

**Submission  
No 1**

## **INQUIRY INTO NSW TAXI INDUSTRY**

**Name:** Mr Adam Johnston

**Date received:** 17/11/2009

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*Partially Confidential*

The Director  
Select Committee on the NSW Taxi Industry  
Parliament House  
Macquarie St  
Sydney NSW 2000  
Fax: 02 9230 2981

**Attention: Rachel Simpson**

Dear Ms Simpson,

**Re: Inquiry into the Taxi Industry**

This is an inquiry which I have contributed to on numerous occasions; at both state and federal level various reviews, consultants reports and other public documents had been issued, which concern precisely the same issues as are being raised by the Legislative Council today.<sup>1</sup>

**Previous inquiries**

In campaigning for this inquiry, the Greens MLC Lee Rhiannon stated last week on ABC 702's morning program that there had been a number of reports, but that a succession of governments have failed to take up recommendations made. I largely agree with these sentiments and, have written that obtaining a committee recommendation and having it turned into public policy are two different things.<sup>2</sup> Nonetheless, it would have been appropriate for Parliament (particularly Upper Houses) to press past and present Executives more for action.<sup>3</sup>

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<sup>1</sup> Please refer to some of my previous submissions, or inquiries to which I have contributed. In particular: Report of the House of Representatives Standing Committee on Family and Community Affairs, *Concessions: Who Benefits?*, (1997), pp.88-90 available at

<http://www.aph.gov.au/house/committee/fca/Concard/Chap07.pdf>

Report of the NSW Disability Council, *A Report Into Taxi Services For People with a Disability*, (1998) <http://www.disabilitycouncil.nsw.gov.au/archive/98/folino.pdf>

Inquiry by the Human Rights Commission (2001)

[http://www.hreoc.gov.au/disability\\_rights/inquiries/taxi/johnston.htm](http://www.hreoc.gov.au/disability_rights/inquiries/taxi/johnston.htm)

[http://www.hreoc.gov.au/disability\\_rights/inquiries/taxi/johnston2.htm](http://www.hreoc.gov.au/disability_rights/inquiries/taxi/johnston2.htm) (supplementary submission)

<sup>2</sup> See "A long and winding road to get an inquiry result", Letters page, *Sydney Morning Herald*, June 21, 2005, available at <http://www.smh.com.au/news/letters/a-long-and-winding-road-to-get-an-inquiry-result/2005/06/20/1119250924749.html>

<sup>3</sup> As Members of Parliament, you have powers to Ask Questions on Notice, move Matters of Public Importance, the ability to require Ministers to Table documents, to name but a few powers. While I know many MPs use these powers in the face of Executive obstruction, it is unacceptable that Parliamentary Reports can be ignored and recommendations can be left without a Government response. Under such

There is only so much those of us outside the parliamentary process can do; and as I explain in the letter cited in footnote 2, it can take years of letter writing to achieve the most straightforward reform. This reform was to achieve reciprocity between State and Territory taxi transport subsidy schemes for people with disabilities.

### **Outstanding reforms**

While inter-jurisdictional reciprocity was achieved, I note that:

- The taxi subsidy scheme has had a limited value of \$30 per docket, per taxi trip, and it has stayed at this rate for as long as I can remember. This does not assist with travel as effectively as it once did, and if you are a person with a disability on a limited income, you will increasingly notice growth in that part of the fare that the subsidy docket will not cover.
- There have been several abortive attempts to implement a smart card or e-card, and I have been an active participant in several attempts. It is unfortunate that this technology has not been advanced to implementation. I have said elsewhere that (thanks to limited hand function) I would be more than happy to be relieved of the responsibility to manually complete a docket.<sup>4</sup>
- All jurisdictions should take a co-ordinated approach to the transport subsidy scheme, and the implementation of reforms like a smart card. COAG should be the focal point for standardising the subsidy scheme, so that people with disabilities can travel across State and Territory boundaries with ease. I made a point of explaining how the States and Territories could be brought into line, when the Productivity Commission launched an inquiry into mutual recognition schemes. This was an opportunity to press the case that if a State launches a new program, subsidy or regulatory scheme, it should ensure before implementation that entitlements (such as to subsidised travel) are readily transferable between jurisdictions.<sup>5</sup>
- In highlighting the disconnection between the ownership of taxi plates, returns to drivers and ownership of radio rooms (and the resulting fees that drivers have to pay for access to radios), the Terms of Reference are covering issues which we have discussed previously, on numerous occasions. For my part, the corporate structure which perpetuates the current mismatch between service delivery and other elements of the taxi industry should be reorganised. My structure and the legal rationale behind it are outlined in a submission to the Disability Council of NSW. It is contained in Appendix 1, included with this submission.<sup>6</sup>

