

Submission
No 29

INQUIRY INTO NSW TAXI INDUSTRY

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The Director
Select Committee on the NSW Taxi Industry
Parliament House
Macquarie Street
SYDNEY NSW 2000

BY MAIL & FACSIMILE

Dear Committee Members

SUBMISSION OF
TAXI INDUSTRY

TO THE SELECT COMMITTEE INQUIRY INTO THE NSW

I now make submission as to the specific terms of reference:

- a) *The adequacy of 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 wheel-chairs.*

There are reporting standards currently in place which are adhered to by the NSW Taxi Industry.

- 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.*

To my knowledge there are no "government subsidies" to the NSW taxi industry per se. The "Drop Fee", i.e. the fee paid to a WAT vehicle taxi driver for unloading a disabled passenger is entirely disbursed from the Taxi Advisory Committee Funds, which are levied by the Ministry of Transport and Infrastructure on each and every accredited taxi operator. Such fee is \$260 per taxi operated by the accredited operator.

The TAC funds are also utilised to fund the provision of "secure" taxi ranks, whereby security personnel are provided at high risk taxi ranks across the city.

I understand that such TAC funds may be low or exhausted and respectfully ask the Committee to investigate and make recommendation as to whether or not the lease fees (some \$2.8million annually) derived from the proposed 100 taxi licences to be issued this year under the new legislation will be applied toward continuing the "Drop Fee", maintaining and expanding secure taxi ranks as well as defraying the costs of taxi driver training courses for new taxi drivers (currently around \$1,500).

In terms of the issue of Nexus taxi licences; I understand that the matter has been independently investigated by a reputable auditing firm whose findings were that such issue was consistent with legislation. Furthermore, I also understand that there were no findings of impropriety on anyone's behalf.

Finally, the taxi industry is unfairly penalised when taxi licences are transferred in that the taxi licence vendor must pay a 2.5% transfer fee to the Ministry of Transport & Infrastructure, unlike any other asset owner. It is understood that such fees would be abolished with the introduction of the GST in 2000, however this has not fructified. I implore the Committee to investigate where the proceeds of such fees are applied and make recommendation that same be applied wholly to disabled, driver training and rank safety programmes.

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

As mentioned previously, when I first purchased a taxi licence in 1977, certainty in the regulatory environment saw finance companies willing to lend over 90% of the value of a taxi li-

cence, which in turn encouraged the taxi owner driver to make a long term investment in the NSW taxi industry and servicing the public, driving the majority of shifts and staffing the remainder with bailee drivers. The taxi owner driver, secure in the fact that excessive releases of taxi licences would not occur and thus not unfairly ruin his/her investment, would make a long term commitment to the industry and invest in their career and eventually their retirement by purchasing a taxi plate and vehicle. Such a move was considered by Government as being socially responsible in times when the overwhelming majority of the population did not have superannuation as was actively encouraged by the NSW Government when directly releasing licences in the 1970's, 1980's and 1990's.

Limiting the supply of taxi licences to allow for sustainable taxi licence releases commensurate to population growth and other factors as contained in the new legislation is very much welcomed as it provides certainty for long term career taxi owner drivers to invest in the NSW taxi industry and their careers. It provides flexibility for industry participants in that they have the option of leasing existing or new licences or purchasing an existing taxi licence, whilst preventing market concentration in the take-up of those newly issued taxi licences by prohibiting take-ups by one entity or related bodies corporate.

However, the NSW Government could do more to foster a climate of certainty for new entrants and existing participants by removing the recently added disclaimer from the Ministry of Transport and Infrastructure's taxi licence transfer form that: *"The NSW Government will not be liable for compensation for the impact of the taxi reform package"*. Such disclaimer serves to deter new entrants from purchasing a taxi licence and from making a long term commitment to the NSW taxi industry.

