



SUPPORTING THE

TRANSPORT LEGISLATION (TAXI SERVICES) AMENDMENT BILL 2015



Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

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

20 October 2015

Dear Sir/Madam

RE: TRANSPORT LEGISLATION (TAXI SERVICES) AMENDMENT BILL 2015

Please find following our submission to the Transport Legislation (Taxi Services) Amendment Bill 2015 which is currently being considered by the Infrastructure, Planning and Natural Resources Committee. We fully support this Amendment and believe this Legislation Amendment Bill needs to be progressed and introduced as a matter of urgency to ensure that Queenslanders can have full confidence in the services being delivered by Taxis including demand responsive services. At present the wider community is confused with the attempted introduction of Uber into the marketplace. Citizens and users of public passenger transport services are concerned about safety issues (vehicle safety and personal safety) and charging regimes in particular with the advent of Uber and also confused as to how this entity and its drivers can thumb their nose at long standing legislation and are operating with little or no enforcement action being undertaken. The current situation has created enormous uncertainty in the industry and is threatening the livelihoods and jobs of thousands of hard working Queenslanders.

Executive Summary

The Taxi Industry is a key component of the Queensland economy and is a vitally important part of our public transport system. At present the Industry is under real threat from the introduction of Uber, an illegal taxi service trying to operate under the guise of a ridesharing app hiding behind a digital disruption platform.

This submission identifies the:-

- background to the taxi industry;
- overarching legislation together with identified key definitions relating to the operation of Uber as stated in the Legislation which clearly prove that Uber is in fact providing a taxi service via its drivers;
- the current position of each of the key stakeholders – Government, Taxi Industry and Uber;
- benefits of the proposed Transport Legislation (Taxi Services) Amendment Bill; and
- recommendations we believe as a key stakeholder that need to be implemented urgently.

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

It is clear that Uber is operating illegally, yet the State Government at present seems to be turning a blind eye to their operations and also seem to be seeking to facilitate and assist their operations.

We now seek the Infrastructure and Planning Committee to take steps to address these issues and guide the Government accordingly as to the relevant actions that require implementation. Uber is a clear threat to the future of the Taxi Industry but more importantly Uber is not operating in the interests of Queenslanders and in fact is a real threat to the safety and security of the travelling public. It is time that the interests of the travelling public were at the forefront of considerations with respect to Uber. This proposal of implementing a demerit point regime has real benefits in that it will create a level playing field, it will demonstrate to Queenslanders that no company/individual is above the law but it will also focus on ensuring the safety and security of those citizens who rely heavily on safe, efficient and effective public transport services.

Overview of Taxi Industry

The Australian taxi industry plays a unique and pivotal role in the overall public transport system. Taxis operate on-demand, 24 hours a day, 365 days a year, offering a door-to-door service.

Each year in Australia, approximately 20,000+ taxis move more than 350 million passengers and provide gainful work and business opportunities for more than 75,000 people directly within the industry. Approximately, 12% of the taxi fleet across Australia is wheelchair accessible. Taxis play an essential role in servicing the needs of the community in general and key sections of the community in particular. Sections of the community that rely heavily on the taxi industry include:-

- the elderly;
- people with disabilities;
- the young or vulnerable;
- disadvantaged socio economic groups;
- marginalised and geographically isolated people; and
- business travellers.

With respect to the operations of Black & White Cabs, approximately 200,000 of our 4,000,000 bookings for the year were jobs for elderly/disabled/war veteran/war widow clients - these jobs just represent our elderly clients who access government assistance and transporting them to and from doctor and hospital appointments etc. These statistics do not include residents of nursing homes or aged care facilities.

In rural Australia, taxis are often the only form of public passenger transport available. This can also be the case in the outer metropolitan areas, where dedicated public transport services can be difficult to support as a result of the burgeoning urban sprawl.

Taxi services are seen as an essential service by many in our community and negative impacts on the industry can realise significant and disastrous flow through affects to the community and economy.

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

Taxis and the delivery of public passenger transport services are the responsibility of and regulated by State Governments across Australia. The regulations are principally directed to promoting:-

- passenger safety;
- driver safety;
- public convenience & affordability;
- accessibility;
- minimum public nuisance.

To this end in Queensland, drivers of public passenger services must hold Driver Authorisation. Accordingly, to qualify for Driver Authorisation, taxi drivers must complete nationally recognised competency-based training, complete an Queensland Taxi Driver English Assessment designed by TAFE Queensland English Language and Literacy Services, pass a medical examination, hold an Australian driver licence for a minimum of 12 months and held a current licence continually for a minimum of 3 years, and be of good character. Importantly, taxi drivers undergo stringent criminal history checking to ensure they are fit and proper persons to transport potentially vulnerable passengers. Also, taxi drivers are prohibited from being under the influence of any drug or alcohol while driving a taxi (i.e. maintain a zero blood alcohol level).

