

**Submission
No 54**

INQUIRY INTO NSW TAXI INDUSTRY

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SUBMISSION

**to the INQUIRY of the
SELECT COMMITTEE on the
NSW TAXI INDUSTRY**

**of the
NSW PARLIAMENT LEGISLATIVE COUNCIL**

T J HIRSCH

27 JANUARY 2010

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1.INTRODUCTION

1.A SUBMISSION TO THE INQUIRY

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Wed 27 January 2010

Dear Sirs,

The Inquiry into the taxi industry of NSW is a momentous milestone !
It is the first time ever that a Parliamentary Inquiry has been conducted into the Taxi Industry.

Congratulation and appreciation is extended on the initiative of the NSW Upper House Legislative Assembly in instituting this Inquiry into the NSW Taxi Industry.

The matters respectfully submitted for the consideration and recommendations of the Inquiry look beyond the potent but limited tenure of this Inquiry.

They look to the necessary and long overdue reform of the taxi industry into the 21st Century !

As an experienced bailee taxi driver I have worked with a variety of taxi bailor operators, large and small, many excellent.

It is my privilege to have been a member of the important NSW Taxi Drivers Association since its founding in August 2004. And of having been annually elected as Minutes Secretary and then Secretary throughout the first 5 years of its existence. In addition I have been responsible for many of the major NSW TDA submissions to various taxi industry bodies during those years.

In relation to this submission it is relevant that the NSW TDA, through its membership of bailees, lessees and owner drivers, represents all those categories and experience of drivers. It works for the interests of taxi drivers and with all sectors of the taxi industry for the viability of the taxi industry and effective taxi services to the public, as in its motto "A Fair Share of a Fair Fare".

The Inquiry has a formidable and complicated task.

For what is an apparently simple service to the public of providing a taxi from a to b, the taxi industry is in fact complex, convoluted, and in parts byzantine. To assist with a clear picture of the main industry participants, their nature and interests, the Inquiry is referred to the NSW TDA Doc. 1 "Participants and Financial structure of the NSW Taxi Industry".

The taxi industry of NSW is riddled with problems at many levels, a fact which the Inquiry Terms of Reference recognise encouragingly. These are not simply problems which severely affect its performance and service delivery. Many point inevitably to the fact that this industry, hailing from the horse drawn hansom cab days, is indisputably in need of major and fundamental reform to bring it into the 21st Century ;

- The problems of the industry are huge. An indication of their extent is summarised in the NSW TDA 3 pages listing in January 2005. Most of those problems remain and many, unlisted, have arisen since. (NSWTDA DOC 4 List of NSW Taxi Problems)
- The serious and institutionalised problems of the taxi industry go back to before the famous Report by Justice Beattie 1984 which examined the industry in detail. The shame is little has improved and much in fact has worsened, especially for taxidivers.
- The Inquiry may be flooded with submissions dealing with hundreds of these of problems, small and large, minor and major, which may prove difficult to deal with. Some of the submissions may present a dilemma of differing explanations and views of the problems. In this regard it is suggested that the Cook and Madden Reports may be of assistance to the Inquiry. Both are relatively recent, with clear, concise and generally accurate reportage on the issues examined. ("Cook" Taxi Industry Inquiry - Interim Report 2004 and "Madden" TAXI INDUSTRY SAFETY AND SECURITY TASKFORCE FINAL REPORT Dec 2007)

Thirdly, the Inquiry may be presented with differing and possibly conflicting recommendations on solutions to the multitudes of individual problems presented.

However the potential importance and influence of this historic and important Inquiry is undoubtedly the longterm and lasting reforms that it may be able to achieve. For the public and for the industry and NSW.

Accordingly, the issues in this submission are few and mainly matters which if recommended by the Inquiry, can achieve ongoing, continuing and lasting change and reform of the taxi industry. For example, such as the Ministers Driver Committee, driver Party status in the NSW IRC, reform of the radio bookings/despach Networks and a permanent Standing Commission for ongoing reform of the taxi industry into the 21stC. Similarly, specific submissions are made on the newly passed Taxi Plates Lease Bill to ensure the future implementation of the important intentions of that legislation to the longterm benefit of the industry and the public. Pre-payment of fares is raised as an individual problem because it is in the process of being trialled, is important, and would benefit from the Inquiry's support.

Few Sydney's cabbies would say they are proud to be so. That's a terrible indictment of the mess that the taxi industry is in. And the annual media slatings of taxidriviers are clear evidence of the poor reputation and standing of the industry.

There are no insuperable reasons why this cannot and should not be very different.

Like the proud and world renowned career cabbies of the Black Taxis of London ; the proud and pleased to serve 'Taxis of Sydney' of the 21st C !

The submissions following are addressed mainly to the potential importance and influence of this historic and important Inquiry and the longterm and fundamental reforms that it may be able to achieve. For the public and for the industry and NSW in the 21stC.

And to the lasting credit of the NSW Upper House Inquiry.

In respect to the Inquiry, the submission also forwards summary comments on each of the Inquiry Terms of Reference.

Yours Sincerely,

Ted Hirsch

ABBREVIATIONS

The following abbreviations have been used in this submission. 'Plate Lease Bill' refers to the new Passenger Transport Amendment (Taxi Licensing) Bill 2009 ; 'Reading Speech' refers to the 1st and 2nd reading speeches for the Plate Lease Bill, and 'Tender Docs' refers to the TENDER INFORMATION AND CONDITIONS DOCUMENT FOR THE RELEASE OF 100 UNRESTRICTED SYDNEY METROPOLITAN TRANSPORT DISTRICT ANNUAL TAXI LICENCES Taxi Licence Tender: NSWTI 2009/014. 'T&I' means the NSW Dept of Transport and Infrastructure ; IRC is the NSW Industrial Relations Commission, IPART is the Independent Pricing and Regulatory Tribunal ; TC Ltd is the Taxi Council Limited ; NSW TDA is the NSW Taxi Drivers Association.

1. B. SUMMARY COMMENTS ON ALL INQUIRY TERMS OF REFERENCE

The following summary comments are provided under each of the Inquiry Terms of Reference in respect and recognition of the scope and seriousness of the Inquiry.

Legislative Council Tuesday 10 November 2009. Minutes No 125, Item 26 page 1489-1491; as amended by the Legislative Council on 26 November 2009, Minutes No 130, Item 6 page 1566 :

1. That a select committee be appointed to inquire into and report on the New South Wales taxi industry, and in particular:

(a) the adequacy of government reporting standards and regulation of the industry and the impact of this on the provision of quality taxi services for commuters, including for people using wheelchairs,

In the view of many and probably most experienced taxidrivers the existing Passenger Transport (Taxi-cab Services) Regulation 2001 (Taxi Regulations) governing the taxi industry are substantially irrelevant and ineffective. Many regulations are archaic and outdated. They are strongly punitively oriented against drivers and operators while not effectively holding others such as radio bookings Networks and their performance to account.

The Regulations are reviewed every 5 years, but taxidrivers are neither advised nor involved in this. On the last occasion in 2007 the NSW TDA formally requested an extension of time to allow comments, as enabled by the Minister, but was refused. As a result taxi drivers and operators were not permitted any say in the Regulations directly affecting their daily work.

In submission to the Inquiry elsewhere on a recommendation for a Ministers Drivers Committee, it is intended that the Regulations in 2012 and all other T&I taxi industry proposals would be automatically referred to drivers for review and comment prior to implementation.

(b) the provision of government subsidies to the industry and the allocation and subsequent trading of free "Nexus" plates, including the impact on public revenue,

Nexus plates are a longstanding scandal of the taxi industry plaguing its accountability, integrity and public reputation and that of the involved parties. It is a scandal of major proportions that their original intent of supporting WATS services to the most vulnerable of the community was and is subverted.

It is reprehensible that the Minister may have recently within the Plate Lease Bill declared an “amnesty” regarding the ownership of these plates. Such an “amnesty” should be repealed and the revenues redirected to their original purpose of WATS services.

Regrettably, perhaps only a Royal Commission may be able to uncover the truth concerning Nexus plates.

(c) the effect of limits on the supply of unrestricted taxi licences in New South Wales, particularly as it impacts on customer service,

In the experience and strong views of taxi drivers, effective taxi and customer services are not simply a function of the number of taxis. This is clearly evidenced in the contrast between, say, the Friday and Saturday nights and December so called ‘taxi shortages’ (when buses and trains should be running till 4am), compared with the common weekday morning and evening peaks when there are no such ‘shortage’ complained of because buses and trains are running normally. Overlooked also are the numerous taxis twiddling their thumbs on ranks at many other times of day and night !

Vital but ignored in the customer service and taxi numbers equation are the effective, efficient uses of the existing taxi fleet and efficient (reformed) Network radio booking/dispatch services. Such issues are addressed in the submissions below.

(d) anti-competitive activities in the industry and the Government’s compliance with National Competition Council rulings,

Full taxi industry deregulation in the name of (misnamed) economic competition cannot be supported. The fact is that (due to the already excessive numbers of taxis) the competition on the road between taxidivers for scarce fares is often so intense as to be vicious and indeed dangerous to drivers and the public sometimes. Full deregulation has failed dismally in several parts of the world, including the Northern Territory, New Zealand and Ireland in recent years, and is not known to have succeeded anywhere.

