

## INQUIRY INTO NSW TAXI INDUSTRY

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Partially Confidential

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21 January 2010

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

Dear Sir/Madam

I enclose a submission from the NSW Taxi Council Ltd to the Inquiry into the NSW Taxi Industry.

We welcome this opportunity to provide information to the Select Committee about the taxi industry's role and performance in New South Wales.

In order to maintain the integrity of industry training and assessment that forms part of the authorisation and accreditation regime for taxi industry participants in New South Wales, it is essential that the training and assessment materials provided as attachments to this submission be treated as confidential.

We consider that any distribution of assessment materials in particular could severely compromise the industry's assessment of competency for future participants.

Thank you for considering this request and our submission.

Yours sincerely



Peter Ramshaw  
Chief Executive Officer

Submission  
to the  
NSW Legislative Council Select Committee  
Inquiry into the NSW Taxi Industry

NSW Taxi Council

22 January 2010

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# 1. Executive Summary

## A Public Transport Service

Taxis provide a public transport service. This means that taxi services must meet certain public policy objectives including:

- providing a universal service (e.g. taxi drivers must not refuse hirings so the service must be provided to everyone),
- providing a high degree of safety,
- providing a high degree of accountability,
- providing the service at a regulated price.

These aspects are akin to other government or public services. However, unlike other public services, the taxi industry receives no net funding from the government and must fulfil the above (and other) obligations funded entirely from taxi fares.

This means that government and the industry must maintain a critical balance to achieve public policy objectives whilst also generating returns sufficient to maintaining and growing a high standard of service utilising the latest technology.

The taxi industry in New South Wales has its structure prescribed by the Passenger Transport Act 1990 (The Act) and Regulations. The Act regulates entry and performance of industry participants through licences, accreditation and authorities. The Regulations further stipulate how each tier of the industry must perform and penalties for non-compliance.

The following provides a brief overview of the key participants in the industry:

- **Taxi licence owners** have few responsibilities and may lease their licence to an accredited taxi operator or, if they have accreditation, operate the taxi themselves.
- **Taxi operators** must be accredited and are responsible for the taxi-cab itself, including compliance with all the requirements applying to the taxi-cab. They may own or lease a taxi licence to operate the taxi cab with. They may bail their taxi to a taxi driver and/or drive the taxi themselves provided they hold taxi driver authorisation. Taxi-cabs must be affiliated with an authorised taxi network.
- **Taxi drivers** must hold a taxi driver authority and can bail a taxi from a taxi operator for each shift they work.
- **Taxi networks** must be authorised, provide a booking service that receives bookings and despatches bookings to taxi-cabs and, monitor and report against Network Standards in relation to: telephone answering, service delivery (pick up times), and instances of "no car available". The standards also stipulate that networks have responsibility for ensuring compliance with a substantial list of other requirements.

### **Service and Reporting Standards**

Taxis in NSW provide approximately 175 million passenger journeys per annum. Unlike other forms of public transport the taxi industry is privately-funded and does not attract substantial government funding for specialised infrastructure. The taxi industry is made up of many thousands of small business-people who collectively accept 100% of the risk associated with meeting the government's public policy objectives.

The taxi industry provides a vital transport service that is often taken for granted. The industry provides services during unpopular hours, in sometimes stressful and potentially dangerous circumstances.

When issues of taxi availability arise from time to time (for example during peak periods or in difficult to service areas), passenger inability to hire a taxi at random can create unfair perceptions of the entire industry being universally unreliable.

Taxis are expected to deal with all types of passengers, including those that for instance, may be rude, unruly, intoxicated and aggressive and show no respect for taxi drivers. Taxi drivers often provide gratuitous and personalised assistance to passengers and the community helping with luggage, providing extra assistance to frail and elderly people and sharing local knowledge. By acting as eyes and ears in the community, taxi drivers provide passive surveillance and improve public safety in public spaces particularly late at night. The taxi industry seems to receive very little credit on a broader scale for the service it provides to the community. This is in contrast to the gratitude often expressed by individual customers who are indeed very grateful.

In comparison to taxi services interstate and overseas, the service standards set for the industry in Sydney and the degree of monitoring and reporting are demonstrably very high.

Similarly, the service standards and reporting for Wheelchair Accessible Taxis is also very high and substantial improvements have been made in recent years.

Notwithstanding the above, the taxi industry is very vulnerable to criticism simply due to the sheer volume of work it performs. With 18000 individual taxi drivers and, more than 4000 taxi operators the industry's reputation can be easily tarnished by the media's focus on a small minority who do not meet the industry's or community's expectations. The public does not perceive the industry in terms of individual drivers and operators (like they do other small businesses) which means one bad experience is viewed as representative of the whole industry.

The role of taxi networks and the government in monitoring and enforcing standards is critically important to the success of the industry. The need for good regulation has been proven throughout the world where de-regulation of taxis (and hire car) industries has produced poor results and in most cases has led to a decline in service standards before a switch back to re-regulation.

### **Responses to Terms of Reference**

The following summarises some of the key points made in this submission in response to the inquiry's terms of reference:

- Although comparable data is difficult to obtain (given that, unlike New South Wales, many other global regions/cities do not monitor performance and publish data) it is clear that service standards, monitoring and performance of the taxi industry in NSW are among the highest in the world and stand-up well to international comparisons that are available.
- Customer complaints have been declining during the last five years.
- Less than 0.01% of passenger journeys in taxis result in a complaint being lodged.
- The cost of providing Wheelchair Accessible Taxi Services (WATS) is higher than for other taxi services and the degree to which service can be provided is to a large extent driven by the effectiveness of government support for these services.
- Service delivery standards for WATs in Sydney are higher than in other state capital cities, although comparable data is not published.
- Systemic differences in the way jobs are dispatched means that measures of average pick-up times for WATS are not directly comparable to non-WAT bookings.
- The industry and the government have undertaken extensive and ongoing improvements in the way Wheelchair Accessible Taxi bookings are dispatched and methods to ensure WAT licence conditions are being complied with to maximize the standard of service for passengers who use wheelchairs. Service standards have improved substantially. Average pick-up times for WATS bookings dispatched by the centralised Zero200 booking system have reduced from 11.4 minutes to 8.3 minutes during the last four years.
- Since 2005 the number of WATs in Sydney has grown by 75%, whilst the number of bookings dispatched by Zero200 has increased 52%.
- Safety of the WAT service is compromised by the lack of an Australian Standard for wheelchairs that are suitable for use in taxis that comply with disability standards and are suitable for use with Australian Standard restraint devices.
- Nexus licences were issued as an asset to provide an incentive for taxi networks to provide wheelchair accessible taxi services at a time when no other accessible transport existed and no commercial interest in providing accessible transport existed.
- Most taxi licences issued prior to 1990 which still exist today were issued free of charge to returned servicemen, senior taxi drivers and ballot participants as a form of incentive or reward.
- Investigations undertaken by Deloitte in 2007 and 2009 and released by the government have not found any evidence of any impropriety in relation to nexus licences.
- Nexus and their paired licences have only been transferred in relation to either preventing a winding-up or as a result of the winding-up of the network that they had been issued to originally.
- Substantial transfer tax has been paid to the government upon the transfers of nexus licences.
- Recent amendments to the Passenger Transport Act clearly codify the conditions that have been well understood and observed since the licences were first issued.
- Many cases studies throughout the world demonstrate that de-regulation of entry to the taxi industry produces adverse outcomes and reduces overall welfare.
- National Competition Policy recognised that competition was not always consistent with national public interest objectives. The New South Wales government received all its final Competition Policy Payments and no penalties were issued for non-compliance.



Amendments to the Passenger Transport Act requiring the determination and release of new licences make previous NCP assessments redundant.

- The most recent amendments require the New South Wales Director-General of Transport to take account of changes in demand for taxi services, changes in service standards and the viability of the industry and determine by the 31<sup>st</sup> March each year what number of new licences need to be released in Sydney during the following year. Currently, 100 new unrestricted licences are being released in Sydney through a public tender process.
- The industry sees no justification for it to be treated differently to any other regulated industry in terms of recruitment of ex-government members or employees.
- Effective regulation of the industry is essential to the industry's ongoing viability, quality assurance and accountability. The co-regulatory role played by authorised taxi networks is an essential component of effective regulation.
- There remains scope for the industry to increase the range of its service offering to the public if a "premium service fee" were regulated.
- Safety measures adopted by the taxi industry in NSW are as advanced as anywhere in the world.
- Standards of training for taxi drivers and taxi operators in NSW are higher than in comparable industries (not just the taxi industry) in Australia. The training used in NSW has been used as a model for other countries.

Notwithstanding the strengths of the industry's regulation and the quality of service it provides, improvements are an evolving challenge.

This submission contains recommendations regarding ways in which improvements can be made in relation to the following:

- Improving safety for passengers who use wheelchairs and removing an impossible burden of responsibility on wheelchair accessible taxi drivers to assess the suitability of a wheelchair or other mobility device for use in a taxi. (Recommendation 1)
- Increasing the efficiency and effectiveness of the payment system for Taxi Transport Subsidy Scheme and WAT driver incentive scheme (Recommendation 2)
- Improving customer's confidence in the industry and accountability for taxi operators and taxi drivers (Recommendations 3, 4 & 5)
- Improving compliance with public transport objectives of accountability, universal services and long-term viability. (Recommendation 6)
- Increasing the range of service offering to the public without detracting from public transport obligations. (Recommendation 7)
- Ensuring the highest possible standards of accreditation and training are maintained in NSW (Recommendations 8 & 9)

## Recommendations

### Recommendation 1

*In the interests of passenger and driver safety, an Australian standard be developed for mobility devices including wheelchairs that are suitable for use in public transport vehicles that comply with the Disability Standards for Accessible Public Transport.*

### Recommendation 2

*A card-based electronic payment system be introduced as soon as possible to replace the paper- dockets being used for the Taxi Transport Subsidy Scheme.*

### Recommendation 3

*A regulation be introduced to stipulate that EFTPOS devices must be attached to the taxi-cab and taxi driver details entered at the start of a shift in such a manner to ensure that correct identification details of the taxi cab, authorised taxi network, taxi driver ID and taxi driver ABN are printed on all receipts issued.*

### Recommendation 4

*NSW T&I fund the installation of toll-meter interface devices to record tolls on taxi-meters and introduce a regulation to make such devices mandatory in Sydney taxis.*

### Recommendation 5

*A regulation be introduced to make it compulsory for printed receipts to be issued upon request that contain the fare and toll details recorded from the taxi meter and identification from the EFTPOS machine to ensure the receipt contains unadulterated details of the taxi vehicle, authorised taxi network, taxi driver ID and taxi driver ABN, time, date, location and itemised amounts for all fare components, extras and tolls.*

### Recommendation 6

*Due to the threat posed by illegal trunk radio groups to the ongoing ability of the taxi industry to provide a true public transport service, the regulations regarding unauthorised communications equipment in taxi-cabs be strictly enforced.*

### Recommendation 7

*The feasibility of a regulated "premium service fee" for customers who make a fully informed choice for a higher level of service than can be provided for the 'normal' fare be investigated. A pre-condition of such a fee is that it not detract from service levels provided to customers who do not opt for premium services.*

### Recommendation 8

*The government withdraw support for inclusion of taxi drivers in national occupational licensing.*

### Recommendation 9

*The government amend the Traineeship Act to incorporate bailee taxi drivers and make them eligible for traineeship support.*

### Recommendation 10

*Planning regulations and road rules be reviewed to ensure access for taxis is adequately considered along with other modes of public transport.*

## 2. Introduction

### a. Role of Taxis

Taxi-cab services are a key component of the suite of public transport services available in New South Wales. They provide completion of the public transport network through passenger-directed journeys. They also pick up the shortfall when publicly-funded public transport clocks off or falters. A recent example includes the industry's outstanding performance during the Sydney Bus strike on the Friday prior to Christmas 2009. The strike left 600 000 commuters in difficulty and the taxi industry responded quickly in dealing with a 50% increase in bookings in a short space of time. In short, taxi-cabs are the privately owned component of the public transport sector, providing services where Government-owned or Government-funded transport does not.

This submission mainly deals with issues which arise in the metropolitan region of Sydney, although many of the issues raised here are relevant to other urban areas in New South Wales and country areas. It is very important to recognise that each area has unique characteristics and these must be considered before any wide-ranging conclusions or recommendations that affect all of New South Wales are made based on an analysis of one situation.

Metropolitan Sydney is faced with many transport issues that have significant impacts on its economic performance, its residents' quality of life, the experience of visitors and the sustainability of the environment. Public transport has a substantial role to play in everyone's lives.

