



Dr Peter Boxall
Chair
NSW Independent Pricing and Regulatory Tribunal
Level 8
1 Market Street
SYDNEY NSW 2000

Dear Dr Boxall,

Re: Response to NSW Independent Pricing and Regulatory Tribunal (IPART) Issues Paper

We refer to the request for submissions from IPART in response to the Issues Paper released on 7 October 2014 regarding the Review of Taxi Licences and Fares in the Sydney Metropolitan Transport District.

The NSW Taxi Council wishes to advise that we do not support the approach put forward by IPART as part of this review process. As has been outlined in numerous submissions to IPART and the NSW Government, the NSW Taxi Council rejects the policy position that IPART has adopted, ie that licence costs need to decrease in value by 25% over a period of five (5) years from 2012/2013. We believe that this approach has no legitimate basis as it does not accord with the will of the NSW Parliament and is inconsistent with the requirements of the *Passenger Transport Act*.

Furthermore, there has been a considerable release of taxi licences into the Sydney market over the last 5 years, including 322 licences being tendered in the last three months. This increase in the number of taxi licences has coincided with constrained economic growth in the post global financial crisis (GFC) as well as a significant increase in the number of substitutes in the passenger transport market. In this regard, there has been significant growth in hire cars, bus and train services, as well as additional funding for Community Transport.

It is for these reasons that the NSW Taxi Council presses for IPART to return to the Sydney Taxi Growth Model that was previously used to determine the number of licences that are to be released in Sydney. As outlined in this submission, the STGM represents a balanced and appropriate method of calculating the release of licences in accordance with the *NSW Passenger Transport Act*.

It is the clear position of the NSW Taxi Council that no new licences be released into the market until a proper impact assessment of previously releases on the NSW Taxi Industry and its performance can be carried out.



It is important to note that in this context, the NSW Taxi Industry continues to perform well above its statutory requirements and, as demonstrated through rigorous independent assessment, is rating highly with the NSW travelling public, notably the NSW Government Public Transport Customer Satisfaction Index.

In respect of taxi fares, the NSW Taxi Council again presses for the return to the Taxi Costs Index (TCI) model. NSW Taxi drivers and operators are facing the combination of increased supply in a highly competitive market, and the impact rising costs. These costs are substantially exceeding the consumer price index and are placing considerable economic and social pressure on the industry.

The NSW Taxi Council has retained independent expert advice to run the TCI model which demonstrates the increase in costs that drivers and operators are facing. Specifically the TIC indicates that the costs of owning and operating a taxi have increased by over 3% in the last 12 months. This increase in cost has been most notable in insurance and fuel. Compulsory third party insurance alone has increased by over \$1,000 per vehicle in the last 12 months.

It is instructive to note however that licence lease costs have decreased over the corresponding period.

The NSW Taxi Council also wishes to highlight the risks of the emerging challenge of ridesharing. Ridesharing is an illegal form of deregulated passenger transport services and therefore represents a significant risk to the travelling public of NSW as well as the economic viability of the NSW Taxi Industry.

The NSW Government has, rightly, declared ridesharing illegal and is undertaking compliance action accordingly. Furthermore, there is growing evidence of the significantly increased risks that the public face when exposed to ridesharing. This includes serious criminal offences as well as inappropriate practices such as price gouging (surge pricing). Examples of this risk are attached to this submission for your consideration.

Specific responses to the NSW questions raised in the Issues Paper are attached for your consideration. The NSW Taxi Council will also be providing further evidence in support of this submission which will be sent to IPART separately.

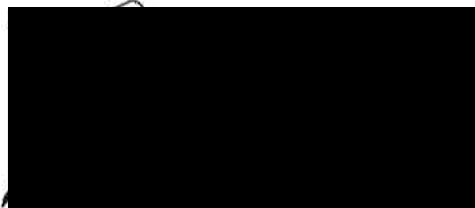
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NSW TAXI COUNCIL LTD

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Please contact the undersigned should you or your staff require any further information in relation to this submission.



Roy Wakelin-King, AM
Chief Executive Officer

11.11.2014

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 complex array of providers, ranging 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.

