

**Submission
No 81**

INQUIRY INTO OPERATION OF THE POINT TO POINT TRANSPORT (TAXIS AND HIRE VEHICLES) ACT 2016

Organisation: Legion Cabs

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**Portfolio Committee no.6 Transport and Customer Service
Inquiry into the operation of the Point to Point Transport (Taxis and Hire
Vehicles) Act 2016**

Legion Cabs is Sydney's 3rd biggest taxi network and has been servicing Sydney for over 50 years. Founded by returned servicemen, we have a rich history in being part of the fabric of Sydney. We are one of the largest co-operatives in New South Wales with over 300 members.

We moved from our iconic Surry Hills base 7 years ago to our new head office in Wolli Creek.

Legion supplies call centre operations to St George cabs and services around 700 vehicles. We employ about 40 staff in our call centre and are proud to be part of the NSW Taxi Industry.

Legion has struggled greatly, like all taxi networks, to navigate through the reforms. We fully support safety-based legislation such as this is but note that many parts of the act make a mockery of the fact that the regulation is based around safety.

Whilst Legion is enormously grateful for some of the reforms, many leave gaping holes or stifle competition and do not allow the Taxi Industry to realize its full potential. The over burdening of taxi networks in red tape is of primary concern to us. Our running costs have increased dramatically since the introduction of the act and are making it increasingly difficult to "keep the doors open" for us and many other taxi networks throughout New South Wales.

Legion welcomed most of the reforms from the Sturgess report, but we note that the cornerstone of the reforms was the buyback of plates by the New South Wales Government. To ignore the biggest reform yet take on the rest was not in the best interests of the Taxi Industry and feels to many like it was designed to hamstring us from the start. This is akin to buying decorations but not bothering to buy the Christmas tree to put them on.

The almost half a billion dollars in assistance given to the industry is something we are enormously grateful for. Regrettably, the way the payments have been structured means the biggest recipient of the assistance payments was the Australian Taxation Office. The payment structure left many of the most vulnerable and elderly plate owners in our industry in a worse position than before. Urgent consideration must be given to addressing these inequities – Our industry has been crying out for help for 5 years now and it is enormously disappointing that the industry had to resort to a petition to Parliament to get this review to occur given one was promised with 12 months by then Premier Mike Baird.

- 1) That, on completion of the inquiry into the Sydenham-Bankstown line conversion, Portfolio Committee No.6 – Transport and Customer Service, inquire into and report on the operation of the *Point to point transport (Taxis and Hire Vehicles) act 2016* and in particular:
 - (a) The operation of the regulatory system applying to the taxi industry,
 - (b) Specifically, the system of bailment that operates in relation to the taxi industry, any changes pursued by the NSW Government to be made to the system of bailment since enactment of the legislation, and any changes that should be made,
 - (c) The implementation of the industry assistance package for the taxi industry, including the Passenger Service Levy and how it has been applied,
 - (d) The Impact of the legislation on the value of taxi plates,
 - (e) The role and function of the Point to Point Transport Commissioner, and
 - (f) Any other related matter.

Legion notes that the aims of the reform were to have opened up competition in the point to point transport sector and “level the playing field”, the reforms were supposed to cut \$30 million of red tape from the Industry and the reforms were to have provided adequate assistance to those who had invested in the industry.

Of those points, we conclude that while some good has come from the reforms, the many majority have fallen short, some with devastating consequences to those who in good faith bought a licence from the NSW Government expecting to make a fair living with it.

The opening up of competition.

Rideshare service Uber was allowed to operate illegally by the New South Wales Government for long enough to get a foothold in the marketplace and then the marketplace was changed to accommodate them – It’s was not a surprise to any of us as we have seen this organization do this is just about every jurisdiction in the world. It was a surprise to see them be allowed to operate with absolute impunity and with absolutely zero repercussions. As an industry, we had always had an enormous respect, reverence and trust for our regulator and to see an overseas company arrive on our shores and decimate our businesses has done serious damage to that relationship.

To this day, Rideshare companies from all over the world have poured in to New South Wales to set up shop with little or no barriers to entry, aided by a regulatory model biased towards their business model, the NSW Taxi Industry – Australian small businesses – are left struggling to compete.

It is important to note that Rideshare companies sing that they have over 20,000 drivers on the streets of Sydney, yet the compliance figures have continually shown that they are

barely represented in compliance activity from the Point to Point Commission – this is not the fault of the Commission but the fault of the regulations that laughably require only signage for rideshare vehicles to be placed at the rear drivers side.

For compliance officers who are looking for vehicles to inspect – the task is impossible given those vehicles are only identifiable once they have passed the compliance officer. It is simply not possible for an officer under the act to execute their duties properly without adequate front facing signage on ride share vehicles.

Rideshare vehicles in many other jurisdictions throughout the world have more sensible, clear signage identifying them not only to passengers, but importantly to compliance officers.