To properly understand the role taxis play as a provider of public transport it is important to bear in mind the following:

- The taxi industry provides more than 470 000 passenger journeys per day, with some 175 million passengers per year, which puts the industry on a similar scale to Sydney Buses and makes our public transport role about half the size of CityRail.
- The NSW Government Budget Statement 2009-10 shows fare revenues from rail, bus and ferry services recover 24%, 54% and 42% of operating costs respectively and the total net budget funding for public transport for rail, bus and ferry services is more than \$3.5 billion.
- The taxi industry receives no ongoing net funding for direct services from government (although some passengers with disabilities are subsidised). On the contrary, it contributes to State Government revenue through a \$1.5 million per annum levy from taxi operators plus further public revenue generated through taxi plate sales, taxi plate leasing, stamp duty and transfer taxes. The release of 100 new leased licenses between January and June 2010 will generate increased ongoing annual revenue of approximately \$2.5 million for the government. Ongoing annual licence releases foreshadowed by the government will create substantial growth in ongoing revenue to the State each year.
- Authorised taxi networks subsidise some costs of services to wheelchair users and other disadvantaged groups of passengers.
- In many parts of New South Wales the taxi industry is the only provider of public transport. So despite net spending of \$3.5 billion by the New South Wales government, many people miss out on government subsidised transport.
- Public infrastructure to support the operation of buses, ferries and trains is indeed massive and is afforded very high priority in government planning and implementation.

- Public infrastructure to support the taxi industry attracts very little funding by comparison and has historically been afforded a low priority by state and local governments although this situation is improving in some areas.
- About 6000 complaints are received each year (from a pool of 175 million passenger journeys involving more than 18 000 individual taxi drivers). Less than 0.01% of journeys taken by taxi passengers result in a complaint being lodged. The Taxi Council is not aware of any comparable statistics published by other public transport providers in New South Wales.

As part of the public transport system, taxis reduce the need for people to rely on private transport and thus contribute to environmental objectives. The taxi industry has been predominantly using cleaner LPG fuel for 25 years. The industry has been trialling the use of hybrid vehicles in Sydney for 3 years.

As a public transport provider, the taxi industry is governed by regulations to ensure it meets the government's public policy goals. However, it must meet these goals whilst being self-funded and remaining economically viable. The industry is made up of many thousands of individual private sector participants who own, operate and drive taxis and who collectively accept 100% of the cost and risk of meeting the government's public policy goals.

#### **b. New South Wales Taxi Council**

The New South Wales Taxi Council is the operational body for two industry associations and the owners and members of urban taxi networks. Its membership comprises all the directors of the New South Wales Taxi Industry Association, representatives of the New South Wales Country Taxi Operators' Association along with all the taxi networks in Sydney, Wollongong, Newcastle and the Central Coast.

The New South Wales Taxi Industry Association is a registered association of employing contractors representing more than 4300 owners and operators of taxis. A large proportion of its members operate and also drive their taxi which means the association directly represents many more people who drive taxis than any other organisation in Australia. More than 85% of the Association's members own only one taxi, with a further 10% owning just two. Many of the Association's members are individuals who have devoted much of their working lives to the taxi industry, or in other cases licences have been inherited by spouses or descendants or bought by 'mum-and-dad' style investors. The taxi industry is made up of a very large number of individual owners, operators and taxi drivers.

The New South Wales Country Taxi Operators' Association represents members who own and operate taxis in the non-urban parts of New South Wales. The overwhelming majority of these members drive their own taxis.

Most taxi networks throughout New South Wales are co-operatives made up of individual members who own taxis affiliated with the network. Taxi networks that are companies generally rely on attracting members who own taxis rather than rely on buying or owning licences outright.

### **3. Response to Inquiry Terms of Reference**

#### **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 people using wheelchairs**

The Passenger Transport Act (The Act) stipulates that the Director-General may determine service standards that must be met by authorised networks and standards that networks must ensure taxi-cab operators and taxi-cab drivers also comply with. The Act also stipulates that the standards can require networks to furnish reports to the Director-General on a regular basis or in specified circumstances.

The Network Services Standards were subject to an extensive review during 2007. This review included the engagement of a specialist independent consultant to advise on the reporting requirements for networks and to benchmark service standards. The consultant visited each taxi network to audit their reporting systems and develop revised definitions for Key Performance Indicators (KPIs).

Following a period of public consultation, new network standards for Sydney Metropolitan, Newcastle and Wollongong Transport Districts and the Local Government Areas of Gosford & Wyong were released during 2007/08.

The Guide and Standards for Authorised Taxi-Cab Network Providers in urban areas is enclosed with this submission (Attachment (1)). The standards require separate reporting for WAT and non-WAT taxi fleets. The full details of KPIs and service standards are contained in the attachment. The following discussion focuses on the key service standard criteria against which Taxi Networks are to record performance and report to NSW T&I by the 14<sup>th</sup> of each month.

#### **Call Centre Performance Standards**

No greater than 5% of total 'phone calls received are to be abandoned or failed.

85% of calls received (excluding abandoned calls) must be answered within 1 minute.

98% of calls received (excluding abandoned calls) must be answered within 2 minutes.

#### **Service Delivery Standards**

85% of passenger pick-ups are to be within 15 minutes of the booked time.

98% of passenger pick-ups are to be within 30 minutes of the booked time.

99% of passenger pick-ups are to be within 60 minutes of the booked time.

Situations where "no car is available" for a booking must not exceed 3% of booking requests.

#### **Interstate Comparisons**

In making comparisons, it is important to be aware that levels of service provided by the taxi industry can be affected by a range of factors. The geography of the area to be serviced, the range and type of customers in an area, road conditions, traffic congestion and bad weather are all factors

that affect the productivity of the industry. The industry's productivity has a direct influence on the levels of service that can be provided without subsidy.

At the time that the KPI and benchmarking study was undertaken the consultant found that relatively few States or Territories monitor taxi industry performance as a whole.

In Western Australia, pick-up times are measured for peak and off-peak times and for immediate and pre-booked journeys. The service standard is as follows:

During peak and off-peak times 90% of immediate bookings are to be picked up within 20 minutes.

During peak times 85% of pre-booked passengers are to be picked up within 5 minutes and during off-peak times the standard is 90% within 5 minutes.

The Australian Capital Territory also sets standards for peak and off-peak times as follows:

Peak periods: 85% to be picked up within 18 minutes, and 95% within 30 minutes.

Off-peak periods: 85 % to be picked up within 10 minutes and 95% within 20 minutes.

The ACT allows for pick-up times to be adjusted downwards by a formula up to a maximum of 10 minutes for journeys booked for Wheelchair Accessible Taxis.

The consultant was unable to find any evidence of service standards or reporting requirements for Victoria, Queensland, South Australia, Northern Territory or Tasmania.

### **International Comparisons**

The NSW Taxi Council has made enquiries regarding the extent to which taxi industry regulators in major overseas cities monitor and report performance.

Enquiries through the International Association of Transportation Regulators (IATR) have not revealed any international league tables or comparisons. We have obtained some research undertaken by industry regulators in the United States of America. NSW was cited as "The Australian Model" in a presentation entitled "An Overview of Performance Measures, Standards, and Evaluation in the Taxicab Industry (Community Response Expectations) by the State of Nevada Taxicab Authority which included following information:

- The city of Los Angeles itself (44 miles by 29 miles) has 2300 taxis serving a population of 4.07 million people. The service standard requires 75% of callers to be picked up within 15 minutes, and taxi-cab companies are required to provide monthly reports to the local regulator.
- Seattle sets an expected standard of an average waiting time for 10 minutes, but it appears that the actual average is closer to 12 minutes.
- San Francisco (7 miles by 7 miles) sets a standard that 70% of taxi cabs will arrive within 10 minutes, 80% within 15 minutes and 99% within 30 minutes. However, there is no requirement for taxi companies to have technologically advanced dispatch systems that can report response times, nor is reporting a requirement. It has been reported that waiting times of more than 30 minutes are not uncommon.

- Las Vegas (30 miles x 20 miles) has 2900 taxi-cabs. However, nine out of the ten taxi companies do not use a computerised dispatch system that records when a customer is picked up.

The above information supports the conclusion that the reporting requirements and service standards in New South Wales are among the highest of any jurisdictions for which information has been found to date.

*In response to our enquiries about taxi industry performance standards and monitoring, Ms Karen Cameron, Executive Director, International Association of Transportation Regulators has acknowledged that "New South Wales is a leader in this area" and has invited the NSW Taxi Council to make a presentation on the topic of mandating and measuring service standards to the 2010 IATR Conference in Chicago.*

On any available evidence, the standards of service provided to the public in Sydney are high in comparison to other cities. This is further supported by comments made by CNN's high-profile anchor and international business travel expert Mr Richard Quest during Channel Seven's "Sunrise Program" on 17<sup>th</sup> December 2009. When asked to compare taxi services in Sydney to those in other cities including London, Los Angeles and Washington Mr Quest expressed the view that taxi services in Sydney ranked very favourably in terms of service quality and cost compared to other major cities. Mr Quest also pointed out the simplicity of what people want from a taxi which is essentially to take them from point A to point B with a minimum of fuss. Sydney's taxis do this very well.

Further discussion regarding regulation of the industry appears in response to the inquiry's Term of Reference "J" below.

#### **Wheelchair Accessible Taxis**

Taxis in NSW provide transport for people with a wide range of disabilities, including people with vision impairment, hearing impairment, and a wide range of mobility difficulties. People who are unable to access other forms of public transport due to either temporary (e.g. injury related) or permanent mobility problems rely on taxis.

The service standards for Wheelchair Accessible Taxis (WATs) in New South Wales are essentially the same as for the rest of the fleet, in accordance with the Disability Standards for Wheelchair Accessible Taxi Services. The taxi network standards require networks to furnish separate KPI reports for the WATS fleet.

However, the way in which work is despatched for people who use wheelchairs is different to that for other customers. A centralised booking service operates in Sydney so that all bookings made to this service are made available to every WAT in Sydney. This maximises the standard of service available to customers by ensuring the closest available WAT can be used.

Furthermore, there are no cases of "No Car Available" (NCA) for wheelchair bookings made through the centralised booking service. In the general fleet, the standard allows up to 3% of bookings to be NCAs. Because NCAs in the general fleet are not counted in the pick-up time statistics, this means that WAT pick-up times are not directly comparable to the general fleet due to systemic differences in the way data is collected. Longer delays are not recorded in the general fleet in the same way

they are for WATS bookings. The result is that for a given level of service, WAT statistics for pick-up times will show longer delays than the general fleet.

In Sydney, particular emphasis is placed on ensuring all passengers who make bookings for WATs are picked up. This means that WAT passengers are provided with a higher level of service than the general fleet where at times there will be no car available to respond to a booking.

**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.**

Prior to 1990, the majority of taxi licences were issued free of charge. Various methods of allocation have been used to issue licences to returned servicemen, then via ballots and later via a seniority system to taxi drivers. It was common practice for the government to issue licences either randomly by ballot, or as a form of reward or incentive for service.

The cost of providing services for people who use wheelchairs is significantly higher than for other passengers. There are higher costs associated with vehicle purchase, conversion and fit-out, vehicle running costs, and vehicle repair costs. Further information supporting the issue of costs is provided in response to term of reference 'e'.

During the 1980's the NSW government chose to address the need for subsidy through the release of nexus licences to authorised taxi networks. The asset value of the nexus license was issued as an incentive for the network to subsidise the additional costs of operating a WAT license 'attached' to the nexus licence. It was not expected that these licences would be transferred and no licences were transferred until 1995.

In 1994, RSL Ex-Servicemen's Cabs and Co-Operative Members Ltd. was placed in administration with more than \$7 million in debts. During 1994, RSL Cabs approached the New South Wales Department of Transport with a request that the co-operative be allowed to sell their nexus licenses. During July 1995, the Department of Transport wrote to the NSW Taxi Council confirming that permission was granted to allow nexus licences (along with the linked WAT licence) to be transferred from one authorised network to another. By ensuring transfers could only occur between authorised taxi networks the same accountability and monitoring standards could remain in place. In August 1995, the NSW Taxi Council sent a circular to all member networks to advise that the Administrator of RSL Cabs was offering any or all of 15 nexus licences and their associated WAT licences for sale, and successful sales ensued. The Administrator later wrote to the NSW Taxi Council and expressed the view that the transfers occurred on a more than equitable basis.

Without the sale of these licences RSL Cabs would no doubt have been wound up. This would have resulted in major disruption to taxi services in metropolitan Sydney as RSL Cabs was the second largest taxi network in Sydney at that time.

The trading of these licences generated public revenue as the government charged substantial transfer tax on the transfers. The tax was levied on the basis of the deemed market value of licences that did not have the nexus restrictions on them, which was higher than the value of nexus licences.



Furthermore, transfer tax on these licences was determined on a sliding scale between 25% and 2.5% based on the length of time that had elapsed since the licence was issued. This sliding tax scale also applied to other 'free' licences issued using the seniority scheme, tax started at 25% if the licence had been held for five years reducing each year to the 2.5% after 15 years. The government's decision to allow nexus licences to be transferred certainly had no negative effect on revenue.