With regard to unlimited licence releases, both domestic and international experiences demonstrate the failure of deregulation and unlimited licence releases, resulting in productivity losses and lower earnings for drivers whilst producing no material reduction in taxi fares. With the Dublin experience, when the uncapped issue of taxi licences was introduced, productivity declines occurred in that 99% of cabs were only driven for one shift per day, whereas previously 85% of taxis were driven for two shifts per day. This resulted in decreased times that each individual taxi was operating, which in turn led to declines in customer service and driver earnings, with part-time drivers in full-time employment in other industries reducing earnings of full-time career drivers.

This deregulated structure also caused drivers "cherry picking" lucrative fares and not staffing their taxi at crucial periods such as the early hours of the morning as well as not working in remote/isolated areas. These failings have also been demonstrated in the New Zealand taxi industry reforms and the Northern Territory experience, with the Northern Territory forced to re-regulate their taxi industry only after one year of failed deregulation.

In light of these detrimental experiences, the National Competition Council ("NCC") continues to advocate deregulation of the NSW taxi industry. However, economic analysis of the taxi market clearly shows the flaws in their reasoning. The theory of perfect competition espoused by 1920's economist Alfred Marshall and upon which deregulation arguments are based, stipulates that in a perfectly competitive market there must be information efficiency among participants as well as the making of informed, rational decisions of such participants.

However, information efficiency cannot occur amongst such a widely disbursed market in terms of both suppliers of taxi services as well as customers, thus, in turn, hindering the making of informed, rational decisions by market participants. Furthermore, the taxi market can be defined as either Sydney-wide or alternatively the micro taxi rank. Monopoly situations in outlying areas where taxis are of limited supply could occur in a deregulated environment, with excessive rent seeking by unscrupulous operators occurring. The infamous \$360 hire car fare for a New Year's Eve trip reported in the *Daily Telegraph* in December 2009 is a prime example of such rent seeking by operators in a deregulated environment. Thus, it can be concluded that the reason why supply deregulation of the taxi industry has failed time and time again is because the market's very structure is not conducive to same.

In light of these failings, one should question the economic rationale behind the NCC's antics and question whether the NCC's position is motivated by ideological extremism, as opposed to being economically sound.

This examination could also occur in the context of NCC advocated deregulation in other industries. One may assert that the argument that ideological motivation, as opposed to economic utility, is driving deregulation in certain sectors is best supported when examining the negative results of the NCC's policies of competition in the financial, legal, petrol and other sectors.

Competition in the financial sector has seen consumers borrow in excess of 100% of the purchase price of a home, as well as obtain credit cards with large credit limits quite easily, re-

sulting in mortgage stress, family break-ups as well as ballooning real estate prices, which in turn has greatly reduced home affordability for families. These practices are only now being legislatively curtailed with the *National Consumer Credit Protection Act 2010* (Cth).

Deregulation of the legal sector has seen aggressive marketing of legal services in personal injury litigation which in turn caused excessive increases in public liability insurance. Such marketing practices have been legislatively curtailed with amendments to the *Legal Profession Act 1987* (NSW), and the enactment of the *Legal Profession Act 2004* (NSW) and *Civil Liability Act 2002* (NSW). Deregulation of the fuel market has seen both market concentration and real price increases (even for domestically produced LPG whose price is not contingent upon world markets) whilst the competition policies applied to the retail sector has resulted in market concentration and vertical integration.

d) *Anti-competitive activities in the industry and the Government's compliance with National Competition Council rulings.*

To my knowledge, there are no anti-competitive activities in the NSW taxi industry. Taxi fares are set by the Ministry of Transport & Infrastructure upon the recommendation of the Independent Pricing and Regulatory Tribunal, in the same manner as bus, rail and ferry fares. Any person has standing before IPART and may make submission as to the appropriate level of taxi fares to be determined.

In terms of taxi networks, any person may undertake to establish an accredited taxi network provided they meet legislated standards, which in turn are in place to ensure continuity in customer service as well as driver and passenger safety.