This inability of compliance officers (be they NSW Police or from the Commission) has led to an underground network of Rideshare drivers that regularly offer passengers a ride outside of their own app and little or nothing can be done to stop this behaviour because the vehicles are not easily identifiable. This is a gaping hole in the Safety aspect of the regulation that must be addressed immediately.

The abhorrent practice of Rideshare companies to “Surge Price” is nothing short of state sponsored acceptance of price gouging. Sure “let the market decide” but when the price is presented in a deceptive way that requires a prospective passenger to perform mathematical calculations in their head (often when intoxicated), one really must question the regulations allowing this to happen. The mystical way most rideshare companies tell you they are going to charge you your first born to take you 2 kilometers down the road is misleading and reprehensible. There are many examples in the press of rideshare passengers being stung hundreds, sometimes thousands of dollars, the deregulation of the booked market is again an example of the regulations being changed to ensure rideshare can continue to operate as they want.

Rideshare companies routinely advertise taxi prices to be substantially more than they are in their apps to entice customers to use their services even though taxis are often cheaper than rideshare now, again, nothing is done to address this concern. If Virgin suddenly started saying that a \$200 flight with Qantas was \$300 the ACCC would be all over them, yet they have failed to act in the consumers interest with Ride share and taxis. One must ask why?

The biggest disparity is CTP. Rideshare services have again been given a distinct competitive advantage in the CTP space. Rideshare drivers are also not required to carry workers compensation, yet many rideshare operators have similar lease agreements as taxi services do. This also applies to the Bailment system. A rideshare driver cannot fall under the bailment part of the act so again the taxi industry operates at a disadvantage.

The removal of Red Tape:

The one reform that sounded the best to us was the removal of \$30 million worth of red tape! Regrettably, this was absolutely not the case, this cost was simply offloaded from Government to an industry already struggling under the weight of the unfair competitive landscape.

Instead of freeing taxis from the shackles of bureaucracy, the industry has instead been weighed down by ludicrous amounts of red tape and officialdom.

During our recent “safety” audit, we were told we would receive an improvement notice because our safety management system was not on Legion cabs letterhead. We then were told we would receive an improvement notice for not having a mission statement – insanity.

We asked our auditors for evidence on how wasting paper and having our safety management system on legions letterhead improves safety for our passengers – an answer could not be given. Similarly, I questioned how Legion having a mission statement made a taxi journey for an elderly passenger safer? The simple answer is, neither of those things do.

Legion is also required – at enormous cost to us – to collect and remit to Revenue NSW the passenger service levy. This costs Legion around \$20,000.00 per year. When added to the already burdensome cost of dealing with compliance this makes for a very unfair competitive landscape, again, the regulation is geared towards ridesharing as the money flows differently in their ecosystem allowing them to “clip the ticket” directly from the passenger and the money flows down to the driver. Taxis are at a distinct disadvantage because the driver collects the money from the passenger and as a result, the money basically flows the opposite direction back up to the Taxi Network.

Legion has requested through the New South Wales Taxi Council that the Government offer some financial assistance to the network to assist with these costs but to no avail. We are essentially operating as unpaid tax collectors for the NSW Government.

It is also of great concern that Revenue NSW declined a request to operate as collectors of the passenger service levy stating that it would cost them 51c in the dollar to do so yet we are expected to do this at significant cost to our organization.

Operator (affiliate) accountability is another major area of concern, Formerly, operators had been required to complete an accreditation course showing them the correct way to operate a vehicle in a safe manner, now under what is supposed to be safety based regulation, they have zero responsibility. Essentially, the person responsible for the safety of the vehicle has no legal responsibility for the safety of the vehicle in the regulations.

With an “absentee workforce” like the Taxi industry, it presents enormous difficulty for taxi networks to police and enforce our safety management systems and again puts the industry at a competitive disadvantage as troublesome operators simply move somewhere else with zero accountability.

The Vehicle age limit used to be 6 years 6 months for a standard taxi. This was inexplicably scrapped – how this is supposed to make the point to point transport sector safer is completely beyond any of us.

It is now not uncommon to see taxis on the road that are twice this former age limit. It is widely known that older vehicles are less safe than modern ones – again making an absolute mockery of this being safety-based regulation. This absolutely must be changed back as a matter of urgency. It is plainly a matter of public safety.

Industry Assistance:

While well intentioned, the industry assistance packages all missed the mark completely. The way the payments were structured resulted in the lion's share going to the ATO leaving plate owners with as little as \$12,000.00 of the \$20,000.00 payment.

Many of these people being self funded retirees who had invested in a taxi plate as a way to earn a living and have a nest egg at retirement are now left with an asset that they have worked over 40 years for reduced to next to nothing. Any lease value of the plate that was to supplement the income of these self funded retirees is now also down to almost nothing.