To our knowledge, the only other instance where a nexus licence has been transferred was in association with the winding up of Southern Districts Radio Cabs Cooperative Society. The NSW Taxi Council understands that transfer tax was paid on a very small number of licences transferred as part of this process.

The nexus scheme involved issuing licences to subsidise the cost of WAT services. The decision to do this was made many years ago when transport accessibility was much poorer than it is now and when commercial interest in providing accessible transport services did not exist. The issue of licences provided an incentive for taxi networks to provide services to meet the needs of people with disabilities at a time when no other accessible form of transport existed. All other jurisdictions in Australia have also provided incentives or funding for the taxi industry to support to the provision of wheelchair accessible taxi services.

The fact that such assets were issued and still exist is not changed by the fact that the policy has been superseded by other forms of incentive and subsidy. The situation is similar to that applying to a large number of other licences issued prior to 1990 owned by a large number of individuals.

The current government policy relating to wheelchair accessible taxi services also involves issuing subsidised licences, however, now the subsidy comes in the form of a subsidised lease and such licences are issued directly to WAT operators.

The government has released two reports by Deloitte (2007 and 2009) regarding nexus plates which confirm that no irregularities have occurred in relation to this policy, that no evidence has been found to support any concerns regarding probity and which recommended that the conditions applying to nexus and paired licences, which have been well-understood and observed, be more clearly codified.

The Passenger Transport Amendment (Taxi Services) Bill 2009 has clearly codified the conditions applying to nexus and paired licences that link these licences to the continued operation of WATs with restrictions on the transfer of such licences.

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

Up until December 2009, there were no limits on the number of taxi licenses available in New South Wales. The Passenger Transport Act required the Director-General to issue licenses to any eligible applicants who paid the current market rate based on the average of sales during the previous month. In recent years, when taxi license values were increasing this meant that licenses have been available from the government at prices cheaper than they were being traded on the secondary market.

Despite unlimited availability, relatively few unrestricted licenses were purchased from the government with most of the growth in license numbers being due to the take-up of subsidised WAT licenses. The number of WAT licences is also unrestricted but applicants are required to demonstrate how the licences will be used to respond to demand for wheelchair accessible services and must also comply with licence conditions. These conditions are essential to ensure that services to passengers using wheelchairs can be maintained and service standards can be enforced with the support of regulation. For subsidised WAT licences to be effective in addressing the needs of wheelchair using passengers, WAT licensees need to be held accountable for how the licence is being used.

Amendments to the Passenger Transport Act will ensure more unrestricted licenses are issued each year in accordance with measures of growth in demand whilst also taking account the industry's viability.

Experience in Australia and overseas reveals that the expected benefits of the removal of restrictions on license numbers do not eventuate. A review of studies by Professor Des Nichols (Attachment (2)) of the ANU cites numerous examples to support this observation. The following excerpts are from the executive summary of this report:

*"As this study shows, overseas experiences with the impact of deregulation on productivity and public benefit issues has inevitably led to reregulation in one form or another."*

*"This study has reviewed a number of economic analyses which show that economic efficiency arguments, including supply and demand analyses, do not apply to the taxi industry in the case of the hail and rank sectors. (Notwithstanding that, many reviewers used exactly these arguments to recommend deregulation of entry). In its 2002 Assessment Report the NCC estimated that 40 – 60 per cent of the Australian taxi industry was in the rank and hail market. From this one could conclude that the economic efficiency approach is not applicable to 40 – 60 percent of the Australian market. This is before any public benefit issues are considered."*

*"The one Australian state/territory to deregulate entry has been the Northern Territory (NT). As this study (and another undertaken by this author) confirms, the NT experienced similar outcomes to those experienced by those overseas governments/organisations who introduced deregulation. The dramatic increase in supply of taxis with no compensating increase in demand resulted in a dramatic decrease in productivity and profitability. The flow-on effects to public benefit issues including vehicle quality and safety, customer safety, driver quality, price-gouging, assaults, no-shows and fare refusals has resulted in the NT Government capping entry for a period of 6 months, which was then extended to 12 months to 1 January 2003."*

More recently, a study commissioned by the Office of Fair Trading in the UK (3) investigated quantitative case studies to compare results between those jurisdictions that have and have not removed restrictions on taxi licenses since 2003. The study was unable to provide any evidence to show that superior outcomes were achieved overall for areas that have de-restricted entry compared to those that had not. When prices (taxi fares) are fixed, any decrease in waiting times for

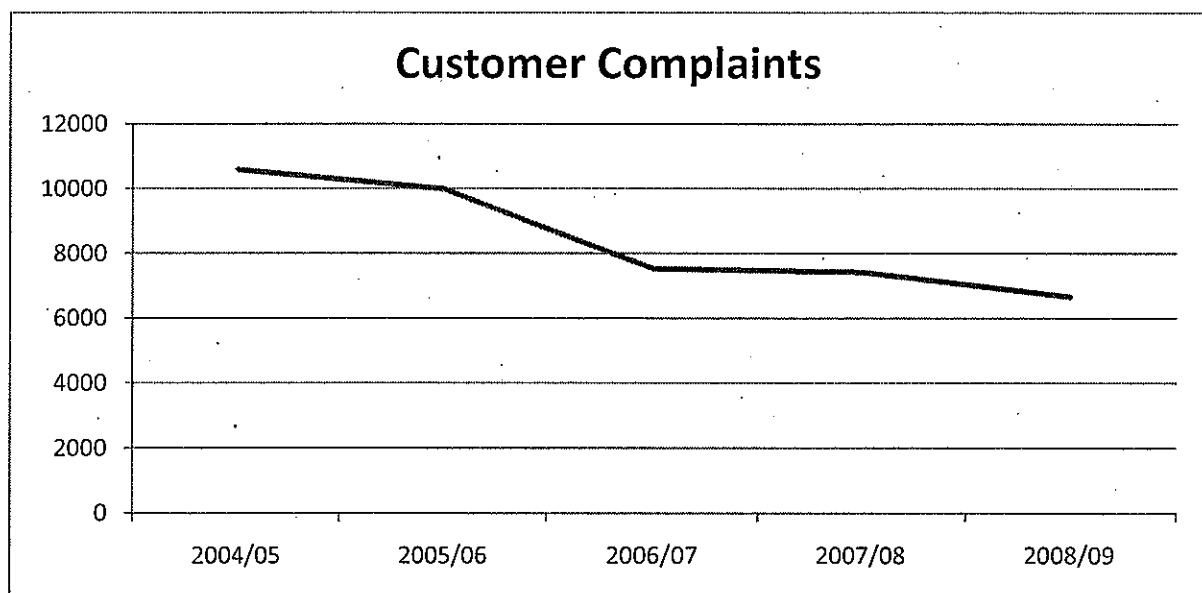
passengers comes at the cost of increased waiting times for taxi drivers that cannot be compensated through higher pricing. The following quotes come from this report in relation to de-regulated entry control.

*"This suggests a decrease in the productive efficiency of the taxi industry – the benefits to consumers in terms of decreased waiting time are more than offset by the costs to taxi drivers of providing an improved service".*

*"..consistent with reviews of earlier economic research which found that where entry control was abolished but fares control was maintained at the existing level, there was an increase in consumer surplus but a reduction in overall welfare as the increase in taxi numbers led to cost increases."*

Notwithstanding that there have been no limits on the available number of unrestricted taxi licences, studies undertaken in Australia and overseas support the regulation of entry and supply-side control to achieve public policy objectives and optimise the levels of service provided by the taxi industry. Amendments made through The Passenger Transport Amendment (Taxi Licensing) Bill 2009 were developed with these factors in mind and will result in increased numbers of unrestricted taxi licences in accordance with demand to ensure orderly growth and continued industry viability.

Customer feedback provides a valuable source of information about the taxi industry's performance in meeting the expectations of the public. A centralised Customer Feedback Management System is administered by NSW T&I for the purposes of monitoring, control and follow-up of feedback provided by customers. Total complaints by customers (including unjustified complaints) have been steadily declining during the last 5 years.



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

The need and rationale for regulation of the taxi industry is discussed in response to the inquiry's term of reference "j" below.

The industry is very competitive at each level. About 18 000 active taxi drivers compete for passengers, about 5400 taxi operators compete to attract drivers, and in Sydney there are 7 taxi networks competing to attract operators (or, in the case of wholesale leasing, licence owners) who are free to affiliate with or lease a licence to any network. We estimate that fewer than 7% of licences are owned by taxi networks or related companies and individuals. To ensure the release of new licences does not result in less competition or domination by any large company or group, the NSW Taxi Council proposed that limits be placed on the number of licences that can be issued to any one entity during each release period and has supported moves to give priority to taxi drivers with good service records who have been in the industry for long periods of time.

Regulation can be seen as "anti-competitive" but is justified where the public benefit outweighs the cost and this has been seen to be the case in the taxi industry in Australia and elsewhere. The role of the public interest test and its application to the taxi industry is discussed in the report by Professor Des Nichols cited previously (Attachment (2)).

The following extract comes from notes for a presentation made to the ACT Economic Society by David Crawford, President of the NCC on Tuesday 5<sup>th</sup> May 2009.

*"Australia's governments agreed to the National Competition Policy (NCP) programme following their consideration of the August 1993 Hilmer Committee Report into a National Competition Policy for Australia. The NCP programme, which was agreed in April 1995 and ran until 2005, placed competition at the forefront as a means of securing productivity, economic growth and a broadly defined Australian national interest.*

*At the same time it recognised that competition was not always consistent with valid national interest objectives. While the NCP reforms provided for a presumption in favour of competition, this could be rebutted where it could be established that the national interest required restrictions on competition, for example where competition would not achieve efficiency or conflicts with other social objectives."*

The NCP also established the National Competition Council as an independent assessor of the performance of all governments in meeting the reform commitments they had entered into. It also created a regime of competition payments from the Commonwealth to state and territory governments as a means of sharing the dividends from NCP reforms. These payments were subject to the states and territories meeting their agreed reform commitments, and could be reduced if commitments were not met.

In 1999, IPART completed an NCP review of the Passenger Transport Act 1990. IPART recommended increasing the number of taxi licences in Sydney by 5% per annum. It has since been noted that IPART erroneously assumed that the Passenger Transport Act set a quantitative limit on the number

of taxi licences. It is also apparent that IPART did not have the benefit of more in-depth analysis of the increased costs and other negative effects of a more open or de-regulated entry in the taxi industry. As a result the recommendation was inconsistent with and not really relevant to the Act in force at that time. The arguments against arbitrary (not linked to demand) or unrestricted growth in taxi numbers were revisited during the debate on the most recent (2009) amendments to the NSW Passenger Transport Act requiring future licence releases to be responsive to measures of demand and service standards.

New South Wales did receive all of its final Competition Policy Payments and no penalties were imposed for non-compliance.

Subsequent amendments to the Passenger Transport Act to require the Director-General to determine the number of licences to be issued each year effectively mean that previous NCP assessments undertaken for New South Wales are now redundant. It would seem highly likely that any current assessment would conclude that the new arrangements align even more closely with the original NCP principles outlined above.

**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**

Taxis generally are the most highly accessible form of public transport. Taxis in NSW provide transport for people with a wide range of disabilities, including people with vision impairment, hearing impairment, people with assistance animals (such as guide dogs) and a wide range of mobility difficulties. People who are unable to access other forms of public transport due to either temporary (e.g. injury related) or permanent mobility problems rely on taxis. This includes many people who are frail or elderly and people encumbered with luggage, shopping bags and/or with young children. For many people, the door-to-door transport provided by taxis to do their shopping and visit medical centres or for social activities, enables them to continue to live independently when they would otherwise be in need of assisted accommodation. All taxi drivers are trained in relation to serving passengers with special needs and taxi networks provide increasingly accessible forms of access to booking services using TTY, facsimile, and more recently internet-based booking facilities. There is rapid growth in the amount of work the taxi industry is providing on behalf of Community Transport Organisations in NSW.

The taxi industry in New South Wales has been providing services to people in wheelchairs since 1981 and was the first form of public transport in Australia to do so. To ensure the highest standard of service possible was provide, a centralised booking service for WATs (known as 'Zero200') was established to ensure passengers had access to every available WAT vehicle.

The Disability Standards for Accessible Public Transport require pick-up times for WAT passengers to be the same as for the general taxi fleet. There are a number of reasons why this is very difficult to measure. As discussed under the term of reference "a" in this submission, WAT jobs are despatched in a manner to provide the highest possible standard of service. However, this means that pick-up time statistics are not directly comparable to jobs for non-WAT passengers. Furthermore, only jobs

booked through the authorised networks are measured. Many WAT passengers have a preferred taxi driver who they make private booking arrangements with. This means that pick-up times for up to 50% of total WAT jobs are not included in official measures. It would also be fair to assume that private jobs are among the more attractive jobs for WAT drivers and hence Zero200 would be dealing with a disproportionately higher number of less attractive jobs that generally take longer to cover. These systemic differences mean that WAT pick-up times will appear to be worse than they would if WAT passengers did not have a propensity to book work privately and if Zero200 despatched WAT bookings in the same manner as the networks despatch other jobs.