Furthermore, I understand that all taxi network mergers and consolidations over the last decade or more have been subject to legislatively mandated approval by the Australian Consumer and Competition Commission, as is the case with mergers and acquisitions in all other industries, after an extensive due diligence process on the part of the ACCC.

In terms of the Government's compliance with National Competition Council rulings, I refer to my comments made as to Point c of this submission and would also add that Committee Members should be mindful of the ideological motivations of the NCC, as opposed to economic ones, which are driving its position to deregulate the taxi industry; given the many demonstrated failures of deregulation in Ireland, the Northern Territory and internationally

as well as the per vehicle productivity/utilisation losses. I repeat my earlier assertion that one could conclude that the drive to deregulate the taxi industry is an ideological one as opposed to an economic one, in the absence of any tangible economic benefit when deregulation occurs. Further, deregulation of the hire car industry has created an environment conducive to a number of public revenue abuses (see Point 1A of this submission).

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

I understand that WAT vehicle drivers are required by law to keep detailed records of their daily activities in order to ensure that the WAT licence is being used to service the disabled 0200 network. Such requirements are welcomed and should be maintained to ensure WAT licences are utilised for their proper purpose of servicing the disabled.

I respectfully ask that the Committee consider the fact that the taxi industry is heavily relied upon by the NSW Government to bridge the gap created by accessibility deficiencies in government provided public transport, such as rail and buses and that no other private sector business has such responsibility. In this regard, the Committee should applaud the taxi industry for its ability to better serve the disabled than Government provided public transport.

f) *The effectiveness of the Wheelchair Accessible Transport Taxi Driver Incentive Scheme in providing better taxi services for people in wheelchairs.*

I understand that such scheme has provided more appropriate compensation for drivers who attend to the time consuming task of unloading the disabled passenger and the wheeling of such passenger into the building of their destination.

My comments made as to Point b of this submission are repeated, in that such "Drop Fee" is entirely funded by the NSW Taxi Industry by way of the Ministry of Transport and Infrastructure levying an "accreditation fee" of \$260 on each and every taxi operated by an accredited operator.

I also repeat my comments made in Point B above in that the Committee should investigate where the Ministry of Transport proposes to utilise the proceeds of the lease income derived from the proposed issuance of 100 taxi licences (some \$2.8million annually for the

next ten years for this year's taxi licence releases alone) and make recommendation that such income be used to fund the "Drop Fee" as well as subsidising driver training and safety programmes.

- g) *The Government's response to the recommendation of a range of reviews into the taxi and hire car industry over the last decade.*

No comment.

- 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.*

No comment.

- 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.*

Such accountability mechanisms are the same across all industries and I would hypothesise that the ratio of appointments to the taxi industry is substantially lower than appointments made to other organisations and sectors, such as Macquarie Bank and the financial/investment banking sector.

It should be emphasised that the courts do not look favourably upon restraints in employment, with the deprivation of a person to earn income from their labour being reasoned by the common law as being akin to slavery.

Furthermore, the NSW Parliament has a robust system of disclosure for professional lobbyists as well as recently legislated reforms to electoral funding legislation to ensure greater openness, transparency and accountability in the political process.

- 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.*

In terms of determining annual releases of taxi licences, the regulatory framework currently in place should be regarded as a model of best practice and implemented in other jurisdictions. Such legislation provides for the sustainable increase in taxi licences in accordance with a number of legislatively prescribed parameters such as the performance of existing taxi services and the likely passenger demand and latent demand for taxi services whilst being mindful of the economic viability of existing participants.