Despite the onerous nature of the NSW Taxi Regulations (ToR at a. above refers), there is substantial and demonstrable merit in some regulations to maintain necessary and publicly demanded taxi service standards. The contrast between the world class London Black Cabs and the notoriously dangerous and unregulated London “mini cabs” is a potent example.

On the other hand the “deregulation” of the totally useless NSW taxi plates and their exorbitant artificially inflated \$400,000 values and excessive \$550 /week leasing costs appears warranted as these do nothing for the industry except meaninglessly raising industry costs and customer fares. Taxi plates could be phased out to the benefit of the taxi industry and passengers and without loss to anyone including their investors who can invest elsewhere.

The prominent economist Professor Alan Fels as recently as February 2008 concerning NSW taxi industry deregulation was at pains to state "not total deregulation" because it's really important that we have "driver competence, good street knowledge, and especially of good character".

(e) the performance of the wheelchair-accessible taxi fleet, with special regard to Federal disability discrimination laws and their compliance with the 2002 Disability Standards for Accessible Public Transport,

(f) the effectiveness of the Wheelchair Accessible Transport Taxi Driver Incentive scheme in providing better taxi services for people in wheelchairs

The following comments are based on those from other highly experienced WATS drivers.

There is no doubt that taxi services to the disabled should and could be improved.

For the same reasons, the earnings of dedicated WATS drivers should and could be improved.

The following and others are recommended for close Inquiry consideration to improve services :

- the restricted times of operation for WATS taxis should be lifted. Disabled fares for WATS are limited and infrequent in number and insufficient to earn a living. WATS hours should be the same as for normal cabs so that WATS can share the normal fare work with other taxis and also employ a second driver to be economically viable.
- "dead running" and "lift" fees for WATS need to be reviewed and improved.
- The 50% TTSS share presently capped at \$30 should also be applicable to fares in excess of \$60. It is unrealistic and unreasonable for a disabled person living in the west – possibly for economic reasons – and unable to use buses or trains, to have to also pay the extra \$40 balance of, say, a \$100 taxi fare to get to the city. The Inquiry may well meet in its hearings disabled representatives with precisely such a predicament. Given the lowly pensions and problems faced by disabled persons, it seems reasonable that the maximum payable by a disabled person for any taxi trip be \$30. The number of such trips by disabled and the extra costs to government should not cripple the NSW Treasury.

(g) the Government's response to the recommendations of a range of reviews into the taxi and hire car industry over the last decade,

To the concern of many taxidrivers the responses of Governments to past reports as well as recommendations on many issues and from other quarters have often been non-existent despite the considerable resources expended on them. Such responses as have occurred, for example arising from the Madden report and potentially significantly affecting drivers, have not been discussed with drivers or their representative bodies, as distinct from other taxi industry bodies. This is a further government deficiency which could and should be rectified (Subm'n 2.01 refers)

(h) the level of transparency and accountability in the regulation of the industry, including the reasons for the failure to make public reports flowing from six out of ten inquiries or reviews over the last decade,

The issues of this Term of Reference are of concern. The comments in response to Terms of Reference items (a) and (g) above also refer.

(i) the appropriateness and accountability mechanisms associated with the appointment of key Government ministers and bureaucrats to positions in the industry and its impact on Government policy,

These are necessarily matters of serious concern to the accountability and integrity of the taxi industry. To avoid these problems and the manifest conflicts of interest, senior public officers in other Australia jurisdictions and overseas are subject to time limitations of up to two years before being permitted to take up positions in professionally related industries. Such restrictions could importantly benefit the integrity and reputation of the NSW taxi industry and the government.

(j) regulatory structures in other Australian jurisdictions and the optimal framework required to achieve the best possible taxi service for members of the public in New South Wales,

With respect to the Inquiry, it is not known in detail that regulatory structures in other parts of Australia are significantly superior. The regulation of the NSW taxi industry is in principle reasonable. At the same time it is clearly evident that the unofficial control of the taxi industry by private influences to their exclusive benefit is severely distorting and perhaps corrupting. There are clear and strong arguments for reform of these and other major aspects of the taxi industry for the benefit of drivers, operators, networks and the travelling public as per the submissions below.

(k) working conditions and entitlements for taxi drivers, and

The working conditions and entitlements for taxi drivers are notorious and scandalous. They have been the subject of many reports including famously that of Justice Beattie as long ago as 1984, since when little has improved and indeed worsened in several respects.

There are several Submissions to the Inquiry below recommending important longterm reforms affecting improvements to the working conditions and entitlements for taxi drivers for the benefit of drivers, the industry and the travelling public.

(l) any other related matters.

Several submissions are made to the Inquiry below, including several of longterm effect in improving Customer Services, and several under item (l) of the Inquiry Terms of Reference.

2. RECOMMENDATIONS FOR REFORM OF THE NSW TAXI INDUSTRY

Slaves, Cannon fodder and Mushrooms.

Taxidriviers are the revenue earners of the taxi industry They are the economic engines of the industry together with the operators who service and maintain the cabs.

Without the taxidriviers and the operators the taxi industry would not exist.

Despite their central importance, taxidriviers in NSW are commonly referred to as "slaves".

That expression goes to the dismal earnings and conditions and unpaid "award" entitlements of sick leave and holiday pay. Earnings officially "assumed" by IPART, the Independent Pricing and Regulatory Tribunal, as \$16 per hour for statutory 12 hour shifts ! Compared to the \$21 per hour paid to busdriviers. And official sick pay and holiday pay entitlements which are universally evaded and which all bar possibly only one driver of the 17,000 in urban Sydney is paid !

Taxidriviers are also commonly referred to as "cannon fodder".

That expression goes to the fact that the conditions and safety of drivers are largely considered as secondary or disregarded by the taxi industry. Conditions which are often extremely difficult and sometimes highly dangerous, due to pre-industrial handsome cab and horse 12 hour shifts, chronic fatigue, dealing with traffic risks and the public, sometimes in life threatening situations.

And thirdly, taxidriviers are also commonly referred to as "Mushrooms". Mushrooms that are kept in the dark by the rest of the industry, especially by those who have controlling influence in the industry. The deliberate secrecy of the industry in treating drivers as mushrooms assists to prevent or minimise the influence of drivers in the industry and in the many matters directly and indirectly affecting drivers (which of course often also directly affect the service to the public).

The rest of the taxi industry is often referred to as the "mafia".

It usually encompasses Cabcharge, the Taxi Council Ltd, the Sydney radio bookings Networks and the government department of Transport and Infrastructure. That expression goes to the power and control of those groups and their exploitation and lack of concern for taxidriviers and small operators.

In a nutshell these expressions encapsulate the conditions of the taxi industry. Conditions which were closely examined and reported on by the Honourable Justice Beattie in his exhaustive 1984 Report. And which shamefully in many respects have little improved.

The life of taxidrivers is often dreadful. The large numbers who give it away within 12 months of completing their initial training, having realised the paltry chancy earnings and conditions and dangers, are often the lucky ones.

Those who remain may become captive despite wanting out. After some time it is often difficult to disengage. The 12 hour shifts leave little time to explore alternative employment opportunities. Skill losses become a problem. Citing 'taxidiving' as recent employment is rarely impressive. Many drivers become resigned to their fate and the situation. Together with disenchantment, dissatisfaction, unfortunate experiences, dreadful earnings, dreadful hours, no holidays nor sick leave, some become surly and uncommunicative with passengers and colleagues. The industry neither cares nor takes any action.

The drivers are not the only ones to suffer. Many small taxi operators find it very difficult. Many lessee drivers have serious financial and business difficulties. Again, no one in the industry cares or acts.

Problems beset the industry at all other levels, such as in the radio booking/despatch networks. And of course the taxi plate owners of the industry are up in arms at the new Plate Lease Bill.

The Inquiry will be presented with a multitude of problems and issues of the taxi industry. A multitude of problems able to be prepared and submitted in the short time available because the problems have existed for many years, lying stagnant, unaddressed and unresolved, to be exhumed for the Inquiry.

It is long overdue that the taxi industry was reformed.

The Inquiry and its Terms of Reference are the most positive sign of such awareness, will and possibilities.

Rather than addressing specific problems in detail, the following submissions are primarily concerned with enabling major reform of the taxi industry.

2.01 MINISTERS DRIVERS COMMITTEE

It is proposed that a permanent Ministers Drivers Committee be established to formally recognise drivers for the first time in the history of the industry and to deal with the numerous major problems affecting taxi drivers inherent in the taxi industry.

The 22,000 taxidriviers of NSW are the economic powerhouse of the taxi industry. But, shamefully, they are totally ignored and unrepresented in any Government forums.

The 22,000 taxidriviers of NSW earn all the money of the industry. They are, together with the approx 5000 owner/operators and some large base operators, the fundamental underpinnings and economic engines of the industry.

As the frontline interfacing daily with the public the taxidriviers are more intimately aware and more knowledgeable and more cognisant of the measures needed for the numerous problems of the taxi industry than most.

Despite this the drivers of the taxi industry are unrecognised and ignored by the powers that be. The rundown state and ineffectiveness of the taxi industry as widely and often criticised by the public and the media is in large measure due to the authorities and the vested industry interests deliberately ignoring the drivers for change and improvements. The examples are numerous.

