


Submission No. 61  
11.1.10  
6 October 2015



Tuesday, 6 October 2015

The Infrastructure, Planning and Natural Resources Committee  
% The Research Director  
Parliament House  
George St, Brisbane. 4000.

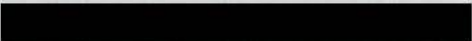
Dear Director,

Re: Transport Legislation Amendment Bill


Please find attached my submission to the above mentioned committee. I hope that the IPNRC Committee finds the submission suitable as well as informative.

Please note that I have a hard copy of all the reference material quoted and this can be furnished if required in the event the web link listed does not work.


Should there be any questions raised by yourself or the committee regarding this submission, please do not hesitate to contact me via email at



Kind Regards



Michael Longland



Thursday, 8 October 2015

The Infrastructure, Planning and Natural Resources Committee

c/o The Research Director

Parliament House

George St, Brisbane. 4000.

To the Members of the Committee,

Before I start I'd like to take the opportunity to thank Mr Robert Katter MP of the Katter Party for raising the "Transport Legislation Amendment Bill". The raising of the bill has also allowed a democratic debate over an issue that has been festering in Queensland since April 2014. What I am hoping for is that this bill gets passed. Above all else passing and enforcing this bill will re-establish the Queensland Government as the regulatory authority in this state.

### **IS THE PASSENGER TRANSPORT ACT APPLICABLE?**

The issue in this case is this, is not the regulation of the many smart phone taxi hailing applications available throughout the world. Instead it is this, can the taxi industry in Queensland be improved? As a bailee taxi driver of some fourteen years, I can say is of course it can. I can also see how the introduction of smart phone applications will be a great source of improvement. What I cannot understand is how Ubercabs LLC and its predatory surge pricing, "the regulations do not apply to us" attitude and deceptive business practices will provide any long term improvement to the industry and the public.

Who is Ubercabs LLC? Ubercabs LLC was the name used until October 2010<sup>1 2</sup> by the company known today as Uber Technologies LLC. Another words, the technology company that says that it is not a cab company started life as a cab company. The name change was only ever seemingly done as a questionable legal manoeuvre to get around three cease and desist orders from the Californian authorities<sup>3</sup>. The name change by itself has not and does not change the nature of the business that "Uber" conducts, i.e. the commercial transportation of passengers from point to point, as designated by the passenger, using a taximeter (or

software replicating a taximeter) to calculate the fare<sup>4</sup>. Therefore the Passenger Transport Act as it currently written applies to all passenger transport companies in Queensland including “Uber.”

### **ARE SPECIAL SMART PHONE TAXI HAILING APPLICATION LAWS REQUIRED?**

“Uber” and in fact all ridesharing smart phone application providers differentiate themselves from taxicab companies via the use of the smart phone technology<sup>5</sup>. I have no objection, in fact I can see how the technology can improve the industry. However to say that vehicles using smart phone technology are different from taxicabs because of the technology is misleading. Even more misleading is the claim that special regulations are required because of the technology. The fact is today, that the ability to hail a taxi using a smart phone application is now available in the majority of Queensland taxis<sup>6 7 8</sup>. So where’s the difference here? How can two laws be applied when both “rideshare” taxis and “regulated” taxis can be hailed via smart phone apps?

### **WHAT REGULATIONS ARE REALLY BEING ASKED FOR?**

Likewise I have no objection to competition. What I do object to is what has been happening to the Australian taxi industry that is, the illegal introduction and ongoing operation of a business that has no regard to regulation. In fact, media reports from St Louis and Broward, USA shows that that only regulation that “Uber” will accept is no regulation as in Sarasota Florida<sup>9</sup>. There are processes by which Uber could have worked with the existing industry stakeholders to change or improve the regulations such as the Queensland Taxi Strategic Plan Review in progress, but it choose not to. How can any business expect to survive against a competitor that simply ignores all existing regulations?

Whether or not “Uber” actually complies with the new ride-sharing regulations in Canberra, we will have to wait and see. However in California, within months of the getting the rules it apparently wanted i.e. the Network Transportation Companies Code, “Uber” was fined by the Californian Public Utilities Commission US\$7.3M for non-compliance<sup>10</sup>.

