SUBMISSION TO THE
COMPETITION POLICY REVIEW
FROM
AUSTRALIAN TAXI INDUSTRY
ASSOCIATION LIMITED (ATIA)

Issues Paper Date: 14 April 2014

Recipient: Competition Policy Review Secretariat
The Treasury
Langton Crescent
Parkes ACT 2060

Submitted by: Blair Davies, CEO
ATIA
PO Box 1388
North Lakes Q 4509
w: www.atia.com.au
p: 07 3467 3560
e: blairdavies@atia.com.au
# TABLE OF CONTENTS

OVERVIEW OF THE AUSTRALIAN TAXI INDUSTRY ASSOCIATION........ 3
TAXIS IN AUSTRALIA..................................................................................... 3
STRUCTURE OF THIS SUBMISSION............................................................ 4
COMPETITION POLICY.................................................................................. 4
REGULATORY IMPEDIMENTS TO COMPETITION ...................................... 6
GOVERNMENT PROVIDED GOODS AND SERVICES AND COMPETITIVE NEUTRALITY................................................................................................... 9
POTENTIAL REFORMS IN OTHER SECTORS ........................................... 11
COMPETITION LAWS................................................................................... 12
ADMINISTRATION OF COMPETITION POLICY ......................................... 16
OVERVIEW OF THE AUSTRALIAN TAXI INDUSTRY ASSOCIATION

The Australian Taxi Industry Association (ATIA) is the national peak representative body for the taxi industry in Australia. Its membership comprises the following State/Territory taxi industry representative bodies –

- New South Wales Taxi Industry Association;
- Victorian Taxi Association;
- Taxi Council Queensland;
- Taxi Council of Western Australia;
- Taxi Council South Australia;
- Taxi Council of the Northern Territory; and
- Canberra Taxi Industry Association.

The ATIA accordingly represents every significant segment and occupation within the industry, including –

- taxi license owners;
- taxi operators;
- taxi booking / dispatch companies (networks); and
- taxi drivers.

TAXIS IN AUSTRALIA

The Australian taxi industry plays a unique and pivotal role in the overall public transport system. Taxis operate on-demand, 24 hours a day, 365 days a year, offering a door-to-door service. Each year in Australia, approximately 20,000+ taxis move more than 350 million passengers and provide gainful work and business opportunities for more than 75,000 people directly within the industry. Approximately, 12% of the taxi fleet is wheelchair accessible.\(^1\) Taxis play an essential role in servicing the needs of the community in general and key sections of the community in particular. Notably the latter include -

- the elderly;
- people with disabilities;
- the young or vulnerable;
- disadvantaged socio economic groups: and
- business travellers.

In rural Australia, taxis are often the only form of public passenger transport available. This is also effectively true for many fringe suburbs and the conurbations surrounding major cities where low density development impedes viable provision of mass transit services. The night economies in virtually every Australian city and town

---

\(^1\) As required and defined under the Disability Standards for Accessible Public Transport (2002). These Standards are significantly higher than the standards in some overseas jurisdictions, notably London, where complying accessible vehicles can only safely accommodate relatively small wheelchairs or mobility devices.
are dependent on their local taxi service to provide 24/7 services for customers and patrons.

Taxis are quite literally for many Australians, at some time or other, an essential service that must remain both available and affordable. The characteristics of Australia's urban form(s) and the aging of the population will likely see this reliance on taxis increase in the future.

STRUCTURE OF THIS SUBMISSION

The ATIA's submission articulates the Australian taxi industry’s responses to the questions posed in the Competition Policy Review's Issues Paper dated 14 April 2014. The submission hereafter uses the same section headings as appeared in the Issues Paper. The ATIA's submission provides comments only on those questions in the Issues Paper of most relevance or interest to the taxi industry.

COMPETITION POLICY

What should be the priorities for a competition policy reform agenda to ensure that efficient businesses, large or small, can compete effectively and drive growth in productivity and living standards?

Competition Policy Reform is often misunderstood as simply deregulation and the removal of barriers to entry for prospective market participants. However, as the issues paper correctly notes, "Competition works best when there is a stable, certain and well understood legislative framework and effective design principles underpinning certain markets." The issues paper appropriately defines Competition Policy as, "... a set of policies and laws that protects, enhances and extends competition.

Within that context, the ATIA holds the view that a high priority for the Competition Policy Review must be the development and implementation of a set of policies and laws to proactively deal with Disruptive Innovation. Faster innovation and deployment of new technologies must always be encouraged. However, so-called Disruptive Innovation should not allow some competitors to enjoy and exploit significant cost advantages over other competitors where those cost advantages principally emanate from the unlawful avoidance of costs associated with complying with necessary regulations (e.g. safety regulations). Technological innovation is desirable when, and to the extent, that it delivers genuine improvements in quality and/or efficiency. If it only facilitates a subset of competitors escaping their regulatory responsibilities by way of legal loopholes or obfuscation then its net benefit to the community is in reality negative. In such circumstances, the cumulative respective regulations (whether good or bad) become unreasonably burdensome to incumbent competitors and unfairly restrict their capacity to compete (within the law) with new entrants.

The introduction of smartphone apps to book taxi services is an illustrative case in point. In late June 2011, Taxi Apps Pty Ltd (goCatch) released a taxi booking app

---

2 ATIA defines “good regulation” as regulation that is demonstrably -
1. appropriate (i.e. the regulation addresses a real market failure);
2. effective (e.g. the consequences of market failure are avoided by the regulation); and
3. efficient (i.e. the regulation is the least cost option for avoiding the market failure).
called “goCatch” which it developed using a $200,000 grant from the NSW Government. In August 2011, ingogo Pty Ltd (ingogo) released a taxi booking app called “ingogo”. While media coverage of both start-up companies’ apps presented them as disruptive innovations, such claims failed to acknowledge that the incumbent capital city taxi dispatch companies (sometimes referred to as “taxi networks”) already had comparable apps available for customers to book taxi services using smartphones. In particular, the Perth based company, Swan Taxis, released its taxi booking app called “SmartCab” in February 2011 and publicly showcased this app to a national audience of industry stakeholders at the Australian Taxi Conference on 3 May 2011.

The approach to market entry and operation employed by goCatch and ingogo seemingly has assumed that they should be allowed to dispatch taxi services using their apps without any compliance with the rules applicable to taxi dispatch under respective State Transport Legislation. The ATIA is unaware of any reasons that these companies would use to justify such an assumption other than perhaps media representations that they regard themselves as technology innovators and market disrupters. Of course, neither categorisation even if true would constitute a valid or reasonable excuse for not complying with laws applicable to taxi dispatch. As noted above, neither company was first to market with their product – merely following apps already in the market in Australia and overseas. Also, their app products did not fundamentally disrupt or change the service being experienced or delivered – it remained (or at least was supposed to remain) a taxi service consistent with the Oxford dictionary definition -

“A motor vehicle licensed to transport passengers in return for payment of a fare and typically fitted with a taximeter.”

The failure of the State Governments in New South Wales, Victoria and Queensland to require goCatch and ingogo to comply with their regulatory requirements for taxi dispatch, and thereby escape the costs associated that compliance, while at the same time providing no relief or latitude for authorised dispatch companies to do similarly, created an unlevel and unfair “playing field”. These Governments effectively abandoned their responsibility to “protect” competition (i.e. the level playing field) by allowing a discrete subset of competitors to ignore or avoid the requirements that they continued to impose on the rest of the market’s competitors. In contrast, the South Australian (SA) State Government and Northern Territory (NT) Government have distinguished themselves by holding that safety and other regulatory requirements for taxi dispatch apply to all market participants irrespective of the technology used to dispatch the services. In enforcing their Regulations without partiality, the SA and NT Governments have supported competition within their jurisdictions. They have maintained “certainty” and “understanding” of their respective legislative frameworks, both of which are critical attributes for competitive markets.

