


# An Unfair Advantage

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A SUBMISSION TO THE INFRASTRUCTURE, PLANNING AND NATURAL  
RESOURCES COMMITTEE REVIEW OF THE TRANSPORT LEGISLATION  
(TAXI SERVICES) AMENDMENT BILL 2015



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[Address Withheld]

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Research Director  
Infrastructure, Planning and Natural Resources Committee  
Parliament House, George Street  
Brisbane QLD 4000

Dear Sir / Madam

RE: - Review of the Transport Legislation (Taxi Services) Amendment Bill 2015

I make this submission as someone who has invested in the industry over many years on the understanding that I was supporting the delivery of a high quality public transport service in an environment that was regulated to ensure that the delivery of these services was an integral part of the broader public transport network and could operate safely, reliably and efficiently on a long term sustainable basis.

The entry of ride-sharing services into the market and their flouting of the Transport Operations (Passenger Transport) Act 1994 has created a situation where these individuals and organisations have gained an unfair advantage over existing industry participants. The fines being imposed are immaterial compared to the advantage being gained and therefore the Act is proving to be ineffective in implementing government policy and is in urgent need of strengthening via this proposed Bill.

In this submission, I put forward my case in terms of the nature and estimated extent of the

advantage that these organisations currently enjoy due almost entirely to the fact that they are avoiding compliance and universal service obligations that the rest of the industry have invested in and supported for many years.

This submission makes a clear case based upon my knowledge of the industry and the information that I have been able to gather from publically available reports.

I would welcome the opportunity to discuss my views further with the Committee.

Yours Sincerely

Graham McManus

## Why Ride-Sharing should be forced to operate within existing legislation

The long established regulations relating to personal transport services were established for very important reasons.

Allowing organisations or individuals to operate outside of this system poses significant risks to passenger and driver safety, exposes consumers to material risks and puts at risk the economic sustainability of the taxi industry, an industry that has made significant investments and operated within the regulatory environment for many years.

### RISKS OF ALLOWING RIDE-SHARING TO OPERATE OUTSIDE OF CURRENT REGULATIONS

Area	Risk	Consequence
Passenger Safety	<ul style="list-style-type: none"> <li>Drivers operate in a way that endangers passengers.</li> <li>Vehicles are not safe, properly maintained and insured.</li> </ul>	<ul style="list-style-type: none"> <li>Injury or death to passengers and / or other road users.</li> </ul>
Universal Service Obligations	<ul style="list-style-type: none"> <li>Needs of disadvantaged members of community not met.</li> <li>Services are not available in particular areas or at particular times.</li> <li>Drivers / booking services refuse to deliver or discriminate against users with lower value service needs.</li> </ul>	<ul style="list-style-type: none"> <li>Increased cost or lack of mobility for disadvantaged users.</li> <li>Passengers exposed to dangerous situations / high costs due to lack of service.</li> <li>Particular types of service need just do not get met.</li> </ul>
Consumer Protection	<ul style="list-style-type: none"> <li>Lack of clear rules / standards around pricing of services.</li> </ul>	<ul style="list-style-type: none"> <li>Price gouging / predatory pricing practices.</li> </ul>
Industrial Relations	<ul style="list-style-type: none"> <li>Pay and employment conditions of drivers fall below community accepted standards.</li> </ul>	<ul style="list-style-type: none"> <li>Exploitation of employees.</li> <li>Lowering of service standards due to lack of training / literacy.</li> </ul>
Industry Sustainability	<ul style="list-style-type: none"> <li>Industry participants do not have the resources to maintain service standards, investment &amp; innovation.</li> </ul>	<ul style="list-style-type: none"> <li>Failure of participants.</li> <li>Lack of investment in vehicles, facilities &amp; new services.</li> </ul>