It is shameful, for example, that drivers are not consulted about pre-payment proposals affecting only taxidriviers (submission 2.05 refers), nor about Xmas city rank arrangements affecting only taxidriviers and the public, nor in 2007 about the T&I (MoT) Regulations revisions that focus largely on (punishing) drivers, nor about the important Plate Lease Bill, nor the equally important implementation Tender Documents, nor indeed about most problems affecting the industry, especially not drivers.

The Taxi Council (TC Ltd), after several reincarnations, established itself brilliantly as 'the voice of the taxi industry'. But without any foundation or basis in truth.

The TC Ltd does not even represent operators, let alone drivers (NSW TDA DOC 1 Background info). And yet it is regularly automatically informed and consulted on Government proposals deeply affecting taxidriviers, for example, scandalously, the TC Ltd recent public opposition to the fares pre-payment trial ! (Submission 2.05 refers)

By persistence the NSW TDA has managed to participate in one or two investigations such as the Cook and the Madden reports. It has recently been promised membership of the (TAC) Taxi Advisory Committee, however this 2004 body has been of limited effectiveness and has been closed arbitrarily by T&I (MoT) for several years.

The 22,000 taxidriviers of NSW, the economic drivers of the industry at the forefront of the public interface, do not have any formal recognition or forum in the industry.

That is shameful and an indictment of the industry and Government.

It is long overdue that the 22,000 drivers of NSW had formal recognition and a formal forum in the industry.

It is submitted that an essential, important and long neglected industry forum for drivers is achievable simply and expediently by the formal establishment of a Ministers Drivers Committee.

A Ministers Drivers Committee would importantly achieve for the first time in the history of the taxi industry :

- formal recognition of the 22,000 taxidriviers of NSW by the NSW Government,
- provide a forum for raising issues of major importance to drivers and the industry directly with Government,
- automatic referral of Government proposals for the taxi industry and review by the drivers of NSW; those often most knowledgeable and most affected by those proposals.

A Ministers Drivers Committee of NSW is recommended, formally recognising the drivers of NSW, meeting with the Minister quarterly or half yearly, and constituted of drivers from country areas, Wollongong, Newcastle and Sydney including representatives from the driver associations, funded via T&I, and automatically informed and consulted on all T&I and government and industry proposals affecting the taxi industry.

Submitted to the Inquiry for its consideration and recommendation is :

The creation for the first time in the history of the taxi industry of a Ministers Drivers Committee of the taxidriviers of NSW.

2.02 TAXIDRIVER PARTY STATUS IN THE NSW INDUSTRIAL RELATIONS COMMISSION (IRC)

It is submitted that the Government should effect the registration of the NSW TDA as a formal party to the NSW IRC so that taxidrivers are effectively represented in this critical arena.

The NSW Industrial Relations Commission determines the critical working and award conditions of all "Contract Drivers" being the more than 17,000 taxidriver of Sydney, Wollongong and Newcastle. Country drivers do not come under the 'CD'.

However, taxidrivers are effectively not represented in and are effectively excluded from the critical arena of the IRC.

This is an extraordinary and highly unsatisfactory situation.

The IRC is the industrial relations Court that annually determines the share of taxi fares for drivers and operators under the Taxi Industry (Contract Drivers) Contract Determination 1984. Maximum pay-ins by drivers to operators upon bailing their cabs are determined annually by the IRC. The residual balance - from the IPART recommended maximum fares - provides the paltry earnings of drivers.

Formally, the only official parties registered to the NSW IRC on taxi industry matters are the Transport Workers Union (TWU) and the Taxi Council (TC Ltd) / TIA arguing for Pay-in levels. Others cannot participate as a party in the IRC proceedings.

NSW Taxi Council Ltd (TC Ltd) / Australian Taxi Industry Association (TIA)

TC Ltd publicly claims to represent the broad interests of the taxi industry.

It is in fact a private company owned by its taxi networks constituents reflecting plate ownership interests. It is funded by the TIA from its levy on network fees.

(TIA) is an Australia wide taxi industry lobby.

Its membership and representation is that of plate owners and lists the NSW Taxi Council and State taxi associations as members. The NSW TIA in 2001 specifically excluded its plate owner members from giving their proxy vote to taxi operators or other non plate owners.

The stance of the TC Ltd/TIA is strongly anti drivers. It seeks to minimise driver earnings to maximise plate lease revenues within the annual fare determination. And does so to the extent that it has knowingly misled both IPART and the IRC that holiday and sick leave entitlements were widely paid to drivers. This deliberate misleading was uncovered in IRC 2005 testimony extracted from the TIA (APPENDIX A – IRC transcript).

This appalling travesty is exemplified by the current case of the taxidriver with only months to live, whose wife, desperately seeking the \$11,695.15 owing for his holiday and sick pay, is being refused by the taxi base operator (SMH 12 Nov09 p3 "Dying Driver Won't get Sick Leave or Holiday Pay").

Transport Workers Union (TWU)

The TWU is the major NSW industrial union representing train drivers, truck drivers, non government bus drivers and taxi drivers. It is understood its taxi drivers section has only a handful of members at \$400 pa, and taxi matters are an almost negligible part of its activities. Despite attempts by many since as long ago as 1989, there are no known means of getting the TWU to seriously address any responsibilities in regard to taxidrivers in the IRC.

NSW Taxi Drivers Association (NSW TDA)

The NSW TDA was established in August 2004 by volunteer drivers and represents the taxidrivers of NSW. Since then, by sheer hard work, openness and honesty it has won respect and recognition among drivers and in the various quarters of the taxi industry. The NSW TDA is the only organisation that has the representation, membership, vision, energy and ability to represent drivers in the IRC. It should naturally and logically represent the interests of drivers in the IRC, but does not have formal party status.

As a consequence the 17,000 taxidrivers of Sydney, Wollongong, Newcastle, the primary subjects of the Contract Determination, have been and are effectively disenfranchised in the critical arena of the IRC determinations on taxidrivers awards and conditions.

Drivers are effectively voiceless on the critical issues of their remuneration and conditions.

This is totally unsatisfactory, unfair and discriminatory.

It is a situation which is long overdue in being rectified.

It is also a situation which can be relatively easily remedied by Government.

It is necessary to be effected by Government because the process to obtain party status is a formal one, complex, legally protracted and expensive, beyond the resources of the NSW TDA.

Accordingly, to rectify this long overdue, highly unsatisfactory, unfair and discriminatory situation, it is submitted to the Inquiry that it consider and recommend :

That the Government effect and ensure the registration of the NSW TDA as a formal party to the NSW IRC so that taxidrivers are effectively represented in this critical industrial court.

2.03 STANDING COMMISSION

- TAXI INDUSTRY REFORM

The Inquiry Terms of Reference will have uncovered a plethora of ingrained endemic problems in the taxi industry. That and the limited time available to the Inquiry has prompted this submission.

A submission that the Inquiry recommend a Permanent or Standing or 5 year Authority or Commission to undertake the much needed reform of the taxi industry.

A body that could reform the taxi industry to bring it into the 21st Century.

It is a recommendation that if accepted will be a permanent legacy to this Inquiry.

It is appealing to let the public think that a few extra taxis would fix any difficulties.

However a cursory glance at the submissions to the Inquiry shows that the taxi industry is deeply beset with numerous, longstanding and profound problems.

The taxi industry patient does not need a few bandaids ; it is very sick, it needs hospitalisation, observation, diagnosis and treatment over a period of time.

The Inquiry has triggered this wakeup call.

THE TAXI "INDUSTRY" - FRAGMENTED INEFFICIENCY

The term taxi "industry" is a misnomer.

There exists no such thing as a coordinated taxi industry providing an integrated efficient professional service to the public. Unlike say the NSW bus services operating for over a century in a stable professional, highly coordinated manner all over Sydney and NSW.

Since its horse and hansom cab days, from which "bailment" continues to this day in the IRC, to the first two motorised taxis in the early 1900's, the fragmented taxi services have developed willy nilly into today's so called "taxi Industry". More than a dozen different Sydney wide Coops and taxi companies, then slowly started their own services with different liveries. Most, extant to this day, have since umbrella'd under today's 5 radio booking/despatch networks.

The selfevident inefficiencies of the taxi industry are indisputable.

That taxis are only occupied 50 to 60% of their on road time (as per 2005/6 Adelaide survey) is clear testimony to the inefficiencies of the industry. Similarly that many taxis are not on the road 24/7 due to many owner drivers not engaging co-drivers because of the exorbitant extra insurance rates (as per network KPIs). Driver shortages and large new driver turnovers due to their paltry earnings and the dangers of taxi driving are ignored.

Networks do not operate on a commercial basis and are primarily concerned about costs and service minimisation rather than providing effective radio booking services to drivers and passengers (Sub'n 2.04 Single Network refers). The private company Taxi Council Ltd's /TIA membership and concerns are plate investors and maximum plate leasing fees returns at the expense of driver and operator earnings and passenger costs (refer Sub'n 2.02). Their control of NSW driver Training courses is commercial rather than professionally oriented.

IPART annually takes a highbrow economist's view of the taxi fares of a cottage industry. The IRC continues with baffling Victorian notions of "bailees" under the influence of the TC Ltd modern plate owners. And the T&I government department revises its archaic regulations every 5 years and attends to occasional complaints.

