NSW TAXI COUNCIL

This submission is provided in response to the Commonwealth Government's Competition Policy Review Draft Report

NSW Taxi Council Submission

Commonwealth Competition Policy Review

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EXECUTIVE SUMMARY

The NSW Taxi Council welcomes the opportunity to provide a submission in response to the Commonwealth Government's Competition Policy Review Draft Report (Draft Report).

The NSW Taxi Council wishes to advise that it does not support the findings of the Draft Report as they relate to the taxi industry. It does however support the findings of the Draft Report in relation to competitive neutrality

As outlined in our letter to the Commonwealth Government's Competition Policy Review of 23 July 2014, there are high levels of external competition with the NSW Taxi Industry and also within the industry itself. It is important to note that the NSW Taxi Industry competes against many substitutes in the public passenger transport market that are government funded. Given that the NSW Taxi Industry is made up of privately funded small to medium enterprises, the issues raised in the Draft Report regarding competitive neutrality are relevant in this regard.

Furthermore the NSW Taxi Council wishes to emphasise that there are no statutory limits on the number of taxi businesses that can operate in NSW, and that there are regular releases of taxi licences to ensure that there is sufficient supply to meet consumer demand. This is particularly the case in Sydney where there is currently an over-supply of taxis relative to actual consumer demand.

In respect of deregulation of the industry, the NSW Taxi Council argues that this is not in the public interest. Experience in other jurisdictions, particularly overseas, has demonstrated that the deregulatory model that is being proposed as part of Competition Policy Review process has negative social and economic consequences for the both the traveling public and the taxi industry. This has usually resulted in governments having to re-regulate to address these issues accordingly. In this context, it is important to note that in 2009 the NSW Government rejected a deregulatory approach in favour of a well regulated and managed taxi industry.

[1] NSW Parliament. Hansard, ***Passenger Transport Act (Taxi Licence Reform) Bill***, *October 2009*

It is in this context that the NSW Taxi Council is very concerned at the recent emergence of ridesharing. As outlined extensively in the Australian Taxi Industry Association Submission to the Commonwealth Competition Policy Review, ridesharing is a form of deregulated taxi services that exposes the traveling public and the industry, notably drivers, to significant risk. Evidence is emerging from overseas of the manifestation of these risks, including criminal activity and price gouging.

The NSW Taxi Council therefore respectfully asks that the Commonwealth Competition Policy Review reconsider its position on the taxi industry as outlined in its Draft Report and amend its recommendations accordingly.

INTRODUCTION

The NSW Taxi Industry is a major contributor to the State's public transport system. It provides approximately 170 million passenger journeys each year and it meets customer travel needs right across NSW. It functions as a door to door transport service that operates 24 hours a day seven days a week. The NSW Taxi Industry also provides services at times when other forms of public transport either significantly reduce service levels or cease operations altogether. Taxis are often the only form of public transport for some members of the community, and they provide essential transport services to some of the most disadvantaged people in the State.

The NSW Taxi Industry is also a significant contributor to the State's economy, providing employment opportunities for tens of thousands of drivers and operators, network management staff as well as for other industries which rely on economic activity that the NSW Taxi Industry generates. The taxi industry contributes to the economic generation of the State by connecting people efficiently and effectively for business, education, tourism and essential lifestyle activities. The highly respected international accounting firm Deloitte Access Economics has undertaken an independent assessment of the economic contribution of the NSW Taxi Industry and has estimated the annual contribution of the industry to the NSW economy to be in the order of $1.15 billion per annum.

The NSW Taxi Industry is made up of a wide range of providers from the licence owner (the licence being the principal legal instrument to provide a taxi service), through to operators and drivers. A licence owner may own, operate and drive a taxi, where as some elect only to own and be the operator of the vehicle. Some licence owners have chosen to invest in a licence and then subsequently lease the licence to an operator. Authorised taxi networks are the principal means through which taxi services are coordinated. They provide direct booking services to the public and a range of safety and other services to operators and drivers.

The NSW Government does not, unlike other forms of public transport, procure taxi services from the NSW Taxi Industry. Whilst some financial support is provided to assist disadvantaged members of the community to access taxi services, on the whole the taxi transport system has been created and continues to operate as a consequence of the many people and organisations that have committed capital to invest in the industry. The NSW Taxi Industry also generates revenue for the NSW Government through the sale of licences and stamp duty on third party licence sales. It also generates other revenues through authorisation fees and indirect taxes.