### **ARE WE SURE IT IS ALL ABOUT COMPETITION?**

For a company that claims to be all about competition<sup>11</sup>, “Uber’s” behaviour has shown plenty of anti-competitive behaviour. Competitors such as Lyft<sup>12</sup>, Gett<sup>13</sup> and Hailo<sup>14</sup> have all reported having “Uber” interfering with their operation including making false bookings, driver poaching

and tampering with fundraising efforts. If “Uber” was all about competition, then why did “Uber” oppose the ACCC application of the Cabcharge iHail smart phone taxi hailing application? The reason given<sup>15</sup> that *“the dominant position of Cabcharge in the Australian market will be further entrenched”* seems inconsistent with an organisation that espouses free market forces and competition.

### **ARE THERE OTHER SMART PHONE TAXI APPLICATIONS PROVIDERS?**

You have will noted that this submission has focused on “Uber.” The reason being its being by far the largest disruptor to the taxi industry in Australia to date and being so aggressive to the taxi industry. If you have been told that Uber and taxis can co-exist, then I would remind you that media pieces on “Uber’s” CEO, Travis Kalanick cite his contempt for the taxi industry<sup>16</sup>  
17 18

Furthermore I would like to remind you that there are other smart phone taxi hailing applications out there such as:

- Didi Kuaidi in China<sup>19</sup>;
- Grab Taxi in South East Asia<sup>20</sup>;
- Ola in India<sup>21</sup>;
- Easytaxi in Latin America<sup>22</sup>;
- Hailo in the United Kingdom<sup>23</sup>;
- Gocatch and Ingogo in Australia<sup>24</sup>.

All of which initially adopted the approach of working with industry participants to make improvements. Many of which have had to alter their approach once “Uber” arrived in their market.

### **WHAT JOBS ARE BEING CREATED?**

The contempt that “Uber’s” CEO Travis Kalanick holds for the taxi industry also appears to extend to “Uber’s” own drivers (50% driver dropout rate)<sup>25</sup>. He has been quoted as saying<sup>26</sup> *“The reason Uber could be expensive is because you are not paying for the car – you are paying for the other **dude** in the car.”* In short, Uber is looking at getting rid of the driver with self-driving vehicles. Is this the job creation that “Uber” is often talking about<sup>27</sup>?

*(By the way, just how far away are these self-driving vehicles? Well we have them already working in our mines and ports in Australia. Furthermore, there is a South Australian SDV trial to commence in November involving Volvo<sup>28</sup> and others).*

### **WHAT ARE THE INSURANCE COMPANIES REALLY SAYING?**

In recent days, both NRMA<sup>29</sup> and RACQ<sup>30</sup> have called for the inclusion of “Uber” into the taxi industry citing the public will benefit from the cheaper travel and that the taxi industry needs to become more competitive. What should be asked of both organisations is what they done with respective insurance companies to reduce the cost of CTP and comprehensive insurance for taxis in recent years? These insurances alone account cost taxi operators in Queensland approximately \$10,000 per year. Could it be that the impact of the new taxi regulations in Canberra<sup>31</sup> will provide a bigger market and income revenue stream for these insurance providers as opposed to making taxi insurance more reasonable?

### **DOES DEREGULATION WORK IN THE TAXI INDUSTRY?**

Likewise for many years, there have been many economists including the OECD<sup>32</sup>, Rogers<sup>33</sup> and Guant and Black<sup>34</sup> calling for the deregulation of the taxi industry worldwide. Countries and locations that have experimented with deregulating the taxicab market include New Zealand, Ireland, Netherlands and Darwin<sup>35</sup> as well as the countries of South Korea, Japan, Sweden, and the US cities of Phoenix, San Diego, Seattle, Portland, Sacramento, Kansas City, Milwaukee, Tucson, Oakland, Fresno, Raleigh, Atlanta and others<sup>36</sup>. The goals of this taxicab deregulation according to its supporters, was that the deregulation would provide the following benefits<sup>37 38</sup>:

- lower prices, because more taxis are competing on the market;
- lower operating costs, incentivized by the competition;
- the competition adds quality and the pressure to enhance one's reputation;
- new innovations such as shared-ride markets and special services for the disabled, new market niches;
- The demand for taxi services increases, as the prices fall and the quality improves.

As all of the above deregulation happened years ago, it is interesting to note that in most cases by 2015, the governments concerned were forced to bring back or were being called on to

bring back some if not all of the taxicab regulations<sup>39 40 41</sup>. This re-regulation was focused most on the issues concerning <sup>42 43 44 45</sup>:

- driver suitability in terms of criminal history and driving history, training and accreditation;
- vehicle suitability, maintenance and certification processes;
- fare setting and control;
- road safety issues such as fatigue management.

