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

Dear Committee Members

TRANSPORT LEGISLATION (TAXI SERVICES) AMENDMENT BILL 2015

Background.

Mackay Taxi Holdings Ltd (MTH) holds a taxi service contract with the Department of Transport and Main Roads (TMR) to deliver taxi dispatch and taxi administrative services to the Mackay and Whitsunday areas. The company's shareholding comprises of Mackay and Whitsunday taxi licence owners. MTH's fleet comprises of 73 individually owned taxis, with 3 upmarket taxis, 16 wheelchair accessible maxi taxis, 2 people mover taxis and 52 sedan taxis. The company has 54 taxi operators and almost 300 fulltime and part time taxi drivers.

Under the Taxi Service Contract MTH holds with TMR the company is required to take responsibility for all of the customer experience when booking a taxi. So from the first customer contact; to the competition of the journey; to aftermarket services such as customer complaint management and lost property MTH has an overarching legal responsibility to ensure the quality and timeliness of every taxi service delivered whether it was booked, hailed or off a taxi rank.

As stated, MTH has legal and contractual responsibilities under the Taxi Service Contract and other federal and state statutes to ensure all aspects of the customer experience. This includes but is not limited to:

- **Minimum Service levels (MSL).** During off peak periods (generally all periods with the exception of Friday and Saturday nights and major community events such as New Years and Christmas Eve) MTH must ensure that 85% of regular and wheelchair accessible services are delivered within 10 minutes and 95% within 20 minutes. During peak periods MTH must ensure that 85% of regular and wheelchair accessible services are delivered within 20 minutes and 95% within 30 minutes. MTH more than satisfies these government

benchmarks and has to report to TMR quarterly in respect to each and every transfer and the response times achieved. Failure to satisfy these requirements results in corrective action needing to be implemented and a failure to act by the company can result in monetary penalties, with ultimately the potential loss of the Taxi Service Contract as a real possibility. It is worth noting that in some reporting quarters MTH actually has serviced 100% of wheelchair clients and 97% of regular clients within the 10 minute criteria.

To achieve these benchmarks MTH utilises world's best computerised dispatch technology (Australian designed and built), which measures and monitors every fare conducted in a taxi. The cost of these systems is substantial and MTH has been utilising this type of technology since 1991, upgrading systems on average every 6 years. The dispatch system monitors and controls access to taxi bookings via an access code and private pin numbers issued to each accredited driver. It also ensures the currency each taxi drivers Queensland drivers licence and taxi drivers licence (DA), taxi registration, taxi age limit, taxi operator's accreditation (OA), taxi registration, taxi service licence renewal dates and 6 monthly machinery inspections. Failure to meet any of these criteria prohibits access to the system and the ability to ply for hire.

When booking a taxi in Mackay customers can telephone, use SMS, can fax or email the company (a service utilised by many people with verbal difficulties), forward book or place even establish a permanent booking, have a taxi driver register a booking with the MTH or use MTH's smart phone app. The MTH app has been operating since 2012, 2 years before Uber introduced the UberX app into Brisbane. MTH considers the app to be a useful tool in the options the company provides to the community to book a taxi service, however in comparison to the sophisticated computerised dispatch system, telephony systems and extensive private radio network operated by MTH, the app is a flimsy and weak piece of technology, limiting access to taxi services for many customers and not providing any of the features or benefits offered by the Australian built and designed dispatch systems. MTH strongly recommends that committee members take the time to investigate the technology which comprises a Queensland taxi dispatch/call centre. Such an effort would quickly demonstrate the lie, that the Uber app represents some leap forward in technology and superior customer service when booking a taxi service.

- **Service Quality.** Under the Taxi Service Contract, MTH must ensure the quality of presentation and safety each taxi. To achieve this MTH conducts bimonthly cosmetic inspections and general safety audits of emergency response systems, security cameras, tyre standards and other general mechanical checks. Failure to meet any of the standards immediately results in the vehicle being suspended from acting as a taxi via the computerised dispatch system.
- **Compliance Monitoring.** MTH monitors each taxi operator's registration, insurance, personal accident insurance, mandatory biannual machinery inspections conducted by TMR, vehicle age limits and ensures that the taxi service licence is current.

In addition to this, on a daily basis, MTH monitors every licence needed to be held by each taxi driver s to ensure that they are current. So, for example drivers who have their licences suspended as a result of an accumulation of demerit points are prevented from driving a taxi. MTH also ensures that each driver has a current Driver's Authorisation (DA)

issued by TMR. Taxi drivers cannot access the computerised dispatch system without a current drivers licence or DA.