A totally fragmented, uncoordinated and hugely inefficient "industry".

IDENTIFIED ISSUES - EXAMPLES

The many diverse problems and recommendations on the taxi industry are apparent from the submissions to the Inquiry.

A fraction of these measures and others include :

Exemption for taxis like emergency vehicles of No Stopping penalties to enable taxis to do their job; use of all Busways and Transitways for taxis as for buses; elimination of M4 and M5 tolls for taxis (similar to local resident rebates); elimination of all tolls for taxi as for bus passengers; modification of the Demerit points system and double Demerit points for taxi drivers; provide adequate numbers and sizes of ranks; abandon TCS rank preference for bookings discouraging cabs onto the streets; provide extra Fri and Sat night ranks; the use of Destination signs at night and destination ranks; 12 hour driving shifts; chronic and dangerous fatigue; Prepayment of Fares for security of earnings and safety; permit fixed mobile phone use for taxis as with other taxi communications equipment; permit use of bus zones for pickup and dropoff; etcetera, etcetera ... (Sub'n 3.4.c below refers)

Plus the 100 plus problems listed by the NSW TDA as long ago as January 2005, the majority of which remain unresolved and to which many new problems have arisen since. (NSW TDA DOC 2 - LIST OF NSW TAXI INDUSTRY PROBLEMS)

All of the above plus many more, would if resolved, contribute to aspects of improved driver earnings, more available drivers, more cabs on the road fulltime, reduced costs, easier and quicker travel, fewer delays, improved bookings and vast overall improvements in the efficiencies and capacity of the existing taxi fleet. And the reduced need for additional plate leases.

TAXI INDUSTRY REFORM

The inevitable picture revealed by this Inquiry is of a highly dysfunctional industry.

An industry which has nevertheless become an important means of transport to many, as evidenced by the annual raucous tabloid complaints about Fri /Sat nights, taxi standards, inexperienced drivers, etc.

An industry seriously dysfunctional but unable to be reformed by its main stakeholders due to their separate responsibilities and competing interests. Disparate interests which display rivalry, disenchantment and distrust of each other. Radio networks which operate neither commercially nor on performance penalties but minimise customer services, drivers that have all the economic and safety risks, operators on tight margins and squeezed for unused radio fees, and non contributing plate investors that cream off the profits.

Regrettably there is no single body in the taxi industry that has any responsibility for the overall effectiveness and efficiency of taxi industry and its operations. Nor is there great incentive structured into the industry for efficiency.

And there is no organisation in the taxi industry which has the authority, power, initiative or ability to organise and achieve the much needed overdue reform and change.

EXTERNAL REFORM

As demonstrated for a number of years, only an outside body, such as this Inquiry and some previous investigations, is able to objectively assess, diagnose and prescribe the remedial actions necessary for the fragmented Sydney taxi industry.

And, provided it had the time and the power, to implement the reforms diagnosed as necessary.

It is submitted that what is needed is a separate body, a Commission or Authority etc, set up to reform the taxi industry. A body that has the necessary time and authority to investigate and analyse comprehensively and in depth, the time to formulate overall integrated programs and the time to implement the long needed changes and reforms to bring the taxi "industry" from the hansom cab days into the 21st Century.

A Standing or Statutory body, or for a minimum term of 5 years, or Commission or Authority, the nature of which this Inquiry would best recommend.

A Commission that has as a minimum :

- the authority to investigate and assess and diagnose exhaustively and comprehensively
- the time to carry out its tasks of research, plan formulation and implementation to completion
- the power to implement its plans for improvement, change and reform

It is submitted that the Inquiry consider and recommend that :

A permanent or 5 year body or Commission be established with the authority and power to comprehensively investigate the taxi industry and to recommend and implement necessary changes and reforms to the taxi industry of NSW to the benefit of the NSW public.

2.04 SINGLE SYDNEY BOOKINGS/DESPATCH NETWORK

It is submitted to the Inquiry that the evolution of the taxi industry into the 21stC necessitates that the 5 remaining radio bookings/despach Networks integrate into a single Sydney wide network.

The 5 taxi radio booking Networks of Sydney are dying a slow death.

And increasingly the public is disillusioned and taxidriviers despair of the taxi booking services.

The amalgamation in the 1980s of the 12 or more Sydney taxi coops and companies (also confusingly termed networks) into 5 main radio bookings/despach Networks was an admirable and necessary revolution. Followed by the technological efficiencies of the computerised radio booking systems.

But 'constrained' revenues and rising costs of labour and technology are forcing the radio bookings/despach networks into ever decreasing customer services to reduce costs and survive. This cannot continue ; the radio bookings/despach networks have to either vastly increase their fees or die. Or necessarily reform and evolve again ; into a single commercially viable service !

That they cannot survive commercially is evidenced by the amalgamation of the various past networks into umbrella organisations of the 5 remaining bookings/despach networks, namely TCS, Premier, Legion and Manly plus Lime. The recent new Peninsula Cabs is in the Manly bureau. All of the past 12 or so taxi companies continue with their distinctive livery but in fact operate under the umbrellas of the 5 radio bookings/despach Networks.

And even these 5 radio bookings/despach networks are now dying.

DETERIORATING NETWORKS BOOKING SERVICE.

The decline of the Network radio bookings/despach services is due to two main factors :

1. rising costs and 'constrained' revenues rendering the Networks unprofitable
2. historic limitations of taxi availabilities in various regions

The bookings/despach Networks derive their revenues from the \$500 /month radio fees levied on taxi operators who are obliged under the Regulations to belong to a Network. The main avenue for increased revenue is to agitate for more new plates and taxis on the road. This network survival policy is disastrous for the industry (as set out in 3.4.c below). Revenues are constrained because of the tight margins that taxi operators work under. Costs reductions are the only way for networks to survive. As a result, yearly the service to customers and the work for taxidriviers is declining due to inevitable network cost cutting against 'constrained' revenues.

Despite their technology, the existing radio bookings/despatch networks suffer Regional limitations which the public is unaware of. Broadly, TCS taxis are available in the eastern suburbs and the city and as far west as say Lidcombe. Beyond that is Premier taxi territory. On the northern peninsula is Manly taxis domain and St George taxis in the Shire, Legion around the inner city, ABC on the lower north shore, etc. Some of the other taxi companies could be described as 'niche' companies without major regional impacts and all operate under the 5 radio bookings/despatch Networks.

The inherent problem is that a passenger booking a taxi in the Shire may be faced with an endless wait when the few St George cabs are busy. Nor sometimes do busy St George cabs want to take a booking out of the Shire. Similarly loyal northern beaches passengers with few Manly cabs are often disappointed. As are passengers in all areas of Sydney at busy weekday peak times. And on busy Friday and Saturday nights when the majority of Sydney taxis work around the city areas.

Despite many other company taxis often cruising in their regions having just delivered passengers, etc !

The theoretical response to these dilemmas is "off loading" where the radio bookings/despatch network after no take ups from the requested taxi company, and often after a considerable time, offers the job to another taxi company on its network.

But that slow and limited "off loading" is often not successful. Especially due to the limited number of alternative taxis operating under the bureau umbrella and present in that region at the time. The passenger by then may have made alternative arrangements, or cancelled, often without notifying. To the anger of the passenger and to the taxidriver having lost his time and money, a classic "M3". (Disputes have arisen between taxi companies served by the same network dissatisfied with the "off loading" procedures.)

The constant cost cutting by radio bookings/despatch networks is severely undermining the booking services for the public and the taxidrivers. EG endless phone delays for passenger, no specific taxi arrival time advice for passengers, no crossroads on driver address info, no time of booking info, inaccurate addresses, poor driver query assistance, etc, etc.

As a consequence, both the public and many drivers have for several years been losing confidence in the system and not using it. Many drivers no longer use the bookings/despatch system to the loss of the public, but the operators are obliged to keep paying for the unused radio services.

The ever increasing use and success of reliable private 'trunk' taxi booking systems is clear testimony to the decline of the networks. (Private trunks competition which the networks have attempted to eliminate by regulation.)

SINGLE SYDNEY DESK - COMMERCIAL REFORM ADVANTAGES

The advantages of single Sydney taxi radio bookings/despatch network or desk are enormous and obvious ; and the downsides are few.

- a. vastly improved service to the public by availability of the total Sydney taxi fleet
- b. vastly increased booking jobs for taxidriviers
- c. increased public and driver confidence and use of taxi bookings
- d. strong competition to private trunk systems
- e. vastly reduced operational costs
- f. potential per booking fees and commercial revenues incentivisation

a. A single bookings/despatch network instantly overcomes the historic regional taxi availability limitations of the 5 declining networks. And provides huge advantages to the public taxi services and importantly to meagre taxidriviers earnings.

A single Sydney desk makes available to the public at any time the full fleet of 5500 Sydney taxis. When the 300 odd Manly taxis are busy, all other Sydney taxis cruising in the peninsula would be pleased to do those bookings. Similarly with the 250 St George taxis in the Shire, or with the 1500 Premier taxis, the total 5500 taxis in Sydney can be on call, with huge improvements in both the availabilities and response times of booking services to the public.

