

SUBMISSION TO IPART

DRAFT REPORT- JANUARY 2015

by the

**AUSTRALIAN TAXI
DRIVERS ASSOCIATION**

Australian Taxi Drivers Association

Submission to IPART, January 2015

If for no other reasons than that IPART has opened the issue, and the Pandora's Box of "point to point public passenger services", and that the NSW Government puts "consumers first", the Industry must have an open inquiry and review. To set fares or license numbers of taxis alone, whilst being aware of both fair and unfair, illegal, competition might fit its charter, but would be a folly. To not remedy, or stop, continued breaches of the law is a failure by Transport for NSW. As at 30th January all that has occurred are 72 fines and a half dozen Court Attendance Notices. A prosecution under the Crimes Act (307B) against Uber for giving false information would be a start.

IPART comes to a conclusion in its Draft Report that fares should remain unchanged and that no new growth licenses be issued. It wishes to reissue plates returned or churned because the anticipated revenues did not happen. Quite out of nowhere it expects and anticipates a trips increase of 6% and a 5% increase in 'utilization'. Yet its Taxi Model released a week before final comments are due, does not reflect such optimism.

This is arrant nonsense. It may suit the interests of passengers to have a 'real' fare reduction; to continue the excess supply capacity; and to preserve the economic interests of investors in Taxi Plates; it does not suit the interests of the actual 'plate holders'; nor does it address the real cost to taxi drivers of supplying the taxi service. It relies on drivers earning \$10 an hour and operators allocating 20% of fare revenue for non-economic rents. It deliberately confuses taxi utilization of cabs on the road with taxi occupancy as time hired.

Taxi trips are declining because of both alternative and illegal forms of public passenger transport, recognised and apparently ready to be sanctioned by both IPART and the NSW Government. That decline is greater than any economic growth, or nominal / real fare decrease can possibly reverse.

Notwithstanding public statements by the Minister for Transport, and her Parliamentary Secretary, that firm legal action would be taken against Uber X drivers before the end of 2014, and of a priority of providing customers with safe transport services that comply with existing regulations, nothing is apparent, not much has happened as would stop or hinder the illegal ride sharing arrangements facilitated by Uber. 72 fines issued to drivers and paid by Uber.

Taxi bookings and trips continue to decline, as do the already abysmal earnings of Taxi Drivers.

\$10.00 an hour, without Annual Leave entitlements or Superannuation, as the average earnings may permit the Taxi Industry to limp along, on the exploitation of drivers, but it determines the Industry to be both morally and financially bankrupt. It is currently incapable of paying wages to its workers. That both Government and IPART are complicit in this exploitation adds insult to this unacceptable situation.

That it has for so long been accepted is in part the cause of the rise of the house of Uber. The community has taken up, with alacrity, a passenger service which, in evading regulatory and non-economic rents, thereby offers lower "fares", other than when surge or siege pricing occurs, and purports to obtain community standard earnings for its drivers, whilst actually still resulting in below minimum wages, and with an extraordinary risk of voided insurances, fines and penalties.

It is both curious and alarming that IPART's Issues Paper and the Draft Paper are so removed from each other and the realities of the Sydney Taxi Industry. The stakeholders who responded have done so with comments very much at odds with the indicated approach of IPART, and the recent Open Meeting displayed both stakeholder and community views indicating the imperatives for a full and independent review of "point to point public passenger services".

The actions of the NSW Government, unobservable as they have been in almost a year's illegal activities by unauthorised drivers in unregistered vehicles, facilitated by Uber- X, have brought on such changes as now mandates the need for such an across the board review. It's no longer just a Taxi Review.

It is now no longer appropriate, and IPART concurs, to assess taxi fares and license numbers in isolation from the services provided by Hire Cars and the albeit illegal services of unauthorised and so called "ride sharing" arrangements of Uber-X. The matrix is now "point to point public passenger services".