Taxis in Queensland provide hundreds of thousands of passenger journeys every day and approximately 110 million trips per year. There are around 2,618 standard taxis and 643 wheelchair taxis spread across Queensland.

Taxi services comprise a significant and important percentage of the overall movement of people especially those that use public passenger transport services. Black & White Cabs took approximately 4,000,000 bookings via landline and mobile calls and around 180,000 app bookings in Brisbane alone. Of these 50,000 bookings were for wheelchair accessible vehicles.

Overview of Current Situation

State Government Position

The fact that Uber is promoting illegal taxi services is not in doubt.

Deputy Premier and Minister for Transport, Jackie Trad has stated: “It’s not a grey area at all. In Queensland, in order to run a taxi, you need a taxi licence. No-one who operates an Uber car has a taxi licence”.

Transport Minister Jackie Trad has told Uber that she would not discuss taxi reforms unless they closed down. Via a report from the Courier Mail on 29 May 2015, Uber director of public policy for Australia and New Zealand Brad Kitschke stated that “The Minister made it clear that, if we wanted to have that conversation, we should shut the business first and then her department and her would have a conversation with us about the next steps.”

The Queensland Government believes Uber is flouting taxi laws, while Uber argues rideshare and taxis are different and should be covered under different regulation. Ms Trad told the

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

ABC in an interview that “They are a taxi service, and they inferred as much in the meeting with me.”

It is our understanding that the Department of Transport and Main Roads has levied more than \$1.7 million in fines against vehicles operating using the Uber platform. These fines have been paid by Uber. Despite legislation and regulations being in place, it is clear that the existing penalty regime of fines with respect to the issues involving Uber drivers no longer acts as a disincentive to modify behaviour or discourage illegal activities. It certainly does not address the issue of repeat offenders. Information suggests that in any case, Uber has paid the fines on behalf of drivers, thus removing any incentive for drivers to stop breaking the law. Further, police have been very reticent to get involved and take action believing enforcement of the legislation and supporting regulations is the responsibility of the Department of Transport and Main Roads.

Information received under Right to Information provisions identifies that on 21 May 2014, the Department of Transport and Main Roads issued a cease and desist notice to Uber. However it is apparent that to this time the cease and desist notice has been ignored by Uber.

Recently, the Queensland Government announced that a special task would undertake a review of the taxi industry. The Government gave all indications at the time of the taskforce announcement that the fining of Uber drivers would continue. Black & White Cabs however understands that the Department suspended significant enforcement against Uber drivers in June 2015. No explanation has been provided by the Department or Government as to why drivers using the Uber platform are allowed to continue operating in contravention of the existing laws in this State.

According to evidence provided to the Infrastructure Planning Committee tasked with considering this Amendment Bill, Uber has also been blocking the phones of known transport department inspectors in an effort to dodge fines from the Queensland Government. The acting director of the Department of Transport and Main Roads responsible for taxis and limousines Noela Cerutti told the committee that Uber had "thwarted" its attempts at a compliance crackdown.

Previously, transport inspectors fined Uber drivers by using the app to book a driver. Covert actions of booking an Uber driver are now being actively hampered by Uber. Uber can now recognise not only a sim card, but also the handset and they have identified details of transport inspectors and actively disable their phones from connecting with their app.

Uber has also changed their customer application process which will require and as such prevent transport inspectors from using their personal details to try and undertake enforcement action.

It is a fundamental principle of our society that all people, including both citizens and corporations, are bound by and entitled to the benefit of the law.

What would happen if businesses commenced operations in other heavily regulated industries including the health care, aged care, bus and ferry transport, building and construction sectors and were able to operate with immunity from prosecution and with no regard for safety, quality or pricing standards? The Queensland Government and relevant Departments would be quick to act and significant fines and prosecutions would ensue. Legislation and regulations currently exist but the legislative platform obviously requires the support of a robust demerit point regime where drivers are not only fined but lose demerit points from

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

their drivers licence to reflect the seriousness of the offence in operating illegally and to act as a serious disincentive to continue floating the law. This will also give Police and Transport Inspectors confidence that actions being taken against Uber drivers will in fact realise a result – ie the illegal activity stops as opposed to Uber just paying the fine and the activity continuing unabated.

Taxi Industry Position

The taxi industry in Queensland operates in a highly competitive environment. Industry participants effectively compete with each other and compete with other forms of public passenger transport services. Taxi drivers also compete for passengers, taxi operators compete with each other to attract taxi drivers and taxi booking companies compete with each other to attract taxi operators and taxi passengers.