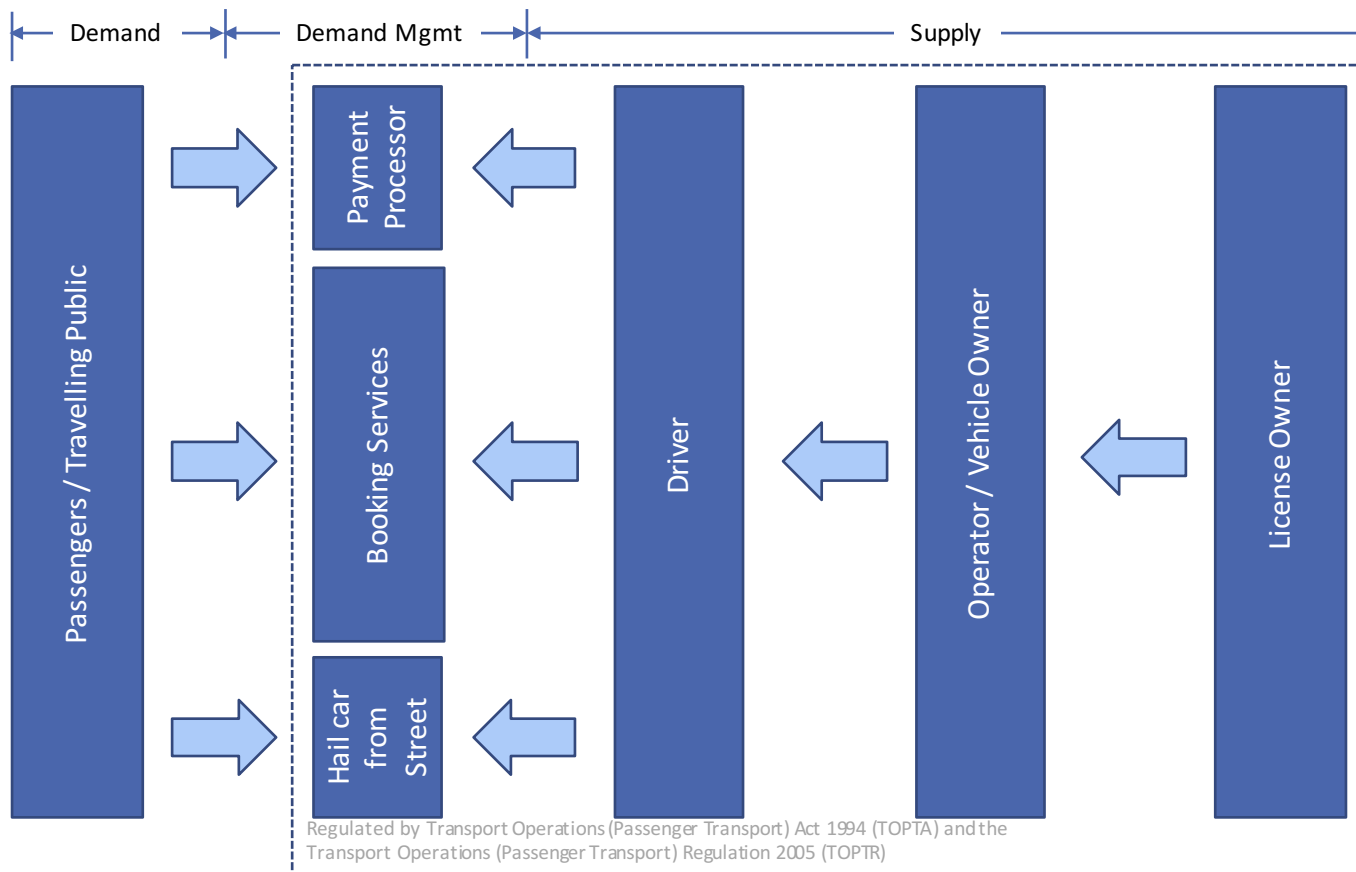
*Capturing the benefits of new business models is a worthy pursuit – but we need to remember that the regulations have been developed over many years to address some very serious risks. Future discussions about reform are welcome but in the mean time it is imperative that we ensure the industry remains safe and sustainable.*

# Industry Structure

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HOW THE INDUSTRY IS STRUCTURED AND THE BENEFITS RIDE-SHARE ORGANISATIONS GAIN FROM OPERATING OUTSIDE OF IT.





## CHARACTERISTICS

Traditionally Passengers either hail a taxi from the street or book a taxi via phone (or more recently online) to a Booking Service who links the requirement to an available licensed car / driver to fulfil the service.

Drivers operate vehicles provided by a Operator who owns and maintains the vehicle.