I respectfully ask the Committee to be mindful that taxis are not mass transit service providers and that the deficiencies in bus and rail services in the Northwest growth areas of Sydney and other outlying areas, as well as deficiencies in such services at critical times Sydney-wide (early morning Sunday) should be rectified first and foremost before criticism of the taxi industry can be levelled.

k) Working conditions and entitlements for taxi drivers

Working conditions and entitlements for taxi drivers are determined by the NSW Industrial Relations Commission in accordance with the *Industrial Relations Act 1996* (NSW). As bailees, taxi drivers have the flexibility to work at the times they choose and under the bailment arrangements they prefer. As such, working conditions are determined in accordance with the law and if anything, the unfair playing field created by other, deregulated and subsidised forms of transport such as hire cars and tourist vehicles and their predominantly "part-time" operators should be examined (see Point 1A of this submission).

l) Any other related matters

A) Hire car and tourist vehicle licences being issued at less-than market price

Hire cars and tourist vehicles are currently issued at less than market price in the case of hire cars or at no cost at all in the instance of tourist vehicles. This has resulted in reduced Government revenue and I hypothesise is open to a number of other abuses on public revenue.

In terms of hire cars, I would ask the Committee to consider whether this situation has encouraged the proliferation of "part-timers" in the hire car industry; i.e. persons who are invariably employed in full time salaried positions in other industries and who use the spectre of a legitimate business to offset the cost of a luxury vehicle as a tax write off against their salaried income earned from their full-time job as well as improperly utilising bus and transit lanes.

Currently, a hire car licence is leased on an annual basis at a cost of \$8,200 per year. This figure was determined in or about 2002 and has not changed. Furthermore, I understand that such figure was not determined by mathematical modelling/market appraisal and has resulted in rent seeking by hire car operators by way of extraordinary profits. It is noted that the Daily Telegraph reported in late December 2009 that up to \$360 was being charged by hire car operators for a fare to the Sydney

CBD on New Year's Eve, unlike their taxi counterparts. The public benefit cannot be demonstrated in this instance.

I respectfully ask the Committee to compare the treatment of Crown Land leases, particularly where registered clubs, sporting groups and other community based organisations utilise same, and the issuance of hire car licences to commercial operators.

Both Crown Lands and hire car/tourist vehicle licences are NSW taxpayer assets; however, my understanding is that by law, Crown Land leases must be rented out at market value, despite in most circumstances being utilised by not-for-profit/community organisations. Conversely, hire car licences are issued at an annual price determined nearly a decade ago, whilst tourist vehicles are issued to operators at no cost at all, despite both being operated on a commercial basis.

In effect, the NSW taxpayer is not only subsidising the commercial enterprise of hire car and tourist vehicle operators, but also, in the case of hire cars, their corporate/executive patrons. The utility to the wider community cannot be demonstrated in this instance given the secular patronage of these forms of transport.

Conversely, community groups, registered clubs and sporting organisations, who are predominantly patronised by children, the elderly, the disabled and other vulnerable groups/community groups and offer a tangible benefit to the wider community are forced to pay full commercial rent on the Crown land they occupy. There is no equity in this situation and this Committee should act to rectify this unconscionable situation.

In this regard, I respectfully ask the Committee to consider the following in its deliberations and make subsequent recommendations on same:

- i) statutory determination that the annual hire car licence fee be set at half that of the current average market value of the leases derived from the newly issued taxi licences;
- ii) application of such figure in the previous point to commercial operators of tourist vehicles (and keep status quo for community groups/Churches who provide transport to disadvantaged patrons);

- iii) the requirement of hire car operators and tourist vehicle operators to keep log books of all fares and kilometres undertaken and submit same to the Ministry of Transport and Infrastructure each year upon renewal in order to demonstrate why the hire car/tourist vehicle licence should be renewed (i.e. demonstration of public interest/genuine serviceability);
- iv) statutory declaration by a hire car operator and tourist vehicle operator upon annual renewal of their licence that they are not in full-time employment elsewhere (i.e. priority issuance of licences to full-time operators); and
- v) statutory fines for operator non-compliance with the above.