RESPONSES TO IPART ISSUES PAPER

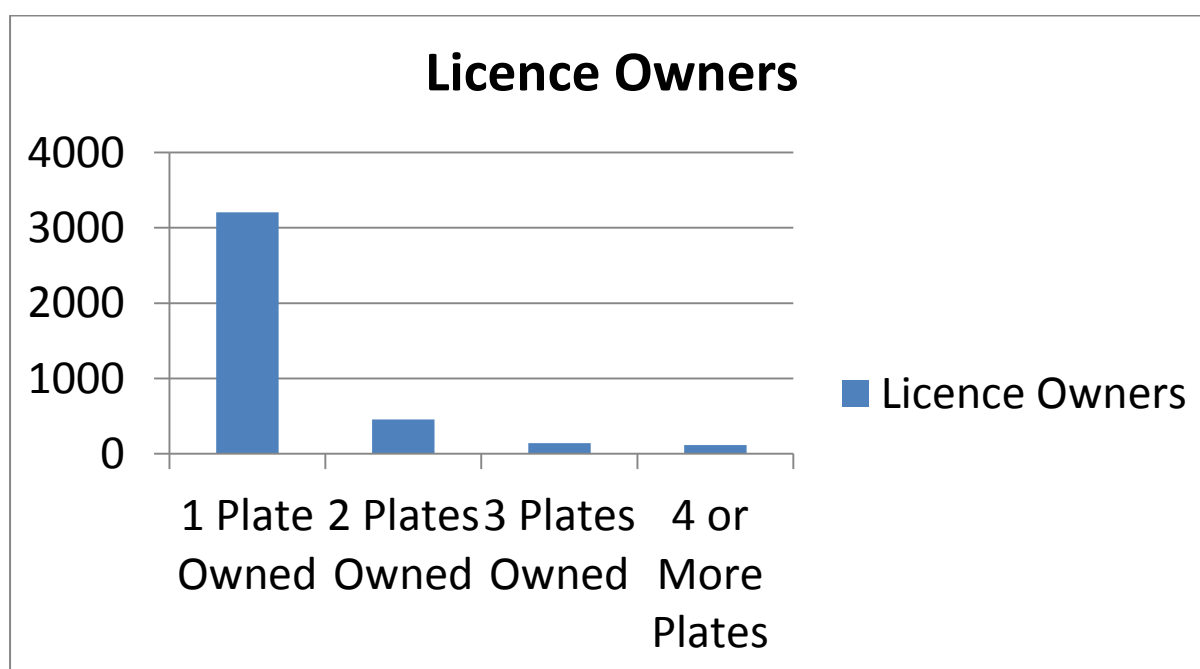
The following are the responses to the questions raised by IPART in the Issues Paper:

What is the appropriate period of time over which licence lease prices might be expected to fall by 25% in real terms?

The NSW Taxi Council rejects the proposition that licence lease prices should be artificially reduced by 25%. The effect of this would see the reduction of licence values by 25% which is an unreasonable impact upon on existing licence holders and therefore contrary to the Terms of Reference issued to IPART.

The NSW Taxi Industry is made up of a large number of entities that provide door to door taxi services. The industry can be characterised as a conglomerate of small to medium enterprises, ranging from the licence holder through to the driver.

Contrary to perception, the licence holder is mostly a small business owner, operator or investor.



As can be seen in the graph above, the overwhelming majority of plate owners own less than 2 licences. Over 90% own less than 4 with 83% only owning one.

This ownership pattern magnifies the negative economic and social consequences that the recommendations of IPART will have on the NSW Taxi Industry. They will be broad based on have both direct and indirect consequences.

As outlined on previous submissions, it is considered that the approach being adopted by IPART is not in accordance with the Passenger Transport Act nor is it consistent with the will of the NSW Parliament.

Specifically, when introducing the *Passenger Transport Amendment (taxi licensing) Bill 2009* the then NSW Government stated:

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.¹

As can be seen from the above, the issuance of licences by the NSW Government was clearly linked to sustainable growth that responded to passenger demand whilst ensuring that the long term viability of the industry was maintained. In respect of the sustainability of the industry and shielding it from any negative impacts of these reforms, the then NSW Government went further:

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.²

And again:

This bill represents an important step towards better taxi services for passengers and assuring the long-term viability of the taxi industry. It represents a balanced, measured approach to licensing reform that will deliver real, longstanding benefits.³

It is clear that the intent of the then NSW Government was to introduce reforms that were aimed at seeing sustainable growth in the industry, whilst ensuring that the reforms did not have a negative impact on existing taxi owners and operators. The language is balanced, emphasising the importance of a measured and sustainable approach to meet passenger demand whilst supporting the viability of the industry. There was no discussion of the intent of these reforms being to reduce the value of taxi licences and negatively impacting upon the revenue of operators and drivers.

Whilst the intent of the NSW Government was clearly laid out in both the Agreement-in-Principle Speech and the Second Reading Speech, it is also instructive to review how the then Opposition and Minor Parties responded to this. Whilst there was in-principle support for the reform, the NSW Parliament clearly felt that the draft legislation did not provide adequate protection to existing industry participants:

The one issue of enormous concern to us is the impact of the bill and its unintended consequences on current long-term licence holders. It remains a concern because we do not feel the Government has adequately addressed it.