The ATIA recommends as a priority for competition policy reform that Commonwealth, State and Territory Governments develop and implement enforceable policies for dealing with Disruptive Innovation. Furthermore, the ATIA recommends that any such policies and guidelines specifically address the issue of new market entrants ignoring or avoiding compliance with necessary regulatory requirements under the guise of Disruptive Innovation and thereby, through intent or result, gaining unfair cost (and/or other) advantages over incumbent competitors operating in compliance with legislative framework.
As discussed in the Competition Laws section below, the ATIA recommends as a further priority for competition policy reform that the Commonwealth Government, in cooperation with State and Territory Governments, develops and implements enforceable policies for dealing with the “Sharing Economy”.

REGULATORY IMPEDIMENTS TO COMPETITION

Are there unwarranted regulatory impediments to competition in any sector in Australia that should be removed or altered?

In Australia, taxis are regulated by State Governments. The regulations are principally directed to promoting –

• passenger safety;
• driver safety;
• public convenience & affordability;
• accessibility;
• minimum public nuisance.

Accordingly, to qualify for “driver authorisation”, taxi drivers must complete competency-based training, be able to speak and communicate in English, pass a medical examination, hold an Australian driver licence, and be of good character. Importantly, taxi drivers undergo stringent criminal history checking to ensure they are fit and proper persons to transport potentially vulnerable passengers. Also, taxi drivers are prohibited from being under the influence of any drug or alcohol while driving a taxi (i.e. maintain a zero blood alcohol level).

Each of these regulatory requirements for taxi drivers produces benefit(s) to the community that outweighs any respective cost(s).

Similarly, taxi vehicles operate under licences (or permits) issued by State and Territory Governments that require taxi vehicles to be regularly inspected for safety and quality, to carry necessary insurances, to be within maximum age limits, and to maintain a range of equipment including such things as air-conditioning for passenger comfort, a taximeter for accurate determination of fares and prevention of fraud, security cameras for driver and passenger safety, and distinctive livery for ready and reliable identification.

Each of these regulatory requirements for taxi vehicles produces benefit(s) to the community that outweighs any respective cost(s).

Taxi licences (or permits) are typically restricted in supply by State and Territory Governments. Demand for taxis services is subject to peak and troughs –

• within an average 12 hour shift,
• between night and day shifts on the same day,
• between different days of the same week, and
• from month to month.

Demand for taxi services are also subject to cyclical variations and trends in the general economy.
Accordingly, State and Territory Governments cap the supply of taxi licences (or permits) at levels that aim to balance customer convenience and service (e.g. measurable in terms of waiting times) with the viability of taxi drivers’ and operators’ small businesses. This leads to supply caps well in excess of normal demand, although less than the number required to service peak demand without some acceptable diminution in service level.

The recent Victorian Taxi Industry Inquiry (VTII) reviewed the capping of licences and its report\(^3\) recommended that the practice should be discontinued in Victoria. The VTII report reasoned that licence caps resulted in licences acquiring value and this caused the use of those licences to attract rent payments from taxi operators and this in turn caused higher taxi fares (i.e. the aggregate of the rents being an operating cost that needed to be paid from taxi revenues). The VTII concluded that because higher taxi fares were not in the community interest, ipso facto, licence caps were not in the community interest.

Unfortunately for the VTII, its methodology was seriously and fundamentally flawed. In the first instance, the Commission ignored the fact that taxi fares in Victoria are set by the State Government. The pricing models used by State and Territory Governments to review and set taxi fares do not include any account for taxi licence prices or their lease rates. Moreover, even if they did, State and Territory Governments have the absolute discretion to comprehensively exclude them as factors. Contrary to the VTII’s proposition, increases (or decreases) in taxi licence prices actually have no causal impact on taxi fares. Secondly, the VTII ignored the available empirical evidence from other jurisdictions. Taxi licences prices vary widely across jurisdictions with the same (or relatively the same) taxi fare structures, they move up and down independently of movements in taxi fare structures, and from State to State there is no discernable relationship (linear correlation or non-linear) between taxi fares and taxi licence prices. Thirdly, the VTII’s analysis naively and negligently failed to take proper account of important community benefits from capping that were difficult to assign a monetary value such as reductions in congestion, over-ranking, and adverse environmental impacts. In contrast to the VTII Commission, the UK Law Commission\(^4\) recently reported that it could not recommend removing quantity restrictions because of the “empirical evidence to the contrary” and a lack of confidence that such a move would satisfy the test of producing a benefit to the community.

Relevantly, the UK Law Commission originally proposed a recommendation for the removal of quantity restrictions on taxi licences in its May 2012 draft report\(^5\). However, following the testing of that proposition through an exhaustive consultation and research process, in its May 2014 final report the Commission overturned that position, and in particular found –

\[\text{“Fares are another area in which practice does not appear to match economic theory. Economists predict that fares should become lower if there are more vehicles available. The prediction is not borne out either by comparisons of fares across licensing authorities or by comparisons of fare levels before and after derestric}\]

\[\text{tion. Though the comparisons relate to maximum fare levels set by licensing authorities rather than}\]

---


realised prices generated by price competition, there are nevertheless some indications, as we explain below, of an association between derestriction and higher fares.” (page 156)

As noted already, taxi fare maxima are regulated by State and Territory Governments. This is a necessary intervention to avoid quantity restrictions creating opportunities for price gouging or excessive profits. State and Territory Governments typically set tariff structures that reflect community values and expectations such as affordable travel at inconvenient times (e.g. midnight to 5am Monday to Thursday) or from inconvenient locations (e.g. low density suburbs). The ATIA agrees with the UK Law Commission’s recommendation 48 –

“Licensing authorities should retain the ability to regulate taxi fares, in respect of any journey within the compellable distance.” (page 125)

The ATIA recommends that the Competition Policy Review not include taxi industry deregulation in any agenda for possible future reforms. In the ATIA view, good policy must never be based on theoretical propositions, no matter how conventional or convenient, that are demonstrably inconsistent with the empirical evidence (i.e. real market results).

Are there occupational based restrictions, or restrictions on when and how services can be provided, that have an unduly adverse impact on competition? Can the objectives of these restrictions be achieved in a manner more conducive to competition?

As noted above, the qualifications required to drive a taxi deserve to be preserved because their benefit to the community outweighs the associated cost(s). Similarly, the regulatory requirements for taxi services serve to protect the well-being and safety of both taxi drivers and customers, as well as the ongoing viability of what is an essential service to those in the community with limited or no access to alternate transport including –

- the elderly;
- people with disabilities;
- the young or vulnerable;
- disadvantaged socio economic groups; and
- people at times unfit to drive themselves (e.g. temporarily affected by alcohol or drug consumption).

The ATIA recommends against any reduction of the present standards applicable to taxi drivers or taxi services because the inevitable consequence of such action, at least with the technology currently and prospectively available, would be an unacceptable increase in the risk of injury or harm to customers of taxi services.
GOVERNMENT PROVIDED GOODS AND SERVICES AND COMPETITIVE NEUTRALITY

What are the competition policy reform priorities in sectors such as utilities, transport and telecommunications?

As noted above, there is merit in State and Territory Governments regulating or setting –

1. caps (upper thresholds) for taxi licence numbers; and
2. maximum taxi fares (at least for conventional and accessible services although not necessarily premium or high occupancy services).

The intervention of Government is required in both cases to avoid market failures producing unacceptable outcomes for the community. However, Governments would do well to improve their decision making in such matters by adopting objective and transparent modelling, purpose designed for their respective communities’ public passenger transport aspirations.

In the case of taxi licence caps, Governments would do well to employ econometric models that robustly calculate the taxi supply necessary to meet anticipated demand. The adjustment to licence supply should be implemented routinely and iteratively (i.e. incrementally as demand increases or decreases).

Similarly, in the case of taxi fares, Governments would do well to employ pricing models that appropriately balance the community’s expectation of affordability with the industry’s requirement for viability. Importantly, pricing models should incorporate indexation for cost increases and support at least annual reviews.

In the ATIA’s view, the randomness and unpredictability of adjustments to taxi fares by some State Governments in the past has served neither the best interests of taxi operators nor taxi customers. Furthermore, the over-complication and potential for politicisation of such decisions are inconsistent with the objective of delivering outcomes approximating a functional market’s pricing adjustments.