The existing 12 or so taxi companies, each with distinctive livery and some loyal customers, can continue as at present under the single desk instead of the 5 radio bookings/despatch networks.

b. Fewer jobs would be lost and many more taxis would be offered jobs in other regions of Sydney, with improved earnings. And many drivers would return to radio bookings for improved earnings.

c. Plus the distinct prospect of a resurgence in public confidence and vastly increased use of taxi bookings.

d. As a consequence, the single desk can provide highly improved competition to the private 'trunk' taxi booking systems. Something the networks have understandably been seeking to do for years. And also to the further benefit of the public.

e. A single Sydney bookings/despatch desk amalgamating the 5 declining bookings/despatch networks into one would be their salvation. The immediate commercial advantage of a single desk is that it vastly reduces costs. It quarters present networks' managerial and technological overheads, as well as office costs. And sharply reduces the present networks' staffing costs. (Rumour has it that two of the networks may already be discussing just such an amalgamation.)

f. As a further measure, fee for service, instead of compulsory fees from operators for non-services, would 'incentivise' the single desk commercially (as it would the existing networks). And create genuine commercial competition, presently lacking under compulsory operator network membership and radio fees. The single bookings/despatch desk could charge passengers for the services used on a per booking basis. And charge taxidivers (through their operators) on a per job taken up basis. Namely fee for service promoting commercial efficiency and competitive attitudes. A model is not unlike the increasingly successful private 'trunk' taxi booking systems.

GPS AND DRIVER SAFETY (ETC)

The present 5 bookings/despatch networks have the costly responsibility of also operating the essential taxi GPS systems and providing "M13" safety alarm and response operations for their taxis. These are vital safety services but are costly non revenue operations.

In addition, and perhaps partly as a result, these operations are at times less than satisfactory. This is dangerous and totally unacceptable.

Moving these services under the one roof provides better control and vital Sydney wide all taxis intercommunications at times of emergencies. It also removes these quadrupled cost responsibilities from the 5 present bookings/despatch networks. The single Sydney desk is an obvious improvement in terms of safety and cost effectiveness.

(Other loss making network responsibilities, such as lost property and complaints benefit similarly from a single desk integration.)

DOWNSIDES

The downsides of a single Sydney radio bookings/despatch network are relatively few.

Psychological resistance to change may be the major hurdle.

Ownership of the new single network, whether by the existing networks or a new private or non-private body, would raise arguments. However revenue loss from the existing loss making bookings/despatch operations would be negligible.

Decisions would need to be made about suitable technology – matters which have plagued bookings/despatch networks in the past 3 years. A Premier type of geographically based system may prove best.

The current radio bookings/despatch networks - like the old coops and companies under the present radio umbrellas - can separately continue their profitable operations of leasing taxis, selling livery and decals, insurance etc.

A single bookings/despatch desk is undoubtedly a further highly necessary evolution and reform of the taxi industry. To the significant advantages of the public and taxidivers and operators and the booking services and Sydney taxi industry.

Notwithstanding, the evolution from the old companies into the 5 radio bookings/despatch networks and into a single Sydney radio bookings/despatch desk will require detailed planning. Such investigation and planning may be beyond the time frame of the Inquiry.

But may be investigated with more time by the Minister or more appropriately by a "Statutory Commission" to reform the taxi industry as recommended to the Inquiry at submission 2.03.

Accordingly it is not made as a specific proposal in this submission for the Inquiry to accept. Rather it is more appropriately requested from the Inquiry to recommend :

That the investigation of a single Sydney radio bookings/despatch desk is recommended.

2.05. PRE-PAYMENT OF FARES (for major safety & earnings)

Taxi drivers are exposed to extreme dangers at times which usually are not of their own making. Apart from traffic risks which mount up with increasing numbers of 12 hour shifts and fatigue, taxidrivers often face dangers from passengers who are drunk, who happen to be ill disposed, who misunderstand the taxidriver, who disagree with a driver's route or charge etc. Such dangers can culminate in physical violence and indeed on some occasions death ! The frequency of such serious assaults is shown in the 15 major assaults in Nov09 alone listed in OzCabbie Dec09 p6.

"Runners" who run from the taxi at the end of the trip without paying present major problems. Firstly and obviously, the taxidriver may lose a substantial fare, plus a fruitless return journey. The loss of one substantial fare of say \$50-70 may be half of the 12 hour shift earnings. If on an already poor earnings shift, that may mean no bread on the family table !

Secondly however, a fatigued and stressed taxidriver under such circumstances may lose his temper and chase the runner with his taxi. That has dreadful and most serious potentials for physical danger. The physical dangers of an accident between the taxi and the runner or the dangers of a cornered runner turning violently onto the taxidriver. Both scenarios are too horrible to contemplate, but they are real. And runners are unfortunately an every day problem.

Present regulations permit the taxidriver to request from the passenger "proof of capacity to pay". This means the driver can be shown a plastic card which however does not prove "capacity to pay", or shown some money which may or may not be handed over at journey's end. Neither avoids the potential hazards of a runner evading payment.

Excellently, on 2Dec2009 the Minister announced the trialling of late night pre-payment of fares on the NSW Central Coast.

Extraordinarily, if not unusually, (refer submission 2.01 Minister's Driver Ctee), the NSW TDA was neither informed nor consulted by T&I on the proposed pre-payment trial. This is short sighted because only taxidrivers have the most to benefit and have the most insight into this significant proposal. Equally extraordinarily, the Taxi Council, which neither represents taxidrivers nor has direct taxi driving knowledge, was seemingly informed and (without consulting driver bodies) reportedly rubbished this major initiative, stating that "While it sounds like a good idea it forces drivers to confront every passenger, many of whom have been drinking and would not like suggestions they are a fare evader" (OzCabbie Dec09 p6).

This is inexplicable nonsense by the TC Ltd.

Pre-payment in principle is no different from the pre-payment on buses and trains and for many other services - such as fees 12 months [!] in advance for gym fitness. And passengers won't be "confronted" in any way as soon as taxi pre-payment becomes the norm.

Drunken passengers? For goodness sake ; does the Taxi Council propose the continuation of fare evading runners and the associated life threatening consequences ?

Pre-payment in practice for a taxi fare is straightforward : the passenger pays an estimated fare value at the start of the trip and the taxidriver returns some small change or receives a small extra payment to match the meter fare at the end.

In the normal course of business taxidriviers may often not bother to request pre-payment.

Passengers will soon accept that this is a normal and sensible practice in taxis as in many aspects of life and business. In this regard, it would be reasonable for the Minister to expect the Taxi Council to use its funds – derived from drivers initially via operator radio fees and networks % cuts - to educate and inform the public, as it has rarely done, and to positively promote acceptance of pre-payment !

Pre-payment resolves several major problems and dangers.

It is understood to be achievable by relatively simple amendment of the taxi regulations.

It is to be hoped and expected that the Minister will consult the NSW TDA in reviewing the trial results and in finalising any regulatory changes for pre-payment.

In principle and in practice, the universal pre-payment of taxi fares will largely eliminate runners and the associated major and extremely serious problems and life threatening dangers.

The NSW TDA recommends this initiative as a vital one for the security of earnings and physical safety of taxidriviers and the public and requests the Inquiry :

To strongly support and recommend to the Minister to implement the Pre-payment of taxi fares.

3. PASSENGER TRANSPORT AMENDMENT **(Taxi Licensing) BILL 2009**

The purpose of this submission is for the publicly stated intentions of the new 'Plate Lease Bill' to be realised in its implementation.

Namely for drivers and small operators to be able to gain a small business foothold in running a taxi by being enabled to obtain a taxi plate lease. And for the business of taxis to be less reliant on the capital value of taxi plates.

All as stated in the Bill for the benefit of the travelling public and the taxi industry.

The new Plate Lease Bill is a major and potentially positive structural change in the taxi industry (provided it is not hijacked).

The government and opposition is to be congratulated on this initiative and on the amendments passed in the Bill to the benefit of the taxi industry and the travelling public.

In view of the above it is strange that the first 100 plate leases were advertised with such urgency. And even stranger that bidding closed before the submissions to the taxi Inquiry, preventing any prior Inquiry scrutiny of the important workings and implementation effectiveness of the new Bill.

It is now evident however that this urgent implementation by T&I clearly subverts the stated intentions and improvements of the Bill.

It is also evident that alternative implementation is necessary which realises and gives effect to the intended benefits of the Bill.

Such alternative implementation is put to this Inquiry for its consideration and recommendation.

The approach below in relation to the new Plate Lease Bill is fourfold :

3.1. It is submitted that, in accordance with the Government's publicly declared intentions, it must ensure that Plate Leases are offered first to the drivers and the driver/operators who are the mainstay of the economic viability of the taxi industry. And only then to the investors and major multiple plate owners and managers of the industry.

3.2. The method of bidding for the Plate Leases is critical for public confidence and for the effectiveness of the process.

The Plate Leasing Bill provides for both a dubious and secretive "sealed tender" (as adopted by T&I) and an alternative open "public auction" bidding system.

For similar reasons of openness and transparency and industry and public confidence, it is important that the ownership of the new plate Leases be known openly and publicly, unlike the Nexus plates. An open public auction system also supports such transparency.

