



24 January 2013

By email: yoursay@transport.vic.gov.au

Taxi Inquiry Response Unit
Department of Transport
PO Box 2797
Melbourne Vic 3001

Dear Sir/Madam,

Taxi Industry Inquiry—Response to Final Report

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on the Taxi Industry Inquiry's Final Report, *Customers First—Service, Safety, Choice* (the **report**).¹

This report is an important one. The taxi industry is one where consumers often don't receive the level of service expected, and where many of those working in the industry are facing low pay and draconian "employment" arrangements. We believe that the close integration, and ownership arrangements in relation to taxi licences and services such as booking, training and payment facilities, contribute to poor consumer outcomes. We don't believe that significant consumer benefits will result unless there is structural reform. We therefore generally support the proposals of the report.

However, in addition to these necessary structural reforms, we submit that regular and careful monitoring of the proposals is undertaken by the Taxi Services Commission (the **Commission**), both during the implementation process and subsequently. The report promotes competition as a framework for the industry, to enhance service performance and customer choice. While we support enhanced competition in the taxi industry, it is our view that competition on its own does not guarantee improved outcomes. Ongoing monitoring can help ensure competition actually delivers benefits to consumers.

Our comments are detailed more fully below.

¹ Taxi Industry Inquiry's Final report: Customers First - Service, Safety, Choice, September 2012, url <http://www.taxiindustryinquiry.vic.gov.au/_data/assets/pdf_file/0008/83870/TII-Final-Report-Overview-and-Recommendations-December-2012.PDF>

Consumer Action Law Centre

Level 7, 459 Little Collins Street Telephone 03 9670 5088
Melbourne Victoria 3000 Facsimile 03 9629 6898

info@consumeraction.org.au
www.consumeraction.org.au

About Consumer Action

Consumer Action is an independent, not-for-profit, campaign-focused casework and policy organisation. Consumer Action offers free legal advice, pursues consumer litigation and provides financial counselling to vulnerable and disadvantaged consumers across Victoria. Consumer Action is also a nationally-recognised and influential policy and research body, pursuing a law reform agenda across a range of important consumer issues at a governmental level, in the media, and in the community directly.

Competition and consumers

Consumer Action welcomes the report's focus on structural and regulatory reform for Victoria's taxi and car hire industry. We also welcome the focus on enhancing competition in the industry, particularly as there is some indication of large players exercising market power to the detriment of consumers.² Preventing anti-competitive conduct is fundamental to the welfare of Victorian consumers. Fair, effective and competitive markets generally deliver the best price, quality and access to goods and services to the majority of consumers.

The focus of the report is on the supply side of the industry. However, for competition to be effective, consideration should also be given to the demand side of the market—that is, the role of consumers. Both consumers' experience in markets and consumers' behaviour in markets are relevant. This focus on consumers is needed because experience with many markets is that the benefits of competition have not been distributed evenly, and some disadvantaged and vulnerable consumers miss out altogether or may be worse off.

In terms of consumers' experience in markets, it's long been recognised the consumers' play an important role in achieving effective competition. For example, Ron Bannerman, the then Chairman of the Trade Practices Commission, said in the Commission's 1984 Annual Report that:

Consumers not only benefit from competition, they activate it, and one of the purposes of consumer protection law is to ensure they are in a position to do so.

The Productivity Commission has also stated that the 'important role of consumer protection regulation in facilitating the efficient functioning of markets has long been recognised'.³

For the taxi industry, attention must be equally given to the information, support and protection provided for consumers so that they are confident to use the taxi system. In this respect, we welcome the recommendations designed to improve information and complaint services for consumers—these are discussed further below. In our view, the Commission must also be charged with regularly monitoring the effectiveness of competition and other reform proposals, and particularly reviewing how consumers are faring in the market. To do this, the Commission should have consumer protection as one of its central objectives. Without this level of monitoring

² Adam Carey, "Secret World of Our Taxi Titans", *The Age* (5 January 2013) <<http://www.theage.com.au/victoria/secret-world-of-our-taxi-titans-20130104-2c91y.html>>

³ Productivity Commission. 2004. Discussion draft for the *Public Enquiry Review of National Competition Policy Reforms*, 27 October 2004, p. 218.

by the Commission, and focus on consumers, many of the benefits suggested by the report may not accrue.