The NSW Taxi Industry is a highly competitive industry. It has a significant number of participants all of which compete with each other on a daily basis. Furthermore, the NSW Taxi industry competes with a wide range of other industries that existing within the public passenger market.

ISSUES FOR CONSIDERATION

The following issues are raised for consideration as part of the Competition Policy Review:

NSW Taxi Industry Competitive Environment

The NSW Taxi Industry competes in the dynamic and growing public passenger transport market. Passengers generally have a significant number of choices in relation to passenger transport ranging from the private motor vehicle through to heavy rail.

Within this market, major public transport providers are heavily subsidised including rail, bus and ferry services, as well as specialised transport such as community transport[2]. Furthermore, there has been a significant growth in the number of hire cars in NSW with the total number increasing by over 500% in the last six years. This has coincided with growth in courtesy and community transport over a similar period.

This growth in substitutes has resulted in a highly competitive market within NSW for public passenger services and therefore it is not correct to assert that that the competition for taxis is not open and efficient, which was put forward by some stakeholders in response the Commonwealth Competition Review Issues Paper.

It is therefore requested that the Final Report reflect the highly competitive environment in which the taxi industry operates.

Competition within the NSW Taxi Industry

As outlined in the letter of 23 July 2014 to the Commonwealth Competition Policy Review, it is also important to note that competition within the NSW Taxi Industry is strong and dynamic. The NSW Government has placed no statutory limits or regulatory restrictions on the number of taxi businesses, networks, operators or drivers that can operate in NSW.

Every network competes with each other; every operator competes with each other and every driver competes with each other. Competition is systemic within the industry and it is intense. Given the above, it is also erroneous to state that there is limited or no competition in the taxi industry.

[2] In financial year 2013/2014, the NSW Government spent in excess of $3 billion on passenger transport services, of which the NSW Taxi Industry received no subsidies for the services it provided throughout the year.

Specifically as at 30 October 2014 there are[3]:

- Over 150 taxi networks in NSW
- 7 independent networks in Sydney (the most of any capital city in Australia)
- 5,205 operators
- 23,959 drivers

Again, it is requested that this internal competitive environment is reflected in the Commonwealth Competition Policy Review Final Report.

Taxi Licences

NSW has 7,252[4] licences which represents the most taxis per capita of any State in Australia. Furthermore, in all areas of NSW other than Sydney, there are no statutory limits on the number of licences that can be issued to the market. Any person and/or organisation may make application to the relevant NSW Government agency for a taxi licence and, upon meeting certain administrative requirements and paying the relevant fee, they will be issued a taxi licence accordingly.

In the Sydney Metropolitan Transport District (SMTD) the NSW Government determines the number of taxis that are to be issued on an annual basis. In the last five years, the NSW Government has released in excess of 800 taxis, thereby increasing the number of taxis licences in the SMTD by in excess of 15%. This has led to an oversupply of taxis in the SMTD which is having negative social and economic impacts on the NSW Taxi Industry, and at the same time, is having no demonstrable benefit for the travelling public.

The average percentage of the fleet Sydney on the road is approximately 70%, with the number dropping as low as 40% during Sundays and Mondays through to a peak of 90% on Friday and Saturday evenings. It is clear that the fleet is underutilised and further issuances of licences are only ongoing to exacerbate this problem by reducing overall productivity.

It is important to note however that the NSW Taxi Council does not oppose the growth of licences as long as the growth is responding to genuine demand.

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[3] Source: NSW Roads & Maritime Services – 1 November 2014

[4] As at 31 October 2014 – Source: NSW Roads & Maritime Services. It should be noted that this figure has increased by 117 since the NSW Taxi Council letter dated 23 July 2014 to the Commonwealth Review of Competition Policy

It is also important to note that when the issue of the determination of licence numbers was debated in the NSW Parliament in 2009, it determined that it was in the public interest not to have an open supply policy, thereby ensuring quality services through a sustainable and viable taxi industry. There was a clear recognition that an open entry market has been proven not to be in the public interest and there was bipartisan support for the release of taxi licences in a sustainable and appropriate manner.