Taking the above factors into account, it seems unlikely that service standards for WAT passengers are significantly different to that for all passengers.

The standard of service in Sydney for WAT passengers is higher than in any other major metropolitan area in Australia.

The fundamental issue to address for passengers who use wheelchairs relates to overcoming the higher cost of providing the service required. Various means have been used by various jurisdictions over many years. In New South Wales this commenced with the nexus plate scheme. More recently, a different form of subsidised licence has been issued (WAT licences leased for \$1000 p.a.). Similar issues arise in other Australian and overseas jurisdictions.

This is supported by the following conclusions in a 2006 review into the wheelchair accessible taxi industry in Australia and overseas by Professor Des Nichols (Attachment (4)) :

*'Governments are prepared to heavily subsidise public transport (buses & trains) but in many jurisdictions appear reluctant to make a commitment to subsidise the transport needs of the wheelchair dependent to a level required to make them financially viable. This is clearly demonstrated by the fact that of the 26 WAT licences that have been issued in the ACT, only 16 are currently in service, with 4 being handed back to the government because they weren't financially viable. This is so even though there is still a significant difference between WAT and standard taxi response times in the ACT. In September 2006 all standard taxi benchmarks set by the relevant ACT Government department had been met, while the taxi service for disabled people had failed to meet any accreditation benchmarks in that month. This clearly illustrates that increasing the number of WATs is not the solution. Other measures must be found to make them financially viable and to enable them to meet the response time requirements of the Disability Standards by the end of 2007.'*

The industry in New South Wales has introduced an extensive range of reforms to ensure the highest possible level of service is provided to passengers who use wheelchairs. These include the following:

- Establishment of a Centralised booking service.
- Establishment of a Taxi Council sub-committee that monitors performance and has implemented a common set of rules and penalties for non-compliance with service standards and procedures.

- Establishment of an independent cross-network judiciary panel to deal with compliance issues for WAT drivers.
- Significant and ongoing investment in development of specialised training for WAT drivers that is being increasingly adopted by our counterparts interstate.
- Networks continue to bear costs associated with financing and handling Taxi Transport Subsidy Scheme payments on behalf of the government and taxi drivers.
- At various times significant amounts of money have been spent by networks to pay WAT drivers to carry out bookings for WAT passengers.
- Considerable effort has gone into the development of new and better wheelchair accessible vehicles.

The NSW Government reimburses WAT drivers for the cost of their additional training, subsidises the cost of fares for WAT passengers through the Taxi Transport Subsidy Scheme and is conducting a trial driver incentive payment to meet the additional cost WAT drivers face when providing services to passengers in wheelchairs.

During the first half of 2003, the Taxi Council formed a Committee of members to plan and implement a strategy to improve the performance of the Wheelchair Accessible Taxi fleet.

The Committee set out to improve service levels by creating a mechanism for networks to enforce procedures and impose standards on drivers. Following extensive consultation and negotiations between the metropolitan networks, agreed common procedures and penalties were introduced during August 2003. The standards were printed as a "Wheelchair Accessible Taxi Radio Hiring Procedures Handbook" and distributed to all operators and drivers of Wheelchair Accessible Taxis. A copy of the handbook is included with this submission (Attachment (5)).

Each network has delegated responsibility to the Zero200 Radio Booking Service for monitoring driver behaviour and imposition of penalties. Each network has agreed to support a set of procedures to counsel and ultimately penalise their own drivers who do not comply with procedures defined in the handbook. A Zero200 judiciary committee was established with members rotating from each member network.

The Committee is also monitoring WATs drivers who are not accepting radio bookings from the WATS booking service. Drivers who are not accepting an adequate number of bookings are requested to present evidence that they are providing sufficient service to wheelchair passengers. In many cases, these drivers are doing work that is booked directly by the passenger. However, where no proof is provided by the driver the agreed warnings and penalties are issued such as a number of shifts "off the air" where the driver is not offered non-WAT bookings from their host network.

During 2009, there were very few WAT passengers who experienced delays of more than 30 minutes. In a typical month there might be two or three instances. In most cases these delays were a result of the passenger making a special request for a particular type of WAT. Such requests can result in longer delays due to the time it takes to find an available vehicle that meets the passenger's request and the fact that it takes longer for a vehicle that is not the closest to the job to arrive at the pick-up location.

The Committee has worked in conjunction with NSW T&I to ensure that operators of WATs with short-term (leased) licences are providing a sufficient service to wheelchair users. The Taxi Council is working closely with the NSW T&I to identify vehicles which are not being used for their intended purpose. The strict enforcement of these licence conditions helps improve services to wheelchair users by ensuring WAT drivers are fulfilling the obligation to provide services to wheelchair users. NSW T&I sends warnings to WAT operators who are under-performing compared to the rest of the fleet, based on Zero200 booking data and data retrieved from the Taxi Transport Subsidy Scheme.

During 2003, approximately 35% of the WATs in Sydney each month were not picking up any passengers who booked WATS through the Zero200 booking system. Compliance activity undertaken by the industry and NSW Transport and Infrastructure has reduced that figure to well below 20% which is considered acceptable given that all taxis must spend some time off the road for regular and unscheduled maintenance and repairs, driver illness and other legitimate reasons.

This approach complements the Government's incentive scheme whereby new WATs plates are available for a small fraction of the cost of a standard plate.

The size of the fleet also continues to grow. Between November 2005 and November 2009, the number of WATS vehicles in Sydney increased from 305 to 527 - an increase of 73% in 4 years.

During the same period the number of bookings dispatched by Zero200 increased from 73 800 to 112 500 per year, an increase of 52%.

The NSW Taxi Council lobbied for the introduction of the WATS incentive payment to overcome the inherent disincentive that previously existed for drivers to provide service for passengers who use wheelchairs. Prior to the incentive payment, drivers were required to stop the taxi-meter at the destination and could not charge for the time spent unloading the passenger and assisting them to their ultimate destination as required under the regulations. Despite problems with the payment system for this fee, due to the inefficiencies of a paper-based system, the incentive payment has helped overcome the previous structural disincentive.

The combination of these efforts has produced steady improvements in the service provided to customers.

Average pick-up times have decreased by 27% from an average of 11.4 minutes in 2005/06 to 8.3 minutes in 2008/09. This performance is significantly better than is achieved in other state capital cities.

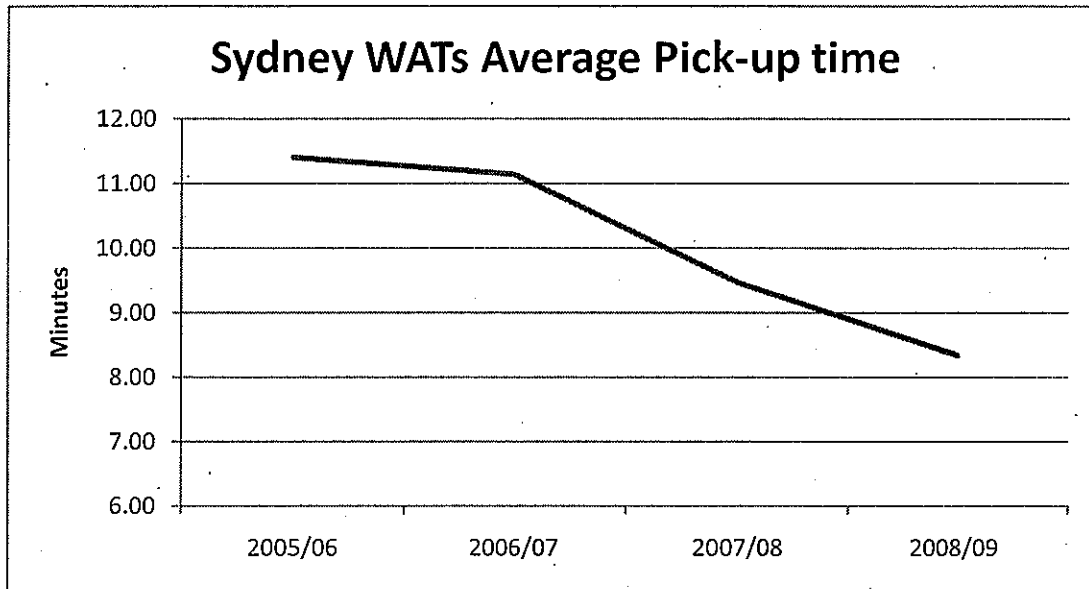
Christmas Day is the busiest day of the year for Zero200 bookings. On Christmas Day 2009, 1676 bookings were undertaken through Zero200, more than 5 times the number of bookings undertaken on an average day throughout the year. All these bookings were undertaken by taxi drivers who gave up their own Christmas Day to help passengers enjoy their Christmas.

Delays are counted whenever a pre-booked passenger is not picked up at the requested time, or whenever a taxi takes more than 10 minutes to arrive in response to an immediate booking. Of the 1676 bookings, 1634 were picked up without delay and 42 passengers experienced delays. Of these, 15 were pre-booked and were picked up within 10 minutes of the requested time, 19 were picked up between 10 and 20 minutes, 7 were picked up between 20 and 30 minutes and 1 was delayed by

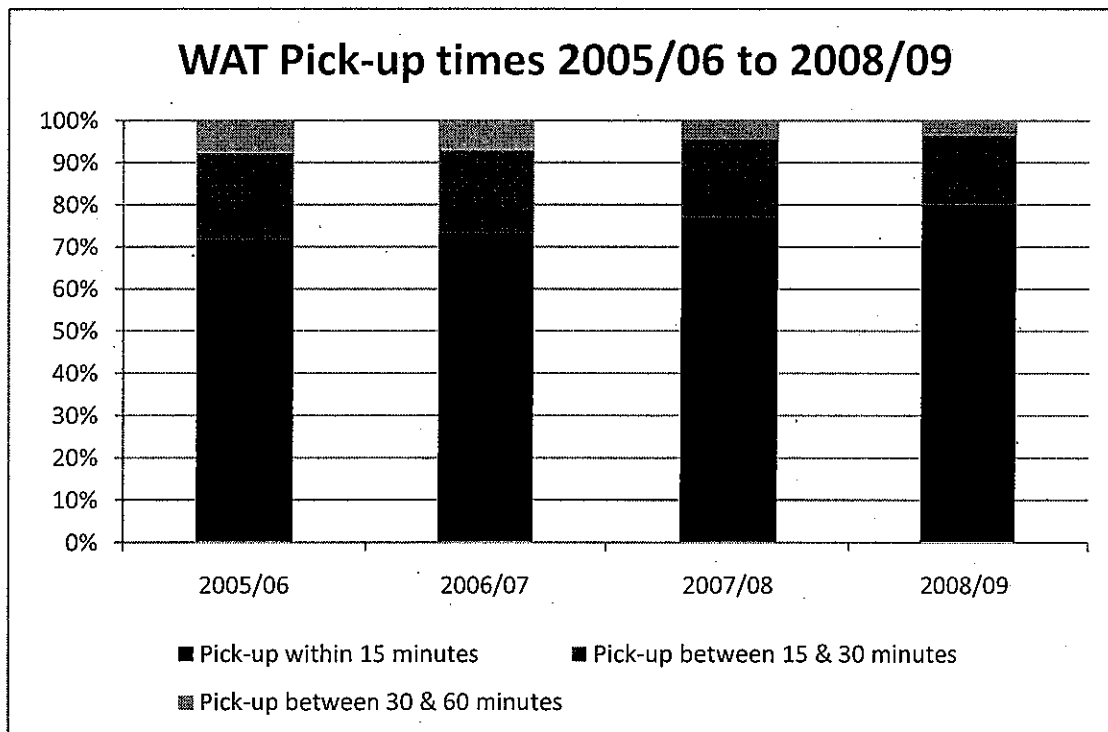


40 minutes. All of these delays occurred during the busiest 2 hour period of the whole year between about 10.30 a.m. and 12.30 p.m.

This performance is very positive proof of the outstanding service provided for passengers who use wheelchairs in Sydney.



The following chart also shows the consistent and ongoing improvement in how quickly WAT passengers are being picked-up.



The Taxi Council has searched records from the Customer Feedback Management System to distil data regarding the number of complaints and compliments received related to wheelchair accessible taxi services.

Despite 52% growth in bookings carried out through Zero200 since 2005, complaints received from customers in relation to Wheelchair Accessible taxi services are at the lowest level ever.

During 2009, 31 complaints regarding WAT services in Sydney were received by the government's customer feedback management centre and only 11 of these related to the taxi being late or not arriving. This includes complaints that may not have been justified. Unjustified complaints arise when, for example, the problem arose due to some mistake made by the customer. During the same period 5 compliments were received from passengers calling the CFMS.

Less than 0.03% of WAT bookings result in a complaint being lodged. This percentage would roughly halve if total journeys including private bookings were included in the total.