3.3. The re-introduction of “Seniority Plates” are strongly recommended to provide a career for experienced senior taxidrivers and, most importantly, to re-establish the pride and commitment and quality of service inherent in this past scheme.

3.4. Very importantly, it is submitted that the Government must be careful not to release excessive numbers of new Plate Leases thus damaging the viability of the taxi industry. It is recommended that the appropriateness of the numbers of future new Plate Leases released be controlled by three main factors ;

- the professional assessment and publication of taxi demand statistics, and
- issuing to prospective bidders factual information on the opportunities and pitfalls of leasing,
- and by improving the capacity and service of the existing taxi fleets by a series of measures.

Each of these approaches to the Plate Lease Bill are set out below with specific proposals for the Inquiry to consider and recommend.

3.5. Finally there is a summary listing of these submissions to the Inquiry for recommendations on the Plate Lease Bill and to the Minister.

3.1. New Plate Leases auctioned first to drivers.

It is submitted that, in accordance with the Government's publicly declared intentions in the 1st and 2nd reading speeches, the Government must ensure that new Plate Leases are offered first to the drivers and the lessee driver, owner drivers /small operators who are the mainstay of the economic viability of the taxi industry.

And that only then Plate Leases be offered to the non driver investors and major multiple plate owners /managers (which have controlled the taxi industry and taxi fare costs through unilaterally increasing weekly Plate Leasing fees).

The Minister's 1st and 2nd reading speeches state emphatically that the Government intends to provide Plate Lease opportunities for "new entrants ...lessee operators and experienced drivers".

The importance of this aspect of the Plate Lease Bill cannot be overestimated :

- "The Government wants to attract new entrants who are keen to invest for the long term in building a business and being part of the taxi industry, and it wants to provide opportunities for lessee operators and experienced drivers to take up a new licence and become their own boss." (Reading SPEECH)
- "This is a central plank in the Government's reform proposal as it takes the industry in a new direction: one in which the primary focus is on building a business based on delivering services to passengers, rather than on the underlying capital value of the licence. The message is that if you want to take up a new licence you must run a taxi service to make a return." (Reading SPEECH)

The Minister's 1st and 2nd reading speeches also emphasised the concern about the high, unsustainable current purchase costs of taxi Plates artificially distorting the market and taxi fares :

- "We also know that the high cost of taxi licences is pushing up taxi fares and reducing the affordability of taxi services. In the past 12 months, the price of an ordinary Sydney licence has increased by 16 per cent, to \$414,000, and this is not sustainable. According to the Independent Pricing and Regulatory Tribunal, licence costs are the second-largest input into increases in metropolitan taxi fares. This is a double-edged sword for the industry. The more expensive taxi fares are, the fewer people tend to use the services. This inevitably impacts on the long-term viability of the industry." (Reading SPEECH)

T&I reproduces these sentiments faithfully in its Tender Documents.

Extraordinarily however, T&I then disregards and subverts these clear Government objectives in its currently issued Tender Documents and bidding procedures.

T&I is in fact conducting closed 'secret' tenders, to all including the major plate controlling groups, without regard to single taxi drivers, non operators or small operators, and with bids from powerful groups of up to 10 plates accepted.

The T&I Tender Documents bidding process does not enable a fair go for taxidriviers and small operators on a level playing field. They have to compete impossibly with the financial bidding might of the existing multi plate owners and networks that have dominated and controlled the industry for many years.

This is clear in the current Tender Documents :

- 3.4 Any person may apply for a licence and participate in this process. (Tender Docs p6)
- 3.5 For this process, the Director-General has decided that, in general, a maximum of ten licences may be issued to any one Applicant or Related Parties. (See Section 6 for a definition of "Related Party".) (Tender Docs p6)
- 4.2 Where an Applicant applies for more than one licence, the applications must be lodged in separate sealed envelopes, each marked 'Taxi Licence Tender'. (Tender Docs p7)
- 5.2 For each of the 100 licences, the Applicant who Bids the highest price will be identified as the "highest Bidder." (Tender Docs p10)

T&I has all bidders, be they simply a taxidriver, a small operator or major multi plate owners lodging tender bids in sealed envelopes. It is inevitable that the existing well financed multi plate owners and networks will be the highest bidders.

The limits of ten licences refers inevitably to the powerful multi plate owners and networks, enabling them to sweep up (and control) the 100 plates issue, because first time taxidriviers and small operators leasing or owning 2 or 3 plates cannot possibly match such financial resources. It is inevitable that taxidriviers and small operators will be completely left out.

Despite the clearly stated intentions of the Government and the Minister for the taxi industry !

Already there is major public scepticism and concern regarding the way the new Plate Leases will be and are being processed :

- "As Mike Carlton wrote (SMH 14/11/09): Everyone knows it [the taxi industry] is a shambles. Linton Besser's excellent investigative reports in the Herald over recent weeks uncovered what we have all long suspected to exist: a complex web of rorts, favours, lavish political donations, monumental inefficiency, and dodgy practices. Taxi plates have been a licence to print money for those fortunate enough to own them and trade them, while drivers are screwed to their seats and paid a pittance." (OZCabbie Dec09 p14.)
- "The price for these licences will be determined through a competitive tender expected to be dominated by the powerful radio networks such as those owned by Cabcharge." (Sydney Morning Herald 26Dec09 Andrew West & Linton Besser)

It is submitted that the spirit and intention of the Government and the Minister should be emphatically insisted upon by the Minister to ensure its future adherence and implementation by T&I.

Already the mechanisms to achieve this exist within the T&I Tender Documents :

- 3.2 ... The Director General may decide to target the issue of a certain number of licences at drivers to provide a career path, or may restrict the total number of licences taken up by any one person in the interests of promoting competition. (Tender Docs p5)

To ensure fair and level playing fields for all sectors of the industry, and to realise the spirit and intent of the Plate Leasing Bill, it is recommended that all future plates be auctioned in 3 categories.

- The first auction exclusively for only taxidriviers,
- the 2nd auction for small lease holder /plate owner operators of up to say 5 plates (plus 1st auction taxidriviers that missed out), and
- the 3rd auction open to all (including those from the 1st and 2nd auctions that missed out).

Accordingly the following is submitted for the consideration and recommendation of the Inquiry :

That the bidding for new Plate Leases be in 3 auctions. The first auction to be only for taxi drivers who are not lease holders or plate owners and the new leases to be auctioned until no more bidders remain.

The second auction of the remaining plates to be for lease holders /plate owners of up to 5 plates, plus remaining bidders from the 1st auction, until no more bidders remain.

Then the third auction to be open to all taxidriviers and lease and plate holders, including remaining bidders from the 1st and 2nd tranches.

3.2. Open Public Auctions and publication of new Leaseholders.

The method of disposal and tendering for the Plate Leases is important for public confidence and for the effectiveness of the bidding process.

Despite the Plate Lease Bill providing for both a (questionable) “sealed tender” and an open “public auction” system, the initial T&I Tender Documents have adopted a system of bids submitted in sealed tenders. No reasons or justifications have been provided by T&I for this initial ‘secretive’ approach to the bidding system.

Such a system is far from satisfactory.

It is secretive, not conducive to public confidence in the integrity of the bidding process and appears potentially more open to suspicions of manipulation and of corruption.

In view of the extensive critical scrutiny of the taxi industry in 2009 and expected in 2010, it is surprising and disconcerting that T&I have commenced the initial Plate Lease system with a system potentially so open to manipulation and lacking openness and public scrutiny.

Already major public criticism of the Plate Lease system has been voiced :

- “The NSW Government has caved in to the powerful interests that dominate Sydney’s taxi industry ...” (SMH 26Dec09 Andrew West and Linton Besser)

- “...the new leases are ...available to anyone accredited as an operator. In Sydney all networks are so accredited, which means they can put in stacked tenders as they have in the past and pick up leases at the bottom end of the scale.” (OZ Cabbie Dec09 p14)

It would be a disaster for the taxi industry and for the reputation of the Government if such past “dodgy practices” were allowed continue.

An open public auction system is considered to be essential for public scrutiny and for the minimisation of any appearance of manipulation, contrivance or corruption.

The open auction system enables all bidders to see the other bidders present. It allows for open competitive bidding to reach the maximum market value of the Plate Lease on the day.

An open auction system is transparent.

In the taxi industry, openness and accountability are of paramount and critical importance.

Accordingly, it is recommended that future bidding for Lease Plates should be by open public auction and that the Inquiry recommend :

That the Minister direct T&I to conduct all future bidding processes for new Plate Leases by open public auction.

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Secondly, and for many similar reasons, it is submitted that it is essential that the ownership of the new Plate Leases be known openly and publicly and promptly.

Again, despite the shameful history of the notorious Nexus plates and their alleged lack of records, T&I does not propose to do this :

- A list of the Applicants who have been issued a licence and a separate list of licence fees will be published on the NSWTI website. (TENDER DOCS p4)
- 5.3.5 Publication of tender results. ... a list identifying all Applicants who have been issued with a licence will be published on the NSWTI websiteA list of the individual licence fees paid will also be published (but without linking the price paid to any individual Applicant). (TENDER DOCS p12)

Why T&I should be precious about these details is puzzling, but inevitably open to concerns.

At any public auction the participants and their bids are public knowledge.

There is every reason why these details should be published.