- **Driver Training.** MTH operates an RTO based training course which can take drivers up to 2 weeks to complete. In addition to this MTH conducts biannual training refresher courses which must be completed for a driver to maintain their affiliation with MTH.
- **After Market Services.** MTH satisfies all the aftermarket provisions of the taxi service contract with TMR. This includes the provision of a lost property register and a customer compliant system. Every complaint must be dealt with, and if necessary corrective action instigated.
- **TMR Audits.** MTH and every taxi operator are subject to regular TMR compliance audits. TMR compliance officers audit MTH against the requirements of the taxi service contract.

In terms of taxi operators TMR audit teams ensure that each taxi operator has verifiable vehicle maintenance schedules; have systems in place to check the roadworthiness of each vehicle before the commencement of each shift and provide defect reports back to the taxi operator; hold the required insurances; regular safety checks in terms of emergency systems and security cameras; systems that check daily whether each driver has a current driver's licence and DA; and systems to flag the registration, age limit, service licence due dates. These systems have to be independent of the systems run by MTH, which monitor many of the same criteria.

- **Australian Law.** MTH complies with all federal and state government statutes and regularly train our staff, taxi operators and drivers in this regard. This includes spending huge amounts of money to comply with the Transport Operations (Passenger) Act, 1994; federal Disability and Discrimination Act, 1992; and the Queensland Antidiscrimination Act 1991. The company also complies with the Work Health and Safety Act, 2011; the Fair Work Act, 2009; the Competition and Consumer Act, 2010; and the federal Tax and GST Acts.
- **Vicarious Liability.** MTH is subject to the doctrine of vicarious liability and as such takes overarching responsibility for the actions of all its taxi operators and drivers.

In summary MTH conducts its business strictly complying with all state and federal regulatory and legislative standards.

Uber.

Uber is a huge American company which has entered the Queensland market intent on deriving an unfair competitive advantage by breaking laws established by the Queensland and Australian governments to ensure the protection of the consumer, the provision of high quality, non-discriminatory taxi services. Uber deliberately seeks to usurp Australian and Queensland Laws in an effort to gain an unfair foot hold in the Queensland market.

MTH estimates that Uber currently derives a competitive advantage from its deliberate policy of law breaking and noncompliance of government standards greater than 40% of every taxi fare.

This estimate is based on Uber and most of its drivers not pay tax in Australia, approximately 15% of every taxi fare; not paying GST, 10% of each taxi fare; not holding adequate or appropriate insurances, 8% of each taxi fare; their failure to hold a taxi service contract and satisfy the terms of that contract in terms of not meeting any of the training standards, aftermarket systems, safety and security systems, monitoring systems regarding fleet quality and performance, amounts to approximately 15% of each taxi fare; not meeting any standard required of all other Queensland taxi operators, including 6 year age limits on vehicles (Queensland taxis currently average 2.3 years) Uber allow vehicle age limits of 10 years, with no auditable system to be able to validate even that pathetic standard.

In Queensland Uber has adopted the same unlawful practices that it has entered every other jurisdiction it operates within worldwide (apart from deregulated systems, principally in the United States where taxi services were very poor), that is to break the law and to continue to break the law until governments either act decisively against them as they have in places like France, Germany, Hungary and South Korea or cave in to their demands. Uber defends this approach by developing a huge amount of media hype through making unverifiable media claims and by using auto response systems to dump thousands of responses on the sites of elected politicians and “astro-turfing” techniques within social media to build the impression of huge community support.

MTH believes that Uber’s unethical practices have been well documented internationally and that the committee should conduct its own investigation into these practices to determine for itself what international experiences has revealed.

Another competitive advantage that Uber seeks to exploit over Queensland taxi services is the use of “surge pricing”. During periods of high demand Uber escalates its fare schedule by up to 500%. Queensland taxis have a fixed fare schedule, which is well publicised and well understood by the Queensland community. In terms of “surge pricing” it is likely that at least some Uber customers would not be aware of cost of the service as the payment is deducted via the app through an electronic transfer and the customer receives via email a receipt until well after they arrived at their destination. In such circumstances an aggrieved customer does not have a way of complaining to Uber which can result in an acceptable remedy.

MTH believes “surge pricing” to be a contravention of the Competition and Consumer Act, 2010 in terms of deceptive and misleading conduct. Further, MTH believes that the system is open to driver manipulation, with drivers deliberately not logging onto the Uber system until the “surge pricing” is instigated.

To defend its unethical business practices Uber claims to be something new in the market place, when most Queensland taxi companies had apps before Uber illegally commenced operations. Uber also proclaims the free market in its defence, when in fact Uber are the very antithesis of the free market, always fighting to maintain their unfair market advantage by breaking the law.