### **The question of Cabcharge?**

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circumstances, Parliament should assert its “alleged” sovereignty and be more prepared to hold Ministers in contempt for a failure to adequately respond to its reports.

<sup>4</sup> See Submission to the Australian Law Reform Commission regarding privacy, available at [http://www.health.gov.au/internet/main/publishing.nsf/Content/eHealth-002/\\$FILE/002\\_Adam%20Johnston%20pt%202\\_21-07-09.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/eHealth-002/$FILE/002_Adam%20Johnston%20pt%202_21-07-09.pdf) (pp. 6-7)

<sup>5</sup> See my submission to the Productivity Commission available at [http://www.pc.gov.au/\\_data/assets/pdf\\_file/0011/84494/subdr58.pdf](http://www.pc.gov.au/_data/assets/pdf_file/0011/84494/subdr58.pdf) (p.4)

<sup>6</sup> See Appendix 1, pp.33-38. Note in particular, the sub-heading “Reforming the taxi industry’s legal framework” (pp.36-37)

I note that one of the issues highlighted by this inquiry is the large role of the Cabcharge company in the NSW taxi industry. Given the increasing media reports over questions of probity and transparency within the taxi industry,<sup>7</sup> it is worth asking whether some legislators have again been found to be tardy in executing their responsibilities to oversight executive government.

It is noteworthy that the Australian Competition and Consumer Commission (ACCC) has initiated some action under the Trade Practices Act against Cabcharge. However, this will be a long process before the Federal Court.<sup>8</sup> In the meantime, the NSW, Queensland and Victorian State Governments could withdraw from their use of the Cabcharge electronic payment system.<sup>9</sup> They could also ensure that when their Taxi Transport Subsidy Scheme for people with disabilities goes electronic, its smart card is specifically programmed to be non-functional in Cabcharge equipment.

Furthermore, if as reported, Cabcharge is making a significant profit out of the Nexus plates for the disabled taxi fleet,<sup>10</sup> rather than paying an administration fee to Cabcharge (for passing on incentive payments to drivers), the Government should have used this money to roll out the subsidy scheme smart card, and raise the docket value to cover the incentive payment. This would have cut Cabcharge out of a significant revenue stream, and been very much in the public interest.<sup>11</sup> Making sure drivers received the full incentive fee, rather than there being a processing fee included, is also likely to encourage more drivers to take up Nexus plates.

### **Political donations**

Regrettably however, you do not have to go far to find a link to political donations and associated imputations.<sup>12</sup> In particular, Linton Besser's investigation for the Sydney Morning Herald found that:

“...Between 1999 and 2007 the (taxi) council and its biggest member, Cabcharge, donated a combined \$373,000 to the NSW branch of the Labor Party.

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<sup>7</sup> For example, see a range of reports available at [http://www.smh.com.au/execute\\_search.html?keywords=Cabcharge](http://www.smh.com.au/execute_search.html?keywords=Cabcharge) (and reproduced as Appendix 2 on 17 November 2009)

<sup>8</sup> See for example, Linton Besser, *Lights on for inquiry into taxi industry*, November 11, 2009, available at <http://www.brisbanetimes.com.au/national/lights-on-for-inquiry-into-taxi-industry-20091111-i9zz.html>

<sup>9</sup> Cabcharge's web site states that: "In Australia, Cabcharge's customer base spans accounts ranging from large corporations and government bodies to small business and individuals." Available at <http://www.cabcharge.com.au/company/default.aspx>