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

² NSW Parliament. Hansard, ***Passenger Transport Act (Taxi Licence Reform) Bill***, October 2009

³ *Ibid*

However, after consulting with the industry and having received numerous pieces of correspondence from members of the public, taxi drivers, and taxi plate owners stating that the value of their plates, which currently is around \$400,000, will be severely diminished as an unintended consequence of this bill, we remain concerned.⁴

While we support reform and the intent of the bill, we remain concerned that the State Government has not given enough consideration to current licence holders. As late as October the State Government was issuing long-term tradable licences valued at \$400,000, yet it has failed to adequately consult the industry to ensure that safeguards are in place to guarantee a smooth transition and a less severe impact on long-term licence holders.⁵

And again

We must be cautious with the rollout of taxi plates.

It is remarkable that licence lease costs have increased by 8 per cent when water and electricity costs have increased by 40 per cent in the past two years.⁶

As can be seen from the above statements, there was considerable concern in the NSW Parliament that then NSW Government was overreaching with its proposed reforms and that amendments to the draft legislation were necessary. The then opposition moved an amendment to the proposed legislation as follows:

It refers to "a gradual and sustainable fleet growth minimising the impact on current licence holders". This is the one point we are not convinced the Government has adequately addressed and we urge the Government to sit down with the industry to address it. We want to see the issue resolved. That is why we will refer the bill to the upper House committee for a three-week period. That is why we are asking crossbench members to support our proposition. We want reform, but we want to ensure the reform is fair and that people who, as recently as last month, purchased a plate valued at \$400,000 will not see that investment diminished overnight because the State Government should have worked harder in consulting with the industry.⁷

The Legislative Council of the NSW Parliament, the House of Review, oversaw specific amendments to the draft Bill. In the ensuing debate it was clear that the NSW Parliament, including the Minor Parties, had accepted that whilst reform was needed, the measures that protected industry participants needed to be strengthened and moreover, welcomed those amendments:

We are concerned that the bill will have a serious impact on many drivers and on long-term taxi licence holders with current plates. We are concerned that the bill in its current form will not achieve the goal of having reliable affordable and accessible taxis. A key concern of the Greens is that the bill will allow an unlimited release of taxi plates. I understand that the Government will move amendments to place a limit on the number of licences that can be

⁴ *Ibid*

⁵ *Ibid*

⁶ *Ibid*

⁷ *Ibid*

released each year. This is a step forward, and I look forward to considering those amendments.⁸

After this debate, the *Passenger Transport Amendment (taxi licensing) Bill 2009* was eventually passed by NSW Parliament in its amended form on 26 November 2009 and thereby established the clear intent of this legislation.

For the avoidance of doubt, the NSW Parliament at no time during the passing of the *Passenger Transport Amendment (taxi licensing) Bill 2009* stated or sought the following:

- The reduction of taxi licence values by 25% or more, including a process whereby the future of these reduction remains unclear
- Introduce a licence release program coupled with fare reductions to strip value out of the NSW Taxi Industry
- To artificially put downward pressure on fares and at the same time ignore cost increases for operators and drivers
- For the NSW Taxi industry to absorb impacts of rising fuel and other costs at its expense
- For the licence release process to become a process of negative churn where taxi operators are encouraged to relinquish leases with existing licence owners to lease a “cheaper” one from the State.

If the above matters had been raised in the debate, then, based on the views expressed by the then Government, Opposition and Minor Parties, it is considered that the *Passenger Transport Amendment (taxi licensing) Bill 2009* would not have passed the NSW Parliament.

Since the 2009 reforms to passenger transport Act, licence values have decreased from \$425,000 to \$371,000, representing a reduction of 13% in nominal terms. Accounting for growth in line with CPI this represents a reduction in real terms of approximately 22%. This has already had a negative impact on licence holders.

Furthermore the significant increase in supply of taxis since that period has had very negative impacts on taxi operators and drivers with a real decline in revenue resulting from an oversupply relative to demand and increasing costs in driving and operating a taxi.