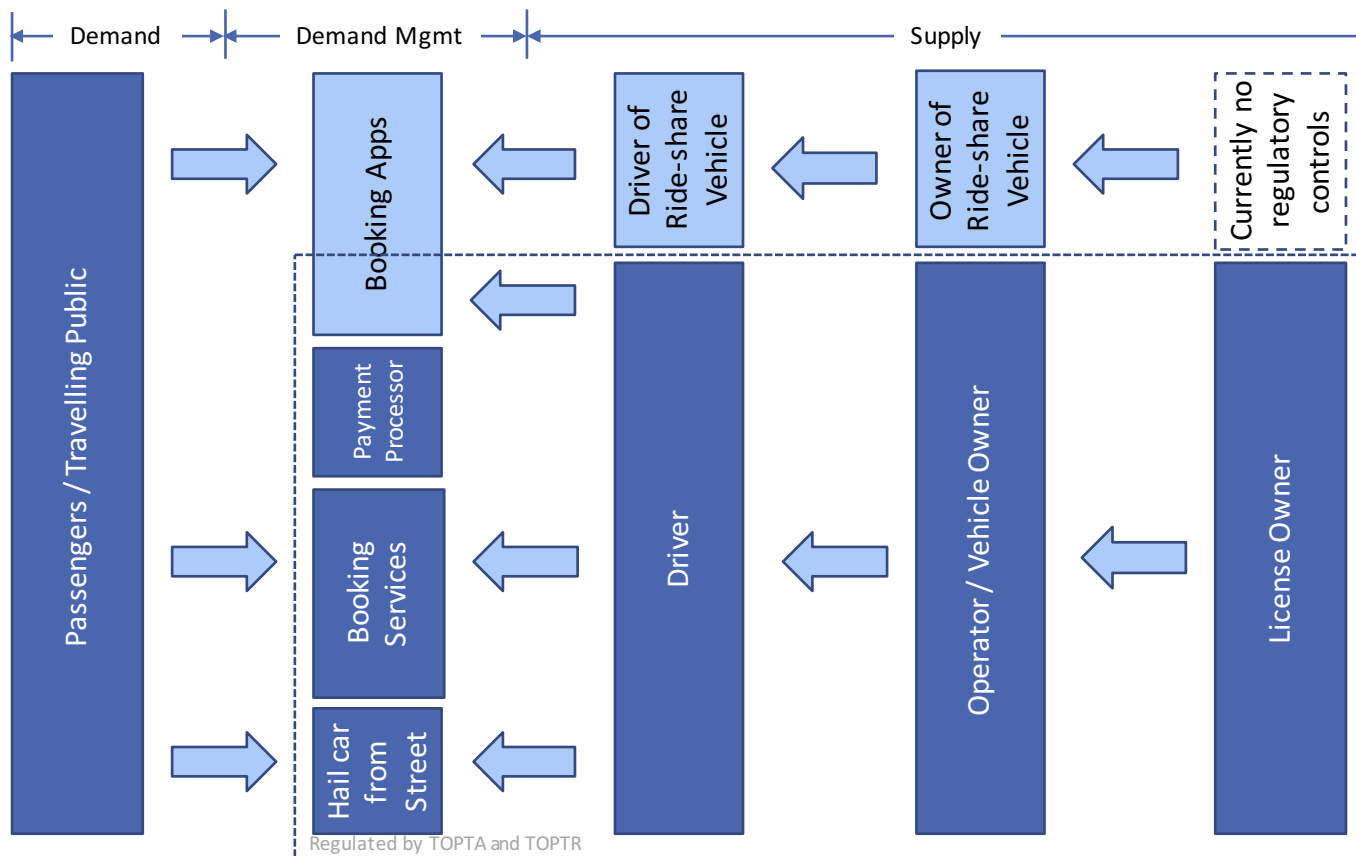
Operators require Licenses to allow them to provide a vehicle for hire and these are held by License owners.

Participants often fulfil multiple roles, for example a Driver may own and operate their own vehicle and own their License.

Booking services may also own / lease vehicles and Licenses and employ drivers either directly or under bailment agreements.

# Traditional Industry Structure & Participants

The sector operates in an environment where personal transport services are part of the government's overall public transport framework and are governed by legislation with an overriding objective of providing the best possible public passenger transport at reasonable cost, keeping government regulation to a minimum while recognising that market entry restrictions may be needed in the public interest.