As noted above, the taxi industry in Victoria recently underwent a lengthy and expensive review. Interestingly, the recommendations of the VTII were presented as “competition reform” notwithstanding following implementation they have –

1. increased the quantity of regulation on the industry;
2. complicated the regulation of the industry; and
3. established a new regulatory agency, the Taxi Services Commission that operates with the highest ratio of Regulator FTEs : taxis in Australia.

In the ATIA’s view, such outcomes are individually and collectively inconsistent with “good regulation” and they unquestionably fail any reasonable test of community benefit.

In regard to reform priorities for the taxi industry, the ATIA recommends the adoption by State and Territory Governments of robust, transparent econometric models to inform annual reviews of taxi licence caps and maximum taxi fares. The ATIA does not recommend any role for the Commonwealth Government or its agencies.
Does competitive neutrality policy function effectively, and does it apply to the appropriate government business activities?

In the case of the taxi industry, a number of State Governments have moved away from selling taxi licences to leasing licences (or permits) to private sector taxi operators. The ATIA understands that the purpose of the initiative is to use Government lease rates, set at artificially low levels, to limit the rents that licence owners may receive from taxi operators for use of their taxi licence(s). To date though, no Government agency or inquiry has been able to satisfactorily demonstrate an actual or potential market failure in the pricing of private sector taxi licence lease fees. The intervention therefore fails the test of “appropriateness” for a regulatory intervention. Lease fees derive from licence prices that in turn derive from factors such as their relative scarcity, perceived risk, taxi fare rates, demand for taxi services, and lease desirability in the minds of lessees.

There is no valid or reliable empirical evidence to support a proposition that Government involvement as a competitive provider of taxi leases has delivered some desirable outcome for a community. Governments set taxi fares and do so independently of licence prices and lease rates. Accordingly, the involvement of a Government in leasing taxi licences (or permits) does not cause or produce cheaper taxi fares. The intervention therefore also fails the test of “effectiveness” for a regulatory intervention.

State Governments that participate in leasing taxi licences typically do not separate the activity from their regulatory function. There is an evident contravention of competitive neutrality rules where the Government sets the prices of its licence leases at lower rates than those prevailing in the competitive market for private licence leases.

There is also a potential conflict of interest in the combining the functions of regulator and market participant, where as the industry regulator the Government is setting –

1. the maximum prices of all taxi fares; and
2. the maximum number of taxi licences in the market.

The ATIA recommends that State and Territory Governments:

1. restrict themselves to the role of Regulator and leave all aspects of actual supply of taxi services to the private sector;
2. cease and desist from leasing licences in competition with private sector licence owners;
3. only issue taxi licences by sale using open, transparent, and competitive, public tendering processes;
4. treat taxi licences as public assets that they have a fiduciary duty to promote and not to deliberately injure or impair; and
5. commit to the US Constitutional concept of Regulatory Takings and the consequential obligation to provide just compensation where a deliberate action or intervention of theirs causes taxi licences to materially devalue.

6 The Fifth Amendment to the United States Constitution proscribes that: “No person shall be... deprived of... property, without due process of law; nor shall private property be taken for public use, without just compensation.”
What are the disadvantages that private businesses face when competing with government business activities?

As noted above, taxi licence owners are at extreme disadvantage to any State Government that sets the rates for its taxi licence (or permit) leases at levels significantly lower than what the prevailing market would otherwise determine. Their position is exacerbated where a State Government uses its position as the industry Regulator to continue releasing licences into the market until parity is achieved between private and Government lease rates.

*Reiterating the point made previously, the ATIA recommends that State and Territory Governments cease and desist from leasing licences in competition with private sector licence owners and only issue taxi licences by sale using open, transparent, and competitive, public tendering processes.*

POTENTIAL REFORMS IN OTHER SECTORS

**Can more competitive outcomes in the human services sector enhance both Australia’s productivity and the quality of human services delivered to Australian citizens?**

Yes – see comments below.

**Will more competition among providers serve the interests of consumers of health, education and other services?**

The ATIA understands that approximately 10% of the Home and Community Care (HACC) program (and similar Government initiatives) typically is spent on transportation services. Historically, the preferred mode of delivery for those transportation services has been for HACC providers to apply for, and receive, funding to acquire vehicles, especially mini and medium sized buses, and then operate those vehicles using volunteers or other non-professional drivers.

The demonstrable weakness in the historical approach though has been the inefficiency of what is otherwise a non-core business or operation for HACC providers. A disaggregated, uncoordinated, and disparate fleet spread across the plethora of HACC providers has only ever realised very low asset utilisation rates. The reliance on volunteer drivers also represents a further restraint on utilisation that substantively, if not completely, mitigates any cost saving vis-à-vis professional drivers.

The ATIA understands that many HACC provided trips, when fully costed, are well in excess of the equivalent trip if taken in a taxi at the regulated tariffs. Moreover the ATIA understands that many HACC providers would realise material savings for the program if they purchased (i.e. out-sourced) all of the transportation services they currently supply.

The purchasing of HACC transportation services from the taxi industry would have a number of further benefits beyond just program savings. In the first instance, it would potentially allow HACC transportation services to be delivered more flexibly and dynamically for recipients. Taxi services are by definition on-demand, 24 hours per day and 7 days per week.
Another benefit to accrue from taxis providing HACC transportation services would result as a derivative of increasing utilisation levels in the wheelchair accessible taxi (WAT) fleet. WATs comprise approximately 12% of the overall Australian taxi fleet. This means that there is only a 1 in 8 probability that a WAT will be the closest taxi to passenger requesting that type of service. This translates to a 7 in 8 probability that the WAT will not be the closest taxi and so will generally operate with higher “dead running” costs than conventional taxi vehicles. WAT vehicles are also more expensive to purchase and operate than conventional taxi vehicles. Increasing the demand for WATs by their performing HACC transportation services would be expected to improve the utilisation of the existing WAT fleet and encourage the release of additional WAT licences. Both of these outcomes would promote better WAT service delivery within the communities they operate.

The ATIA recommends that the cost of transportation services associated with the HACC (and like) programs should be reviewed. Where the full cost of HACC providers’ transportation services are not competitive with taxi rates, HACC providers should be assisted to transition to out-sourcing their transportation services. In the interests of reducing unnecessary duplication, the ATIA recommends that HACC Program administrators and providers be allowed access to the contracts established by the Department of Veterans Affairs for the supply of transportation services for veterans.

COMPETITION LAWS

Are the current competition laws working effectively to promote competitive markets, given increasing globalisation, changing market and social structures, and technological change?

The ATIA is not convinced that Australian competition laws are working effectively to promote competitive markets in the presence of the so-called Sharing Economy, at least where private assets and resources are used to supply services at substantively commercial rates and substantively as close substitutes for existing commercial services.

The recent introduction of the product, UberX, by the multinational, Uber Technologies Inc (Uber), in Sydney, Melbourne and Brisbane illustrates the concerns held by the ATIA.

UberX is called a “Ride-Share Service” within the media.

“Ride-Share Services” (RSS) can be defined as on-demand passenger transportation services, provided for reward (profit) by private drivers in their own vehicles (i.e. registered and insured only for private use). RSS are anywhere-to-anywhere exclusive hires provided by strangers to strangers. They are therefore for all intents and purposes unlicensed taxi services, and as such, currently unlawful in every Australian State and Territory.

Importantly, RSS are not “carpooling” or a variant thereof. RSS are also not a genuine peer-to-peer or collaborative service because RSS drivers’ only interest in

---

7 The Sharing Economy is sometimes referred to as the Peer-to-Peer Economy or Collaborative Economy.
the transaction is that of a supplier of transportation services for reward. Similarly, RSS passengers are not fellow travellers or companions (at least in respect to RSS drivers), they are in all senses, customers who pay a fee that wholly compensates the costs of the travel, including the drivers’ time and the trip’s arrangement by Uber (a 20% commission of the gross fare).