It is time to now set aside the current taxi model, with all its historical imperfections, greatest of which is that it operates principally on its workers receiving less than half the minimum wage, and its current lack of restraints, the greatest of which are excessive plate lease, network and insurance fees.

IPART did remark on the matter now before the NSW Industrial Relations Commission, which seeks a safety net earnings for taxi drivers of \$23.40 an hour, but made no comment on the effects of such a regime on the taxi industry. Nor does it appear to have modelled in any way the potential impact. In our view the current 'disruption' from Uber will be a minor disturbance to the absolute changes wrought by such a recognition of a 'fair share of a fair fare'. It will be a whole new model, as our modelling indicates, and would bring on a whole new industry.

Where however is the modelling from IPART on this or any other of the variant possibilities ?

Uber has demonstrated that an operation without regulatory supported fees and charges can purport to charge 'fares' of half the taxi fare and provide a better and more reliable service. It can purport that drivers can 'earn' \$25 an hour whilst engaged – so can taxi drivers, whilst engaged. That it requires "surge pricing", now better known as "siege pricing" to do so, whilst obtaining a 20% retention to Uber, which puts past Cabcharge practises to shame, is not realized by the wider community. Nor that the driver still only gets about \$10.00 an hour after his costs.

However, in the last months, Uber has captured a very significant market share away from taxi services, and it has done so because passengers perceive a credible mix of new social media technology and lower prices. The facts of a new monopolistic cartel and of next morning price surprises are not at issue. The worldwide gargantuan capitalization of Uber comes with a matching perception of profits to be made.

It is however totally inequitable to permit an illegal and unregulated entity to exist and compete with a regulated entity which also pays fees to operate. The consumer warrants and deserves a regulated range of maximum fares to forestall price gouging – market competition can set the lower end, but not in a taxi, where by effect of regulation the fares are both maximum and minimum. Government should not support or benefit from a plate licensing fee regime that is a non-economic cost, and which results in excessive fares to cover those costs, whilst delivering sub-standard earnings to drivers. Our Solution ...

Non-Transferable Plates available to Authorised Operators for \$1000.00 a year for either of a Taxi or Hire Car meeting current vehicle specifications and standards, with the condition that the vehicle be driven principally by the Plate Holder and/or by supplementary authorised drivers employed by the plate holder.

IPART's Draft Report indicates that taxi fares not be increased and that only 141 plates be offered for tender as replacement of estimated surrendered plates. The ATDA concurs with this fare freeze but would recommend that not even replacement plates be tendered, and for quite different reasons, and maintains its rage at the continued acceptance and reliance by Government and by IPART of a functioning industry based on its workers earning \$10.00 an hour for their inputs.

A drop in real term revenue per shift per vehicle is noted by IPART, and of night driver earnings, despite fare increases. A drop in taxi on-road utilization and of fares per shift is determined by the CIE survey, and the consequential drop in revenue. But no alarm bells other than the "competition" from illegal activities. Very much like counting smuggled goods as part of national import statistics. IPART optimistically assumes a 6% trip increase and a 5% occupancy increase. Without Governmental action, neither is likely.

As a representative for taxi drivers, we are very well aware also of the wider picture of “point to point passenger services”, and have advocated for over a decade of IPART submissions that the industry must be viewed as a whole entity, with recognition of alternative and competing services. There is absolute refusal on our part to concede the legitimization of illegal ride sharing as facilitated by Uber, such as would have either Taxis or Hire Cars fundamentally disadvantaged by “competition” which has no regulatory restraints or licensing costs.

For the safety of drivers and passengers alike there needs to be an independent regulatory framework and recording / reporting of surveillance data. For the equitable provision of services there needs to be a maximum fare regulatory regime as well as a common regulatory cost of licensing those services.

The real issue highlighted by Uber is that those costs and services now come at an excessive price. A taxi in Sydney is currently burdened with about \$50,000 a year in these excessive costs. It is the removal of those charges, hitherto outside the ambit of IPART, that must now be our industry-wide focus.