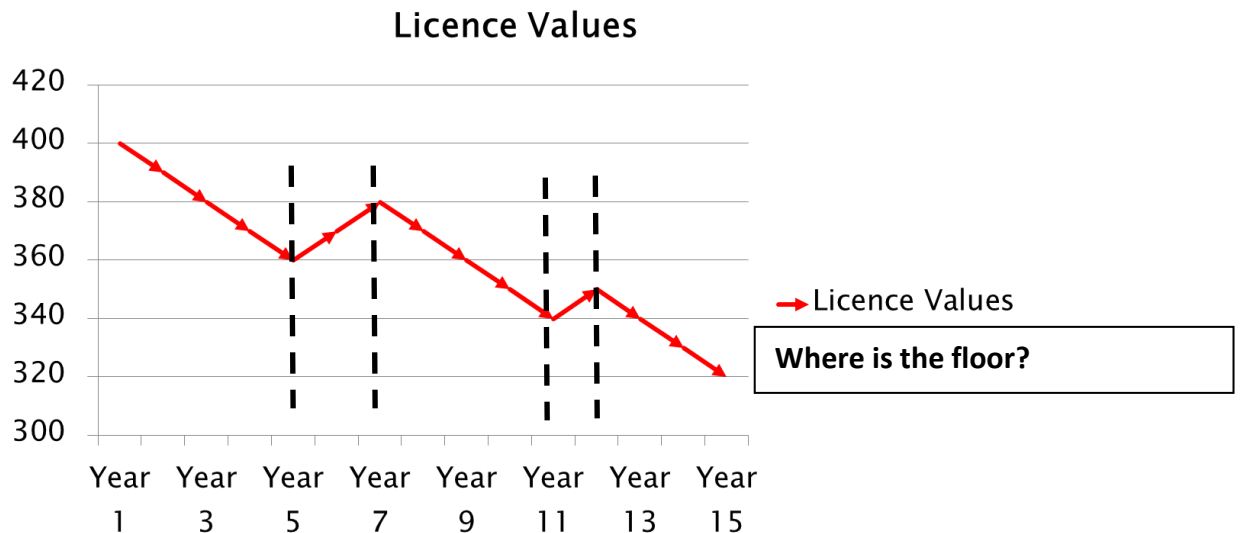
In respect of licence lease costs for Peak Availability Licences, these have decreased by over 30% in the last twelve (12) months alone. IPART does not include this reduction in its calculations which leads to an inaccurate overall picture regarding the licence lease costs.

It should be further noted that the above reduction in licence lease costs have not flowed through to the customer as IPART removed the taxi licence lease cost inflator out of the Taxi Cost Index (TCI) model and then abandoned the TCI altogether. Therefore the industry has

⁸ NSW Parliament. Hansard, *Passenger Transport Act (Taxi Licence Reform) Bill*, November 2009

experienced negative capital growth and the consumer has not benefitted as a consequence.

As outlined in previous submissions from the NSW Taxi Council, IPART has also failed to make clear where this downward process will stop. As outlined in the graph below, the logic in IPART's 25% reduction is flawed beyond the five years as it gives no indication as to what happens beyond this point.



Indicative Licence Value Path if IPART's proposals are adopted

Are licences to remain at the IPART reduced value (say \$300,000), what happens if they begin to rise again, is a 25% reduction the next objective beyond that point, is it IPART's objective to completely remove the total value of the licence over the medium term?

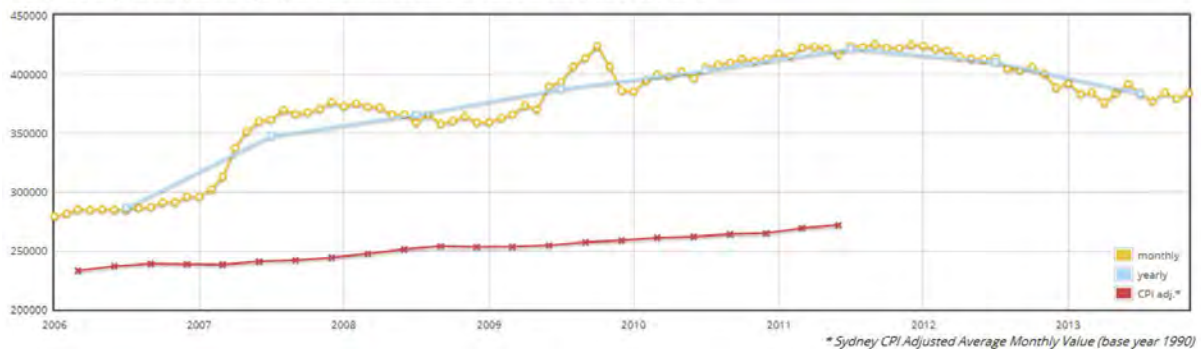
The market will not stand still at the five year mark; it will rise or fall accordingly, yet the implication of IPART's approach as set out in its Issues Paper is that as soon as there is upward movement in taxi licence values then further downward pressure will be applied until it reaches another arbitrary floor, and so on and so on.

These are some of the key unanswered questions and the unintended consequences that the then NSW Opposition referred to in the debate over the *Passenger Transport Amendment (taxi licensing) Bill 2009*, and why it was amended to ensure that there were proper limits placed on the issuance of licences to ensure that the industry was not negatively impacted.

As can be seen in the graph below, licence and lease values have been trending down in both nominal and real terms since 2009. This trend has continued in 2013/2014 and as at 31 October 2014 were valued at \$370,000.

Taxi Licence Average Prices

Average Monthly Transfer Value for Sydney Metro Unrestricted Ordinary taxi Licences, 8 years 2006 - 2013



It should be noted that the above prices relate to unrestricted licences only and therefore have not taken into account the reduction of lease costs associated with PALs (see below).

This reduction in the value of unrestricted taxi licences relates to 13% in nominal terms and over 18% in real terms. The effect of including PAL licences to this would be greater still.