In the ATIA’s view, “carpooling” would constitute a legitimate expression of the Sharing Economy and an initiative promoting allocative efficiency that should not be discouraged. Filling spare seats in vehicles travelling along a shared route from a shared origin and/or to a shared destination should contribute to reduced congestion and pollution. Crucially, carpooling makes its contribution to efficiency because passengers travel at minimal marginal cost to the necessary travel of the driver. This marginal cost is minimised where the passenger only makes a (modest) contribution to the travel cost as it removes any economic incentive for journeys to be wastefully initiated or extended.

In the case of RSS, the starting proposition of the driver needing to make a particular journey, or the substantive proportion of it, is completely absent. Accordingly, the cost of a passenger using RSS for a journey is the full cost, rather than a marginal cost, of the travel. It is also appropriate to note that the cost properly includes the RSS driver’s dead running to pick-up the passenger. In that context, RSS do not constitute an innovation yielding previously unattainable allocative efficiencies or one that is likely to contribute positively to productivity growth.

Genuine carpooling arrangements are lawful in Australian States and Territories. In the ATIA’s view, the competition laws work satisfactorily by not impeding this form of the Sharing Economy.

However, this is definitely not the case for RSS. Similar to the case of so-called Disruptive Innovation discussed above, RSS do not bear the costs imposed by Governments through their legislative frameworks on their taxi competitors. Taxis pay higher premiums for motor insurance and compulsory third party (CTP) personal injury insurance, must have workers compensation insurance, and must be fitted with a range of equipment for the safety or protection of passengers and drivers (e.g. security camera systems, communications systems, hail lights and livery). All of these costs are avoided by RSS but not fairly. In the case of motor insurance, RSS vehicles are only insured for private-use. These policies are voided when used for the supply of RSS (i.e. causing the vehicle effectively to be uninsured unless the RSS driver fraudulently fails to disclose the RSS use). The cost advantage enjoyed by RSS is not derived from better efficiency, it is achieved by not insuring (or being uninsured for) a foreseeable risk. In the case of CTP, RSS vehicles will be covered because of the nature of CTP schemes but their premiums are artificially low. The RSS CTP premiums will unwittingly be cross subsidised by the general community through higher premiums in the general (or Class 1) vehicle pool. Here again the cost advantage of RSS is not derived from better efficiency, it is achieved by the transfer of costs to the general community (i.e. to be borne by those who do not even use RSS). In the case of workers compensation, RSS operate without cover. It is simply inequitable that this cost is mandated for self-employed taxi drivers but completely avoidable for self-employed RSS drivers. Once again the cost advantage

---

8 Virtually all taxi drivers in Australia are self-employed but workers compensation is a mandatory requirement in all States except in Queensland, Western Australian and the Northern Territory.
does not derive from better efficiency, but this time results from a Regulatory anomaly.

The same analysis could be applied to RSS drivers not having to undergo mandated training, supply medical certificates to prove their fitness to drive, undergo Government criminal history checks, or meet other professional standards (e.g. zero blood alcohol, driving history and traffic offence restrictions, not being allowed to refuse a reasonable hiring etc). Similarly, it could also be applied to RSS vehicles not having to undergo periodic roadworthiness inspections, provide wheelchair accessible service, or provide 24/7 service.

However, there is an important point of difference between the discussion of Disruptive Innovation earlier in this submission and the present discussion in relation to the Sharing Economy. As proven by the SA and NT Governments, Disruptive Innovation and a level playing field (functioning competitive market) are not mutually exclusive, they can co-exist where the respective regulation applicable to competitors in a market is predictably and actively enforced without partiality. In both of these jurisdictions, taxi customers can book taxis using smart phone app technology efficiently, effectively and safely. Unfortunately, the Sharing Economy is not so easily dealt with under State and Territory administered legislative frameworks. The Commonwealth’s competition laws need to be effective to protect against unintended and unwanted outcomes.

As the attached media reports confirm (i.e. Appendices 1-8), the New South Wales, Victorian and Queensland State Governments have declared RSS to be illegal in their jurisdictions. Notwithstanding these Governments’ warnings, their issuing of “cease and desist” notices, and the fining of uberX drivers (albeit only 30-50 in Melbourne and a small number in Sydney), Uber’s representations to the media indicate that it continues undaunted to offer RSS.

Uber, a very large multinational company continues to encourage private individuals to “sign up” as affiliate drivers for its uberX service and to promote the uberX service to its customers. Uber is blatantly ignoring the laws applying to the provision of public passenger transportation in New South Wales, Victoria and Queensland. Uber is enticing individuals to start their own business (sole traders), as an RSS driver, where the business as a contractor to Uber only supplies services that have been declared to be unlawful. There is something clearly unconscionable where a company can enter a country and encourage members of the community and small businesses to break the law for its reward (profit).

Again according to the same media reports, Uber has apparently pledged to pay the fines that have been issued to its affiliated RSS drivers. As far as the ATIA is aware, Uber has not provided its RSS drivers with any commitment in their affiliation contract that obliges Uber to pay the fines drivers receive for operating illegally. Accordingly, the pledge from Uber is simply gratuitous, unenforceable by drivers, and of uncertain duration. There is again something clearly unconscionable where a company can enter a country and by virtue of size and wealth, and for the pursuit of profit, arrogantly disregard the penalties associated with breaking the prevailing law and encourage members of the community and small businesses to participate in that same disregard to the breaking of the law.

Lastly, it is of significant concern to the ATIA that uberX drivers are apparently being encouraged to start-up a small business without full disclosure of the risks associated with that business. As far as the ATIA is aware, RSS businesses are not being
informed about the illegality of their services, the full magnitude of the penalties applicable, the risks and responsibilities associated with transporting strangers for reward, or the gaps and deficiencies in insurances (especially the voiding of their private-use motor insurance when providing RSS). Once again, there is something clearly unconscionable where a large and sophisticated company can enter a country and encourage members of the community and small businesses to affiliate with it without reasonable disclosure of material matters of which it is fully aware.

In the ATIA’s view, Uber appears to be deliberately and unreasonably exploiting what it calls “Regulatory Ambiguity”. In Uber’s jargon, this is the circumstance where the legislative framework within which competition should occur is not consistently and determinedly enforced. Uber equates such inadequacies in enforcement as “tacit approval” of the unenforced unlawful behaviours.

The fact that Uber has been able to introduce uberX, and continue its operation, demonstrates a clear failure in Australia’s competition laws and/or their enforcement. Uber’s actions are not some misadventure or misunderstanding of the legislative framework and its requirements. UberX represents a stark example of the ineffectiveness of the competition laws (as currently enforced) to deal with a large and aggressive multinational in the Sharing Economy.

As a final comment, the above discussion singled out Uber and uberX only for the purposes of illustration. Uber is not the only provider of RSS in a global context, merely the only provider of RSS presently operating in Australia. Similarly, RSS is not the only product / service within the Sharing Economy, where the competition laws (as currently enforced) are, or will, prove ineffective. RSS is merely a product / service within the Sharing Economy with which the ATIA has direct knowledge and particular interest.

The ATIA recommends as a priority for competition policy reform that the Commonwealth Government, in cooperation with State and Territory Governments, develops and implements enforceable policies for dealing with the Sharing Economy. As with Disruptive Innovation, the ATIA recommends that any such policies and guidelines specifically address the issue of new market entrants ignoring or avoiding compliance with necessary regulatory requirements under the guise of Peer-to-Peer, Collaborative or Sharing Economy arrangements and thereby, through intent or result, gaining unfair cost (and/or other) advantages over incumbent competitors operating in compliance with legislative framework. Lastly, the ATIA recommends that any such policies and guidelines specifically address the issue of new market entrants enticing members of the community and small businesses to engage in unlawful activity for its reward (profit).

How accessible is the collective bargaining process for small businesses, and can they use it without requiring substantial legal assistance or advice?

The ATIA is not persuaded that the collective bargaining process could be used by small businesses within the taxi industry without assistance from their industry associations and the incurring of external legal costs.
Is the code framework leading to a better marketplace, having regard both to the aims of the rules and the regulatory burden they could create?

As far as the ATIA is aware, none of the current mandatory prescribed codes have application within the taxi industry. The ATIA is also unaware of any interest within the taxi industry to develop a voluntary code.

ADMINISTRATION OF COMPETITION POLICY

What institutional arrangements would best support a self sustaining process for continual competition policy reform and review?