Other forms of competition in the market place include private hire vehicles (hire cars or limousines), taxpayer funded community transport, scheduled route buses, airport shuttle buses, venue subsidised courtesy buses, light rail and trains. This obviously does not factor in “competition” from bicycle users, walkers and private vehicle usage.

The Transport Operations Passenger Transport Act currently is the legislative framework under which the provision of demand responsive services is outlined. The Act identifies the following definitions and requirements:-

Public Passenger Service - means a service for the carriage of passengers if—

- the service is provided for fare or other consideration; or
- the service is provided in the course of a trade or business (but not if it is provided by an employer solely for employees); or
- the service is a courtesy or community transport service; and includes a driver service and a service for the administration of taxi services but does not include a service excluded from this Act by a regulation.

Taxi Service - taxi service means a public passenger service, other than an excluded public passenger service, provided by a motor vehicle under which the vehicle:-

- is able, when not hired, to be hailed for hire by members of the public; or
- provides a demand responsive service under which members of the public are able to hire the vehicle through electronic communication; or
- plies or stands for hire on a road.

Demand Responsive Service - includes a service that is:-

- held out as being able to respond to requests for service immediately or within a period of time appropriate to a taxi or within a similar period; or
- held out as being a service providing taxis or a service similar to a service providing taxis; or
- conducted in a way that may reasonably be expected to give prospective customers or the public the impression that the service is, or operates in a way similar to, a service providing taxis.

Taxi Operators

The Act requires an operator to demonstrate ability to meet appropriate requirements for financial viability, safety of drivers, passengers and the public, and vehicle maintenance. In addition (unless exempted) an operator must ensure that at all times arrangements are in force with a taxi-cab network for the provision of a taxi-cab booking service and that the taxi-cab is fitted with a receiver capable of receiving messages from the network.

Operator accreditation is a qualification an operator of a public passenger service must attain and maintain to provide the service.

Standards about operator accreditation may relate to:-

- the applicant's capacity to ensure the appropriate operation and maintenance of public passenger vehicles; and
- the applicant's ability to provide a quality public passenger service; and
- an operator's responsibility to comply with vehicle design, safety and operational requirements; and
- the applicant's business management skills, including, expertise in timetabling, route planning, marketing, customer services and financial management; and
- the operator's responsibility to comply with or ensure that a driver complies with an Act, or a provision of an Act, that would promote safety or customer service; and
- other matters prescribed by regulation.

A person must not provide a public passenger service for which operator accreditation is required under this Act unless—

- the person is accredited to operate the service; and
- the person uses appropriately authorised drivers.

Maximum penalty—160 penalty units

Taxi Drivers

Taxi drivers must be authorised by the Department of Transport and Main Roads. The purpose of driver authorisation is to maximise public confidence in public passenger services in relation to the drivers of public passenger vehicles. This includes ensuring that drivers of public passenger vehicles:-

- are suitable persons to drive public passenger vehicles having regard to the need to provide for the personal safety of passengers and their property, and the public; and
- conduct themselves responsibly with passengers and the public; and
- are responsible in the act of driving and are capable of safely operating the relevant type of vehicle; and

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

- are aware of their customer service responsibilities; and
- are held accountable for complying with appropriate standards.

A person must not operate a public passenger vehicle providing a public passenger service for which driver authorisation is required unless the person is an appropriately authorised driver.

Maximum penalty—100 penalty units

Taxi Service Licence

A taxi must be licenced to provide services in Queensland. New licences are issued by the Department of Transport and Main Roads. The market to purchase, sell or lease licences is essentially unregulated for people or organisations that are deemed fit to own or lease a licence by the Department.

A taxi service licence is a licence issued by the Department under, which the holder is required to provide a taxi service in an area in a way that meets or exceeds specified performance levels. A person must not provide a taxi service using a vehicle unless:-

- the person has a taxi service licence to provide the service with the vehicle; or
- the person has a peak demand taxi permit to provide the service with the vehicle.

Maximum penalty—160 penalty units

Taxi Booking Service

A person administers a taxi service if the person carries on a business in the course of which”-

- bookings for taxi services are accepted; and
- taxis are assigned to customers;
- whether or not the person operates all or some of the taxis used to provide the services.

If a person who administers a taxi service receives a request for the services of a taxi, the person must not:-

- provide a vehicle that is not a taxi; or
- suggest to the person who made the request that the person accept a vehicle that is not a taxi.

Maximum penalty—160 penalty units

The overarching legislation makes it very clear as to what is a taxi service and what are the requirements of drivers and operators. However it is clear that additional strategies need to be

considered and implemented given Uber and their drivers are thumbing their nose at the law and the Department.

Uber Position

Founded in 2009 and now available in 212 cities and 45 countries, Uber is a smartphone app that connects passengers to drivers with vehicles for hire. All hiring and payment goes through Uber and not the driver. Drivers must have a valid licence.