B) *No destination allocation of radio jobs*

Productivity gains and greater driver earnings would be realised if "no destination" dispatching of radio jobs were introduced. This system of radio booking dispatch is in place in every other jurisdiction and with certain adaptations such as GPS job allocation to the nearest taxi and short-distance plotting (i.e. driver elects not to do a job greater than a 5km radius), will result in a greater take-up of radio work per taxi. A corollary of this is greater driver earnings and passenger capacity per vehicle as well as reduced waiting times for passengers.

The law of probabilities dictates that no destination allocation of radio jobs equalises out the allocation of longer jobs with shorter jobs commensurate to the location of the taxi. Thus, each driver will have a statistically normal distribution of longer and shorter jobs, which in turn equates to greater utilisation of each and every taxi in servicing the public. Furthermore, technological advances in satellite navigation systems (now installed into radio dispatch terminals by accredited radio networks) serves to assist the driver in working within a no destination structure by assisting in driver navigation, thus traversing driver inhibitions in working unfamiliar areas and fostering a cultural shift in driver service.

Several years ago, a "no destination" trial was introduced. This was prematurely aborted, in my opinion, due to pressures exerted by a minority of drivers with conflicting interests in trunk radio enterprises (see below Point (C)), who stood to lose their unfair advantage over their non-trunk counterparts of operating outside of the regulatory framework in using a dual radio system. In the interests of passenger

serviceability, this trial should be revived and allowed to run its proper course so that the results can be scrutinised in the context greater job utilisation per taxi vehicle and coverage of radio work. Such a move will also increase accountability of radio call centre operators who will be forced to dispatch radio jobs in a statistically normal manner as opposed to any preferential dispatching of radio jobs to preferred cars that may currently exist.

C) *Trunk Radios*

The proliferation of trunk radios, i.e. unaccredited radio dispatch systems, serves to impede service efficiency to a majority of passengers that accredited radio networks and the legislated framework strive to achieve.

Under such system, these trunk radio groups are operating an unaccredited dispatch system outside the regulatory framework and in doing so do not comply with the stringent safety and service level standards that an accredited network must adhere.

Furthermore, I would hypothesise that in operating these trunk radio dispatch systems, such drivers do not accept the job dispatches of their accredited network simply because in having two systems available to them they are able to do this - serving to hinder the legitimate dispatch of radio jobs from accredited networks who operate within the legislated framework. Ultimately, in operating outside of the regulated framework, trunk radios serve to reduce productivity across the industry and thus impede service levels to the wider public. The banking sector operates within a stringent regulatory framework, with severe penalties for operators who operate outside of the ambits of their licence or who have no licence at all. Why are such principles NOT applied to the unaccredited radio networks?

I respectfully ask the Committee to consider recommending legislation to outlaw such unaccredited networks.

D) *Unaccredited Dispatch of Radio Jobs*

The allowance of call centre operators to take their mobile telephone into the call centre of an accredited radio network is a control risk that could perhaps be abused by call centre operators to dispatch radio work to preferred cars outside of the regulatory framework, thus impeding industry productivity.

I understand that political parties prevent pre-selectors from taking mobile telephones into pre-selection meetings in order to ensure the integrity of such meetings. I respectfully ask the Committee to investigate whether a similar standard could be applied to call centre operators in the accredited radio networks so to further engender a perception of openness, transparency and accountability in the dispatch of radio jobs.

E) *Hotels & Licensed Premises*

Problems in terms of violence and anti-social behaviour toward taxi drivers arises in instances where a number of licensed premises in short distance of each other simultaneously close of a night. This results in a large number of hotel patrons congregating on the street, with the high concentration of such people causing pressures on all forms of public transport, whether it is bus, rail or taxi. This in turn causes anti-social behaviour.

The taxi industry has taken substantial steps to counter these problems with the introduction of secure ranks across the city, paid for entirely by the Taxi Advisory Committee Fund which in turn is completely funded by the NSW taxi industry. My comments as to Points b and f above are repeated in that the \$2.8million proceeds annually derived from the release of the 100 taxi plates under the new legislation should be applied to funding more secure ranks, subsidisation of driver training programmes and disabled service incentives.