### Wheelchair Standards

Whilst accessible vehicle standards and restraint assembly standards do exist, there is no equivalent matching standard for wheelchairs or other mobility devices to assess their compatibility with the vehicle and restraint assembly standards. This means there is an information deficit for consumers as well as taxi drivers who have no practical means of assessing the suitability of any wheelchair for use in a complying vehicle or with complying occupant and device restraints.

Disability Standards for Accessible Public Transport (DSAPT) define the requirements for complying vehicles and the Australian Standard for wheelchair occupant restraint assemblies in motor vehicles (AS 2942 – 1994) sets standards for passenger and device restraints. It seems incongruous that standards apply to two out of the three components involved but not the third. The missing link is a standard for the devices that are suitable to fit inside a complying vehicle and which are also suitable for use with complying restraint assemblies and anchorage devices.

The DSAPT is based on certain "assumptions" about mobility devices, but the standards only apply to the vehicles themselves so the "assumptions" have no force.

AS 2942 – 1994 specifically avoids the issue of compliance for mobility devices and states in its preface:

*".....a wheelchair that best serves the overall needs of its owner may not be ideal for restraint in motor vehicles, and that prohibiting the use of such wheelchairs in vehicles is not practical despite some additional risks of injury."*

The standard does provide examples of wheelchairs that are not recommended for use in vehicles at Appendix A (of the Standard).

The Standard also defines the parameters of "compatible wheelchairs" that are suitable for use with the restraints specified in the standard. However the standard only applies to restraint assemblies in vehicles and not to the wheelchair or mobility device itself.

Despite this, a person purchasing a mobility device or a taxi driver who is presented with one by a passenger has no practical way of knowing whether the device falls within the parameters assumed by DSAPT or whether it is compatible or perhaps "not recommended" in regard to AS 2942-1994.

The NSW Taxi Council has produced a leaflet to try and explain to wheelchair users the need to consider the adequacy of their device in terms of use with taxis at the time of purchase but without independent assessment or certification it is unlikely that consumers are proficient in making such assessments. A copy of this leaflet is included with this submission (Attachment (6)).

A person who presents themselves with a mobility device to a wheelchair accessible taxi driver may believe they have been discriminated against if the taxi driver refuses to accept the hiring and the onus would fall on the driver to prove they had reasonable grounds to refuse the passenger. We believe that both parties in this case would benefit from being able to make properly informed decisions regarding whether the device is compatible with the relevant standards. In the case of the user of the device, this information needs to be available at the time of purchase.

The absence of a standard for mobility devices does not relieve a taxi driver or other public transport worker from responsibilities under Occupational Health and Safety legislation. It is simply unjust that they are given the full burden of responsibility but not the information necessary to assess the safety or suitability of the mobility devices presented to them by passengers.

Furthermore, in the interests of passenger and driver safety and fully informed decision-making, the issue could be taken a step further to establish a standard for mobility devices that determines their suitability for use in a vehicle more generally. Such a standard would most likely include: the size of the device; the strength of the device and whether it can withstand additional loads imposed inside a moving vehicle; obstructions such as trays in any potential impact area; the existence of suitable anchorage points; the existence of a suitable back support and perhaps head restraint and other similar matters affecting the overall safety of the passenger and other vehicle occupants.

Ideally the standard should be affixed to the device so that the user of the device and any vehicle driver can determine whether or not the device can be safely used in a vehicle.

### **Recommendation 1**

*In the interests of passenger and driver safety, an Australian standard be developed for mobility devices including wheelchairs that are suitable for use in public transport vehicles that comply with the 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**

As indicated above, the Driver Incentive Scheme trial has been one of a number of initiatives used to improve WAT services. By addressing the previous financial disincentive for taxi drivers to pick up passengers in wheelchairs the scheme has been an important factor in overcoming a significant barrier.

The effectiveness of the trial scheme is hampered by inefficiencies in the method of processing and handling payments. The scheme is paper-based and means dockets are handed along a chain from the taxi driver to the taxi operator to the taxi network to Cabcharge to NSW T&I. Payments are then

sent in the reverse direction along the same chain. The cost of handling the dockets and payments is borne to some extent by all parties. In many cases taxi networks are honouring payments to drivers and then wait months to be reimbursed. Problems associated with this process are exacerbated by the fact that payments by NSW T&I rely on validation of the dockets which means some payments are rejected for various reasons. Reconciliation then becomes difficult and cumbersome.

Delays and costs associated with manual reconciliation between dockets and payments significantly detract from the effectiveness of the incentive scheme. If the government were able to make payments much closer to the time of the journey a more effective incentive would be provided for taxi drivers and lower costs would be imposed on taxi networks that are currently financing taxi drivers in regard to these payments.

Most other states in Australia used a card-based electronic payment system for their equivalent to the NSW TTSS and related payments, the NSW Taxi Council remains frustrated by the lack of progress in establishing a similar system, which was first trialed successfully in NSW prior to adoption in other states and territories.

Furthermore, a card-based system would eliminate opportunities for TTSS fraud arising from the use of paper-based dockets.

### **Recommendation 2**

*A card-based electronic payment system be introduced as soon as possible to replace the paper-dockets being used for the Taxi Transport Subsidy Scheme.*

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

The taxi industry in New South Wales remains at the leading edge of the industry internationally when it comes to service and technology. When new methods or technology becomes available to improve service or safety for passengers and taxi drivers it is rapidly introduced. During the current 12 month period, taxi networks in Sydney are investing approximately \$20 million in the latest booking and dispatch equipment. New South Wales was among the first in the world to introduce security cameras in taxis, which are now compulsory throughout the State.

There have been a number of reviews and inquiries involving the taxi industry during the past decade. The NSW Taxi Council's experience has been that such inquiries have been established in response to perceived problems that have later been difficult to substantiate. Closer examination of relevant issues has generally led to conclusions that involve little intervention beyond the steps the industry is already pursuing.

The NSW Taxi Council believes there is constant need for improvement and there are areas where the industry must strive to improve.

Previous inquiries into the industry have generally served to confirm the industry's course, or make recommendations regarding incremental changes rather than widespread wholesale change. Because the industry has been quick to adopt new methods to make improvements when they are clear and unambiguous, most remaining issues tend to be less clear and less certain to provide an

overall benefit without negative consequences. In such cases further consideration or investigation is often required.

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

The structure and the regulatory responsibilities within the taxi industry are discussed in this submission under the inquiry term of reference "j" below. The industry structure and the responsibilities associated with licensing and authorisation of taxi drivers, taxi operators and taxi networks are defined by the provisions in the Passenger Transport Act.

NSW T&I is the agency that is ultimately responsible for regulation of the industry. The Act and the associated regulations define the importance of the role that authorised taxi networks must play in terms of compliance and enforcement for the rest of the industry. Authorised taxi networks are a vital component in the compliance and enforcement process for the taxi industry because only authorised networks have the ability to monitor who is driving each taxi-cab on a shift-by-shift basis. The Act also clearly defines the process for authorisation of taxi networks, accreditation for taxi operators and authorisation of taxi drivers. The Regulations set out the parameters that define how each of the above must conduct themselves regarding a range of issues relating primarily to safety and customer service.

Supporting documentation and processes are in place to clearly define how the industry is regulated. There is no lack of transparency in any of the processes relating to these aspects of the industry's regulation.

As is outlined in more detail later in this submission, taxi drivers, taxi operators and taxi networks are each held accountable for their own actions. Each are treated as independent entities as each provides services on their own behalf. Whilst every entity in the industry is ultimately accountable to NSW T&I for compliance, the following describes in more detail the manner in which each tier of the industry is held accountable.

Taxi Drivers

Taxi networks have an important role to play in holding taxi drivers accountable for their behaviour. The regulations require taxi drivers to observe the published rules and by-laws of the network, and comply with all reasonable requests of the network in relation to the provision of taxi-cab services.

Taxi drivers are accountable to their passengers who can provide feedback (positive or negative) through the Customer Feedback Management System (CFMS). This centralised system is administered by NSW T&I and assigns each item of feedback to the taxi network that the driver was driving for at the time. The network is then held responsible for following the matter up with the passenger and the driver. The network will take action to resolve any complaints, including counselling drivers and/or issuing sanctions such as periods of time during which bookings will not be offered to the driver. More serious matters will be referred to NSW T&I for investigation and action such as imposing fines, suspension of driver authorities or ultimately cancellation. The CFMS maintains a permanent record of feedback and the outcomes arising from that feedback for each

taxi driver. This enables a driver's previous history to be taken into account in deciding what action to take. The Networks are held accountable by NSW T&I for their performance in responding to customer feedback. NSW T&I monitors statistics on the time taken to have any complaints resolved and response provided to the customer who initiated the complaint.

Taxi drivers are also accountable to their taxi operator for a range of matters including pre-shift inspection of vehicles, vehicle cleaning and similar matters.

The NSW Taxi Council employs Quality Liaison Officers that spend time on the road providing information to taxi drivers. These officers also report problems to networks and/or NSW T&I as appropriate.

Taxi drivers are also subject to random on-road checks by Police and NSW T&I authorised officers at any time and held directly accountable for compliance in relation to matters such as driving behaviour, wearing the correct uniform, customer service and record keeping relating to driver worksheets. Joint operations involving several federal and state government agencies are also conducted at frequent intervals.

One area of potential weakness in relation to the accountability of taxi drivers is the ability for customers to identify the vehicle in which a journey was undertaken based on receipts issued from an EFTPOS machine that is not 'attached' to the taxi-cab it is used in. It is in the public interest for receipts issued inside taxis to reliably identify the time, date and the taxi among other things. However, this cannot be enforced unless the EFTPOS machine is attached to the taxi-cab. The industry remains frustrated by cases where passengers have a receipt but the industry is unable to follow-up a complaint because the receipt does not contain the correct details of the driver or the taxi-cab. Regulations in Victoria stipulate the type of EFTPOS machine that can be used in taxi-cabs.

### **Recommendation 3**

***A regulation be introduced to stipulate that EFTPOS devices must be attached to the taxi-cab and taxi driver details entered at the start of a shift in such a manner to ensure that correct identification details of the taxi cab, authorised taxi network, taxi driver ID and taxi driver ABN are printed on all receipts issued.***

Passengers' confidence regarding the accountability of taxi drivers in relation to charging the correct fare is undermined by the lack of detailed receipts that identify all items that have been charged for. This includes for legitimate charges such as radio booking fees, as well as road and airport tolls for which the passenger is liable. The lack of itemised receipts leaves passengers vulnerable and gives rise to suspicion and complaints where passengers believe they have been overcharged. This brings rise to two issues:

1. The need for all charges to be made appear and be recorded by taxi meters and;
2. The need for itemised receipts to be made mandatory including details of all charges including fare components, extras and tolls.

The first issue can be addressed by developing and mandating the use of a device that can "tell the meter" when a toll charge has been accrued by the journey. Costs associated with such a device include development and initial installation costs as well as ongoing costs of remote updates to the

table of toll charges. It is the view of the NSW Taxi Council that the public benefit of such devices justifies the use of funds already collected from the industry through licence sales/leasing and operator accreditation fees by NSW T&I to fund the initial installation in all Sydney's taxis. The costs of ongoing updates will need to be met by the industry itself.

The second issue can then be addressed through regulation.

#### **Recommendation 4**

*NSW T&I fund the installation of toll-meter interface devices to record tolls on taxi-meters and introduce a regulation to make such devices mandatory in Sydney taxis.*

#### **Recommendation 5**

*A regulation be introduced to make it compulsory for printed receipts to be issued upon request that contain the fare and toll details recorded from the taxi meter and identification from the EFTPOS machine to ensure the receipt contains unadulterated details of the taxi vehicle, authorised taxi network, taxi driver ID and taxi driver ABN, time, date, location and itemised amounts for all fare components, extras and tolls.*

#### **Taxi Operators**

Taxi operators are responsible for the supply and maintenance of equipment in the taxi-cab and the vehicle itself. The operator is also responsible for ensuring only authorised taxi drivers use the taxi-cab.

Taxi networks monitor vehicle condition and are able to hold taxi operators accountable using their own compliance officers as well as information provided by taxi passengers through the Customer Feedback Management System (CFMS) and information provided by the NSW Taxi Council Quality Liaison Officers. The earlier recommendations relating to EFTPOS equipment and printed receipts are also aimed at making it easier for taxi passengers to hold taxi operators accountable by providing reliable information about their journey and the identity of the taxi and taxi network.

Taxi operators must ensure that the taxi-cab is subject to and passes a regular inspection regime. Taxis in the major urban areas must be inspected 3 times per year at an Authorised Taxi Inspection Site (ATIS), by an authorised examiner. Taxis in other areas are subject to the same process but at less frequent intervals because these taxis travel less kilometers. ATIS' must be approved by NSW T&I and also be approved as AIS sites by the RTA. The inspection involves a regular vehicle roadworthiness inspection (pink slip) plus a comfort standards inspection (magenta slip). These inspections are conducted in accordance with a defined procedure that includes testing the calibration of the taxi-meter, verification that the alarm and vehicle tracking device have been tested, testing of the security camera and a range of other matters.