As it turned out that the economists had been theorising about the invisible hand guiding market forces when talking about the purported benefits. The economic reality was that the real hands (the ones holding and running the taxicab) faced with increased hardship due to increasing competition, didn't just need to have a job, they were went about making a livelihood. A typical example of this was in the 2014 Auckland deregulated taxicab market, fares ended up being twice as much as the regulated taxicabs fares in Australia. Sure the range of vehicle choice and availability had improved for the customer but the price had not come down but rather increased dramatically. It turned out that the taxi companies faced with fierce competition charged what was needed to allow drivers to make a living<sup>46</sup>. Other cited improvements such as improved taxi service standards as well passenger and driver safety did not seem to eventuate either. What improvements that did happened seem to evolve from improvements in the taxicab companies seeking cost and safety improvements whenever the technology came available and the companies had the funds to implement it<sup>47</sup>.

### **WHO IS THE GOVERNMENT HERE?**

The experience of what has happened in Queensland watching how the following government authorities have dealt with the "Uber" illegal encroachment, has left me wondering why I bother to pay taxes.

- Queensland Government via the Queensland Police Service and the Department of Transport and Main Roads;
- Federal Government via the Australian Competition and Consumer Commission and the Australian Taxation Office.

If the government only make rules but not effectively enforce them, then the credibility of the government comes into doubt.

Whether this bill passes or not, the Honourable Member for Mt Isa in my opinion, deserves recognition for applying the democratic processes to the situation. He has looked at a situation

and saw that the current legislative regime for taxis was not allowing a fair go for all and has recommended a legislative solution. In short, he has if nothing else, brought some credibility back to the Queensland Government as a legislative authority after eighteen months of ineffective action. What I ask of this committee is to please support the parliamentary processes. Please ensure that this bill gets the chance to be debated in a fair and equitable manner by the parliament.

Having looked at this letter, hopefully you will see that I have taken an earnest look at the situation. There are many issues involved in this situation beyond the value of taxi licences and the price of fares. I too could have easily created a 44 page document submission.

### **IS THIS JUST ALL ABOUT A FEW TAXIS?**

In fact, the issue of smart phone applications goes well beyond the taxi industry with other industries<sup>48</sup> such as hospitality, restaurants, tradesmen/handyman, cleaners, pilots, doctors and so on. (Maybe one day, a smart phone application can be made to replace the parliaments of the world). A lot of these applications espouse the “we don’t need any outside regulatory” approach to how they operate and especially how they treat their “employees/contractors<sup>49 50 51</sup>” and their legal obligations towards their customers’ rights especially privacy issues<sup>52</sup>. You as a legislature are being challenged and you need to act and ensure your role as the respected regulator now and onwards.

### **WHY IS HAVING THE QUEENSLAND GOVERNMENT AS A REGULATOR IMPORTANT?**

The difference is that in each of these companies, I do not vote for or have a say in the company whereas I have a say in how the Queensland Government works. I do so via corresponding with the local member or relevant minister or parliamentary committees and by voting. What difference does this make? Well when the push comes to shove, the government via an independent judiciary process can adjudicate the situation. Something the “Uber” clearly does not want in the employee / contractor case in California<sup>53</sup>.

Finally let me leave you with this thought, whenever someone in Queensland gets into a commercial passenger transport vehicle, the company behind the vehicle should always be answerable to the people of Queensland should anything go wrong not a self-interest company. The Queensland Parliament is the duly elected representative as the legislative assembly for the people of Queensland. It needs to ensure that the rights and safety of all Queenslanders are protected via the raising and enforcement of laws and regulations. Sure

there will be times when regulations need to be reviewed but never should make rule changes that will reward those who blatantly refuse any sort of regulation. When and where a company simply ignores these laws, then it simply must be not allowed to operate in Queensland, no matter how big and apparently powerful it is and regardless of what other jurisdictions have done.

### **CAN YOU PLEASE RESTORE SOME FAITH?**

“Uber” has not only encouraged regulatory non-compliance by its drivers, it has facilitated the ongoing law breaking by the paying the fines to the amount of over A\$1.7M<sup>54</sup>. So the imposition of fines is simply not good enough. I write in good faith, to this committee, asking it to restore the faith in the Queensland Government as the legislative body in Queensland by endorsing the proposed “Transport Legislation Amendment Bill.”



## REFERENCES

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