Passengers choose which kind of car service they'd like to request on the app, then plug in their location and in some cases, destination addresses. The app then alerts the customer when a car has been confirmed, and shows the driver's name and license plate number while also displaying the driver's route and estimated time of arrival. Riders then tell the driver where to go if that information isn't already in the system, and then a receipt is emailed to the customer after the trip has completed. Passengers and drivers rate each other, as an incentive to be both good customers and provide feedback on drivers.

Uber acknowledges the illegality of vehicles operating using the UberX platform in Queensland as evidenced by comments of Uber's public policy director, Brad Kitschke, calling on the Queensland Government to introduce regulations to allow vehicles operating using the UberX platform to operate legally.

Uber claims to be operating a legal ride-sharing service given their public policy director, Brad Kitschke questioned the Minister for Transport's claims regarding Uber operators not having a taxi licence. In his comments Mr Kitschke states "The minister's not a judge and the

matter hasn't been adjudicated by a court of law. Ride-sharing is not defined by current legislation there's no court in Australia that has determined ride-sharing is illegal."

Further in accessing this website - <http://www.taxifarefinder.com/main.php?city=Uber-X-Brisbane-Australia&lang=en>, the site states "Welcome to the Uber X - Brisbane Taxi Fare Finder. This page will calculate your cab fare using Uber X - Brisbane, Australia taxi rates. To begin, enter your travel information in the fields below the map. All results are estimates and may vary depending on external factors such as traffic and weather. TaxiFareFinder's fare estimates are known to be the most accurate of any taxi website."

For a ridesharing service as claimed by Mr Kitschke, it seems very strange that they in fact are "advertising" as a taxi service!

It is important, given Uber are claiming when it suits them that they are offering a ridesharing service, to ascertain the definitions of ridesharing. Research has identified the following as accepted definitions of ride-sharing:-

- The Free Dictionary identifies Ridesharing as Car Pooling – "An arrangement whereby several participants or their children travel together in one vehicle, the participants sharing the costs and often taking turns as the driver. A group, as of commuters or parents, participating in a carpool."
- Dictionary.com identifies that ridesharing is "Sharing of rides or transportation, especially among commuters."

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

- According to the Merriam Webster Dictionary - “An act or instance of sharing, rides or transportation, especially by commuters.”

The Association for Commuter Transportation based in Alexandria, Virginia, United States probably has the best definition of all - “People pooling from a common origin, such as a residence or park-and-ride lot, to a common destination, such as an employer or business park. In some cases, an arrangement is made that allows carpool or vanpool drivers to recoup the cost of the commute or receive some de minimus compensation, but the pool driver is simply a volunteer commuter whose goal is getting to the same destination and home again, not to profit as a commercial driver.”

Based on these definitions – Uber is not a ride-sharing service but clearly a taxi service operating illegally.

Furthermore, the UberX platform is essentially discriminatory because only people with smart or Android ‘phones can use the platform. As such potential users who do not have a smartphone or access to one are unable to utilise the Uber service.

According to research, smartphone ownership is highest among younger Australians, as well as those with relatively high income and education levels. Some 91% of Australians ages 18-29 are smartphone owners. Ownership levels remain particularly low among seniors, as just 27% of Australians 65 and older now own a smartphone.

Most seniors however would be unaware of apps or unlikely to use an app. The taxi industry on the other hand is not discriminatory and provides services to all clients via a number of mediums including landline and mobile phones, app technology, website, taxi rank and hailing from the street.

UberX also discriminates against other sectors of the community including the disabled and those in a wheelchair with vehicles being operated under the Uber “brand” not being able to accommodate this clientele. No vehicles currently have a wheelchair lift and are dedicated wheelchair accessible vehicles. Further UberX drivers are not **formally** trained in how to effectively and safely assist the elderly and those suffering from a mobility issue in and out of vehicles.

Benefits of Proposed Legislative Amendments

The implementation of the proposed Amendment Bill will have significant positive impacts on all Queenslanders and most importantly ensure that the provision of Taxi services continue to be delivered in a safe, cost effective manner with the needs of the travelling public being the primary focus. Certainty across the industry, a level playing field will also result from this Amendment but our focus initially needs to be primarily on our customers and this Amendment Bill will facilitate improved and continued benefits to Queenslanders as follows.

Enforcement Confidence

The adoption of this Amendment will give Police and Transport Inspectors confidence that actions being taken against Uber drivers will in fact realise a result – ie the illegal activity stops as opposed to Uber just paying the fine and the activity continuing unabated. Attaching

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

a demerit point regime to these breaches will provide a significant impost on drivers who flout the laws with respect to the provision of taxi services. Further the implementation will clearly demonstrate that nobody is above the law and that everyone is equal in the eyes of the law.