Taxi networks ensure that taxi operators comply with the requirements for ATIS inspections by requiring operators to present their inspection records following each regular inspection.

Each ATIS is itself subject to two audits per annum conducted by the NSW Taxi Council. These audits are used to ensure that inspections are being carried out properly and correct records are being

kept. These audits are also used to identify taxi operators that have any history of presenting taxis for inspection in an un-roadworthy condition. The results of these audits are referred to taxi networks and NSW T&I for follow-up. Audits are undertaken on a regular and random basis and can include re-inspection of vehicles that have been recently inspected by the ATIS.

Taxi-cabs are subject to regular random on-road inspections conducted through joint operations involving Police, NSW T&I and other agencies.

Taxi operators themselves are subject to audit by NSW T&I. These audits are carried out in response to information obtained by NSW T&I directly as well as information obtained from audits of ATIS records.

#### Authorised Taxi Networks

Authorised taxi networks are accountable to the public, their members and NSW T&I.

Competition between networks for customers means that market forces play a role in holding networks accountable.

Taxi networks need to attract passengers in order to be able to offer bookings to taxi drivers. In Sydney, the public can choose which network they want to use and by exercising choice can hold networks accountable for service delivery.

Taxi operators and taxi drivers can hold networks accountable for maintaining service standards demanded by the public by exercising their choice of which network to belong to.

NSW T&I hold authorised networks accountable for service delivery and reporting through the established network standards and the requirement for authorised networks to provide reports of Key Performance Indicators (KPI) each month. NSW T&I publishes KPI results compared to network standards on its website.

#### Government reviews

In relation to the final part of this term of reference; the reasons behind the commissioning of reviews or inquiries and the publication of reports by the government are entirely matters for the government. The NSW Taxi Council is not privy to the reasoning behind such government decisions and it would not be appropriate to 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**

The NSW Taxi Council can see no justification for the industry to be treated any differently to any other regulated industry in relation to recruitment. Ex government Ministers and bureaucrats are employed in many industries, including those affected by government regulation. This issue is not specific to the taxi industry and would be better dealt with in much broader terms.

It is a matter for the government to determine whether it chooses to place restrictions on its own members and employees as part of the terms of their own employment contracts.



Senior executives in the public sector are subject to contractual obligations and/or Codes of Conduct prohibiting them from using or disclosing any confidential or secret information gained as a consequence of their employment after leaving the public sector.

If concerns existed about any individual behaviour, appropriate mechanisms and processes are in place for such a matter to be investigated on a case-by-case basis.

It would be quite inappropriate for the taxi industry to be singled out for special treatment that was not applied to other regulated industries.

**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**

Regulatory structures in other Australian states and territories are essentially similar to those used in New South Wales. There are differences and one important exception is that no other jurisdiction in Australia or overseas has industrial laws applying to bailee taxi drivers and bailor operators as applies in the Sydney Metropolitan Transport District.

Other Australian jurisdictions are adopting models closer to the NSW system. The most recent example has been the Victorian government which has during the last 12 months for the first time introduced authorisation and standards for taxi networks.

**(i). The Significance of Regulation**

The NSW Taxi Council maintains that regulation of the industry is essential to:

- the provision of a true public transport service.
- guarantee standards of safety and comfort.
- ensure that the needs of all passengers are adequately met at a regulated maximum price.
- ensure proper accountability throughout the industry.

The Inquiry provides an opportunity for the industry to demonstrate its effectiveness and to identify the factors critical to our continued ability to meet the needs of the public. The inquiry has come at a time when the NSW Government has amended the Passenger Transport Act to foster and encourage growth in the industry.

This inquiry also offers an opportunity to confirm that the path ahead will lead to the maintenance of a safe, secure and service-oriented public transport role for the taxi industry.

This submission explains the reasons for regulation of the industry and outlines the role that taxi networks play in co-regulation of the industry. However, it should be clearly understood that the Taxi Council is not trying to prevent competition within the industry, or to prevent competition from industries that provide substitute services. The Taxi Council's objective is to ensure the industry operates on a level playing field with an equitable, consistent and effective regulatory framework.

**(ii). Core Service of the Taxi Industry**

The taxi industry is unique in that it meets a community service obligation to provide a service to all intending passengers (including crucially, passengers who are unprofitable to individual operators

and drivers) at a regulated maximum price without direct funding from the government. The industry's ability to continue to cross-subsidise some customers is inextricably linked to its ability to enforce regulations and continue accessing the complete range of taxi customers. Any erosion of the taxi market that allowed cherry-picking of the most profitable customers would have a negative impact on the ability of the industry to continue to provide cross-subsidised services to the whole community.

**(iii). Role of taxi companies, co-operatives and networks and their impact on customer service.**

**What is Customer Service?**

It is important to consider what customer service means in the context of the taxi industry.

Customer Service in the taxi industry must be defined within the broader context of public transport policy. That is, as a service to the community as a whole.

For a public transport provider (including buses, trains and taxis) good service includes ensuring all customers are treated equally and the service meets certain standards in terms of safety, comfort and reliability. Regulated pricing means that all customers are charged the same rate and each customer can expect a similar standard of service.

This is very different to what might be defined as good customer service in purely private transport, such as the Hire Car industry.

A hire car operator can target a niche of customers who are willing to pay more for a specific type of service and who are most valuable to the business, most deregulated businesses do not try to serve every possible customer they simply target profitable customers. The absence of public policy goals means no normal business practices are precluded.

Price and service differentiation is a normal business practice in many businesses and many other industries where there is no reason to regulate price. For example, airlines offer substantially different prices to different customers for the same service as they try to differentiate between business travellers and leisure travellers. Airlines do not have to serve every customer, they differentiate fares and they offer a fixed schedule that the customer must adapt to meet. In economic theory terms, they are seeking to find an ideal combination of average and incremental fares to deliver maximum net return on investment. Airlines are also able to manage capacity constraints by adjusting prices in a way that serves to discourage people from travelling in peak times and encourage them to travel during off-peak periods.

However, taxis are regulated in order to ensure specific public transport goals are met, and to complete the offering of public transport at points which the Government cannot afford.

Accordingly taxis cater for everyone and all under a uniform price structure. They must pick up intoxicated people from the local hotel, unaccompanied minors, an infirm customer who is travelling what might normally be a walking distance and, the businessman in a hurry to get to the airport.

Intending taxi passengers are not in a position to identify the fare impacts of traffic conditions and other fare-impacting factors prior to choosing a taxi. There is consequently a public benefit in

ensuring they will be charged a regulated maximum price and the standard of service will meet or exceed minimum standards regardless of which vehicle and driver they choose. This illustrates a conventional argument for a regulated maximum price to prevent price gouging by drivers at peak times.

The corollary to this is that prospective taxi users, in line with public transport policy, may reasonably expect equal access to the fleet of taxis on the road.

The NSW Taxi Council recognises that a common minimum standard of customer service means not everyone has access to what they might choose if given a wider choice of pricing and service levels.

Public transport does not generally allow for an individually-tailored service. Not all people like to catch buses or trains, and for similar reasons not everyone can be expected to be enthusiastic about taxis either.

#### **(iv). Structure of the industry**

This section explains the roles of the various tiers in the industry and shows how the supplier-customer chain works between each tier of the taxi industry and who is responsible for the various aspects of service provided to the passenger.

The taxi industry in New South Wales has its structure prescribed by the Passenger Transport Act 1990 (The Act) and Regulations. The Act regulates entry and performance of industry participants through licences and authorities. The Regulations further stipulate how each tier of the industry must perform and penalties for non-compliance.

The industry has a multi-tier structure of private sector business entities.

##### **Taxi Cab Operators**

The Act requires an operator to demonstrate ability to meet appropriate requirements for financial viability, safety of drivers, passengers and the public, and vehicle maintenance. In addition (unless exempted) an operator must ensure that at all times arrangements are in force with a taxi-cab network for the provision of a taxi-cab booking service and that the taxi-cab is fitted with a receiver capable of receiving messages from the network. The Director-General may exempt an operator from the requirements pertaining to affiliation with a network and this can occur in country areas where there are few vehicles and network affiliation cannot be provided in a financially viable or reasonably achievable manner.

##### **Taxi-Cab Licensees**

A taxi-cab must be licenced to provide services in New South Wales. Licenses can only be issued by NSW Transport & Infrastructure, but generally are thereafter transferable or able to be leased. An operator may purchase or lease an existing licence or may apply to NSW Transport & Infrastructure for an annual licence renewable for 10 years. The market to trade or lease licences is otherwise unregulated for people or organisations that are deemed fit to own or lease a licence.

Prior to the most recent amendments to the Act, there was no limit on the number of licences available from NSW Transport & Infrastructure and the Director General was obliged to issue

licences to any eligible applicants at the current market price. The amendments mean that the Director General must now determine a number of new licences to be issued each year and release these licences through public auction or tender process.

### **Taxi-cab Drivers**

Taxi-cab drivers must be authorised by NSW Transport & Infrastructure. The purpose of a driver's authority is to attest that the person is considered:

- to be of good repute and in all other respects is a fit and proper person;
- to have sufficient responsibility and aptitude to be the driver of a taxi-cab;
- to have the driving skills, taxi network compliance skills and geographic knowledge to drive in the area to which the authority pertains.

The authorisation is subject to a condition that the driver must comply with directions given by the relevant taxi-cab network of a kind authorised by or under the standards applying to the network.

### **Taxi-cab Networks**

Taxi-cab networks must also be authorised. Network authorisation ensures that networks are capable of:

- delivering taxi-cab services including a booking service.
- supervising and monitoring regulation and compliance of operators and drivers (notwithstanding that operators and drivers are customers, not employees of networks).

Statutory conditions apply to affiliation and service standards. The Director-General of NSW T&I determines service standards with which the network providers must comply, and standards with which registered networks must ensure compliance by their affiliated operators and drivers. The Regulations specify conditions relating to:

- driver safety.
- access to booking services.
- proportion of taxi-cabs with child restraints.
- notification of arrival times for wheelchair accessible taxis.
- lost property services.
- notifications of affiliates of the network.
- verification of operator accreditation.
- driver authorities.
- use of the network equipment.

Network Standards stipulate that specified service levels must be met in relation to:

- Telephone answering;
- Service Delivery (pick up times), and;
- Instances of "No car available".

The standards also stipulate that networks have responsibility for ensuring compliance with certain requirements for:

- Supervision and compliance with network by-laws
- Issuing directions to operators and drivers as required by the Director-General
- Driver training in relation to by-laws, procedures and systems
- Driver safety, including vehicle tracking, alarm monitoring and camera systems
- Electronic toll tags
- Advertising
- Livery and uniforms
- Fares
- Government subsidy schemes
- Offloading bookings
- Monitoring facilities
- Customer Feedback Management System
- Lost Property
- Child Restraints
- Reporting

#### **(v). Role of Taxi Networks**

Taxi networks may be either companies or co-operatives. A small number of taxi networks are companies while the remainder are co-operatives. The Act does not discriminate between companies and cooperatives and hence the role is the same irrespective of corporate structure. The following discussion relates equally to companies and cooperatives.

As outlined above, the Regulations are very clear in assigning accountability within the industry. It must be clearly understood that networks are held accountable for not only their own actions but also for supervising and monitoring their customers and/or members who are operators and drivers.

Networks have a clear responsibility to ensure regulatory compliance by the other tiers of the industry. In monitoring compliance the networks have accepted a role as a regulatory agent which is critical to any regulated industry. If compliance monitoring and policing were left to the government then the cost to government would be increased many times over.

It is also highly likely that if first-line regulation were external to, rather than integrated within the taxi industry, the effectiveness of regulatory enforcement would be severely compromised. One of the irrefutable arguments against deregulation is the inevitable ineffectuality of direct government policing of standards when many thousands of individual operators and drivers are involved – particularly for a mobile industry such as taxis.

It is thus vitally important that NSW Transport & Infrastructure can work closely with the industry at the network level. This provides the most efficient and effective means of controlling the industry. However, for such a model to work does require certain conditions to allow networks to act as enforcement agents without compromising their own commercial viability.

Relaxation of regulations or a reduction in the enforcement of standards for networks would almost certainly lead to a reduction in the effectiveness of each network's monitoring and enforcement capacity. A network's main customers are taxi operators and through them, taxi drivers. A network's viability depends on its ability to attract operators whose survival is in turn dependent on their ability to attract drivers to their taxis. Regulation and cooperation between networks is essential to avoid degradation in quality that would arise if networks competed with each other to

attract operators and drivers by simply relaxing their standards and being less strict with enforcement.

The need for networks to attract passengers is a consequence of the need for drivers and operators to have work dispatched to them by the network. Competitive forces at play will lead networks (or any unauthorised provider of network-type services) to accommodate the needs and preferences of their operators and drivers. In an uncontrolled or more relaxed regulatory environment this may act clearly to the detriment of service to passengers. For example, it would likely lead to discrimination against passengers who drivers find unprofitable and thereby erode the public transport function of the taxi service.