## CHARACTERISTICS

There have been two key changes to the market over recent years:

- The increasing use of web and smartphone based booking applications and
- The entry of 'ride-sharing' services that offer personal transport services outside of the regulated environment.

Booking applications have been introduced by both new industry participants and existing booking services as an efficient mechanism to match passenger demands to available cars / drivers.

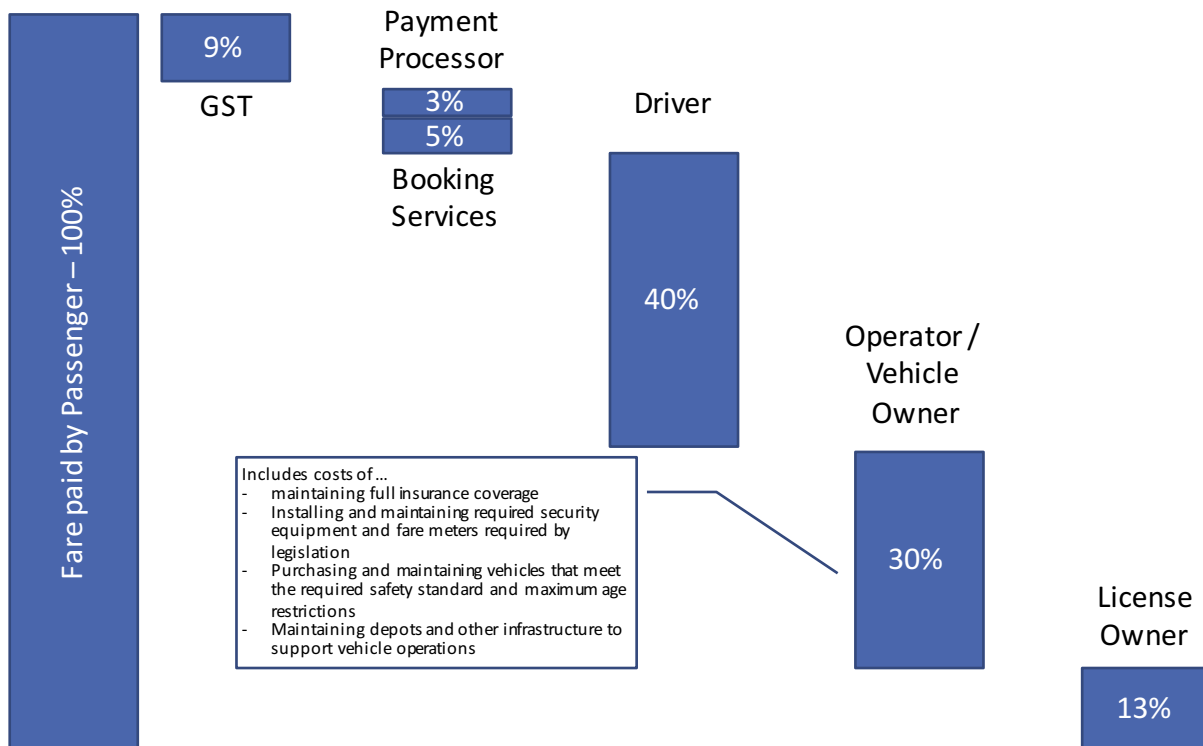
Booking apps generally use either licensed vehicles or ride-share vehicles.

With ride-share services, the vehicle owner and driver are generally the same person. Ride share services also generally process payments directly on behalf of the driver.

Ride-share services contravene existing regulations by failing to utilise licensed vehicles and by failing to comply with the universal service obligations applied by registered taxi booking organisations.

## Industry Structure with Ride Share Participants involved

The industry has seen the emergence of two key changes – the increasing use of web and smartphone based booking apps and the entry of ride-sharing services that are offering a personal transport service (illegally) outside of the regulated public transport framework.



Source: LEK Consulting, Queensland Taxi Industry Review Economic Model & Policy Considerations, September 2010.

## CHARACTERISTICS

Various studies have been conducted to determine industry cost structure over the years.