This is exemplified by the nature of the Parliamentary debate as highlighted below:

> *These reforms are about putting more cabs on the road in a gradual, sustainable way to improve services for customers and the long-term viability of the industry. They are not about taking away the rights of those already in the industry. In fact, a key objective of the reform package is to ensure that the rights and conditions of existing licence holders are put beyond doubt.*[5]

The NSW Parliament also acknowledged the risk of an open taxi licence system and issues that this would present to both the travelling public and the industry.

> *The Government does not want a flood of new licences on the market. Experience in other jurisdictions has shown that in the long run this does not benefit anybody. We do not want an influx of fly-by-nighters who get in hoping to make a quick buck and leave almost immediately, making it harder for existing participants to make a reasonable living and dragging down service quality. Instead, we want gradual, sustainable growth in taxi licences.*[6]

It was made clear by the NSW Parliament that there was a genuine public interest in limiting the number of taxi licences that would be released into the market at any one time. This point was also highlighted in the ATIA submission to the Commonwealth Competition Policy Review and is re-emphasised in this submission accordingly.

Deregulated Taxi Services

It has been well established that removing all regulatory limits on taxis and thereby deregulating the industry has negative social and economic consequences for both the traveling public and the industry.

Independent research of international jurisdictions has found that quality diminishes, industry viability declines and consumer pricing increases. Specifically Kang, when researching the impacts of deregulation in numerous international jurisdictions found:

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[5] NSW Parliament. Hansard, ***Passenger Transport Act (Taxi Licence Reform) Bill***, *October 2009*
[6] NSW Parliament. Hansard, ***Passenger Transport Act (Taxi Licence Reform) Bill***, *October 2009*

As a whole, however, the effects of taxi deregulation were not so beneficial to consumers due to increased fares and deteriorated service quality. In addition, the returns to operators as well as drivers also decreased, and there was no significant evidence of innovation in the industry. On the other hand, the structure of the industry became more fragmentary with increased single operators and taxi leasing.[7]

It was these concerns that resulted in the NSW Parliament in 2009 determining that an unrestricted taxi licencing policy was not in the public interest and legislated to ensure that a set number of licences for Sydney be determined each year.

It is in this context that the NSW Taxi Council is very concerned at the emergence of ridesharing as a form of public passenger transport.

Ridesharing services operates using private drivers and private vehicles with no regulatory oversight and therefore represents a significant risk to the travelling public. The NSW Government has declared ridesharing illegal and has taken compliance action against person/s participating in this type of public passenger transport.

Ridesharing is presented as a viable alternative to regulated taxi services, however international experience indicates that, like deregulated public passenger transport services, there are significant risks for the public in this regard.

Furthermore, ridesharing does not represent fair competition. It operates outside the regulatory framework and the organisers of these services have little or no respect for the most basic of safety and service reliability requirements.

As is being experienced in international jurisdictions, ridesharing is quickly becoming a 'race to the bottom' where competitors adopt the least cost operating models and in doing so, remove (or simply ignore) as many regulatory overheads as is possible. As has been widely reported, some organisers of ridesharing have masked this non-compliant behaviour as 'business disruption' however this should not be accepted as a legitimate competitive model as this places to great a risk on the public, as well as compliant industry incumbents.

The issue in this context is one of culture and behaviour rather than competition,

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[7] *Kang, C-H. (1998): Taxi Deregulation: International Comparison. Dissertation submitted as part fulfilment of MSc(Eng) Transport and Engineering degree. University of Leeds. (www.taxi-l.org/kang0898.htm) as including in Professor Des Nicholls Paper on* ***The Impact of Deregulation on the Consumer Passenger Vehicle Industry in the Northern Territory****, dated February 2003.*

Competitive Neutrality

The NSW Taxi Council supports the findings of the Draft Report in relation to competitive neutrality. As the NSW Taxi industry is privately funded and is made up of many small to medium enterprises, it is highly susceptible to competitive disadvantage from services provided by or funded by Government/s. This is particularly the case in rural and regional NSW where state funded community transport can offer discount public passenger services by virtue of the subsidies this sector receives.

Whilst the NSW Taxi Council recognises the need for subsidised community transport where there is a market failure, it believes that there needs to be greater transparency around the requirements of competitive neutrality and that any thresholds are removed as a consideration where competitive neutrality may have been breached. To this end, the NSW Taxi Council supports to findings of the Draft Report on this issue.