However, 24 hour trading for licensed premises would further serve to alleviate the congregation of high numbers of persons in public places, with licensed premises remaining open at all times in order to stagger the leaving times of patrons. This coupled with robust responsible service of alcohol laws will serve to counter violence and anti-social behaviour that accompanies simultaneous closure of licensed premises.

Alternatively, requiring hoteliers as a condition of their licence to remain open for a period of three hours after alcohol is stopped from being served to patrons would be another solution, with hoteliers being able to serve meals, soft drink and coffee to patrons to allow them to "sober up". Hoteliers could increase the prices of their liquor sold during trading hours in order to offset reduced profits in complying with this requirement.

F) *Taxi licence transfer form*

The taxi licence transfer form has recently been amended by the Director-General to add a disclaimer: *"The NSW Government will not be liable for compensation for the impact of the taxi reform package"*. This should be removed in that it acts as a deterrent for new entrants to purchase a taxi licence and make a long term commitment to the NSW taxi industry.

In addition, the process as to why such disclaimer has been inserted into the taxi licence transfer form must be examined by the Committee. In the interests of openness, transparency and accountability in Ministry of Transport & Infrastructure decision making, the Committee should call upon the Ministry of Transport & Infrastructure to release any legal advice it has obtained in relation to the insertion of the above disclaimer.

G) *Tougher penalties for public drunkenness & misbehaviour*

The *Crimes Act* should be amended to facilitate greater penalties for public drunkenness and disorderly behaviour, including on the spot fines issued by police up to \$5,000, similar to speeding fines and other traffic fines. Police could breathalyse such persons similar to breathalysing motorists in this regard. I understand this occurs in the USA, central Europe and South America. The revenue generated by these fines could be used to fund anti-violence and anti-drunkenness education programmes as well as programmes for women/children in crisis situations.

Ultimately, the NSW taxi industry should not be held accountable in not transporting drunk and in most cases violent individuals who pose a safety risk. Forcing drivers to take such passengers is anathematic to the tenets of workplace safety that we as a society hold dear. Furthermore, it is not the responsibility of licensed premises. Rather, it is the individual's responsibility to drink within acceptable limits and act in a socially responsible manner and thus with the right to drink alcohol must come the responsibility to behave in an acceptable manner.

H) *Display of knock-off time/place on taxi exterior*

Tempered situations for drivers arise when drivers are near changeover time and the driver exercises their right to refuse a fare, in some cases resulting in violence against the driver.

This situation can be alleviated by having a sign prominently displayed on the exterior of the taxi stating the knock-off time of the taxi driver and suburb of changeover. Such sign would translate into taxi rank efficiency with security guards on se-

cure ranks being able to match taxis with the same direction/destination as the rank customer in a timelier manner.

Such initiative would need regulatory design and approval and I implore the Committee to instigate same.

I) Taxi Industry Community Service

The NSW Taxi Industry has, unlike their hire car and tourist vehicle counterparts, provided free transportation to war veterans in ANZAC Day marches since the end of World War II. Furthermore, the taxi industry participates in Careflight programmes, offering free transportation to Careflight patients from the Airport to their hospital. It is quite disheartening to hear members of parliament criticise the taxi industry yet fail to recognise the positive contribution the industry makes to the community. This Committee should go on record and publicly recognise the taxi industry's collective contribution to the community.

J) Perceived Breach of Confidence/Insider Trading

I ask the Committee to investigate whether certain Taxi Council delegates/personnel/taxi industry executives sold their taxi plates immediately after the Director-General's confidential briefing to the Taxi Council as to the original features of the now modified taxi industry reform package and make recommendation as to whether any prosecution/penalties/sanctions be brought against such individuals. I understand that such meeting took place in or about early October 2009.

I thank the Committee again for providing the opportunity to make submission on the above matters and your consideration of same and look forward to reading your findings.

Yours faithfully