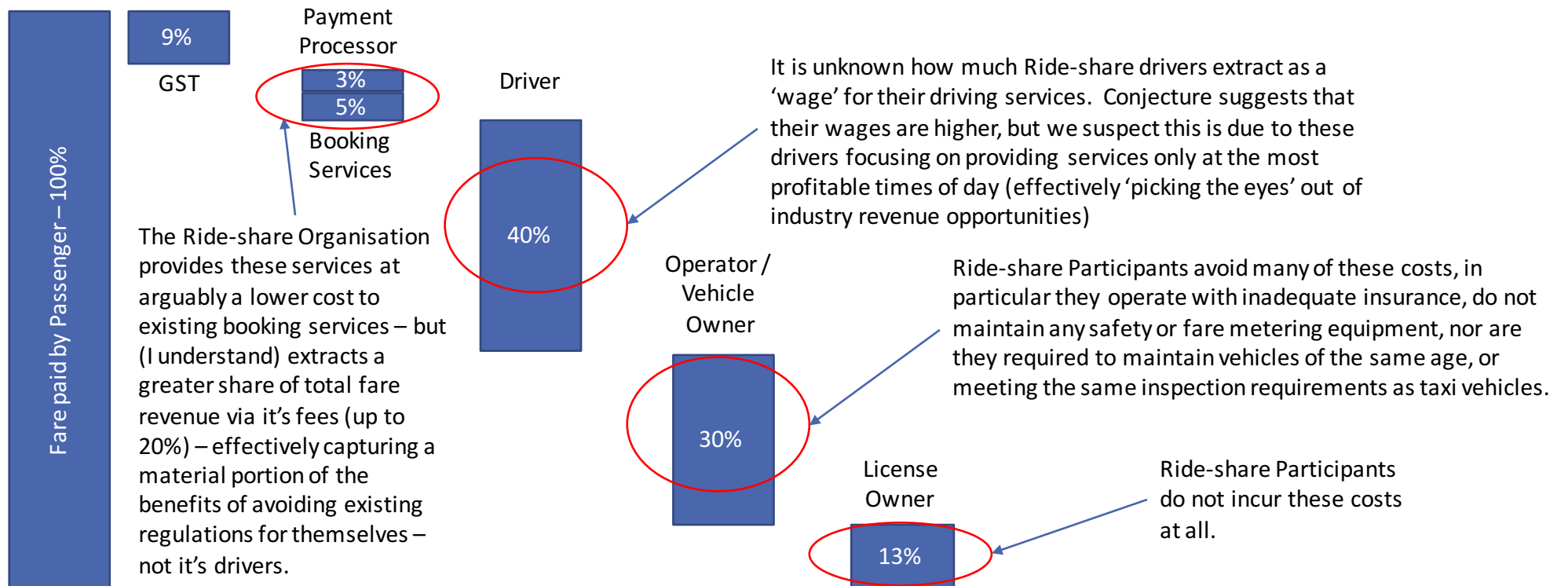
The high level summary to the left is based upon a report prepared in 2010 by LEK Consulting, that reviewed the share of fare revenue amongst industry participants.

There is a great deal of variability in terms of revenue share and returns depending on time of day and day of the week but this analysis makes it clear that the bulk of fare revenue goes to drivers and the owner / operators of taxi vehicles, who invest resources in the industry and rely on the industry for their income and livelihood.

License owners such as my family have also made significant investments on the understanding that legislation is in place to regulate entry into the market.

# Current Industry Cost Structure

Existing industry participants incur significant costs related to insurance, safety and regulatory compliance. In addition, industry participants experience inefficiencies and other costs associated with meeting it's universal service obligations, such as providing coverage across all hours of the day and servicing all bookings, in the order they come in, regardless of their level of profitability to the driver / operator.



Source of Cost Data: LEK Consulting, Queensland Taxi Industry Review Economic Model & Policy Considerations, September 2010.

## The costs that Ride-Share Participants do NOT incur

By operating outside of the regulatory environment – Ride-share participants gain a significant cost advantage because they do not incur many of the costs that are mandated by current legislation. Exact figures are difficult to determine but I would estimate that ride share operators costs are between 15% to 30% of total fare revenue. The fares they charge their users are not this much cheaper than existing taxi fares, suggesting that at least some of the benefits of regulatory non-compliance are being banked by foreign ride-share operators.