As mentioned elsewhere in this submission – what would happen if other highly regulated industries were usurped by a competitor operating with scant regard to legislative requirements? Chaos would be the order of the day and Government agencies would be scrambling to implement heavy enforcement action. Why is such enforcement action not being implemented now with respect to Uber drivers?

Targeted enforcement needs to be recommenced immediately and the implementation of demerit points for offences of providing a taxi service or operating without Driver Authorisation will be a significant deterrent as and when implemented. However we cannot wait for this implementation – the Government must act now!

Level Playing Field for Competition

Taxis are available 24 hours per day 7 days per week and they provide an on demand, at call, flexible, accessible public transport service. Around 20% of taxis are wheelchair accessible, giving Queenslanders the most accessible taxi fleet in Australia. Security cameras have been installed in the vast majority of taxis throughout Queensland and secure taxi ranks in

entertainment precincts provide additional security measures for passengers and drivers. Some 16,000 people hold authorisation to drive taxis in Queensland.

Competition between industry participants across Queensland drives efficiency in the taxi industry in terms of ensuring prices for services are aligned with the costs of providing those services. Taxi operators and taxi drivers also face strong competition which drives them to minimise their own costs and operate as efficiently as possible.

Currently there is enormous competition across the sector and with a variety of other public passenger transport mediums such as trains, buses, ferries, limousines, courtesy buses and the like. This Amendment will essentially stifle Uber and their drivers which will level the playing field by ensuring ALL drivers and operators need to meet the same standards and requirements and operate on a competitively equal footing when it comes to overhead costs and costs of operation etc. Currently Uber and their drivers have a significant advantage in not being required to meet any standards; they can virtually operate any type of vehicle no matter how poorly maintained that vehicle may be; and essentially have little or no overheads compared to the drivers and operators of taxis.

Economic

Uber is a strange “business” given company personnel can only be contacted through email, complaints are difficult to make given you can’t actually speak with a real person, feedback must be provided via the app and there are no real “employees”. While Uber calls their drivers ‘partners’, the drivers carry a big part of the risk and responsibility without being in control of fares or regulations. The financial return to drivers from Uber is also varied. Uber offer a “guaranteed income” however the conditions attached to this “guarantee” are

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

extensive and therefore very few drivers would realise any guaranteed income levels marketed by Uber.

From August 1, all Uber drivers are now required to obtain ABNs and register for GST.

While most businesses are required to charge customers GST only after their turnover exceeds \$70,000 a year, the ATO has decided Uber drivers are providing a taxi service and must charge GST on every fare, no matter their turnover. Prior to this date no GST has been charged or collected by Uber drivers which has meant that millions of dollars in GST have not been collected and paid to the Federal Government.

Uber, along with Airbnb, has been summoned to face a Senate tax avoidance enquiry this month after filing its first set of income accounts with the Australian Securities and Income Commission. Claims have been made that the figures provided by Uber are not reflective of the tax that should have been paid considering the huge number of rides provided in just 2015 alone. There also is great concern across the community with Uber's initial corporate tax structure.

Uber as a global company is worth an estimated US\$20 billion (AU\$28.44 billion) but has listed a tax bill in Australia of just US\$18,000 (AU\$25,592), according to ASIC reports.

It would seem that Uber is assuming a similar financial structure and taxation minimisation strategies as many other multi-national companies such as Google, Microsoft and Apple.

These companies have recently been criticised by the Senate for tax avoidance strategies where Australia-generated revenue is moved via complex arrangements to Ireland, Singapore and Netherland etc.

Uber, given its rapid expansion, now essentially sets the rates and working conditions for a considerable slice of the taxi driving market worldwide, undercutting years of government regulation. This should be of real concern as to how this power shift affects the wages of drivers, which can now be cut (or raised) at will by this new player in the market. Uber drivers currently have no control over prices and therefore no real control over their income.

Further while it is claimed that Uber is generating new jobs with every new driver they sign up, this is very misleading given the vast majority of their drivers are taxi drivers who have moved over from traditional taxi companies or more to the point are drivers who are working for Uber as well as traditional taxi companies. There is little evidence that the advent of Uber has created a significant increase in the number of passenger transport services being provided across the taxi sector. So as such there is little evidence of any real increase in jobs but rather hundreds of job losses are being experienced across the taxi industry resulting from the introduction of Uber. Some of these losses are to Uber but significant job losses are resulting from taxi owners/operators leaving the industry because of the current uncertainty. These losses are not being reflected in the number of new drivers signing up with Uber so are in fact real job losses to the Queensland economy. Further, owners of taxi licences are also suffering a significant depreciation in the value of their licences as a result of the Uber experience.