It is also considered that IPART's decision to adopt its approach of a 25% from 2012/2013 is arbitrary and inconsistent with the intent of the NSW Passenger Transport Act, 1990. The amendment to the Passenger Transport Act was passed in 2009 and any movements in licence values should be considered from this point.

It is considered inappropriate for IPART to unilaterally establish a subsequent date for this purpose.

How should we balance the trade-offs between affordability, total number of trips, taxi occupancy, passenger waiting times and greater ease of entry into the industry in our modelling?

Taxi Licences should be issued based on an appropriately designed model that predicts growth in genuine demand across a range of inputs.

These inputs should include movements in the following:

- Population
- Economic activity
- Tourist activity
- Industry performance

Given the unique structure of the Taxi Industry, other factors that have impacts on productivity and performance should also be considered including (but not limited to)

- Impacts of congestion

- Availability of taxi ranks and kerb space in key locations, notably the Sydney CDB and Sydney Airport
- Government policy such as the introduction of mandatory lock-outs and cessation of trading for pubs and clubs
- The experience of policy in other relevant jurisdictions should also be taken into considerations, for example the consequences of continued downward pressure on fares and increased supply in licences in Melbourne over the period 2007 to 2012.

It is noted that prior to IPART being asked to undertake the review process, Transport for NSW had adopted a growth model that used an approach similar to that outlined above.

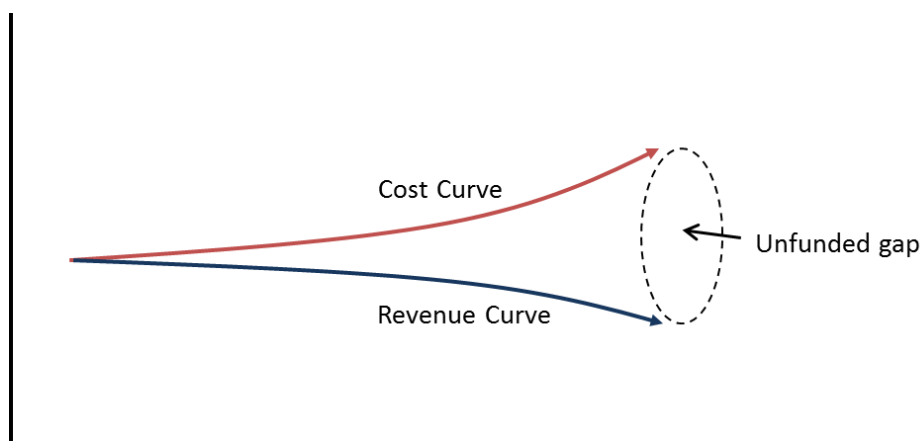
It is again recommended that IPART revert to a model that properly aligns the release of taxi licences to genuine growth in the market.

In terms of affordability, the costs of owning, operating and driving a taxi must be taken into consideration. The most appropriate means of measuring these costs is through the TCI.

As outlined in previous submissions, the cost of owning, operating and driving a taxi has increased at a rate above CPI. This has been most notable in the areas of fuel and insurance which in some cases have increased by in excess of 20%.

Revenue through the farebox has however decreased in real terms, particularly given the fare freeze implemented in 2013/2014. Furthermore, bailment rates have also remained low and have not increased in over two years.

The consequences of this are that taxi operators and drivers are receiving reduced revenue and facing higher costs. When combined with the substantial increase in the supply of taxis, it is negatively impacting upon the economic viability of owning, operating and driving a taxi. This is a trend that is illustrated in the table below and one that the NSW Taxi Council highlighted in its response to the 2012 and 2013 IPART review process.



These factors need to be taken into account by IPART in its modelling process when considering recommendations for both taxi licences and fares.

Should some of the recommended licences be released as PALs? If so, what proportion?

As outlined above taxi licences should only be released based on a growth model and aligned with proper policy objectives.

The NSW Government has advised that its policy for taxi licence releases is based on increase in supply at peak periods, notable Friday and Saturday nights. Given the release of over 300 PALs in the last two years, the NSW Taxi Council contends that this policy basis has been practically exhausted for the foreseeable future.

To release further licences at a time when there is an oversupply of taxis in the market will have further negative impacts on drivers, operators and owners.

Furthermore, when the performance of the industry is considered in this context, this issue also appears to have been substantially addressed. The NSW Government's Public Transport Customer Satisfaction Index, released last month, demonstrated that overall satisfaction with taxi services was at 81%. When the results are reviewed in detail, satisfaction levels on the key performance criteria of safety and reliability were as high as 85% - 90%.

Considering that the NSW Taxi Industry is privately funded and receives no subsidies from the Government, these results are very positive.

Has the release of additional PALs during 2013 and 2014 had an impact on the way in which taxis are operated in the Sydney market?

The significant increase in PALs in conjunction with an increase in unrestricted licences has had contributed to an oversupply of taxis in the market.