And in particular to provide open information as the basis for an efficient leasing market, given especially the ongoing permitted sub-leasing of the new plates.

To this should be added that the years of scandals surrounding the notorious Nexus plates and their alleged lack of records, must be avoided at all costs.

It is submitted that after any Lease bidding, at auctions (or tenders), T&I should be required to promptly publish the details of all successful bidders, their names, total numbers of plates controlled, Lease prices and other details be published :

- To ensure public confidence in the integrity of the Plate Lease auction (or tender system),
- To ensure maximum public accountability,
- To provide open information which is the basis of all efficient markets,
- In conformity with all other main markets, be they house or cars bidding, etc.,
- And above all to ensure that never again will NSW suffer the scandal of Nexus plates and the alleged loss of the records of their ownership.

For these reasons the NSW TDA suggests that the Inquiry also recommends that :

That the Minister direct T&I that all successful bidders, names, total numbers of plates controlled, Plate Lease prices and details be published immediately.

3.3. Seniority Plates.

The re-introduction of “Seniority Plates” to experienced senior taxidriviers is recommended to provide a career again for taxidriviers and importantly to re-establish the pride and commitment of service inherent in this past arrangement.

Some years ago, drivers of 15 years standing with good records were eligible for ownership of one free permanent Seniority Plate. This system was extraordinarily successful in that it provided long term incentives and a career for drivers and was invariably associated with pride in the industry and excellent customer service.

In one of the accolades of Seniority Plates, Mr Reg Kermode, the godfather of the taxi industry, was reported in one of his first ever public interviews, that in his lengthy taxi industry career, the one and only mistake was the abolition of Seniority Plates. (SMH Business Dec 2006 approx).

Such a revived, modernised Seniority Plates scheme fits well and complements the publicly declared intentions of the Government and the Minister in the Plate Lease Bill :

- The Government wants to attract new entrants who are keen to invest for the long term in building a business and being part of the taxi industry, and it wants to provide opportunities for lessee operators and experienced drivers to take up a new licence and become their own boss. (Reading SPEECH)
- This is a central plank in the Government’s reform proposal as it takes the industry in a new direction: one in which the primary focus is on building a business based on delivering services to passengers, rather than on the underlying capital value of the licence. The message is that if you want to take up a new licence you must run a taxi service to make a return. (Reading SPEECH)

In turn the Plate Lease Bill and Tender Documents both clearly enable such determinations to be made by the Minister. It is within the stated ambit of both to direct Plate Leases to specific drivers “to provide a career path” and to set the licence fees at a concessional level :

32JA Licence fee for annual licences

(2) The Director-General may, in the circumstances specified in the regulations, determine a licence fee for any such annual licence without complying with subsection (1). (BILL p7)

- 3.2The Director General may decide to target the issue of a certain number of licences at drivers to provide a career path,(Tender Docs p5)

A practical modern form of the past successful scheme could make available say 20% of any new Plate Leases on offer in any year as Seniority Plates. Drivers of say 5 years experience with good records could be eligible, given 2 years for Silver Service eligibility, the high turnover of new taxidriviers and 2-4 year careers being normal in many professions these days.

Those Seniority Plates to be 10 year Leases (similar to new leases), at say \$5,000 per annum or 25% of the average winning Leasing tenders, whichever the lesser. And that the Plates be conditional, non transferable, non sub leasing, and having to be on the road for a minimum of 10 shifts per week for 47 weeks per year.

The concept of a modern form of Seniority Plates is strongly recommended and would be enthusiastically supported by drivers to the benefit of drivers and the travelling public.

It is strongly recommended therefore that the Inquiry favourably consider and recommend the introduction of a Seniority Plates scheme for experienced taxi drivers :

That 20 % percent of total new Plate Leases be reserved and allocated for “Seniority Plates” to 5 year experienced taxi drivers at favourable prices or \$5,000pa or 25% of average tender winning bids and subject to conditions determined by the Minister.

3.4. Appropriate numbers of new Plate Leases

It is recommended that the release of appropriate, not excessive, numbers of new Plate Leases be controlled by the implementation of the following :

- a. the professional assessment and publication of demand for taxis statistics, and
- b. issuing to prospective bidders factual information on the costs, opportunities and pitfalls of Leasing, and
- c. importantly by improving the capacity of the existing taxi fleets by a series of measures.

The drivers of the taxi industry are adamant that new plate leases are presently unnecessary !
The drivers are adamant that the capacity of the existing taxi fleet is grossly underutilised and should be improved before any new plate leases are issued !

While new Plates are at times necessary commensurate with actual growth in demand for taxis, (as distinct from population growth) it is essential that the taxi industry should not be flooded by new plates.

This is important for the already meagre livelihoods of taxidrivers and their families as well as the livelihoods of many taxi owner/drivers and small taxi operators. Hence it is important that the release of new plates be in consideration of the several industry factors below.

The Minister in the 1st and 2nd reading speeches stated loudly and correctly that the industry must NOT be flooded with new plates.

- "... the Government intends to manage changes to the pricing of new licences so that there will be a gradual and sustainable increase in the taxi fleet. But let us be clear: The Government does not want a flood of new licences on the market. Experience in other jurisdictions has shown that in the long run this does not benefit anybody." (Reading SPEECH)
- "Instead, the market will determine how many new licences will be taken up, based on commercial decisions about the price of the licence, the availability of drivers and passenger demand." (Reading SPEECH)

3.4. a. Assessment and publication of demand statistics

Professional assessments of taxi demand statistics affecting the growth of the taxi fleet and their publication are essential to avoid damaging floods of new taxi plates.

Unfortunately, the statements by the Minister on taxi demand statistics are questionable and indicative of the need for professional assessments and their publication for public scrutiny :

- "For some time, however, growth in the taxi fleet has not kept pace with growth in demand for services. Long-term passenger demand growth is estimated to be around 3 per cent to 4 per cent, while the take-up of new licences has been around 1 per cent per annum. Simple arithmetic tells us that there is a shortfall in the number of taxis required to meet passenger demand for services. This is borne out in what the community is telling us: people are frustrated because they cannot get a taxi, especially at peak times such as changeover or on a Friday or a Saturday night." (Reading SPEECH)

The statements are trite, open to many questions, interpretations and errors.

Most unfortunate is the statement concerning the extreme peaks on Friday and Saturday nights.

These are extreme peaks for which taxis are not designed in the absence of late night buses and trains. The correct assessments are the weekday morning and evening peaks when very significantly there are NO complaints of taxi shortages !

Furthermore, a Sydney population growth of 3-4% would not automatically give rise to an equal growth in demand for taxis ; depending on where that population growth occurred, the availability of suburban trains, etc, and a host of other factors. (Just as the strong rise in the use of trains in 2009 was not due to population growth, but in response to rising petrol prices.)

Similarly, the Minister's stated 1% uptake of Plates sold in 2009 may be for numerous reasons which should be analysed precisely and made public. Plate prices may have been too high, the taxi industry may have assessed that public demand for taxi services had not risen by 3-4%, there were likely shortages of drivers to man extra cabs, or business problems arising from the Global Financial Crisis, etc.

The assessment criteria set out in the Plate Lease Bill and the reading speeches are endorsed :

- (3) In making a determination, the Director-General is to have regard to the following matters:
 - (a) likely passenger demand and latent demand for taxi-cab services,
 - (b) the performance of existing taxi-cab services,
 - (c) the demand for new taxi-cab licences,
 - (d) the viability and sustainability of the taxi-cab industry,
 - (e) any other matters the Director-General considers relevant, having regard to the objective of ensuring improved taxi-cab services.

(4) The Director-General may, if the Director-General thinks fit, obtain expert advice in relation to any of the matters referred to in subsection (3). (BILL p5)

(5) The Director-General may seek public submissions before making a determination and may take into account any submissions received for the purposes of making the determination. (BILL p6)

- Instead, the market will determine how many new licences will be taken up, based on commercial decisions about the price of the licence, the availability of drivers and passenger demand. (Reading SPEECH)

However the T&I assessments and predictions are fundamental to appropriate, not excessive, numbers of taxi fleet increases and must be conducted professionally and made public.

Accordingly, it is submitted to the Inquiry that to control the appropriate numbers of new taxi Plate Leases onto the market, it be recommended :

That the assessments of the numbers of new Plate Leases proposed be done professionally and published in advance for public information and comment.

3.4. b. Information to prospective bidders

If the Minister's stated intentions are to be realised, then a number of first time taxi drivers and entrants should be seeking Plate Leases. Many of these will not be aware of the realities and real difficulties and day to day problems of leasing and running and operating a taxi.

Prospective new lessees in the commercial market will not be informed of such pitfalls and left to find out for themselves, at times to their disaster.

In promoting and extending stable market, as per the minister's reading speeches, the Government has a responsibility to inform new lessees of these problems in a simple clear manner. Some prospective lessees may think again when they realise they are not financially or organisationally or temperamentally equipped to lease and operate a taxi.

It is recommended that T&I issue a factual comprehensive publication on the details, opportunities, the costs and pitfalls of leasing a taxi.

Such a publication can be added to the other (admirably useful) information Attachments to the Tender Documents.