The biggest problem is that operators in the taxi industry have invested in the existing system which has been mandated by government. According to Professor Harper from the

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

Competition Policy Review of the Taxi Industry "there's no doubt that if people have invested in good faith in assets, and then government comes along and reduces value of those assets to zero, it would strike many Australians as unfair".

This demerit point regime being proposed in the Amendment Bill will ensure that job losses in the taxi industry will be minimised and that the value of taxi licences will be maintained and that hard working Queenslanders will not suffer significant financial losses as a result of Uber. Further, GST will also not be lost given the taxi industry currently charges GST and as such all GST collected across the industry is remitted to the ATO as required by legislation.

Environmental Sustainability

The taxi industry in Queensland has been using environmentally sustainable LPG fuel driven vehicles now for more than 25 years. As more fuel-efficient vehicles become available, the taxi industry's environmental credentials will continue to improve. The industry is rapidly adopting more fuel-efficient hybrid vehicles, which provide economic benefits to the industry and passengers as well as environmental benefits. There is no requirement or intention of Uber to engage drivers with a similar focus on environmental sustainability.

This Bill will effectively by default support the industry's focus on environmental sustainability. The fact that vehicles being used as Taxis in Queensland must undergo rigorous 6 monthly safety inspections which also have a clear focus on the emissions from each vehicle via the Department of Transport further supports a better and improved environmental outcome.

Uber vehicles undergo no such inspections and as such the vehicles could be poorly maintained while carrying passengers thus providing real safety concerns for Queenslanders

but also the lack of proper maintenance would significantly increase emissions and therefore have a negative impact on the environment.

Social Benefits

Effective, efficient and safe public transport provides a range of important social benefits for the community. The taxi industry has a significant and important role in connecting people to people, people to services, businesses to customers and businesses to businesses.

With the aged, frail and those suffering from a disability or confined to a wheelchair, taxis are essential to ensure that people can continue to live in their own homes and yet still access much needed support and health services.

The pricing regime introduced across the taxi industry is aimed at ensuring people, including those who would otherwise be disadvantaged, have access to an affordable public transport service whenever and wherever it may be required. If taxi services continue to be impacted by Uber and their drivers, the ability of the industry to provide services across a wide geographical area and provide the primary means of transport for many elderly, disabled and disadvantaged Australians will be significantly reduced.

There are currently no wheelchair accessible vehicles that we know of across the Uber "fleet" and Uber drivers rarely are available in disperse fringe areas of urban Australia where

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

population density is low. Taxi services via defined Contracts with the State Government must supply services in these areas and meet minimum service level standards. This Amendment will assist in providing certainty to the industry which will then result in continued high quality affordable services to those that need them most.

Privacy Issues

Taxis currently enable users to travel anonymously, whereas Uber's users' details, including travel time, route and destination, are all tracked. Privacy concerns that the Deputy Prime Minister and Infrastructure Minister Warren Truss recently raised about using technology to reduce road congestion certainly are relevant to Uber as well. The implementation of demerit points will by default ensure that privacy issues and the privacy of the travelling public can be maintained given the stringent privacy controls in place within the taxi industry.

Enhanced Public Safety, Security and Driver Training

The taxi industry provides the safest form of public transport. Queensland taxis are a world leader in the adoption of safety and security systems and training for taxi drivers. The taxi security camera program was introduced in Queensland taxis in 2005.

This was aimed at enhancing the safety and security of both taxi drivers and passengers.

Taxis operating in the following taxi service areas are required to have an approved taxi security camera system installed and fully operational:-

- Bribie Island
- Brisbane
- Bundaberg
- Cairns
- Gladstone
- the Gold Coast
- Gympie
- Hervey Bay
- Innisfail
- Ipswich
- Mackay
- Maryborough
- Mount Isa
- Redcliffe
- Rockhampton
- the Sunshine Coast
- Toowoomba
- Townsville
- Warwick
- Yeppoon.

Taxis operating in other service areas may voluntarily choose to install an approved taxi security camera system. The use of camera systems in taxis improves the safety of passengers and taxi drivers by deterring would-be offenders and providing a key source of evidence for incidents in a taxi. Following the release of a discussion paper in 2012, the taxi industry is

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

implementing further changes to the taxi security camera program. These changes will introduce audio recording in addition to the existing image recording.

This is an excellent initiative for the industry and will assist in providing more accurate evidence in prosecuting anti-social behaviour in taxis. The legislation was amended in December 2013 and changes to camera systems will be phased in over a three year period after this.

The Queensland Government has also approved an increase in taxi service areas where it will be mandatory to have a camera system. It is expected that in 2017 all taxis in areas where taximeters are mandatory will also be required to have a camera system installed.