<sup>10</sup> See Linton Besser, *Cabcharge takes a cut from disabled taxi subsidy*, September 19, 2009, <http://www.smh.com.au/national/cabcharge-takes-a-cut-from-disabled-taxi-subsidy-20090918-fv9i.html>

<sup>11</sup> At the same time, it may be usefully to have the Independent Pricing and Regulatory Tribunal (IPART) look at impact of Cabcharge holding "100% of NSW regional taxi company, Newcastle Taxis Ltd." – See <http://www.cabcharge.com.au/company/default.aspx>

<sup>12</sup> See Linton Besser, *Taxi heavyweights the only winners in licence deal*, October 31, 2009, <http://www.smh.com.au/national/taxi-heavyweights-the-only-winners-in-licence-deal-20091030-hpri.html>

The changes have followed a *Herald* investigation that revealed successive state governments handed out millions of dollars worth of free taxi plates to the industry's biggest players, including Cabcharge...<sup>13</sup>

In my view, it is quite possible to break this unfortunate nexus by banning corporate donations to political parties. We should remember that the grant of corporate personality has historically been bestowed by Parliament. In an age where setting up a company is more of an administrative process, its historic roots and significance may be lost. As such, we should look closely at the discretion of corporate boards and CEO's to disburse money. Companies exist as a vehicle to benefit their shareholders, yet they give money to political parties, charities and other causes under the guise of 'corporate social responsibility'. Of course, many of these *commendable* contributions also happen to be to organisations which are *conveniently* tax deductible.

This tax treatment should end and deductions should be abolished, as I have outlined to the Henry Review of Australia's Taxation System.<sup>14</sup> Ultimately, shareholders themselves should decide how to disperse their dividend payments; corporations should not withhold monies from their shareholders on the guise of gifts, charitable donations or 'corporate social responsibility'. Political donations in particular, should only be made by individuals enrolled to vote with funds sourced and traceable back to personal accounts.

In the article quoted earlier, Transport Minister the Hon. David Campbell insisted that the annual fees for taxi licences were set at a rate to get "more cabs on the road."<sup>15</sup> But a PricewaterhouseCoopers directly contradicted this assertion.<sup>16</sup> Drawing conclusions which are not unfavourable is therefore difficult, particular given Mr. Besser's recording of financial donations to Mr. Campbell's party in the same article.

### **The radio network**

Finally, from a passenger's point of view, the radio network is very ineffective. In order to travel to appointments on time, I generally make arrangements directly with drivers, as the radio network has *never* been known for timeliness or efficiency; it is to be wondered whether this "alleged" service is worth the fees drivers have to pay for radios. I certainly do not believe so, and would never rely on a radio room booking for a truly important engagement.

### **Summary of Recommendations**

1. Raise the value of the taxi subsidy scheme docket, to truly reflect costs for passengers. Use part of this raise as the means of providing incentive payments to drivers, rather than paying Cabcharge to process the incentive
2. Implement e-card/smart card technology for the subsidy scheme

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<sup>13</sup> Ibid

<sup>14</sup> See my submission at

[http://taxreview.treasury.gov.au/content/submissions/pre\\_14\\_november\\_2008/Adam\\_Johnston.pdf](http://taxreview.treasury.gov.au/content/submissions/pre_14_november_2008/Adam_Johnston.pdf)

<sup>15</sup> See Besser, *Taxi heavyweights the only winners in licence deal*, op. cit.

<sup>16</sup> See *ibid*

3. Ensure that while the technology rollout maintains reciprocal arrangements between the State and Territory transport subsidy schemes, while also ensuring that Cabcharge does not become involved in the scheme
4. Note previous recommendations by myself and others (including the NSW Disability Council) about reforming the structure of the taxi industry
5. Legislate to ensure that only private individuals, enrolled to vote, can make political donations, and not corporations
6. Conduct a full review of the effectiveness of the radio booking system, in order to establish whether this is a truly essential part of the taxi industry infrastructure, or not? Certainly, many drivers would save a lot of money in fees if radios were voluntary.

Yours faithfully,

A handwritten signature in black ink, reading "Adam Johnston", is written over a horizontal line. A vertical line is positioned to the right of the signature, forming a partial rectangular box.

Adam Johnston

November 17, 2009