It is important to note that the recent increases in the supply of PAL taxis has coincided with the introduction of policies by the NSW Government to address drug and alcohol related violence such as mandatory lock outs and cessation of trading.

These new laws have reduced alcohol and related violence however they have also had a direct impact on reducing demand. Based on available evidence, it is emerging that the lock out laws are placing downward pressure on demand for taxi services, particularly in the period post 1:30 am.

Furthermore, the NSW Government has introduced increased bus services in the late night period that has also had an impact on demand for taxis.

Furthermore, it should be noted that the lease price for PALs has decreased significantly over that the last two years. The average lease price in 2013 was approximately \$27,000, however this has been reduced to approximately \$17,500 in 2014; a reduction in the order of 25%. This reduction is a strong reflection of the oversupply of taxis that exists in Sydney.

Is there sufficient competition for booking services already to allow the booking fee to be deregulated?

The NSW Taxi Council opposes the deregulation of taxi booking fees.

Taxi services from part of the public transport system. To ensure consistency and transparency of service, the NSW Government establishes regulated fares, including the booking fee. Deregulated fees exist for private hire cars, which do not form part of the public transport framework.

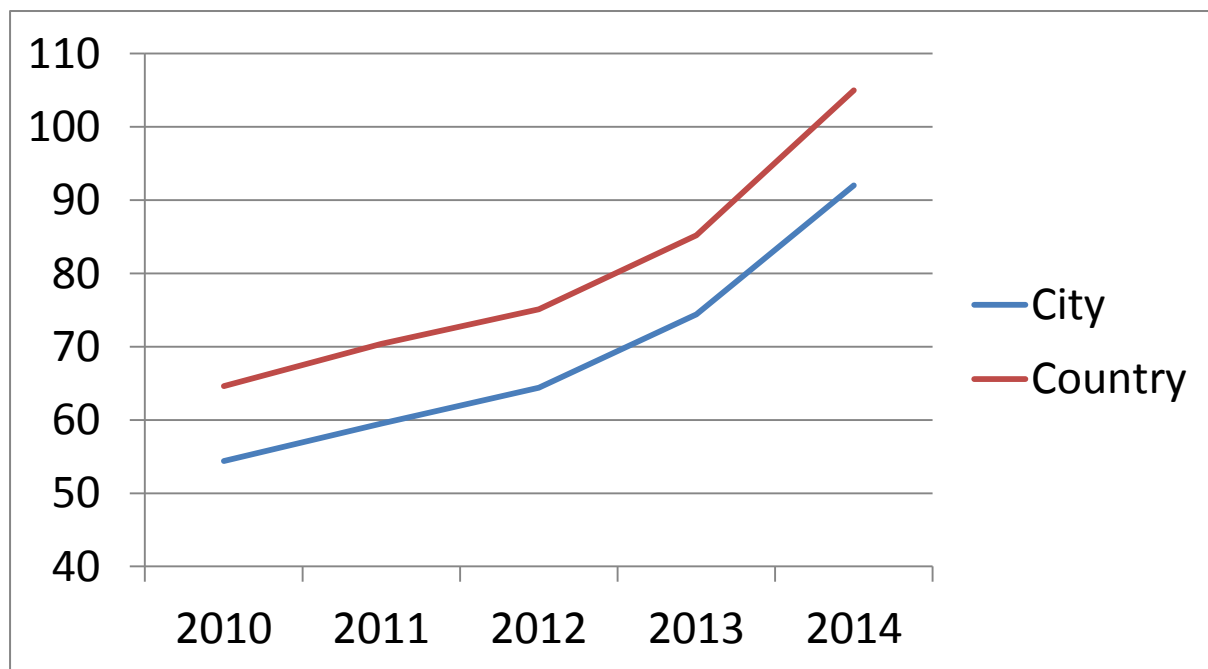
The NSW Government has just announced the introduction of a cap on credit card service fees. The NSW Taxi Council has argued (see attached) that if the Government wishes to intervene in the market and set a cap on these fees, this this should be equally and rigorously applied.

Introducing deregulated booking fees would not only move the taxi industry away from its core purpose of providing public transport, it would undermine the NSW Government's policy of capping credit card services fees. The market would respond to the loss of revenue arising from credit card service fees with increases in booking and other fees. This was the experience in Victoria when a cap on credit card service fees in taxis was introduced and as such, all non-cash transactions have been regulated accordingly.

Should we continue to review LPG prices outside the regular fare review Cycle

The NSW Taxi Council supports the continued review of LPG prices outside of the fare review cycle. LPG prices continue to increase, particularly in rural and regional NSW and it is therefore meritorious to actively monitor these movements in prices on a regular basis.

The NSW Taxi Council also considers that this review process should be extended to movements in insurance costs. Insurance has increased significantly over the past five years and particularly in the last 12 months. The graph below indicates the increases in CTP insurance alone which is rapidly becoming unsustainable for taxi operators.