From international experience Uber does not and will not comply with any legislation which does not maintain their unfair competitive advantage. To this end MTH has grave concerns regarding future changes to Queensland legislation and regulation and doubts that Uber will comply with any laws that do not satisfy their needs.

Transport Legislation (Taxi Services) Amendment Bill 2015.

MTH our, shareholders, taxi operators and taxi drivers supports the Transport Legislation (Taxi Services) Amendment Bill, 2015, despite the state government launching an enquiry into “point to point” public transport services. From MTH’s reading of the draft legislation the Transport Legislation (Taxi Services) Amendment Bill 2015, the Bill essentially seeks to bolster the government’s ability to enforce current legislative requirements. To this end the “point to point” enquiry will take at least 10 months to complete and up to an additional 12 months to draft and pass legislation through Parliament. Over this time Uber must be forced to comply with Queensland law.

MTH also believes that Uber staff also act illegally in their recruitment of drivers. They are in fact inciting others to break the law. This is a clear breach of the Queensland’s criminal code. MTH believes that it is essential for the Queensland government to act against Uber’s recruitment of drivers. These recruitment events are widely publicised and MTH believes that it would not be onerous on the Queensland government to involve the Queensland Police Force (QPS) and TMR officers to attend these events and to take appropriate action.

MTH also understands the QPS have been reticent in enforcing Queensland law in relation to the illegal activity of Uber drivers. MTH has had a long and very positive relationship with the QPS which has involved utilising information gleaned from MTH’s dispatch and security systems and our taxi drivers and operators. The tools provided by MTH have greatly assisted the QPS in many investigations of serious crimes in the Mackay and Whitsunday regions including most recently the murder of a young woman in Mackay. MTH does believe the QPS and the Commissioner of Police have the right to determine which Queensland laws they will enforce and which they won’t.

In addition to this, Uber’s public statements regarding insurance, the legality of the service, their drivers being properly trained or scrutinised and the safety of utilising an Uber service are in MTH’s view a clear breach of the Competition and Consumer Act, 2010 in terms of deceptive and misleading comments. MTH believes the Queensland government should be writing to the ACCC, insisting that competition law is applied equally to all businesses operating in Queensland.

Finally, MTH has grave concerns that the Government would consult or seek Uber’s advice in relation to any enquiry it runs in respect to ride share services. Does the Queensland government make a practice of consulting criminals when considering changes to the criminal code? To date Uber has shown no respect for Queensland laws and there is no evidence, either nationally or internationally that they will comply with whatever framework the government puts in place unless it maintains their unfair and illegal competitive advantage.

Conclusions

Over the past 10 years the Queensland government has issues 10 new taxi licences in the Mackay taxi district by public tender. While government legislation and regulation can and does change from time to time (witnessed by the 30 June, 2015 requirements for security cameras, costing each taxi operator approximately \$4,000.00 per licence), each taxi company, taxi licence holder, taxi operator and taxi driver expects that while the government may change the rules it is the government’s responsibility to always enforce the law. Queensland families have made large investments in the taxi industry and worked hard to deliver for the Queensland community over many years; always acting to the highest standards prescribed by the law. The decision by the

Minister of Transport and Deputy Premier not to continue to enforce Queensland transport legislation except against legal Queensland taxi businesses while by effectively providing an exemption (through inaction) for Uber's illegal service is morally reprehensible.

In addition to this, MTH has spent considerable revenue to meet the terms of the taxi service contract with TMR. This commercial contract prohibits potential competitors from entering the market without also executing a taxi service contract with TMR under similar terms and conditions to existing service providers. To the best of MTH's knowledge Uber does not hold nor has it sought a taxi service contract with the government. While the Queensland government has until May 2015 issued fines against Uber drivers, no action has yet been taken against Uber operating as a dispatch company, apart from two Cease and Desist Orders, which apparently Uber just ignored. MTH believes that the Queensland government has a clear responsibility to the 20 taxi service contract holders in Queensland to act to prevent Uber acting as a dispatch company.

It is time that the Queensland government starts treating all within our community the same. Why should the government permit a huge American company to come to Queensland and deliberately break the law, while the Queensland businesses work hard to meet the legislative and regulatory standards set by the Queensland government? By allowing Uber to operate with impunity, the Queensland government is not fulfilling its responsibility to uphold the law and is demonstrating to all that the laws of this state are only applicable to Queenslanders and Queensland businesses. It is MTH's view that this matter goes to the heart of our democracy, with the Queensland government ceasing to act for the Queensland people in favour of a American company.

Yours faithfully

Gerry Lucas
Chairperson
Board of Directors
Mackay Taxi Holdings Ltd