any floor. The productivity factors such as would enhance potential earnings are absent from the Network structuring. Average hourly earnings are less than \$13 per hour.

The physical safety of drivers is not adequately ensured by current security systems.

A culture of more than tax minimization and close to tax avoidance is fostered by the less than transparent recording of fares.

The traditional and near universal 50/50 sharing of the fares between driver and operator has, by failings of both the IRC and IPART, been downgraded to a 35/65 share.

Media commentary as to the lack of taxi driver skills and knowledge may well be exaggerated, but they are based on passenger perceptions and real experiences. Training and continued reinforcement of skills needs be upgraded, together with better tools, such as a mandatory GPS system.

The Cook Inquiry did investigate driver training and examined turnover data. The Report of that Inquiry remains unpublished, but the reality remains clear. Net driver numbers are static, and anecdotally some 1500 new drivers annually leave the industry within two years of entry. Of interest is that vocational training is not available through the TAFE colleges, partly because taxi driving is not recognized as employment, and partly because the training resources are locked within copyright of the Taxi Council.

Necessarily, and with the assumption that the Taxi Industry should not be subsidized by Government (unlike other Public Transport modes), the problem is that without a substantial increase in fares, or a decrease in operating costs, there is no source of funds as would afford even minimal changes in wages and conditions. The reform initially proposed, and as endorsed by the ATDA had the potential to reduce operating costs.

At the same time, IPART has determined a taxi driver profile which includes, as available from the fare box, notional wages of \$16 an hour, Holiday and Sick Pay and Superannuation. (It still refuses to consider that drivers bear a GST responsibility, an assumption which flows from being an employee).

In theory at least, the industry can afford employed drivers.

The ATDA strongly refutes that profile and questions the manner in which IPART drew on information and statistics (largely supplied by the ATDA) to create that misleading profile.

Other than for the benefit of non-driving plate owner investments, there is no sound reason of a \$400,000 plus valuation of taxi plates. No other investment is so guaranteed by any Government.

Free or minimal cost entry to the industry, (and a review of Insurance and Network costs), would redirect up to \$4.00 of the average fare back towards the taxi driver. That would pay for any increased wages and fund entitlements without a fare increase. That would be true reform.

We would re-iterate that this Inquiry needs address the issue of an employee / bailee driver. The view of the ATDA is that taxi drivers who bail a vehicle to ply for hire are, for the purposes of workplace relations, remuneration and entitlements, the employee of the taxi operator.

In the context of the Independent Contractors Act 2006, and its specific reference to Chapter Six of the NSW industrial Relations Act, we, as taxi drivers cannot be contractors. We are, within the latter Act, and especially in the context of its Interpretation of Applied Provisions, persons to whom a reference of employment and bailment are common, to whom a reference of employee and bailee are common, and to whom a reference of award and contact determination are common.

As from January 1st 2010 the workplace relations of taxi drivers are within the ambit of the National Passenger Vehicle Transport Award.

L. Other Related Matters

Taxi Security Systems

The security and safety of taxi drivers and their passengers is of major concern to the ATDA. It would appear that the NSW Government does not share that concern.

Almost all drivers want to do their job, arduous as a twelve hour shift may be, in safety and with a degree of respect and self respect which ensures they will be paid for their services, not be physically assaulted or robbed, and in a reasonably comfortable working environment. They would like to earn a living wage for their families. They would offer, in return a comfortable, reliable, and safe trip for passengers, with a courteous and appropriate level of service and communication.

There are a few, amongst the State's 22,000 drivers who do not act as they should. The industry needs to remove those individual 'bad eggs' from taxis. The best way to identify unsuitable drivers is from passenger complaints, and we strongly urge and support the use of the Taxi Hot Line for complaints and also for compliments.

Reality dictates that there be control mechanisms for when things go wrong. That is why a functional and functioning security system is absolute necessity for taxi-cabs. The protection and deterrent is for driver and passenger alike, and the ideal scenario is to forestall the problem, as well as to record the process.

The current security systems in NSW taxi-cabs are inadequate.

At the time they were first mandated they were state of the art, and reasonable for the resources available. Now they are not.

For NSW T&I to be mandating a system of limited recording of images at one frame per ten seconds, and without audio overlay is not a mere oversight. It verges on administrative negligence, and offers not security but a cheap way out for an operator to observe his obligations with minimalist effort. And risks driver safety.

The ADTA has several matters on hand where a driver has had allegations of improper conduct made against him, and yet where neither the Regulator nor the related Network has taken steps to immediately download and view such camera images as are available. In most instance it is easier to let the passage of time overwrite all image records, and then use the unsubstantiable allegations to be the basis of action against the driver.