Key Recommendation 1: *That consumer protection is adopted as a specific objective of the proposed Taxi Services Commission.*

Licensing reforms

The report recommends a reformed approach to licensing which will enhance the availability of licences, particularly through licence prices that are much lower than existing arrangements. Consumer Action supports this approach. In particular, the modelling undertaken by the inquiry which suggests that existing licence restrictions cost Melbourne taxi consumers around \$120 million year and that there are other associated welfare losses, indicates that reform is necessary. As the report notes, 'if the current profits made by licence owners were used instead to *lower prices and increase service availability*, the likely gains to consumers would outweigh the loss experienced by licence owners'.

In our view, the proposals—particularly the imposition of an annual licence fee as a market-based rationing mechanism (rather than an open market), and the proposal that the Commission be charged with monitoring the number of licences for wheelchair accessible taxis—will ensure that transition to the new licensing framework is managed appropriately. As per our recommendation above, we suggest the Commission's role in monitoring this transition should be enhanced—it should regularly review the taxi industry market to ensure that the trajectory of reforms is benefiting taxi users.

Key Recommendation 2: *That the proposed Taxi Services Commission have a comprehensive role in monitoring outcomes for consumers across the taxi industry, particularly in the transition to the new framework.*

Fares and surcharges

We strongly support the proposal to significantly reduce the surcharge or "service fee" for using an electronic payment from 10 percent, which is clearly an excessive amount when compared with surcharges for other payment systems.

We note that since the completion of the report, the Reserve Bank of Australia has finalised its *Guidance Note: Interpretation of the Surcharging Standards*⁴ which will come into effect from 18 March 2013. We note that pursuant to this guidance, card schemes will be able to limit surcharges to the "reasonable cost of acceptance". While we support this, we note that it relies on the card schemes (Mastercard, Visa) to police surcharges, but it's not clear where or how consumers are to make complaints where merchants impose unreasonable surcharges. We also note that that surcharges on electronic payments contrast with no surcharges for other payments mechanisms such as cash, for which there are also "costs of acceptance". On one view, costs of acceptance should be costs of doing business and included in the overall price of the service—

⁴ Reserve Bank of Australia, *Guidance Note: Interpretation of the Surcharging Standards* (November 2012) < <http://www.rba.gov.au/payments-system/reforms/cards/201211-var-surcharging-stnds-guidance/guidance-note.html>>

this would certainly make pricing clearer to consumers. Nevertheless, we do recognise that there may be efficiencies gained by consumers being charged only the cost of the payment method chosen, however we are not yet convinced that relying on the card schemes will produce such efficiencies.

Given this, we strongly support the proposal for the service fee to be brought under regulation. We note the proposal that the fee be initially set at 5 per cent before being set by the Commission. We think that a reasonable cost of acceptance for electronic payments of taxi fares is likely to be far lower than the suggested 5 per cent, and in its regulation, the Commission should use average surcharges across other electronic payments as a benchmark.⁵ In its assessment, the Commission should also consider the benefits to the industry of electronic payments—security and reduced risk of lost or stolen cash—and discount the surcharge appropriately.

We generally support the proposed changes to fare regulation so that maximum fares are prescribed, as this is likely to have a beneficial effect for consumers through the potential for discounting taxi fares. We note that any change will require significant consumer education, particularly about their rights in relation to fares and how to identify differently priced fares. We note the proposal that following three years, the Commission should assess the extent and effectiveness of competition to determine whether to move from maximum fares to notification and monitored fares. We welcome extensive review before such a change, and submit that such a review must specifically consider effectiveness from the consumer standpoint, including understanding and effective exercise of choice. Further, we would argue that it is important to empower the Commission to undertake ongoing reviews to ensure that the new system is operating in a way that is beneficial to consumers.