Accordingly, it is suggested that the Inquiry consider and recommend :

That a factual comprehensive publication on the costs, opportunities, pitfalls and details of leasing a taxi Plate be issued to all prospective Plate Lease registrants in Attachment to the T&I Tender Documents.

3.4. c. Increasing the capacity of existing taxi fleets

Taxidriviers are concerned that arbitrary and potentially damaging increases to the numbers of taxis do not occur.

Unnecessary new plate leases will only drive up taxi costs and fares and deprive drivers of already reduced work.

There is strong disagreement among experienced taxidriviers with the simplistic statement of the Minister's reading speech that :

- "There are not enough taxis on the road and we need to grow the taxi fleet to provide better taxi services for our community. It is as simple as that." (Reading SPEECH)

This "simple" statement is patently inadequate and incorrect.

There are already too many taxis on the road at most times of the day and night. And paltry driver earnings as a consequence. Importantly, the existing taxi fleet is clearly and indisputably capable of greatly improved capacity and efficiency in fulfilling public demand for taxi services.

From their intimate daily experience and working knowledge taxi drivers will testify that the capacity of the taxi fleet is seriously under utilised and could and should be greatly improved before any thought is given to increases in taxi fleet numbers.

Such improvements should be on a continuing basis and assessed and implemented before any future fleet number increases.

There is a multiplicity of measures that can and should be implemented.

Measures not only needed to minimise additional taxi leases, but which should be implemented as a matter of course for the efficiency of the taxi service to the benefit of the public.

Prior to the Plate Lease Bill and the T&I Tender Documents, taxi drivers had discussions with T&I concerning the proposed release of additional taxi plate leases.

T&I was alerted to the importance of giving priority to taxi fleet efficiency improvements. A wide range of problems and improvements and specific recommendations were forwarded.

A fraction of these measures and others include :

Exemption for taxis like emergency vehicles of No Stopping penalties to enable taxis to do their job; use of all Busways and Transitways for taxis as for buses; elimination of M4 and M5 tolls for taxis (similar to local resident rebates); elimination of all tolls for taxi as for bus passengers; modification of the Demerit points system and double Demerit points for taxi drivers; provide adequate numbers and sizes of ranks; abandon TCS rank preference for bookings discouraging cabs onto the streets; provide extra Fri and Sat night ranks, the use of Destination signs at night and destination ranks; 12 hour driving shifts; chronic and dangerous fatigue; introduce Prepayment of Fares for security of earnings and safety; permit fixed mobile phone use for taxis as for other taxi communications equipment; permit use of bus zones for pickup and dropoff; etcetera, etcetera ...

In addition there are extensive booking/despatch network problems for passengers and drivers needing major reform (refer submission 2.04 above). Plus the taxi industry Contract Determination, the IRC and IPART, and so on.

And the 100 plus problems listed by the NSW TDA as long ago as January 2005 (NSW TDA DOC 2. LIST OF NSW TAXI INDUSTRY PROBLEMS), the majority of which remain unresolved and to which many new problems have arisen since.

All of the above plus many more, would (if and when resolved), contribute to improved driver earnings, more available drivers, more existing cabs on the road fulltime, reduced costs, easier and quicker travel, fewer delays, improved bookings and vast overall improvements in the efficiencies and capacity of the existing taxi fleet.

And the reduced need for additional plate leases.

Given the significance of improving the efficiency and effectiveness of the existing taxi fleet and taxi industry operations for the benefit of the public and prior to the release of any new plate leases, it is submitted for the consideration and recommendation of the Inquiry :

That the existing taxi fleet capacities and taxi industry efficiencies be examined professionally and that measures to improve these be reported on publicly, prior to the release of any new plate leases.

3.5 Summary recommendations on Plates Lease Bill

In summary, as per the reasons set out, below are the submissions presented to the Inquiry for its consideration and recommendation on the Passenger Transport Amendment (Taxi Licensing) Bill 2009.

3.1. New Plate Leases auctioned first to drivers.

That the bidding for new Plate Leases be in 3 auctions. The first auction to be only for taxi drivers who are not lease holders or plate owners and the new leases to be auctioned until no more bidders remain.

The second auction of the remaining plates to be for lease holders /plate owners of up to 5 plates, plus remaining bidders from the 1st auction, until no more bidders remain.

Then the third auction to be open to all taxidrivers and lease and plate holders, including remaining bidders from the 1st and 2nd tranches.

3.2. Open Public Auctions and publication of new Leaseholders.

That the Minister direct T&I to conduct all future bidding processes for new Plate Leases by open public auction.

That the Minister direct T&I that all successful bidders, names, total numbers of plates controlled, Lease prices and details be published immediately.

3.3. Seniority Plates.

That 20 % percent of total new Plate Leases be reserved and allocated for "Seniority Plates" to 5 year experienced taxi drivers at favourable prices or \$5,000pa or 25% of average tender winning bids and subject to conditions determined by the Minister.

3.4. Appropriate numbers of new Plate Leases.

3.4. a. Assessment and publication of demand statistics

That the assessments of the numbers of new Plate Leases proposed be done professionally and published in advance for public information and comment.

3.4. b. Information to prospective tenderers

That a factual comprehensive publication on the costs, opportunities, pitfalls and details of leasing a taxi Plate be issued to all prospective Plate Lease registrants in Attachment to the T&I Tender Documents.

3.4. c. improving the capacity of the existing taxi fleets.

That the existing taxi fleet capacities and taxi industry efficiencies be examined professionally and that measures to improve these be reported on publicly, prior to the release of any new plate leases.

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APPENDIX A - IRC TRANSCRIPT

INDUSTRIAL RELATIONS COMMISSION

Taxi Industry (Contract Drivers) Contract Determination 1984

MATTER IRC 2004 / 6359

MATTER IRC 2005 / 2672

(Complete Index to Appeal Books at end of 1st lot of documents, including

1.Decisions, 2.applications, 3.Hearing transcripts and 4-30 Exhibits Statements.)

IRC 2003 / 4181 HEARING

IRC 2004 / 544 HEARING on Thursday 22July2004 CONNOR C.

Hearings Transcript pages 1-84

INDUSTRIAL RELATIONS COMMISSION

IRC 2004 / 544 HEARING on Thursday 10Feb2005 CONNOR C.

Hearings Transcript pages 1-84

Witness: Mr JOHN BOWE

(Exhibit 21 : TIA submission 12May04 by Mr John Bowe, executive director Taxi Industry

Association (TIA) 1982 –2003, 40 years in taxi industry as driver, owner, coops director.)

Pp 35 Q. (HARTCHER) You say that the information provided in that submission was true and accurate?

A. (BOWE) To the best of our knowledge at the time, yes.

Q. You see, where do we find it in the submission said that 70% of the industry doesn't pay entitlements to its permanent drivers?

A. I don't think you'll find that in there.

... ..

Q. You've asked the tribunal to accept ... that the taxi operators across the board are facing the cost of driver entitlements of some three to \$4,000 a year. Do you see that?

A. M'mmm.

Q. That's simply false with respect to, in your figures, 70% of taxi operators, isn't it?

A. No, it's not, that is what the entitlements add up to.

Q. But they're not actually paying them are they?

A. Well, it was not up to us to tell IPRT (IPART) that people aren't paying them.

... ..

Q. Shouldn't you have told the tribunal at some stage to say that, well, this is what you're meant to pay but we've got to tell you that in fact 70% of this is actually not being paid at all?

A. Well, only if you were asked, yes.

Pp36 Q. Your evidence is that, notwithstanding that customers are paying for those entitlements through the fare, that in 70% of cases it's not going to the driver. Is that right?

A. That's my personal opinion, yes.

Q. That's just fraud on the public, isn't it?

A. Well, I wouldn't agree with that because you are setting that that is something that they are bound by law to pay.

... ..

Q. I'm putting to you with respect to driver entitlements it's a cost which exists in 70% of the cases only as a matter of theory, not as a matter of reality?

A. My opinion, only my opinion.

... ..

COMMISSIONER. Q. Can I say from my experience with you, you have a considerable experience in the industry. Isn't that a fair comment?

A. Yes, Commissioner.

Q. Can I just put this to you that it's really misleading for the association to present submissions to the tribunal saying that operators face the cost of so many goals and expected entitlements when it in fact knows that most operators, members of that association, aren't paying those entitlements?

A. I would agree with you that all statements made to the tribunal by all parties probably err in some places and if you are saying that the association has erred or the council has erred, I would agree with you, if that's your opinion.

... ..

Pages 50 - 68

Witness : Mr HOWARD HARRISON

(Exhibit 23 : 1 February 2005 statement by Mr Howard Harrison of ?? Avenue,

Toongabbie,

chief executive officer of the Taxi Industry Association (TIA), 40 years as driver, owner,

CCC Director, TCS employee.

Pp 53 CLEGG : Can I just indicate that it is put forward really as a model and Mr Harrison will concede that for instance it is based on full entitlements being paid to drivers, just as it's based on operators receiving maximum pay-ins.

And we have evidence in these proceedings to say that that doesn't really happen in most cases.

... ..

Pp 61 Q. And it's not a calculation one ever finds in the Association's submissions to IPRT (IPART) , that is, whether entitlements are not paid and whether there's a set-off by way of payments. That's something you just don't find in the submissions.

A. No, you don't find it in the submissions.

... ..