The ATIA agrees with the proposition in the Issues Paper that competition “works best when there is a stable, certain and well understood legislative framework…”. Accordingly, we would recommend that all primary and subordinate legislation undergo periodic review according to a pre-determined schedule that also takes account of affected industries' capacity to participate in such reviews. We would add that special consideration should be given to those industries that largely comprise micro and small businesses, such as the taxi industry. Formulating and articulating industry positions is far more complex in those circumstances.

The ATIA advocates that the review of all legislation should be conducted systematically, conscientiously, and under the strict proviso that the objective of such reviews should be to deliver real rather than theoretical outcomes. Reviews that ignore empirical evidence are fundamental and irretrievably flawed. Similarly, Reviews that postulate benefits without measuring a baseline for comparison with post implementation results, and/or fail to monitor, and correct for, post implementation results are also fundamental and irretrievably flawed.

The ATIA recommends that Competition Policy reform and reviews occur within the overall framework of legislative review rather than treated as a separate or special case.

Was the Council of Australian Governments competition agenda, with reform payments overseen by the National Competition Council, effective?

The Council of Australian Governments’ (COAG) National Competition Policy (NCP) agenda included deregulation of the Australian taxi industry. However the inclusion of the taxi industry was based on a flawed understanding of the market for taxi services and inadequate consideration of the available empirical evidence. In the case of the former, the role of the taxi driver as a small business owner in competition with every other taxi driver on the road at the time was not appreciated. This was not withstanding the common law position of that role had been tested and proven in a range of courts all the way up to the High Court of Australia. Most analysis of the industry naively, and mistakenly, ascribed roles for taxi dispatch networks that were far beyond their actual capability to influence or impact competition in the actual market for taxi services.

It is also true that whatever analysis was used to support the inclusion of the taxi industry in the NCP agenda must have ignored overseas experience with deregulation, because that experience has been overwhelmingly inconvenient to promoting such policies. Empirically, deregulation in overseas jurisdictions consistently produced –
• higher taxi fares;
• price gauging in taxi fares;
• reductions in wheelchair accessibility;
• less availability of service in fringe or low density suburbs; and
• concentrations of taxis at airports and CBD resulting in inefficient congestion and utilisation rates.⁹

The ATIA found the process of dealing with the National Competition Council (NCC) and respective State Governments on NCP issues unusually difficult. In the case of the former there was an unreasonable stubbiness on the part of the NCC to reconsider the inclusion of the taxi industry in the agenda or to engage in any analysis that might result in, or encourage, such an outcome. In the case of the State Governments, they firmly believed that they would be penalised financially if they did not proceed with deregulating the taxi industry. A number of State Government Ministers expressed the view that their "hands were tied" and that the NCC and Commonwealth Government were simply not open to reason or argument.

In the view of the ATIA, the NCP process was definitely not effective. The inclusion of the taxi industry in the NCP agenda as an industry to be deregulated was based on poor research and naïve analysis. The inability of the NCP agenda to accommodate, or incorporate, inconvenient empirical evidence represented a serious and fundamental weakness of the policy and the framework in which it operated.

# # #

⁹ This list is not an exhaustive. It serves merely to illustrate that the empirical evidence is categorically inconsistent with the expectations of deregulation proponents' economic theories, or more properly, hypotheses.
Would you pay a random person to taxi you around? I did and this is what happened

Ben Grubb
Published: April 24, 2014 - 7:22AM

On Tuesday night, a woman who usually delivers fast food to Sydney homes drove me from the Opera House to my apartment in Surry Hills for a measly $7.10. I didn't know this woman prior to her driving me home in the Suzuki Swift she owns. Rather I used a new feature in the taxi and private hire car app Uber, due to be rolled out to others soon, to request she pick me up.

"Keo", as she is known in the app, has been picking up dozens of people over the past five days while driving on Sydney's inner-city roads after responding to a job ad from Uber on Seek. Similar ads appear on Facebook, Gumtree and other sites for drivers in Sydney and other cities.

Keo is not a licensed taxi driver, nor is her car a limousine with licensed hire car number plates. Instead she is a regular licence holder who has been vetted by Uber employees to ferry me around at "low-cost" rates, rates far lower than what a traditional Sydney taxi charges.

Until now, Uber, which has $US250 million in backing from Google, has only let Australian users ride in taxis and private hire cars in Sydney and Melbourne. It only recently began quietly branching out into the "ridesharing" market to let anyone ferry users around who is 24 years old, has their own car that has at least four doors and is a 2005 model or newer, has comprehensive insurance, no criminal record and a licence.

Normally it costs me between $10 and $15 to go to from my home to the Opera House using a taxi, depending on traffic. Only paying $7.10 seems crazy, but there are a number of incentives for drivers. One of the main ones is they can use the service whenever they want. Another is they don't have to pay the excessive fees many taxi drivers do to lease a taxi if they don't own one.

Called "low cost" in Australia and "UberX" overseas, it has "infuriated" the local taxi industry, according to one taxi driver Fairfax Media spoke to, who says Sydney taxi drivers are questioning the legality of it and the fact it is largely unregulated by government.

The NSW Roads and Maritime Services says it has requested a meeting with Uber to discuss how the Passenger Transport Act applies to the new service, and how Uber will respond to its obligations under the act.

Already some US states have banned or are attempting to ban similar offerings, which have been dubbed "ridesharing" services. In Minneapolis, such services have been outright banned and drivers have been fined if found to be using them to pick up passengers; in Seattle they have been given the go-ahead, but only 150 drivers are allowed to be available at any one time per app. Meanwhile, laws introduced in California last year allow their use, but require companies behind them to have at least $US1 million ($1.08m) in public liability insurance. Since this insurance has been imposed, the apps have been adding $US1 "safety" fees on top of all fares.

It's unclear from Uber's legal terms how much a passenger will receive if they are hurt while riding in a low-cost Uber in Australia.

Uber Sydney general manager David Rohrsheim says every low-cost Uber ride is "backed by third-party liability insurance up to $US5 million per incident".

"With more options, consumers win, drivers win and Australia's cities win."

According to an ad for drivers wanting to use low cost, they must be "fun" and "outgoing", with "strong communication
"Skills and great city knowledge" and "be willing to participate in a police background check".

In an email to some Uber users last Wednesday, Uber said the cars that picked you up would generally be "an economical vehicle such as a Toyota Prius, Honda Civic or Holden Cruze".

"Rides from North Bondi to the CBD could cost as little as $15, which is cheaper than a 333 bus ticket if you share the ride with three mates using our fare split feature," the email said.

Now, back to my ride.

Keo tells me she's been working from 6pm to 11pm most nights and earning up to $150 per night using Uber (excluding fuel costs). For the immediate future her income through Uber is high, as it adds a $15 bonus to every fare, regardless of whether it's for $5 or $50. How long this will last is unclear, as it's likely to be unsustainable for Uber, even though it takes a 20 per cent cut from fares.

The trip with Keo was the second one I had taken for the night. And although I got to my destination in one piece, the use of Google Maps on an iPhone that didn't have a cradle, and a driver who didn't know Sydney's streets all that well, meant the journey took longer than usual. At one point Keo was resting her phone on the passenger's seat and picking it up when needed.

An earlier trip from home to the Opera House with "Adam" that cost $6.33 – a little less than the trip with Keo due to the fact he normally drives a taxi and knows how to get around – was taken in a Toyota Rav4. I couldn't fault him on his driving, but an annoying moth flying around his car and the fact he was wearing a rugby top reminded me what "low cost" meant.

The "low-cost" option is expected to go public within weeks for the rest of Uber users in Brisbane, Melbourne and Sydney. This journalist – a big user of Uber – was not given early access to it on his own Uber app, but gained access to it via a friend's smartphone to test it out.

There were some other hiccups in using the service, which are expected in the early days of a small-scale rollout. When trying to get back from the Opera House, for example, there were no drivers available. But after a 10-minute walk around Circular Quay, Keo eventually became available and drove from North Sydney to the city to get me.

"Availability will be very limited at first," Uber said in its email last week.