We support the proposal to promote the operation of share-ride schemes, through industry guidelines. We agree that new service innovations can operate in the consumer interest, particularly where they will deliver transport at cheaper prices. We note that the industry is currently trialling a share ride scheme from the CBD Queen Street mega rank with each passenger paying \$30 irrespective of how far they travel—this is an excellent service innovation that can deliver reduced fares to outer suburbs. We think such innovations should be promoted.

Key Recommendation 3: *That service fees for electronic payments be brought under regulation, and be reduced to a level relating to the cost of accepting payment, which we believe would be well below 5 per cent of the fare.*

Key Recommendation 4: *That significant consumer education is provided as to fare rights and how to identify fares, particularly before fare-setting is de-regulated further.*

Customer service and complaint handling

We support the proposals to improve consumer information, including the establishment of a public register of all approved drivers, permit holders and authorised taxi organisations. Improved

⁵ In 2010, the Reserve Bank found the average surcharge for MasterCard credit cards was 1.8 per cent, Visa was 1.9 per cent, American Express was 2.9 per cent and Diners Club was 4 per cent: RBA, *A guide to the card payment system reforms*, available at: <http://www.rba.gov.au/publications/bulletin/2010/sep/7.html>.

information on consumer rights and obligations, as well transparency around the industry, should improve consumer confidence.

We also strongly support the proposal for authorised taxi organisations to be made subject to the consumer guarantee provisions of the Australian Consumer Law. The consumer guarantee provisions provide important consumer protections requiring service providers to use reasonable care and skill in the provision of services, and to deliver services within a reasonable time. These are important protections that apply economy-wide, and should equally apply to transport services such as taxis. Industry guidelines could be developed outlining compensation arrangements when these guarantees are breached.

The proposal that the Commission should undertake consumer research, including 'mystery shopper' inspections of services and waiting time surveys, and publish the results of this research, is welcome. Such research should be part of comprehensive ongoing monitoring of the industry undertaken by the Commission.

We broadly support service providers being responsible for the resolution of complaints regarding service delivery, and that they implement complaint handling procedures that align with the Australian Standard on complaint handling. In our view, however, it is important that service providers monitor and report publicly on their complaint management performance—we welcome the proposal for the Commission to monitor complaints management and report results on its website. However, if service providers fail to show improvement over time in managing and resolving complaints, we are of the opinion that service providers should be required to become a member of an external dispute resolution scheme, such as the Public Transport Ombudsman. As noted in our initial submission to the inquiry, external dispute resolution schemes can improve industry complaints handling and dispute management for consumers.⁶

We also support measures to improve the quality of taxi driver knowledge, as clearly this will have benefits for consumers.

Key Recommendation 4: *That service providers monitor and report publicly on their complaints management performance.*

Key Recommendation 5: *That the taxi industry develop an industry guideline outlining compensation arrangements where consumer guarantees in the Australian Consumer Law are breached.*

Key Recommendation 6: *If problems in industry complaints handling persist, that service providers be required to become a member of an external dispute resolution scheme.*

⁶ Consumer Action, *Submission to Taxi Industry Inquiry consultation paper*, 24 June 2011, available at: <http://consumeraction.org.au/submission-taxi-industry-inquiry-complaints-handling-and-dispute-resolution/>.

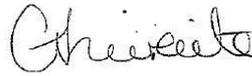
Please contact Catherine Thwaite on 03 9670 5088 or at cathy@consumeraction.org.au if you have any questions about this submission.

Yours sincerely

CONSUMER ACTION LAW CENTRE



Gerard Brody
Director—Policy & Campaigns



Catherine Thwaite
Policy Officer