The THVIAP payment scheme was very poorly managed. An enormously complex application form of dozens of pages when presented to many accountants, would be applicants were told “don't bother, you won't get anything”.

The disparity in applications was also worrisome. Some applicants reported whilst being in severe financial distress that they had been told they failed to qualify, while others in much better financial shape had been given large payments. Many applicants had to wait almost a year to receive news of their application only to be told they would not be receiving any further payment. This was deeply disheartening for many.

An unintended consequence of the structure of these payments is that many taxi licence owners are now financially worse off as their pensions have been reduced or other entitlements revoked because of the payment being classed as extra income.

The failure to adopt the cornerstone recommendation in the Sturgess review of buying back the taxi plates has left taxi plate owners in a limbo. This is easily remedied by paying out taxi licence plate owners at the fair and just value described in the Sturgess report and funding this with the Passenger Service Levy and the money the NSW Government would make from leasing taxi plates, eventually turning a lazy asset into a cash positive one, and, importantly, at zero cost to the NSW Taxpayer.

You can understand the dismay of taxi licence owners seeing the hire car industry being given sale price + CPI seeing some hire car owners given over \$150,000 yet taxi licence owners being left with \$13,000 or less. This coming just a few years after the deregulation of HC plates when those who owned HC plates were given a taxi plate.

From a taxi network perspective, we did not receive any assistance to transition to the new regulations (apart from access to the business connect advisors). The transition to the new regulations cost us significant amounts of money. This was extremely difficult for us given the industry had already been subject to years of erosion of our core business by rideshare operating illegally. The impacts of which have seen a reduction in taxi patronage of up to 50% in some areas.

With all that said, The industry was extremely grateful for this assistance/transition package. Regrettably though, the money just never got to where it needed to go. For the most part, plate owners received around \$13,000 for an investment – often their superannuation – of up to \$450,000.00

It is imperative that the red tape holding the Taxi industry down be minimized. It is also imperative that the costs associated with compliance be addressed. It is imperative that immediate changes be made to the CTP scheme.

If the Government is serious about a ten-year plan ensuring the viability of taxi in New South Wales, then Government must address immediately the inadequacies and the unfairness of regulation geared towards rideshare. Taxis have served the people of New South Wales for many years and it is enormously disappointing to see the industry left in a position where it cannot easily compete without being smothered in red tape and additional costs not shared by its competitors that do exactly the same task (with the obvious exception of rank and hail work).

From a network perspective it feels as if Ride Share has been given the smooth freeway to travel and we are relegated to the bumpy backroads to do our jobs.

The reforms supposed to increase competition have served only to give rideshare an advantage over the traditional industry. Taxi networks have seen massive increases in operating costs, plate asset values tumble, lease prices for taxi plates fall and a suffocating increase in red tape. The much-lauded reduction in fares has never happened, even rideshare companies have dramatically increased their prices due to the increased operating costs of the regulatory environment. This is a very poor outcome for the travelling public.

Legion notes that removing the plate owner from the industry will free up resources and money in the industry and allow it to flourish again. Removing the ridiculous amounts of red tape will allow industry to innovate and restricting the number of Rideshare vehicles on the roads will relieve congestion on Sydney's already choked roads and allow a more competitive industry to emerge. This will benefit the traveling public of NSW and allow more equitable competition between taxis and rideshare.

There is clearly a market for both services to exist in New South Wales, but we must be allowed to compete equitably. Whilst taxis have the additional safety and security systems required for rank and hail work, we must not be hamstrung by the additional regulation while rideshare are almost free to do as they please.

It is understood that the aim of the changes was to make life easier for all of us in the point to point industry. This has happened in very few cases. Urgent attention is sought by the industry to addressing the only recommendation of the Sturgess report not adopted – the buy back of plates at a fair and just price.

Attention must also be given to the nature of the regulations that is geared towards rideshare and puts the traditional taxi industry at great disadvantage.

Attention must also be given to the reimbursement of costs associated with compliance, in particular the Passenger Service Levy.

By definition, submissions like this are generally more of about pointing out the deficiencies in regulation or legislation so it is important to note the excellent work being done by many in Transport for NSW and at the Point to Point Transport Commission.

While the regulations are at times cumbersome or not quite where they need to be, the staff at these two organizations have been of enormous assistance to us during the last few years and they deserve our thanks for that.

During the first part of the industry assistance package, Transport for NSW provided a hotline for applicants to be able to seek assistance. Due to the age or non english speaking backgrounds of many applicants, we as a network helped many plate owners with getting the right paperwork together and submitting applications – I have to say the assistance given was exemplary.

I have found my recent interactions with staff at the Point to Point Commission to be excellent and the commonsense approach to interpreting the regulations has been excellent.

We would like to thank the New South Wales Government and Minister Constance for allowing this review to proceed even during the pandemic.