# The claim that Ride-sharing is not bound by the Legislation

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THE SUGGESTION THAT RIDE-SHARING IS DIFFERENT FROM THE TRADITIONAL SERVICE IS A RUSE THAT HAS BEEN TRIED BEFORE TO EXTRACT SHORT TERM PROFIT UNDER THE GUISE OF 'DISRUPTION'



# If it walks like a duck and quacks like a duck – it is a duck!

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The Transport Operations (Passenger Transport) Act 1994 defines a taxi service as ...

*a public passenger service ... provided by a motor vehicle under which the vehicle ... provides a demand responsive service under which members of the public are able to hire the vehicle through electronic communication*

Ride-share operators suggest that their service is simply a private individual who is offering to share their vehicle with a person that they have been connected to by a smartphone application for an agreed fee.

Their business model is far more sophisticated than facilitating a private transaction. Ride-share operators encourage their drivers to conduct multiple trips to develop a viable income stream through offering a passenger transport service.

Ride-share operators provide passengers a service, using a motor vehicle, where members of the public are able to hire a vehicle through electronic communication.

Ride-share operators therefore do everything a taxi service does (other than being able to be hailed) and are therefore clearly providing a service that is subject to the provisions of the Act.

This cannot be validly disputed as is evidenced by the DTMR issuing infringement notices for contraventions.



# This has been tried before

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So called 'disruptive technology' start-ups building a business around a concept of sharing as a way of usurping a long standing industry structure and gaining quick profits has been tried before in other industries.

A well known example is music sharing organisations, such as Napster, that started up in the late 1990's.

These organisations argued that private individuals sharing music that was stored on their computers was not a sale of a copyrighted work and therefore did not contravene the long established copyright laws. Laws that were designed to protect the intellectual property rights of music creators and underwrite an economically sustainable music industry.

Napster and others like them were ultimately proved to be breaking the law and their business models collapsed (at great economic cost to their later investors). They were replaced by business models, like iTunes, that worked constructively within the legal and regulatory environment and engaged with industry participants to achieve a valid and long term sustainable business model that did ultimately add value to the consumer and suppliers alike.

The music industry worked within the law and with more reputable organisations to adapt it's approach and business models to incorporate the benefits of new technologies around distribution of it's product so that consumers could benefit.

It is important to note that it was only once the law was enforced and upheld that the music industry was able to respond in a properly structured way.

After considering the patterns in these past start-ups one could be forgiven for assuming that the definitional ruse of 'sharing' simply disguises a business model that involves bending or breaking the law in order to garner an unfair advantage over your competitors who are entrenched in a business model that involves playing by the rules.

The rules are important because they provide a framework in which investment can happen and people can perform fair, safe work for a fair pay. Let's have a discussion about whether the 'ride-sharer's' business model is a better idea – but let's do it in an environment where the rules that our community supports and has voted for are respected and enforced.



# Why this Bill is needed

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SUMMARY OF MY CASE FOR THE COMMITTEE RECOMMENDING THIS  
BILL TO PARLIAMENT



# Why I believe this Bill is needed

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I have invested in this industry with a clear understanding of the regulatory framework that was in place. That framework is one where personal transport services are an integrated part of the broader public transport network.

My investment in this industry is part of what supports the provision of services that are safe, reliable, fair and broad based and that operate fully within the law. In order to operate within the law, the industry incurs significant costs – because this is what public policy has asserted for many years is the minimum acceptable standard.

The fact that Ride-sharing services are operating in blatant violation of this regulatory framework is giving them an **unfair cost advantage** that materially exceeds the minor fines imposed by current legislation for these breaches. This advantage comes from them avoiding clearly defined compliance and universal service obligations – and avoiding these obligations is also exposing the travelling public to material risks.

This is a deficiency in the existing legislation that makes it an ineffective tool of government policy due to the fact that it cannot be effectively enforced. This deficiency in the legislation needs to be addressed urgently in order to create a level playing field for all industry participants and to ensure that the travelling public is protected. Every day the legislation is not able to be effectively enforced is a day that places greater stress on existing industry participants who are having their income base pirated while they bare a disproportionate share of compliance and universal service obligations.

If this industry fails it will have a significant impact on the investments my family has made and cause us significant financial hardship.

I would also assert that the decision to pass this Bill should be considered independently of any other reviews currently being conducted by the government.

The issue here is playing by the rules. What is the point of discussing reform of the rules with parties who's behaviour suggest that they lack respect for the existing rules?