This story was found at: http://www.smh.com.au/digital-life/smartphone-apps/would-you-pay-a-random-person-to-taxi-you-around-i-did-and-this-is-what-happened-20140423-zqy7c.html
Ride-sharing apps ruled out by NSW government

Jacob Saulwick and Ben Grubb
Published: April 30, 2014 - 4:18PM

Transport for NSW has ruled out smartphone apps that allow motorists who are not taxi or hire-car drivers to receive money for offering lifts.

In response to a new low cost "ride-sharing" service offered by Uber, which allows non-taxi drivers to offer a taxi-like service, the state's transport department said on Wednesday all drivers needed to be accredited under the Passenger Transport Act.

This would rule out Uber's ride-sharing service as it currently operates, though not apps that make it easier for taxi customers to book an authorised cab or hire car.

"The law is clear and has not changed: if a NSW driver is taking paying members of the public as passengers, the driver and the vehicle must operate in accordance with the Passenger Transport Act," Transport for NSW said in a statement on Wednesday morning.

"Under the act, such services must be provided in a licensed taxi or hire car, by an appropriately accredited driver, authorised by Roads and Maritime Services."

Those who operated a public passenger service in breach of the Passenger Transport Act faced prosecution and fines of up to $110,000, it said.

"However, these laws do not apply to, for example, a group of friends sharing expenses or a car-pooling arrangement between colleagues sharing a ride to the office."

Despite Transport for NSW's statement, Uber Sydney general manager David Rohrsheim said he was confident Uber was building "the safest, most reliable, most affordable transportation option" for consumers.

In some instances Uber's ride-sharing service is up to 50 per cent cheaper for consumers than a traditional taxi. It makes money by taking a 20 per cent cut from the fare.

"We've had regular positive discussions with the NSW government for some time," Mr Rohrsheim said.

"We know they are watching this ride-sharing trial very closely, and they will be very interested to hear the feedback from customers. Early feedback from drivers and passengers has been overwhelmingly supportive."

On Sunday, Mr Rohrsheim told Channel Nine's Today Show the taxi industry copped "a lot of criticism" and had "a lot of its own problems" when asked about the NSW Taxi Industry's concerns over ride-sharing.

"We're just here to offer an alternative choice," he said. A blog post by Uber's Australian team outlines why it believes its ride-sharing service is safe.

The NSW Taxi Council has called on the government to intervene and regulate the ride-sharing apps.

"This has to be dealt with before it gets out of hand," NSW Taxi Council chief executive Roy Wakelin-King said last week.

Until now, Uber has let only Australian users ride in taxis and private hire cars in Sydney and Melbourne. It only recently began quietly branching out into the ride-sharing market to let anyone ferry users around who is 24 years old, has their own car that has at least four doors and is a 2005 model or newer, has comprehensive insurance, no criminal record and a licence.
Transport for NSW's response follows a similar statement from the Victorian Taxi Service Commissioner, Graeme Samuel, who said the services didn't appear to be complying with Victorian law.

Last week, NSW Transport Minister Gladys Berejiklian and her department sent mixed messages over whether the ride-sharing apps were legal in NSW.

Ms Berejiklian's department said on Wednesday last week that NSW's Roads and Maritime Services had requested a meeting with Uber to discuss how the NSW Passenger Transport Act applied to the service, and how Uber would respond to its obligations under the act.

But in a radio interview on Thursday night, Ms Berejiklian seemed to concede there was no problem unless Uber called itself a "taxi service".

"You don't want to limit people's choice because, at the end of the day, it does come down to choice," Ms Berejiklian said on 2GB.

Already some US states have banned or are attempting to ban similar offerings. In Minneapolis, such services have been outright banned and drivers have been fined if found to be using them to pick up passengers; in Seattle they have been given the go-ahead, but only 150 drivers are allowed to be available at any one time per app. Meanwhile, laws introduced in California last year allow their use, but require companies behind them to have at least $US1 million ($1.08m) in public liability insurance. Since this insurance has been imposed, the apps have been adding $US1 "safety" fees on top of all fares.

The taxi and private hire car app Uber will continue to offer low-cost "ride-sharing" services despite the NSW government saying that ride-sharing apps require licensed vehicles and drivers.

And two more ride-sharing apps are entering the Sydney market: Backseat and RideSurfing. Backseat was due to launch on Friday but its co-founder Alex Ducros said on Thursday afternoon that the launch would be postponed because of the NSW government's latest position on ride-sharing.

"Unfortunately we have taken the decision to postpone the launch of Backseat in Sydney," Mr Ducros said.

"We will monitor how existing ride-sharing services are treated and wait for further clarification from Transport NSW."

Mr Ducros acknowledged ride-sharing operated within a "grey area" of the law.

News Corp reported on Wednesday that the company would launch on Friday. Backseat's domain name was registered on October 17.

The co-founder of RideSurfing, Manutea Dupont, said it would launch "soon". It began recruiting drivers on Facebook on April 4 and on MyCareer.

Meanwhile, Uber's Sydney general manager David Rohrsheim denied ride-sharing was banned in NSW.

"Despite what [Wednesday's] press releases from the NSW Taxi Council and the [Roads and Maritime Services] might suggest, Uber has not been 'banned' by anyone and continues to operate. Support among both drivers and riders is stronger than ever," Mr Rohrsheim said.

The NSW government re-iterated on Wednesday that all ride-sharing drivers needed to be registered under the Passenger Transport Act. The government is currently reviewing the act.

Asked whether it planned to allow ride-sharing services under a future version of the act, to be legislated this year, a spokesman for Transport for NSW said: "Taxis must be licensed, with authorised drivers using the taxi meter. None of these requirements will change."

This would mean there would be no future for Uber's ride-sharing service or other apps like Backseat and RideSurfing, under which fares are generally cheaper than regular cabs.

But other services offered by apps such as Uber, GoCatch and ingogo that make it easier for people to book licensed cabs or hire cars with licensed drivers would be promoted under the new act.

Motorists carrying passengers that are not licensed to do so face fines of up to $110,000.

A spokeswoman for Roads and Maritime Services said the department had "received allegations Uber has breached the Passenger Transport Act and is investigating".

"If there are found to be breaches, companies and individuals can be pursued as appropriate," the spokeswoman said.

Mr Rohrsheim's comments came as Uber launched on Wednesday night its low cost ride-sharing service, now dubbed UberX, to everyone who uses Uber in Sydney. It had previously offered the service under the name "low cost" to a select
number of Uber users.
The NSW Taxi Council welcomed the NSW government's view.

"Ride-sharing services are operating outside the requirements of the Passenger Transport Act and therefore pose an unacceptable risk to the public," NSW Taxi Council chief executive officer, Roy Wakelin-King, said.

"This is not about competition; it is about a level playing field. The taxi industry recognises that it has to provide a service that the public has confidence in and that it must keep working on improving that service," he said.

Asked about regulatory issues, Mr Dupont said RideSurfing was focused on its launch and would provide details then.

**Victoria welcomes ride-sharing if checks met**

In contrast to the NSW government's view, Victorian Taxi Services Commissioner Graeme Samuel said there could be a place for ride-sharing if drivers were properly licensed and had been through checks.

"What we want to do is to facilitate competition and we see Uber as a source of competition," Mr Samuel said. "But it needs to be competition that is on grounds to protect the public interest."

**But he said the current way Uber was operating in Victoria was against the law.**

Mr Samuel said "compliance activities" had detected a number of unlicensed drivers and that appropriate action would be taken against them.

If ride-sharing operators wanted to continue in Victoria, Mr Samuel said motorists offering the services would not have to be classified as taxis in Victoria. They could instead be classified as hire cars, for which licence conditions have been relaxed in the past few years.

He said drivers would have to use registered commercial passenger vehicles, and have passed the relevant tests.

"There are a lot of things we can accommodate in this area in terms of licence fees, drivers," he said.

In Victoria, a private hire car operator does not need to own cars that fall within the luxury car tax as in NSW, and only needs to purchase a one-off licence for $40,000 that covers unlimited vehicles.

Despite the willingness to allow ride-sharing, Mr Samuel was still disappointed with Uber's approach in Victoria.