Taxis also are monitored consistently by GPS tracking so that the Taxi Company can identify where each vehicle is throughout the entire duration of a shift. This is not the case with Uber drivers who can just turn their GPS tracking off as and when they want given they are not answerable to a Booking Company.

As mentioned previously, vehicles providing a taxi service must meet stringent safety and maintenance standards and undergo a Vehicle Inspection every 6 months by the Department of Transport and Main Roads. Uber vehicles undergo no rigorous independent inspection process.

Taxis are required to be no older than 6 years for a sedan and 8 years for a wheelchair accessible taxi. On the other hand Uber vehicles can be up to 9 years old. Taxis also must hold appropriate insurance to protect the driver, passenger and the public. Uber drivers can be “under insured” which then impacts on all Queenslanders in the event of an accident. This issue is discussed later in this submission.

Drivers of taxis must hold Driver Authorisation and undertake comprehensive training to a nationally accredited standard, undergo criminal history validation processes and be formally approved. Uber drivers are not required to undertake any accredited training program and certainly not a nationally accredited training program to drive and provide services to customers. In the taxi industry drivers’ licences and authorisations are checked every day they work to ensure currency – again Uber has no such process and in fact a disqualified driver could be operating as an Uber driver without anyone being aware.

Each driver’s identification must be displayed in a taxi for ease of identification by the passenger and again Uber does not require drivers to identify who they are or validate they in fact are who they claim to be prior to accepting a passenger on any given day.

Taxi companies also have in place a dedicated complaints management system, lost property process and can provide specified data to the Department. Uber is unable to effectively manage any of these issues.

However, taxi users are generally unaware that Taxi companies, operators and drivers are required to meet stringent standards in terms of safety, performance, monitoring, and reporting and are ignorant of the inherent risks they face when using an unauthorised/unregulated taxi or service such as Uber. This Amendment Bill will strengthen the fact that drivers and owners of taxi services must adhere to strict safety and security

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

standards. The experience of deregulation in other countries such as the UK resulted in significant drop in standards with crimes such as rape occurring and as a result deregulated mini cabs were subsequently regulated.

Public confidence across Queensland has diminished given Uber has no standards and are effectively competing as a taxi thus confusing the customers across the market as to what is and is not a taxi. This Amendment Bill will ensure the safety of passengers and drivers and ensure confidence in the industry is restored.

Fair and Transparent Charging Regime

The Department of Transport and Main Roads determines maximum fares for Queensland taxis and declares these through a Government Gazette notice. As such the charging regime for taxis is publicly available and open to scrutiny. A review of taxi fares is conducted using the department's Taxi Cost Fare Index (TCFI). The fares are separated into 3 tiers, south-east Queensland, regional Queensland and exempted Queensland and are set out as follows:

- South-east Queensland taxi fares apply to metered taxi service areas in south-east Queensland, which include Brisbane, Ipswich, Gold Coast, Sunshine Coast, Redcliffe, Beaudesert, Bribie Island, Mount Tambourine, Laidley and Beerwah.
- Regional Queensland taxi fares apply to metered taxis operating in regional Queensland, inclusive of all those declared metered taxi service areas not listed under the south-east Queensland fare structure.
- Exempted Queensland taxi fares apply to taxi services which operate in communities with sporadic demand that is not sufficient to require continuity of service by more than one vehicle.

Metered taxi service licences require the taxi operator to have a fare meter and provide a 24 hour service using a vehicle of not more than 6 years of age (8 years for a wheelchair accessible vehicle). The fares for metered areas are less than for exempted Taxi Service Areas reflecting the increased viability of taxi services in these areas.

Again Uber's charging policy is not set and can fluctuate massively depending on many variables. Users are able to get an estimate of the cost but the Uber website identifies that "Please keep in mind that fares may vary due to traffic, weather, and other factors." As such their fare policy is a mystery to some degree. Uber claims its rates increase to ensure reliability when demand cannot be met by the number of drivers on the road. At times of high demand, the number of drivers that Uber can connect a customer with becomes limited. As a result, prices increase to apparently encourage more drivers to become available. Customers have to accept those higher rates before they can connect them to a driver.

This Amendment Bill will reduce the operations of Uber and again give passengers certainty regarding fare costs.

Accidents not impacting on Public Purse

If a motor vehicle is not insured, or is insured under the incorrect class, and the vehicle is involved in an accident, the insurer under the CTP policy becomes the Nominal Defendant. This body is funded by a levy within the CTP insurance premium, and the levy is set on the

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

basis of an actuarial assessment of claim trends. Uber vehicles do not have the correct class of insurance given they are not identified as a taxi and therefore pay a far cheaper rate.