LPG Prices 2010 to 2014



TRAFFIC

UBER DRIVER ARRESTED FOR HAMMER ATTACK IN SAN FRANCISCO



A San Francisco Uber driver has been arrested for allegedly attacking a passenger in the head with a hammer.

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by Cornell Barnard

Friday, September 26, 2014

SAN FRANCISCO (KGO) -- Friday an Uber driver is off the job and facing assault charges. Police say he attacked a passenger with a hammer and the victim's injury is so bad, he might lose an eye. It happened in San Francisco at Ellsworth and Alemany Boulevard on Tuesday.

Roberto Chicas is recovering from a severe head wound and his family told ABC7 News they don't know what prompted the attack.

On Tuesday, Chicas and two friends got an Uber ride from San Francisco, but there was a dispute about the route the driver was taking. The driver then told passengers to get out at Alemany and Ellsworth in Bernal Heights, but then the driver went on the attack.

"Then he proceeded to assault the victim with a hammer," San Francisco District Attorney George Gascon said.

Gascon says 26-year-old Patrick Karajua pleaded not guilty to the hammer attack, which left Chicas in and out of consciousness.

There was no one home at Karajua's home in Pacifica. Neighbors say police have been there before on disturbance calls.

"There's been some stuff at that house, brothers fighting," neighbor Brad Schweitzer said.

Hours later, ABC7 News cameras caught someone wearing a hoody who jumped

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into a car in the driveway and peeled off.



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Uber released a statement saying: "Safety is Uber's #1 priority. We take reports like this seriously and are treating the matter with the utmost urgency and care. It is also our policy to immediately suspend a driver's account following any serious allegations, which we have done. We stand ready to assist authorities in any investigation."

Gascon has sent letters to ridesharing companies about possible violations of state and local laws including misleading information about driver background checks.

"It's not like I'm against the business model. I support anything that creates innovation and provides improvement for the consumer, we just have to balance it out with customer protection," Gascon said.

Ridesharing companies have until Monday to respond. As for the victim, his recovery could take months.

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The Uber driver charged with groping a woman told police she was 'asking for that'



By **Abby Phillip** September 25  [Follow @abbydphillip](#)

An Uber driver in Orlando was arrested and charged with battery after he allegedly put his hand down a female passenger's shirt and drove around aimlessly while commenting on her looks.

The man, identified as Ramy Botros, told (Orlando Police Department) police in an interview that "in Egypt if girl like her" dresses similarly "it means she asking for that," according to the arrest affidavit.

The victim was being picked up by the car-for-hire service and taken to meet her boyfriend at around 10 p.m. on Sept. 19. She told police that when she got in Botros's Honda Civic, he started driving in an unusual pattern, backtracking several times, and making comments about how "attractive" and "pretty" she was.

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Botros eventually stopped the car and allegedly put his hand in her tank top and aggressively touched her breast, according to the victim's statement to police.

She told him to stop several times and asked him to take her to her destination, court records show. "Do not touch my boobs or I will hit you in your face!" she said, according to the affidavit.

She said she tried to remain calm to avoid upsetting Botros. When they arrived at her destination, the affidavit said, she asked Botros for a business card, left the car and called the police.

In an interview with police, Botros said he worked as a musician and for Uber. He said that because the victim was wearing a revealing shirt with no bra, "she was asking for that."

He was arrested by Orlando Police and charged with battery.

In response to [several disturbing](#) cases involving its drivers, Uber recently expanded its background-check program. It includes looks at county, federal and multi-state records going back seven years, as far back as California law allows, [the company has said](#).

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Genre(s): Card

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Genre(s): Arcade

This amusement park classic will bring back some joyous memories

In a written statement provided to The Post, the company said that “rider safety is Uber’s #1 priority. We take reports like this seriously and are treating the matter with utmost urgency and care. We have suspended the driver’s account while we investigate, as is our policy, and stand ready to assist authorities in any investigation.”

And while no system is perfect, incidents like this continue to occur and drivers have even alleged that they have found ways to cheat Uber’s background-check system.

Abby Phillip is a general assignment national reporter for the Washington Post. She can be reached at abby.phillip@washpost.com. On Twitter: [@abbydphillip](https://twitter.com/abbydphillip)



NSW TAXI COUNCIL LTD

Ref: 166/2014 RWK:sb

20 October 2014

Mr Dave Stewart
Secretary General
Transport for NSW
Level 6
18 Lee Street
CHIPPENDALE NSW 2010

Attn: Mr Aaron Murray

Dear Mr Stewart,

Re: Draft Fares Order

We refer to the draft Fares Order received by us on 3 October 2015 that is to take effect from 12 December 2014.