"I was giving a speech the other day to a group of corporate affairs executives about how to deal with regulators," Mr Samuel said. "And I must say when I give this speech the second time around, which will happen very soon, I will be using this as a very good example of how not to do it."

Mr Samuel will meet with two fellow commissioners on Friday to discuss the commission’s position on Uber.

"That will form a policy position on some of these issues and give some directions to the Taxi Services Commissioner staffers as to what needs to be done," Mr Samuel said.

"But as far as I'm concerned, if there is a breach of the law it will have to be dealt with. In the meantime, the open invitation has been there to Uber to come and talk to us."

Uber 'ride-sharing' service under investigation as public warned off app

Ben Grubb
Published: April 27, 2014 - 5:14PM

The Victorian transport minister has warned off people from driving others around for a fee in their own car using a new "ride-sharing" feature in the smartphone app Uber.

Terry Mulder said on Friday the Victorian Taxi Services Commission was investigating Uber's ride-sharing practices. The sprouting service, called "low cost", is up to 50 per cent cheaper than a traditional taxi and is already gathering pace in Sydney.

"The TSC is currently investigating this practice and will take appropriate action if such activity is detected in Victoria," Mr Mulder's spokeswoman said. "All taxi and hire car drivers go through a rigorous accreditation process before they are allowed to drive a taxi or hire car – this is for both the safety of drivers and passengers.

"The Taxi Services Commission strongly discourages any members of the public applying for any job advertisements that offer quick cash for providing taxi and hire car services using a private vehicle."

Last week, Uber expanded beyond providing taxis and private hire cars through its app and began letting regular people transport Uber users about in Sydney, Brisbane and Melbourne. To be eligible, drivers must be 24 years old or older, have a driver's licence and no criminal history. They must also own a 2005 or later four-door car that is covered by comprehensive insurance.

Taxi Services Commissioner Graeme Samuel told Fairfax Media on Friday he was surprised and irritated Uber did not approach him and the TSC about its new service.

"I'm surprised because I would've thought that if they wanted some assistance from the Taxi Services Commission to ensure that what they're doing operates within the law or meets the fundamental imperative we've got, which is the safety of passengers, they would sit down with the Taxi Services Commissioner and explain it."

Mr Samuel said his office had tried to contact Uber directly, to no avail.

"To date, they insist on doing that through an intermediary. Well, I'm not going to operate through intermediaries."

On the face of it, Mr Samuel believed that Uber was not complying with the Victorian public transport legislation.

"If they are not complying with the law we'll prosecute," he said.

To comply, Mr Samuel said Uber would need to obtain a $40,000 private hire car licence for unlimited vehicles and have accredited drivers.

Mr Samuel said he wasn't about being anti-competitive, having formerly been the head of the Australian Competition and Consumer Commission.

Instead he said the Taxi Services Commission was about "enhancing" the position of consumers. "I've talked about how for too long strong, vested interests in the industry have dominated the industry to the disadvantage of drivers, operators and consumers," Mr Samuel said.

Uber's new service, which is only available to a select number of Uber users but is expected to be rolled out to other cities and users soon, has infuriated taxi drivers and the NSW Taxi Council. The council says the service puts the public at risk and has called on the NSW government to intervene.
In Victoria, citizens providing taxi and hire car services without the appropriate accreditation are in breach of the Victorian Transport (Compliance and Miscellaneous) Act 1983. Fines of up to $2500 apply if illegal drivers are detected by the Taxi Services Commission, Mr Mulder's spokeswoman said.

"If a member of the public is interested in driving a taxi or hire car, they should apply for the appropriate accreditation via the Taxi Services Commission website," the spokeswoman said.

Victoria's response to Uber's disruptive transport app follows NSW Transport Minister Gladys Berejiklian and her department sending mixed messages over whether the ride-sharing service was legal in NSW.

Ms Berejiklian's department said on Wednesday NSW's Roads and Maritime Services had requested a meeting with Uber to discuss how the NSW Passenger Transport Act applied to the service, and how Uber would respond to its obligations under the act.

Meanwhile, she appeared to concede on Thursday night that there was no problem unless Uber called itself a "taxi service".

"You don't want to limit people's choice because, at the end of the day, it does come down to choice," Ms Berejiklian said on 2GB.

Victoria government issues $1700 fines to Uber ride-sharing drivers as media gaffe surfaces

Ben Grubb
Published: May 14, 2014 - 1:56PM

The Victorian government is cracking down on the "ride-sharing" component of the smartphone app Uber by issuing $1700 fines to drivers.

The app allows any motorist - not necessarily a licensed taxi or hire-car driver - to receive money for providing lifts, in addition to offering authorised taxi and private hire-car services.

Representatives of Victoria's Taxi Services Commission have been using the app to take rides, thus identifying drivers in order to issue fines.

Commissioner Graeme Samuel said the commission had sent "well over" 30 fines to drivers and that there were more to be issued.

The crackdown comes as advice on how to deal with Fairfax Media questions over the fines was accidentally contained in an email to the publisher.

"Simon: story on the fines is about to break in Vic," Uber Sydney general manager David Rohrsheim told his Melbourne counterpart, Simon Rossi, after forwarding Fairfax questions to him.

"I'd recommend not answering the question and instead issuing a pro uber pro choice pro city pro innovation message. If you give him just one sentence, Ben will publish it," Mr Rohrsheim told Mr Rossi.

The advice resulted in Mr Rossi issuing a statement along those lines to Fairfax, which accidentally contained Mr Rohrsheim's media advice.

"We're providing economic opportunity and affordable, safe transportation. Is this something Melbourne wants to stop?" Mr Rossi told Fairfax.

"Riders and drivers are flocking to the Uber platform precisely because we are solving a problem that has stood for decades in Melbourne - the inability to get a safe, affordable, reliable ride when and where needed.

"Consumers and drivers have told us they love ride-sharing with Uber. Cities that choose not to embrace Uber's technology are missing out."

One driver published his fine on the Australian Whirlpool broadband forum website:

"I have just received a fine of $1732 from the Victorian Taxi Commission for driving a UberX," he said. UberX is the name of Uber's ride-sharing service.

More than $50,000 in fines have been issued.

As yet, no action has been taken against Uber in Melbourne, but Mr Samuel would not rule this out.

"Uber could have avoided all of this if they had just come in and seen us three weeks ago," he said.

"It just leaves me absolutely gobsmacked the way they have dealt with this."

Mr Samuel said the company was not complying with Victorian law. He said he was due to meet Uber's Melbourne
The commissioner and the Victorian Transport Minister Terry Mulder had previously warned people against using Uber's ride-sharing service.

Mr Samuel previously stated there could be a place for ride-sharing if drivers were properly licensed and had been through checks.

"What we want to do is to facilitate competition and we see Uber as a source of competition," Mr Samuel said. "But it needs to be competition that is on grounds to protect the public interest."

On Thursday, NSW Transport Minister Gladys Berejiklian said Uber's ride-sharing service was operating within a "grey area".

Roads and Maritime Services were investigating, Ms Berejiklian said.

"At the moment what we are doing is looking to see whether those drivers are classified as prohibited drivers or whether they're not.

"So RMS is currently investigating into that and I'm looking forward to their report in the near future."

NSW Premier Mike Baird said the matter was something the NSW government had to consider.

"There's an evolving modern world that is providing opportunities and how you adapt - the government needs to consider that."

This story was found at: http://www.theage.com.au/digital-life/smartphone-apps/victoria-government-issues-1700-fines-to-uber-ridesharing-drivers-as-media-gaffe-surface...
Uber pledges to pay $1700 ride-sharing driver fines in Victoria

Clay Lucas in Leipzig, Germany, and Ben Grubb in San Francisco
Published: May 27, 2014 - 5:37PM

The head of policy at Uber says his firm will pay the penalties of more than 30 drivers fined by the Victorian government's taxi commissioner this month.

The fines were handed out as part of a crackdown on drivers using the smartphone app's "ride-sharing" feature.

The pledge will be welcome news for Uber ride-sharing drivers. One said he was concerned his contract with Uber meant it did not have an obligation to pay their $1732 fine.