It is also appropriate that Transport for NSW, and the Roads & Maritime Services provide their inputs, since whilst being the Regulator, they are both Stakeholders. That for so many years they have opted out of the Reviews has been regrettable, but now that an all-of-industry review has been called for, it is imperative that the views of Government and of the functional Regulator be part of the process. The NSW Government is now the biggest lessor.

Our position is that all public passenger vehicles licensed for private hire should have a common \$1000.00 annual license fee either as a taxi or a hire car and be subject to both driver and vehicle authorization, together with an authorized and comprehensive surveillance recording and reporting regime, and a requirement that the vehicle be driven principally by the licensee, or his supporting employed driver.

The impact of this approach would be that the current “owner / driver” leasing a plate from an investor would relinquish that plate and obtain another for \$1000. Importantly it does not assume a significant increase in the absolute number of taxis, but it would limit the investor as to the lease fees obtainable on an open, competitive market. There are two very significant in-built constraints : the requirement for the operator to be the principal driver, and there are currently only 3383 working operators, and the requirement that any additional drivers be employees, and subject thereby to wages and entitlements prescribed by Fair Work Australia as an Award.

There will not be a “flood of taxis”. An informed and competitive market will set its own limits.

We also raise again the issue, in its Terms of Reference, that IPART must take into account the possible disadvantage of its recommendations upon existing license holders as being a requirement equally appropriate to the original licensee and to his sub-lessees as holders of the plates where the latter is entitled by the Passenger Transport Act to all the benefits and requirements of the license. IPART has previously maintained, and continues incorrectly to maintain that the plate holder is only the licensee /owner, and not the lessee. The Passenger Transport Act 1990, and the new 2014 Act in Division 6 is quite clear on this.

It is reasonably obvious that a lessee owner/driver would be significantly advantaged by a fee of \$1000.00 rather than of up to \$30,000.00

We note also that the State Government has also an interest which it requires to be considered for all the recent tendered plates, and question the propriety in its requiring such protection of its own interests.

The ATDA has, in previous Reviews, raised the dual issue of Plate Ownership and Plate Operators in assessing operating costs. Statistics provided by RMS indicate that the 7253 taxis in NSW are operated by only 3383 Operators, and an empiric analysis indicates that the single owner/ lessee driver model is a minority of standard taxi usage. 52% of all Sydney taxis are operated by an operator with one or two taxis. It may be that 80% of plates are “owned” by a licensee of two or less plates – that does not give rise to the protection of commercial investments.

The Taxi Cost Index, now in limbo, does not properly account for a standard of multiple taxi operations, and the data outcomes from CIE do not reflect this either. The ATDA continues to have doubts about the TCI since many, in our view, significant costs are not included such as would enable the TCI to accurately present and reflect taxi operating costs rather than be a measure of (most) percentile changes from year to year. We include extracts from the IPART 1999 Parry Report as an illuminating comment on the still limited data we all use. We note that some of the 'savings' result from elimination of Annual Leave Entitlements and Uniforms.

Of concern also is that, of the 678 additional taxis on the road through the tender process, some 141 Plates are estimated by IPART to be returned in this next period – 21% in a single year. There should be not even a suggestion that they be replaced in a new tender offer, and the ATDA will be advocating that all and any tenderers value the plates at \$1000, should the NSW Government accept this inappropriate recommendation by IPART.

A significant point made at the Roundtable Forum was that the massive increase of Hire Cars had not hitherto been considered a factor of supply increases. Nor that another 40 odd Hire Car Licenses have been recently issued.

A slight note of comfort to taxi drivers is that IPART, at least for this year, has not taken up its long held misunderstandings on the Northbound Harbour Bridge and Tunnel Tolls. The night driver doesn't lose another dollar fifty an hour this time around. We hope to hear no more of this in future years either.

We do despair at the flawed logic with which IPART asserts that fare increases do not flow to the benefit of taxi drivers, and concludes therefore that there is no point in increasing fares. Certainly, as an observed fact, average driver earnings are less than they were 15 years ago, but that is a function of the increase in taxi numbers, against assumed demand increase for taxi services. It is perhaps not unreasonable to expect IPART to turn its mind toward those factors which would increase driver earnings.