Notwithstanding the competition for customers, authorised networks co-operate with each other to maximise the quality of service provided to customers. The centralised Zero200 booking service for WATs is one example where authorised networks have agreed to co-operate to ensure the best possible service is provided. Authorised networks also co-operate with each other by offloading and accepting non-WAT bookings to and from each other in situations where they know another network is better able to provide the service. The networks are developing increasingly streamlined processes to enable bookings to be offloaded and 'in-loaded' into their despatch systems automatically. A regulated environment along with an effective and functional industry body is important to enable this type of cooperation which provides benefits for customers.

The present regulatory structure ensures that competitive forces are counter-balanced by the need to comply with regulations. The fewer networks there are to police the easier it is for the government to control the industry and the easier it is for the networks to work together in ensuring proper monitoring and regulatory compliance of their operators and drivers. However, we would note that the NSW Taxi Council is in no way arguing for any artificial or direct restriction on network numbers: rather it is our view that any group should be allowed to seek network registration as long as they are willing to meet such regulatory standards and public policy goals as such registration requires.

In considering the future of regulation of the industry the full ramifications of any changes to the regulations relating to networks must be recognised. There are significant risks to the quality and reliability of service for passengers if regulations regarding networks are relaxed.

Some groups of taxi drivers do operate unauthorised taxi booking services in Sydney. They are commonly called "trunk radio groups". From a passenger perspective, the trunk radio groups provide a booking service in a similar manner to the authorised networks but they do not have any of the responsibilities imposed on authorised networks that are outlined in the previous sections. The problem that these groups pose for the industry is their ability to pick and choose customers and hence remove the most attractive customers from the pool of work available to the rest of the fleet. This creates a distortion in the market and makes a mockery of any Key Performance Indicators and service delivery standards set by the Regulations. Trunk radio groups remain in the taxi industry because they rely on the authorised taxi networks to find new customers. Once a customer calls an unauthorised booking service there is nothing to stop that booking being despatched to a tourist vehicle, hire car or any other form of transport. Because they operate outside the regulations there is no accountability. Public safety is compromised due to the lack of any record linking the passenger to a driver and the lack of accountability can lead to price gouging

and other undesirable or illegal behaviour. In the event of problems the authorised taxi network is left to deal with a complaint from a passenger for a journey for which the network has no record.

#### **(vi). Implications of the need to provide a universal public transport service**

If the standard and coverage of service to the public is to be maintained and continually enhanced, it is essential that the integrity of the taxi industry as a provider of *public* transport is maintained.

Unlike government-owned and subsidised providers the taxi industry can only survive and meet service standards if the fundamental financial and economic underpinnings are sound and viable.

The economic structure of the industry is inextricably tied to the provision of a universal service: that is a service for every customer (regulations make it illegal for a driver to refuse a hiring under normal circumstances). The current system is based on a regulated and uniform maximum fare structure. Hand-in-hand with providing a universal service under a uniform pricing structure is the need to allow taxi drivers fair and equal access to passengers. It also implies that those driving taxis will between them have exclusive access to all requests for taxi services.

If one of these fundamental principles is undermined then the economic structure of the industry is undermined and both drivers and passengers will suffer as a result.

### **Recommendation 6**

*Due to the threat posed by illegal trunk radio groups to the ongoing ability of the taxi industry to provide a true public transport service, the regulations regarding unauthorised communications equipment in taxi-cabs be strictly enforced.*

#### **(vii). Influence of each player on customer service**

The previous section outlines the supply chain involved in providing intending passengers with taxi services.

Each business in that chain has an influence both directly and indirectly on the final outcome for the passenger.

Where a booking has been made, the network deals directly with the intending passenger in answering the telephone, recording their details and providing whatever feedback is required at that time. The network must dispatch that booking to a taxi available to accept the hiring in a manner that meets the needs of the driver and which is efficient and effective from the passenger's point of view. The network can also be directly involved in the passenger's experience where for example a complaint is lodged, or when property is reported as lost or other similar situations. Each of these roles will directly influence the customer's perception of the service they receive. Indirectly, the network has responsibilities relating to the way their drivers behave in general, the design of uniforms, the livery of the taxi and general quality control.

The operator of the taxi also has an indirect influence on the customer's experience with the service. Principally the operator is responsible for:

- the condition of the vehicle regarding equipment levels, maintenance and roadworthiness.

- the supply of uniforms to the driver.

The Driver clearly has the most direct impact on a passenger's experience on the taxi journey. The driver must accept and carry out the hiring, and is responsible for his or her attitude and appearance, the cleanliness of the taxi and all matters relating to the transaction with the passenger.

As might be expected, the relative importance of the above roles is reflected in the feedback customers provide. By far the majority of complaints are related to drivers, with far fewer related to operators and networks. Since passengers deal most directly with drivers it is only to be expected that the feedback they provide will be mostly related to drivers.

#### **(viii). Demand for a Premium Service**

The levels of service that can be provided by the taxi industry are limited to what can be provided in an economically viable manner. Under a regulated fare, the industry must contain the cost of providing the service to a level that can be covered by the existing taxi fare level. Higher standards of service would be associated with higher costs to the industry. These higher costs would be borne by taxi drivers, taxi operators and taxi networks.

Notwithstanding the need to ensure taxis meet their universal service obligations outlined earlier, there remains scope for the industry to offer a higher standard of service for customers who choose, provided a second tier higher fare was regulated to cover the additional costs associated with higher service standards.

Taxis in Queensland and in Victoria do charge higher fares for premium services.

Such a system needs to be carefully regulated to ensure that the promise of higher fares does not detract from the customer's right to choose, or the provision of 'normal' taxi services under the current fare structure.

For these reasons, if a premium fare were introduced it must only be offered as an optional alternative, must only apply to pre-booked journey's through authorised taxi networks where the customer has telephoned a premium service network and has clearly indicated their choice for a premium service. We would propose a requirement that if the passenger does not want to pay the higher fare their booking needs to be made as a 'normal' taxi booking without the need for them to telephone another number. The customer must be offered a choice and make a fully-informed decision.

The NSW Taxi Council has proposed that a maximum cap be regulated on the amount of any premium service fee and that taxi networks be allowed to develop their own range of services within the maximum amount. The nature of the premium service could include a form of guarantee for on-time pick-up or other features of service that customers might prefer and be willing to pay the additional cost for their provision.



## **Recommendation 7**

*The feasibility of a regulated "premium service fee" for customers who make a fully informed choice for a higher level of service than can be provided for the 'normal' fare be investigated. A pre-condition of such a fee is that it not detract from service levels provided to customers who do not opt for premium services.*

### **k. Working conditions and entitlements for taxi drivers**

#### **Entitlements**

Taxi drivers are not employees but are self-employed bailees.

The Federal Court has upheld this principle in the decision in the *Deluxe Red & Yellow Cabs Co-operative (Trading) Society & Ors v Commissioner of Taxation (Cth)*. The decision was upheld by the Full Bench of the Federal Court on appeal. These cases set out a long line of authority in Australia and in earlier high authority in England which establishes that the relationship between a taxi operator and driver is one of bailment rather than employment.

Because taxi drivers are self-employed, they are required by law to have an Australian Business Number (ABN) and be registered for GST. Unlike any other businesses in Australia these requirements apply regardless of their income.

A bailment agreement between a taxi operator (bailor) and a bailee taxi driver is analogous to a lease that a shopkeeper has with their landlord. Whilst the landlord owns the shop premises and the bailor owns the taxi vehicle the shopkeeper and bailee taxi driver both run their own businesses within that premises and taxi respectively. The lease that the shopkeeper pays is analogous to the pay-in that the bailee driver pays the taxi operator.

A Contract Determination regulated by the Industrial Relations Commission governs bailment agreements between operators and drivers in the Metropolitan Transport District. The Transport Workers Union and the NSW Taxi Industry Association are the registered industrial organisations that are parties to the Contract Determination. The Contract Determination has a significant impact on operators' costs and the incentives for operators to bail their cabs. The Contract Determination allows drivers to choose one of two methods regarding the bailment agreement. The first method bases the bailment fee on a percentage commission of the total takings for each shift. The contract determination sets the percentage and determines that the operator pays the expenses for fuel and washing. Method 2 is based on a set pay-in that the driver pays to the operator, with the driver also paying for washing and fuel. The Contract Determination sets a maximum allowable pay-in for each shift under method two to protect drivers. It also sets out the entitlements operators become liable to pay when they bail the cab to permanent drivers. Very few bailment contracts occur under method one as virtually all taxi drivers in the metropolitan area prefer to use method two.

The Contract Determination sets out entitlements that drivers who qualify as permanent drivers can claim, including holiday pay and sick pay.

Drivers are free to shop around and negotiate lower pay-ins and it is very rare for an operator to ever achieve the maximum allowable pay-in. It is more profitable for an operator to bail the cab to casual drivers since they do not accrue entitlements, but this ultimately means that less popular

shifts are harder to cover and can lead to a reduced utilisation of the fleet. Drivers have a propensity to try and negotiate away their entitlements as they prefer to achieve a cash cost saving (a lower pay-in, which means higher net income for the driver) rather than accrue a future holiday pay entitlement. This distortion causes problems for operators, acts as a disincentive to bail taxis and so leads to a greater incidence of one-out operators who do not bail their taxis. This behaviour reduces the number of taxis on the road at various times and so is detrimental to service standards.

The current system leaves taxi operators vulnerable. It is virtually impossible for an operator who wants to honour the contract determination and charge the pay-in necessary for them to be able to put aside holiday pay for their driver, to compete with operators who are willing to accede to bailee drivers' requests to accept a lower pay-in in lieu of holiday pay and other entitlements. Notwithstanding that at any time a permanent bailee driver can demand payment of their entitlements regardless of any previous agreement they have made.

All taxi drivers and taxi operators are taught about these industrial relations matters during their mandatory training and everyone in the industry is well aware of their rights and obligations. During the second half of 2009, the NSW Taxi Council provided assistance to the NSW Office of Industrial Relations in delivering an awareness and compliance campaign within the taxi industry.

It remains very rare for bailee drivers to make claims for entitlements as the overwhelming majority prefer to honour the agreement they make with their operator regarding lower pay-ins. Despite the fact such agreements are not binding, they can be thought of as being similar to an employee accepting a higher rate of pay (casual rates) in lieu of entitlements as happens for casual employees in other industries.

### Earnings

As taxi drivers are self-employed, their earnings vary in response to overall demand for taxi services which varies widely throughout the day, week and year, and their own ability to find customers. A taxi driver's income is the net amount from fares collected less expenses. In Sydney, taxi drivers' main expenses are for fuel and the pay-in to the operator for bailment of the taxi-cab. For drivers who choose fixed pay-ins no one else is privy to the details of their earnings.

The Australian Taxation Office publishes a benchmark rate used to direct their own compliance activity in the taxi industry based on the number of kilometres the vehicle has driven. The Taxi Council understands the benchmark is based on Australia-wide averages from income tax declarations and the result of the ATO's audit activity. The rate published by the ATO for 2008/09 is \$1.18 per kilometre. It would be expected that taxis in Sydney would earn higher rates than the national benchmark.

It is impossible to determine what taxi drivers earn per hour as the number of hours worked can vary widely as can the takings for each shift. Many spurious and inconsistent claims have been made about drivers' earnings, but in truth no one has access to reliable information and, apart from the ATO, nor should they. The NSW Taxi Council firmly believes that nobody has a right to know about the earnings of any taxi driver as it is purely a matter for themselves and the ATO.

### Occupational Health & Safety

The Workers Compensation and Injury Management Act requires taxi operators to maintain workers compensation insurance policies for bailee taxi drivers. Bailee taxi drivers and bailor operators are covered by the normal provisions in relation to workers compensation and injury management that apply to employees and employers.

Training provided to taxi drivers and taxi operators covers all aspects of Occupational Health and Safety. Details are included in the training materials supplied with this submission. The NSW Taxi Council believes that the training provided to taxi drivers and taxi operators regarding OHS matters is more extensive than that provided to any other small business operators.

The NSW Taxi Council is represented on WorkCover's Transport & Storage Industry Reference Group and regularly runs campaigns for taxi drivers on OHS issues identified as relevant to the broader transport sector. Information provided to taxi drivers on managing fatigue and manual handling issues are recent examples. As a result of immediate action taken by the industry, Taxi Drivers in NSW were among the very first people to be issued with specific information about measures to minimise the risk of contracting or contributing to the spread of Swine Flu.

Examples of some of the material produced by the NSW Taxi Council for taxi drivers and operators is enclosed (Attachments (7) (8) (9)). It must be noted that these brochures are in addition to the comprehensive material provided during the mandatory industry training and serve as reminders to ensure taxi drivers and operators remain alert to particular safety issues. These are often tailored to complement broader campaigns undertaken by WorkCover from time to time.