"I don't think Uber will pay the fine for me; they are not responding to my emails," the driver, who did not wish to be named, told Fairfax Media earlier this month when the fines were issued by the Victorian Taxi Service Commission. The commission regulates taxis and private hire cars.

"I have read the terms and conditions and the drivers are totally f---ed," the driver said.

As of earlier this month about $60,000 worth of fines had been issued.

Uber is a smartphone app that, in addition to providing taxis and private hire-car services, allows any motorist – not necessarily a licensed taxi or hire-car driver – to be paid for providing lifts.

The company was launched in 2009 and is based in the United States. It now has offices in 115 cities across 35 countries. It was valued at $3.5 billion last year, Bloomberg reported.

In Australia it recently expanded from having a Sydney office to having one in Melbourne, Brisbane, and now Perth.

The company has 900 employees, and takes a 20 per cent commission from its drivers.

Earlier this month, Fairfax revealed that officers from the Victorian Taxi Services Commission had been using the ride-sharing feature in the Uber app to take rides, in order to identify drivers.

At least 30 unlicensed drivers were issued with fines, taxi commissioner Graeme Samuel said, with more expected to be issued. Until now, it was unclear whether Uber would pay the fines.

Corey Owens, the head of global public policy at Uber, on Thursday addressed the International Transport Forum in Leipzig, Germany.

Mr Owens said Uber had experienced repeated battles in its five-year history with local and state governments in several countries over whether drivers had the right to pick up passengers.

Asked about the fines handed to Melbourne drivers by the taxi commission, Mr Owens pledged this his company would "pay every one of those tickets".

"It is crazy that someone got a $1700 ticket in Melbourne for providing a service that is faster and cheaper than a taxi. Nothing about that to me feels criminal, nothing about that feels bad for the consuming public," Mr Owens said.

When Uber's Sydney general manager David Rohrsheim was asked via email earlier this month whether Uber would pay the $1700 fines, he forwarded Fairfax's inquiry to Uber Melbourne general manager Simon Rossi.

Mr Rossi responded to the inquiry but did not directly answer the question, and accidentally included advice from Mr Rohrsheim which said that Mr Rohrsheim recommended "not answering the question and instead issuing a pro Uber pro
Uber is among a growing field of apps that circumvent taxi companies' booking systems and connect drivers directly with passengers. The app allows passengers to rate drivers, in much the same way as apps in other sectors allow ratings of service providers, such as TripAdvisor or Airbnb.

The Victorian Taxi Association represents taxi operators and network service providers, and its chief executive David Samuel said third-party car booking apps like Uber must be regulated by the same legal standards as established taxi companies.

New competitors entering the market had to follow the law, Mr Samuel said. "Finding that the law does not align with your business plan does not justify completely disregarding it. The notion that regulation only exists to protects incumbents is nothing more than another cynical justification not to comply."

He said Victoria has gone through a "rigorous deregulation process" over the last five years. "The state's regulations that remain are there to protect the safety of customers and drivers, not the commercial position of various suppliers new or old."

But Uber's Mr Owens said that, in cities all around the world when smartphone apps like his firm's were introduced, existing companies with much to lose would protest. He said such protests had "succeeded in defending a broken system for 300 years".

He said most cities lacked the "political will to actually do something about" their dysfunctional taxi industries unless they were pushed hard.

"But fortunately there are examples of cities and countries and states who are willing to say 'What we have done before has not served our population well, and it's time for us to let new, big bold ideas play out'."

Mr Owens said his company "regularly encounters some kind of resistance, either from the local industry, which has benefited from regulations that protect them for a very long time, or the regulators themselves".

This resistance, "given enough time", would dissolve because consumers could see they would get a better deal, he said. Mr Owens said the stringent regulations surrounding existing taxi licensing in many cities creates "these licences that sort of say 'Well if they have this then they must be safe'. But ... every one of you comes from a city with a rich history of violence or danger involving taxi cabs. I don't think that's an indictment of taxis, it is just that we have built an imperfect system."

Clay Lucas travelled to Leipzig as a guest of the OECD, Ben Grubb travelled to San Francisco as a guest of Cisco.

Queensland government gives Uber ride-share the green light

Published: May 30, 2014 - 8:39AM

Queensland Premier Campbell Newman won't be regulating a Google-backed ride-sharing service by smartphone app Uber in Brisbane, even if he prefers his daughters don't use it.

The taxi industry has lobbied the government to crack down on Uber. The San Francisco-based company has extended services to Australia where it's seen as a threat by the tightly-knit industry. In addition to taxi and black limousine services, the company has UberX which allows non-taxi drivers to offer rides for cut-price fares.

UberX is limited to licensed drivers, aged at least 24, whose vehicle has at least four doors and was manufactured after 2005. Drivers must have comprehensive insurance and no criminal record.

The Victorian government started issuing $1700-fines to drivers offering paid rides earlier this month. It used the smartphone app to book rides and then fine drivers. Uber has said it will reimburse drivers.

NSW also announced that all drivers must be accredited and is reviewing the Transport Act, but the Queensland premier won't be following suit.

"We are a deregulation-minded government," he told ABC radio.

"We don't believe in more red tape and regulation unless it's absolutely necessary."

Mr Newman has some worries the service may not be as safe as traditional taxis, and wouldn't want his daughters to use it.

"I do have some concerns over the whole thing," the premier said.

"I've got daughters, 19 and 21 - I would prefer them catching a cab because I know about all the safeguards, cameras, trained drivers, GPS locations of cabs real-time.

"Yes [Uber] has safeguards in there as well, but I'd prefer to use a ridgy didge cab."

Uber has upset regulators and established taxi and hire-car operators worldwide, which claim the services are unsafe. It is only one of a number of smartphone apps seeking to make cab and hire-car booking, tracking and payment easier.

They include Australian challengers GoGatch and Ingogo, and new ride-sharing apps Backseat and Ride Surfing who are watching Uber's progress before launch.

AAP, Fairfax Media

Premier approval doesn't stop Queensland crack down on Uber

**Summary:** The Queensland government has issued Uber with a cease-and-desist notice despite Campbell Newman giving the service the green light earlier this morning.

Queensland has followed in NSW's footsteps by banning start-up taxi service company Uber.

The government issued a cease-and-desist notice last week to the web-based driver hire company, which allows non-taxi drivers to offer a taxi service.

Uber's ride-sharing service, which started in Brisbane last month, is limited to licensed drivers aged at least 24 whose vehicle has at least four doors and was made after 2005.

Transport Minister Scott Emerson says the company needs to meet existing taxi service laws, such as driver accreditation and vehicle standards.

"The department is working with Uber to outline what safety regulations it needs to meet in order to operate in Queensland, including driver authorisation, which includes detailed criminal history checks, vehicle standards and taxi licences," he said.

Premier Campbell Newman expressed concern that the service might not be as safe as traditional taxis, and said he wouldn't want his daughters to use it)

"I do have some concerns over the whole thing," the premier said.

"I've got daughters, 19 and 21, I would prefer them catching a cab because I know about all the safeguards, cameras, trained drivers, GPS locations of cabs real-time.

"Yes, [Uber] has safeguards in there as well, but I'd prefer to use a ridgy-didge cab."

Newman had earlier said the government didn't believe in red tape and regulation unless it was absolutely necessary, but later updated his advice following advice from Emerson's office.

Taxi Council Queensland CEO Benjamin Wash said it was only fair Uber complied with existing regulation.

"Companies that do not meet regulatory requirements jeopardise the industry's reputation, put lives at risk and hurt small business people who have invested heavily in meeting the regulations," he said.

Queensland's move comes a day after Google co-founder Sergey Brin told the Code Conference yesterday that Google would look to use partners, in a similar way to how Google uses partners for its Nexus device, in a future commercial release of its self-driving car program.

"We are most certainly going to partner with other companies, possibly Uber," Brin said.

At the conference today, Uber CEO Travis Kalanick said that the world is headed towards a self-driving future, one that would arrive in the coming decades, and Uber needed to be a part of it, if it is to exists in the future.

According to Bloomberg, Uber is currently raising funds that will value the company at over US$10 billion.