Certainly the fare increase of the past fifteen years have flowed to the benefit of Plate Investors, Taxi Networks, and to Government itself – all stakeholders beyond the purview of IPART. Where IPART has in the past made effective suggestions to the NSW Industrial Relations Commission as to the "appropriate split" of a fare increase as between drivers and operators, it did so with knowledge of an inequitable percentage retention of fare revenue to the driver, dropping each year to now 35% of fares.

Real market forces have likewise had an impact : cabs are on the road for fewer hours and fewer shifts as a conscious reaction by operators of an excess supply brought about by the issue of ever more plates to satisfy an unproven demand. Even the Taxi Council Limited calls for substantiated proof of this demand.

The mantra of IPART, and its pursuit of lesser waiting times as an absolute, without regard to geography, time of day or peak occasion, and with surveys that do not differentiate between occasional and frequent users is also flawed. After years of using Network Standards as a measure of productivity, efficiency and waiting times, even though that measure related to less than 20% of trips, IPART now uses the Taverner Research data on 2200 surveys of the 45,000,000 annual trips, half of which did not even catch a cab in the period. Statistically plausible, but still less than ideal when achieved results are so minimally different from year to year, and in any event are down to about five minutes. The expectation of waiting for a random taxi to drive past vacant within a set time frame is a nonsense.

The very notion of the "apps" is to book as immediate or to pre-book a taxi. The real, and measurable, question is about booked taxis, and not about the street corner wait for a passing vacant cab, and nor is it about including all hirings from a rank as a "waiting time". We would remind Networks, and the Regulator, that the "Standard" is for a waiting time of less than fifteen minutes for 85% of bookings, from the time the booking is made. It is not, as the Networks assert from the time that the booking is accepted by a driver – and that probably means that the last set of data published, for 2011, showed that the then 65% achievement, is still current. We do not know for certain because Transport for NSW no longer publishes the monthly, annual or any data. Now, an interested stakeholder must make a GIPA (???) to find out.

In its Draft Report, (P 2), IPART makes the statement that the impact on existing license holders(sic) is coming from competition by Hire Cars, Ride Sharing(UBER X) and Car Sharing service and not from fares or taxi license numbers. It notes (on P 3) that the extra 349 PAL Taxis, and less than inflation fare increases in the last two years would have improved 'waiting time ', and made taxis more affordable , but would not have had have an impact on the license lease costs. Will this current recommendation have any more impact ?

Should the 2014 Passenger Transport Act come into force prior to Transport for NSW determination of taxi fares, there will be no variation permitted by Section 125 of the Act, to either the maximum fare determination by IPART or from a determination other than in accordance with IPART methodology. From that point on, the Government will have lost the power to regulate fares. IPART will still have an obligation to consider the costs of providing the services, but we have grave concerns as to its continuing the long term treatment of driver costs as no more than the balance of fare revenue after all other costs have been counted.

The solution of Peak Availability Licenses as a means of reducing peak demand waiting times was questioned at the Roundtable Forum, as being unsustainable to service providers unable to double shift their taxi, and to still bear all standing costs of an unrestricted taxi. The unreasonable conditions still being placed on WATS as to on road hours was raised, but its impact on the consequential reduced demand for WATS plates, was overlooked by IPART.

The ATDA believes that IPART should take its independence seriously and refrain from any and all recommendations on the acknowledged limited role of regulated taxis in the point to point public passenger service industry. It has called for an open and comprehensive review of that industry. To seek to regulate but one sector, in the knowledge of general competitive anarchy, would be improper. This Draft is at best a non-recommendation. Let us have a full and open Review of the Industry.

Our position is that deregulation to the point of preserving standards of quality, service and prices which put the consumer first, and ensure community standard conditions for drivers, and make use of new technologies, are the clear, obvious and practible goals.