The NSW Taxi Council appreciates being consulted on this matter and wishes to provide the following comments for your consideration:

General

The NSW Taxi Council has, in meetings with representatives of the Transport for NSW on 7 July, 30 July and 8 August 2014 advised that it notes the intention of the NSW Government to introduce a cap on the service fee that is charged by taxi eftpos providers. Furthermore, the NSW Tax Council has advised that should a cap on the service fee be introduced, then it needs to be consistently and rigorously applied so that all customers and industry participants are treated equally.

The NSW Taxi Council has also advised that the service fee cap needs to be broadly applied so that all non-cash fees are captured as it would render the proposed legislative reform ineffectual if Accredited Booking Services and taxi eftpos providers were to be able to introduce 'other charges' to compensate for the potential loss of revenue arising from a service fee cap.

Previous Representations

The Minutes of the aforementioned meetings are attached for your consideration however the following sections are highlighted:

7 July 2014

The NSW Taxi Council also advised that the Passenger Transport Bill 2014 proposes that certain charges may not be subject to a fares order.

31 July 2014

The NSW Taxi Council re-emphasised the points that it has made on this issue on a number of occasions (including publicly) that the service fee cap has to be an absolute cap and that no other fees and charges, other than the regulated fare, can be charged. The NSW Taxi Council advised that the current drafting could leave it open to accredited booking service to charge other fees, eg a cancellation fee, in order to work around the service fee cap. The NSW Taxi Council further advised that this situation arose in Victoria when the service fee cap was first introduced and it is understood that the Victorian Government had to introduce revised legislation to address this issue.

8 August 2014

The NSW Taxi Council reaffirmed its position as outlined at the last meeting in that the service fee cap needs to be rigorously applied to all entities including taxi eftpos providers and accredited taxi booking services. The NSW Taxi Council advised that this is the position that has been adopted in Victoria and unless that cap was applied equally and rigorously to all, then the market would respond through separate fees and charges that would undermine the basis of the service fee cap.

The NSW Taxi Council reaffirmed its position that a customer can only be charged the regulated fare as per the proposed fare order, and if the customer is paying by card, then a service fee up to the legislated cap could be charged. No other charges should be allowed to be charged.

As can be seen in the Minutes of these meetings, the NSW Taxi Council has recommended that TfNSW review the relevant legislation from Victoria as it is understood that upon introducing a similar cap on credit card service fees for taxi in that State, the above situation regarding the introduction of other taxi non-cash transaction charges arose and that further legislation had to be introduced as a consequence.

Legislation

The relevant sections from the *Passenger Transport Act, 2014* and the [Victorian Transport (Compliance and Miscellaneous) Act, 1983] are attached to this letter for reference.

Specifically, the *Victorian Transport (Compliance and Miscellaneous) Act, 1983* (Victorian Act) provides, inter alia, that a taxi non-cash payment is:

- (3) *A fee or charge may be a taxi non-cash payment surcharge irrespective of whether it is:*
 - (a) *payable for accepting or processing, or both accepting and processing, payment made by means of a taxi non-cash payment transaction or for any other reason; [our emphasis]or*
 - (b) *set as a percentage of the amount otherwise payable in respect of the hiring of the taxi-cab or as a fixed amount or as an amount fixed on a sliding scale of any kind or on any other basis.[our emphasis]*

It is considered that these provisions in the Victorian Act, along with other relevant clauses, fully captures all taxi non-cash fees and charges that are outside the regulated fare and therefore prevents organisations from applying any additional charges to compensate for any loss of revenue arising from the introduction of a service fee cap. It is noted however that these provisions are not included in the *NSW Passenger Transport Act, 2014*, nor in the draft Fares Order, and therefore we believe that there is a risk that the policy intent for introducing a service fee cap will be undermined as a consequence. Moreover, we also consider that there is also a risk that the proposed provisions will not result in an equitable competitive framework within the taxi payment and booking service industry which could result in anti-competitive conduct in the market.

We also believe that there is a risk that taxi drivers will be exposed to pressure from some taxi booking service providers seeking to recoup losses arising from the introduction of a service fee cap through 'driver charges' that are a percentage of the taxi fare but are not passed onto the passenger. The NSW Taxi Council has raised this issue in discussions with the NSW Transport Workers Union and the NSW Taxi Drivers Association.

Ultimately, the lack of a broad based taxi non-cash transaction policy that is not rigorously applied, could undermine the fundamental purpose of regulated pricing for taxis and expose the customer to fees and charges that are neither transparent nor appropriate in this context.

We therefore ask that TfNSW consider the drafting of the Fares Order to ensure that the cap all non-cash transactions are properly captured so that the customer is only paying the metered fare and, should the passenger be paying by card, they are only paying the service fee as per the proposed Fares Order. For the avoidance of doubt, all other taxi non-cash fees and charges should be prohibited.

New South Wales Taxi Council

We hope the information contained in this correspondence is of assistance to TfNSW in finalising the proposed Fares Order.

Yours sincerely,



Roy Wakelin-King, AM
Chief Executive Officer