There are many specific regulations dealing with the safety of taxi drivers and the public. Some of these have been highlighted in previous sections of this submission. In broad terms taxi operators are responsible for the provision of a vehicle that complies with specified safety requirements and taxi networks are held responsible for the provision of certain equipment and services such as alarm monitoring and responses.

The taxi industry in NSW has been and remains at the forefront of taxi industries around the world in respect to driver safety. NSW was among the first in the world to introduce GPS tracking, duress alarms, security cameras, secure taxi ranks and other innovative safety initiatives such as the SecureCab voucher scheme that records passengers' identity and by improving passenger accountability makes taxi drivers much safer. An example of the material associated with the SecureCab scheme is enclosed with this submission (Attachment (10)).

The Chairman of the Taxi Industry Safety and Security Taskforce noted the following in that Taskforce's final report (December 2007):

*"In the past ten years, there has developed in the NSW Taxi Industry a strong framework of taxi safety initiatives based on the work of the Report into Taxi Driver Safety commissioned by the then Department of Transport in 1995 (the Keatsdale Report). Founded on research and consultation relating to driver safety issues; the NSW approach to taxi industry safety has produced a range of measures which stand up well in comparison to any jurisdiction in the world."*

The industry remains alert and responsive to technological advances and new methods that can increase driver safety. The industry is continuously upgrading safety related features in taxis, for example the industry has contributed to the development of recently updated security camera standards to ensure new cameras take advantage of latest developments in technology. The safety related aspects of the training curriculum for taxi drivers has also undergone a recent review by an independent consultant to ensure it meets expected requirements.

A lot of recent work has focussed on initiatives regarding what happens outside the taxi itself. Expansion in the number of secure taxi ranks, simplified reporting of fare evasion via the Police Assistance Line, ongoing campaigns to encourage drivers to report crimes, and the co-ordinated roll-out of the SecureCab voucher scheme are recent examples.

## **I. Any other related matters**

### **(i). Taxi Industry Training Standards and Provision**

It has been explained elsewhere in this submission that taxi networks are held accountable for service delivery standards. In order to be accountable, networks must be given authority and control over the factors which affect service standards.

Complaint statistics show that the ability of taxi drivers to provide good customer service is the most important factor influencing customer perceptions of service quality. It therefore follows that if networks are to be accountable for service quality then networks must be given the authority and responsibility for managing the training and assessment of taxi drivers.

The NSW Taxi Council has developed and continues to develop the curricula for driver training including special courses for WATs drivers as well as training for operators. The courses exceed national training standards and provide nationally accredited qualifications.

The courses have been developed after extensive consultation with all stakeholder groups in the industry including the relevant Industry Training Advisory Board, disability groups and the Transport Workers Union.

However, NSW Transport & Infrastructure ultimately decides who has the appropriate skills and aptitude to become a taxi driver. The courses developed by the Taxi Council have been approved by NSW T&I as meeting the requirements for driver authorisations and operator accreditation.

However the current arrangements do not allow the industry to exercise proper control over driver training and assessment. NSW T&I administers the assessment of English language skills and locality knowledge. Nevertheless the industry is still held accountable for these matters. Prior to becoming a taxi driver in Sydney, applicants must correctly answer 16 of 20 questions from a pool of questions about 500 locations, and 8 out of 10 questions selected from a pool of 200 on routes, 8 out of 10 questions from a pool of 200 streets and 9 out of 10 questions selected at random on the Passenger Transport Regulations.

The NSW Taxi Council has considerable concerns regarding the future of training and authorisation for taxi drivers in New South Wales.

The Council of Australian Governments is undertaking steps to develop both national training standards and to issue national licences (taxi driver authorities) for taxi drivers. These initiatives will

lessen the control both the NSW Government and the taxi industry itself will have over training competencies and the standard of training delivery.

When the Federal agency is established for taxi driver licensing then the NSW Government will only be able to deal with taxi drivers under the authority of the Commonwealth agency. These initiatives ignore the reality that taxi driving is by definition a locality-based job, with specific locality-based competencies.

Different regulations, different geography, different customer groups, different safety systems exist in every state. It seems incongruous to try and overlay a national system unless all other regulations affecting the industry are also nationalised. Because New South Wales has more stringent requirements than other states, it is inevitable that the forthcoming national system of training and licensing will result in lower standards than currently exist. The only alternative will be to create a duplication of effort and require two tiers of training to develop local competencies. The government and industry will still be forced to accept qualifications issued for national competencies and recognise training and assessment provided by training organisations interstate.

The national training regime's inability to control the quality of training has been demonstrated in a number of areas in recent years including the extensive and well-publicised rorting of security industry training, fork lift driver training, even pilot training. The taxi industry would suffer enormously if and when similar problems arise in our industry. It is only after significant damage has been done that the causes of the problems are addressed. If the doors are opened, the taxi industry will certainly appear attractive to unscrupulous training providers looking for a quick buck before moving on. The impact on customer service and safety are potentially very severe.

Reliance on national training standards will not do enough to meet the needs of the industry or the expectations of the public in New South Wales. National standards cannot take into account interstate variations in conditions and requirements, and national standards are utterly inadequate when it comes to taxi driver training. The industry itself must be allowed to develop training and assessment procedures and standards which allow it to be held accountable and deliver customer service to the standards expected by the public and the government.

Compliance with the standards imposed by the Vocational Educational and Training Board (VETAB) has little or no bearing on the quality of training a Registered Training Organisation may be providing. In cases where unethical training organisations have become involved we have found VETAB insufficiently resourced to deal with the issue. In previous cases, the Taxi Council itself was the only party able to eradicate unscrupulous trainers from the industry. Neither the regulator of training organisations, VETAB, nor the then Ministry of Transport were able to ultimately ensure that training standards were being met.

The NSW Taxi Council licences the Taxicare Plus (driver training) course to registered training organisations to deliver training to drivers wanting to enter the industry. The materials for this course are included at Attachment (11). The course involves a minimum of 140 hours training and includes modules on occupational health and safety, industrial relations, customer service, passengers with special needs, use of equipment, rules and regulations, localities and routes, and taxi driving skills.

The training for taxi drivers in Sydney is unique in the world as it includes some post-experience components.

During their first year of driving a taxi, drivers must complete two workshops based on their own experiences recorded in a driver log-book with their school and attend two half-day seminars run by the NSW Taxi Council. The seminars include presentations from Guide Dogs NSW, Police, Sydney Airport Corporation, WorkCover, Australian Taxation Office, Cabcharge, Transport Workers' Union and NSW T&I Compliance Officers. These seminars re-visit a range of topics that become more meaningful to drivers once they have had some experience of driving taxis. They also provide new taxi drivers with the opportunity to ask questions of subject-matter experts in relation to issues that have affected them or experiences they have had driving taxis.

No other Australian jurisdiction - and we doubt that any other jurisdiction in the world - provides this type of training for taxi drivers. The NSW Taxi Council cannot see how this additional training can continue to be made mandatory under the proposed National Training Standards and in particular once National Occupational Licensing is introduced for taxi drivers.

The NSW Taxi Council has developed an open-learning course for taxi drivers in country areas, included at attachment (12).

The NSW Taxi Council delivers the course required for authorisation as a WATS driver and also the course required for accreditation as a taxi operator. Both these specialist courses were suggested and originated by the Council.

WATS drivers must already be authorised as a taxi driver and must undergo extra training which takes two full days in the classroom for drivers in the metropolitan district and one classroom day or open learning in country areas. Course materials for these courses are included as attachments to this submission (Attachments (13) (14)). All participants are required to undertake both written and practical assessment. A national training and licensing system would provide nowhere near the amount and level of training currently provided for WATs drivers in New South Wales.

The Taxicare Taxi Operator course involves three full days in the classroom plus separate project work over a two week period. The course is focused on vehicle and equipment standards, safety and maintenance, business management, industrial relations and regulations applying to taxi operators.

Course materials for this course has been provided as an attachment to this submission. (Attachment (15)).

In addition to these courses, the NSW Taxi Council has developed (in conjunction with Community Transport Organisation) training materials for taxi drivers to improve the quality of service the taxi industry can provide for clients of community transport organisations where these organisations 'broker' services to the taxi industry. Materials for this course are enclosed with this submission (Attachment (16)).

Entry-level careers in many other industries are supported by the new apprenticeship and traineeship arrangements. Taxi drivers are specifically excluded from this system by the wording of the Traineeship Act for no obvious justifiable reason.

The absence of traineeship support for people entering the taxi industry may be preventing some people choosing a career as a taxi driver over alternative careers in other customer service or hospitality industries.

### **Recommendation 8**

*The government withdraw support for inclusion of taxi drivers in national occupational licensing.*

### **Recommendation 9**

*The government amend the Traineeship Act to incorporate bailee taxi drivers and make them eligible for traineeship support.*

#### **(ii). Restrictions on Taxi Access**

In many areas, restrictions imposed on stopping create significant problems for taxi drivers in trying to provide the service expected by their passengers. Poor planning decisions during the design phase of major development mean that taxi access is often neglected until after the development has been completed. Major buildings that create a constant flow of people wanting to come and go by taxi are often surrounded by "no stopping" or other restricted zones.

Higher priority needs to be assigned to the needs of taxi passengers and the issue of how the industry can provide the level of door-to-door service expected.

The number and usage of private cars can only be reduced by increasing the proportion of each individual's transport needs that can be fulfilled using public transport. It is therefore essential in our view that a suite of public transport options are encouraged, supported and facilitated.

The taxi industry plays a particularly important role for some key groups in the community who often have no other viable public transport options available. This includes people who are frail or elderly; who are travelling with shopping, luggage or young children and; those who have either temporary or permanent disabilities of various types including people who use wheelchairs and other mobility aids. For these people, adequate access is essential and their need goes well beyond mere convenience.

Notwithstanding some improvement, problems experienced by taxi drivers trying to meet passengers' demands and deliver a service remain acute. The limited availability of legal drop-off and pick-up locations means that taxi drivers risk either infuriating their passengers or attracting large penalties for trying to do their job in providing a high level of service and convenience. In many cases drivers have little practical opportunity to defend their case as penalty notices are issued by mail arriving some weeks after the event. There is a lack of natural justice when a driver has no way of remembering the particular circumstances surrounding the event and whether or not there were mitigating factors involved such as safety issues.

It seems taxis are often not mentioned along with other public transport modes and this creates an impression that the industry remains at risk of being forgotten or considered as an afterthought in planning policies. In the past this has led to problems, with major taxi trip generating developments such as the KPMG building and Westpac headquarters in the Sydney CBD being approved without proper consideration of the needs of the building occupiers to access taxis at convenient locations.

Simple and effective solutions are achievable in such situations provided the matter is considered early enough in the planning and design process. It is often very difficult or impossible to solve problems after everything has been built.

Furthermore, the necessity of road rules that prohibit taxi drivers from stopping briefly to pick-up or set-down passengers in mail zones is a source of bafflement for the NSW Taxi Council.

### **Recommendation 10**

*Planning regulations and road rules be reviewed to ensure access for taxis is adequately considered along with other modes of public transport.*



#### **4. Works Cited and List of Attachments**

1. **Ministry of Transport.** *Guide for Authorised Taxi-cab Network Providers and Taxi-cab Network Services Standards for the Sydney Metropolitan, Newcastle and Wollongong Transport Districts and the Local Government Areas of Gosford & Wyong.* May 2008.
2. **Nichols, Des.** *The Role of the Public Interest Test in the application of National Competition Policy to the Australian Taxi Industry.* s.l. : Australian National University, 2003.
3. **Europe Economics.** *Evaluating the Impact of the taxis market study. A report for OFT.* October 2007. (Note: This report is not attached with this submission)
4. **Nicholls, Des.** *Transporting the Wheelchair Dependent - A Review of the Wheelchair Accessible Taxi Industry.* s.l. : Australian National University, 2006.
5. **NSW Taxi Council Ltd.** *Wheelchair Accessible Taxi Service (WATS) Taxi Driver Radio Hiring Procedures Handbook.* Version 9 2007.
6. —. *NSW Wheelchair Accessible Taxi Service - Helping us meet your needs.*
7. —. *Fatigue & the Taxi Driver.* OHS Brochure No. 3.
8. —. *Operating a Taxi in NSW OHS Rights & Responsibilities.* OHS Leaflet No. 1.
9. —. *NSW Taxi Driver Guide to a Safer Workplace.* Booklet.
10. —. *SecureCab Scheme Materials.*
11. —. *Course Materials.* TaxiCare Plus Bronze & Silver Levels (Taxi Driver Program).
12. —. *Course Materials.* Taxicare Basic (Country Taxi Driver Program).
13. —. *Course Materials.* TaxiCare Wheelchair Accessible Taxi Service (WATS) Classroom Lead Study Only.
14. —. *Course Materials.* Wheelchair Accessible Taxi Service (WATS) Distance Learning Program.
15. —. *Course Material.* TaxiCare Taxi Operator Program.
16. —. *Course Material.* Community Transport Driver Training Program.