On a personal level, as a taxi driver, on absolutely none of the six occasions in recent years in which I have activated the alarm process, has assault or robbery being satisfactorily resolved. Not one perpetrator has been identified or prosecuted.

On an industry level, of the last two murders, the security systems were of no use in the apprehension of the murderers. In one, there still is a query as to the GPS. In the other a non-functioning camera.

Part of the problem is that there is no effective test for the driver to see if the system is actually working. Again, personally, I believe that one third of the cabs I drive do not have an operative system. The requirement is that there be a system installed, and that all systems be functional and operational. But the driver has no proper test to validate, and worse, no option for action to report suspected malfunction.

The new specifications for taxi security systems are not just inadequate, they are unsafe.

There is an alternative - and one already before the State Regulators of South Australia, Western Australia and the Northern Territory for accreditation. Our NSW Regulators, innovative and practical, merely advise that there is no authorization process, and that any device meeting the specifications may be marketed.

That the regulatory niceties in place make a new and comprehensive system impractical if not impossible to integrate is of no concern. The complexity of audio alarm and video recording requirements has been so specified as to forestall competition.

The features of what should be the system are :

- **100 days Storage**
- **Two Internal Cameras**
- **Audio Recording**
- **360 o External Cameras**
- **Continuous Recording**
- **3 frames per Second min.**
- **Illumination Adjustment**
- **Maximum Quality Images**
- **Differential Alarm Levels**
- **On-Line Streaming**
- **Integrated "taxi" Light Bar**
- **External Spot Lights**
- **Destination Signage**
- **Secure Device Storage**
- **Ease of Fitting / Wiring**
- **Remote Downloading**
- **Access for Authorised Purposes**
- **External Alarm Devices**
- **In-Car Alarm Buttons**
- **In-Car Display Repeater**
- **Motion Sensor "Wake-up"**
- **Power Saving / Battery back-up**
- **GPS Application**
- **GPS Data Recording**
- **Cost Efficient System**
- **Authorised Fitting Stations**
- **Certified Download Station**

www.taxis.net.au

It is in the interests of all stakeholders - passengers, drivers and operators that the taxi industry operates in a competitive environment.

Over the last twenty five years, there has been an increasing centralization of monopolistic power by the dominant credit payment processor – Cabcharge, and by the Taxi Networks owned and associated with Cabcharge.

TAXIS has been developed by a few taxi drivers committed to effecting change, and of restoring a competitive industry. As individuals and as founders of the Taxi Drivers Associations operating in NSW, they have concluded that competitive changes will come about from within the industry, and is less than likely to be an initiative of either Government or the dominant industry leaders.

Accordingly we are at the launch of www.taxis.net.au

The system is a world first in comprehensively creating an integrated internet based taxi model. It is a system able to be operated from any internet enabled mobile phone or PC. It's quick, secure and reliable in all aspects from offering a job to payment and reporting of transactions. And it's competitive.

By presenting an alternative payment system at a more competitive price, we are questioning the 10% plus rates of account or credit card processing now current.

The system operates by pre-registration of card details on a secure site such that a passenger never need hand over his card to a random taxi driver. Only the registered user, as the passenger or nominated guest can make a payment, and only the actual driver can receive payment. The end of "blank cheque" dockets.

By informing the passenger of all the details of his accepting taxi – name, number and ETA – much of angst of taxi travel is removed. Contact and communications are restored, and an audit trail on both parties is in place.

By giving access to drivers to all offers and all necessary information at any time, in the taxi or the night before, the taxi driver has an opportunity to plan his day and improve his productivity.

Record keeping and account reconciliation is on-line for all users, and corporate users can administer all aspects of use to prevent abuse. Any registered user has "guest" facilities to provide full services and payment for his nominated passengers.

By introducing a competitive alternate system for payment and job offers, it is the unequivocal intention of TAXIS to shake up a moribund and unresponsive industry. The aim is to empower taxi drivers and to unite the 22,000 cabbies in NSW, and the 60,000 around Australia so that their particular interests and needs will be heard. The reforms initially announced by Minister Campbell would have started that process, but the purpose and intent has been so diverted that, in our view, only a result from the Inquiry or an outcome flowing from www.taxis.net.au will make a difference.

Taxi drivers are committed to improving themselves and their industry, and to cleaning up that industry of its fraud and failings. We recognize that the provision of optimal customer service is the only way to secure our jobs, provide our incomes and ensure safe working conditions.

Taxi Passenger Service comes from Taxi Drivers.

On behalf of taxi drivers in NSW we thank this Parliamentary Inquiry for the opportunity of presenting our views and proposals for the Taxi Industry.

Michael Jools
President, Australian Taxi Drivers Association
January 21, 2010