Our commitment is to provide a new and innovative public passenger vehicle operating system, at a much reduced cost, which gives security and safety to drivers and passengers, and which freely provides authorised access to all trip data. Technology has blurred the historical distinctions of bookings and availability for both Hire Cars and Taxis, and questions the role of Networks. The uncertainties which have escalated Insurance costs can now be recorded.

The State guaranteed investment in Plates, and the State's own financial interest in leasing Plates are the significant barriers to free market competition which IPART, and the NSW Government, must address as its commitment to National Productivity. Uber X has demonstrated what the free market wants. If our service industry is to survive it must meet market demands and not rely on protection by Government and the exploitation of its own workforce.

Critically it must do so within a framework of legality and such regulation as provides an equitable workplace which in turn provides services which put the Consumer First. *" A fair share of a fair Fare "*

Michael Jools

President ATDA

30th January ,2015

Australian Taxi Drivers Association

.. a fair share of a fair fare ..

IPART DRAFT REPORT 2015 - Comment on CIE Report

The ATDA compliments the Centre for International Economics on the information derived from its second survey of NSW Taxi Drivers and Operators, and thanks IPART for publishing the Report and also the Model developed from those surveys. In an Industry otherwise bereft of data these are long overdue and very welcome sources of information upon which IPART and the Government should be basing their decision making process. Regrettably both note and then ignore a critical item.

The average hourly earnings of taxi drivers is \$10.00 an hour, without entitlements of Annual Leave, Sick Leave or Superannuation, without Uniforms or any recognition of their 'business' expenses.

That rate is effectively less than half the Minimum Wage. The exploitation of the taxi workforce is the only basis upon which the Taxi Industry continues to function.

The CIE cannot look back to observe that the crucial elements of taxi utilization (cabs on the road) and taxi occupancy (hired time per shift) are in constant decline. The ATDA records, provided since 2001 to IPART do show that systemic decline in our industry, and CIE notes it also in the second survey. The average taxi is obtaining less revenue in 2014 than it did in 1999.

Less jobs per shift, less shifts per year.

IPART however continues to put more cabs on the road, to satisfy theoretical and clearly unproved demand increases, and to reduce 'waiting time' below an already surveyed acceptable level. It justifies the real fare (CPI adjusted) decrease on the basis that fare increases do not flow to the driver, whilst failing to comprehend that driver earnings are down because he is doing less jobs.

Or the equally obvious (to us) parallel that operator earnings are down because the cab is on the road for less shifts.

The information provided and well substantiated by the CIE, appears to have been set aside by IPART in favour of the not inconsiderable impact of Uber X and Hire Car competition. The ATDA is very much in favour of a review of "point to point public passenger service", but we also want an outcome for taxi drivers that recognises their role in effectively subsidising the industry by their long accepted exploitation as half price workers.

That the very structure of an industry is functionally based on its paying the workers less than half the National Minimum Wage and about one third of the wages of comparable National Awards is a fundamental aberration. The surveyed and observed retention by drivers of a share of the fare, which is then described as "driver costs" may well serve as cost reduction, but it comes at an unacceptable social and human cost to taxi drivers.

Much of that cost flows from the need for Operators to meet a \$30,258 Plate Lease Cost.

We would also suggest that higher Vehicle Costs are offset by Fuel Efficiency savings in the newer types of vehicles, and that particularly in the increasingly common, and illegal, practice of weekly bailments, some of these savings do flow to contracted drivers.

For the CIE to be able, quite unequivocally, to state as a verifiable average result that taxi drivers earn about \$10.00 an hour is of profound importance, in that it highlights the moral and financial bankruptcy of the Taxi Industry. To dismiss as unobservable such basic 'costs' as Annual Leave, Sick Leave, Long Service Leave and Superannuation which all other industries bear produces a model which is socially unviable. It is not the CIE's responsibility to draw attention to the moral issues, but it is the responsibility of IPART to consider the industry's viability and sustainability.

Michael Jools

President ATDA