Given they are “under insured”, not only are Uber drivers getting a competitive advantage in paying a lower CTP premium, if they were involved in an accident the entire community (including the taxi industry) bears the costs of the illegal taxi services given the Nominal Defendant would be the responsible party.

This Amendment Bill will negate this issue thus ensuring no added costs are incurred as a result of Uber vehicles being involved in accidents.

Case Studies – Deregulation/Uber

The following case studies outline some experiences with deregulation of the taxi industry in general and the experience of some cities with Uber and what transpires as they try and gain entry into the marketplace.

UK

UK regulators thought it was a great thing to have deregulated competition with respect to mini cabs as opposed to the traditional “Black Cabs”, until poor service, unacceptable vehicle standards and even cases of rape by unregulated mini cab drivers, eventually forced the introduction of the regulation of mini cabs.

Portland

In Portland, Oregon, Uber began operating illegally and faced penalties, including \$1,500 for being caught the first time, \$2,500 for a second offense and \$5,000 thereafter.

Portland isn't happy: the city's transportation commissioner Steve Novick said, “They think they can just come in here and flagrantly violate the law? This is really amazing. Apparently, they believe they're gods.”

California

A Judge recently ruled that the company be fined \$7.3 million and be suspended from operating in the State due to non-compliance with state laws ensuring that drivers give out rides fairly to all passengers. The Chief Administrative Law Judge contended that Uber's months-long refusal to provide such data is in violation of the 2013 law that legalized ride-hailing firms. The law requires Uber to hand over operational data regarding requests for accessibility to the California Public Utilities Commission under a 2013 law that legalized ride-hailing services in the state, but Uber's subsidiary Rasier-CA, which handles that data for Uber in California, has so far refused to do so.

Orlando

Uber, unlike other ground transportation companies, refused to pay fees to the local airport for using its grounds to pick up customers. “Neither Uber nor its drivers pay to pick up

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

airport passengers, something the authority alleges is unfair to it and to traditional cab companies that do.”

Nevada

Nevada issued a state-wide ban against Uber in December 2014, with a court arguing the company operates like a taxi business. Uber halted operations in the state at that time.

Tampa

In Tampa, Uber refused to work collaboratively with local authorities to craft sensible regulations for its business model. According to the Hillsborough County Public

Transportation Executive Director, “neither Uber or Lyft contributed anything. They gave no template. They didn’t suggest any rule changes. Most of the time, they just sat in the audience and contributed nothing.”

Toronto

Toronto authorities argued that Uber is “jeopardizing public safety” and is getting ready to fight the ride-sharing service in court.

Netherlands

A court challenge against Uber in the Netherlands resulted in an injunction against the ride-sharing service, with a court saying the company can’t work with drivers who don’t have a license. Licensed taxi drivers, and drivers who don’t seek payment, can still drive for the service.

New Delhi

New Delhi’s Transport Department has banned Uber after one of its drivers was accused of raping a passenger. This has challenged Uber’s ambitions to expand in developing countries. Uber did not carry out background checks on the driver, register his residential address, nor register his vehicle as a cab or install a GPS in the vehicle, which is required for commercial taxis, New Delhi police said.

It’s not the first time that Uber drivers have been accused of sexual assault, and in San Francisco and Los Angeles, district attorneys have accused the ride-sharing service of misleading customers into believing they ban drivers who have ever committed criminal offenses.

Germany

In September 2014, courts in Berlin and Hamburg ruled that Uber did not comply with German laws and officially banned the service from using unlicensed taxi drivers.

Spain

A judge from a mercantile court in Madrid agreed to an initiative proposed by the Madrid Taxi Association to ban the company from operating, ahead of a future court case the Association is planning on filing against Uber.

London

London's transport regulator, Transport for London (TfL), is taking Uber to the high court. The high court case, which will determine whether the Uber app breaks the law by effectively acting as a meter, is increasing on the pressure for the company.

Western Australia

A spokesman for Uber recently disputed the suggestion that it had set up a "rank" at an AFL preliminary final in Perth. While claiming that a "rank and hail" arrangement, where cars queued for passengers, was the sole province of licensed cabs, the spokesman did acknowledge that a marked and signed area had been established by Uber in "collaboration" with the event organisers to direct Uber passengers to their ride.

Case Studies – Similar action to the proposed Amendment introduced

NSW

Uber drivers in Sydney are facing suspension of their vehicle registration as part of the NSW Roads and Maritime Services crackdown on illegal ride-sharing. The Department is issuing suspension notices against registered owners of vehicles found to be operating a privately registered vehicle for business purposes. So far it has been confirmed that some 40 drivers have been issued with suspension notices and thousands of dollars in fines have been issued to drivers offering illegal ride-sharing activities. An Uber driver who drives a suspended vehicle after October 1 can face a \$637 fine for each offence, or around \$2200 if the case is heard in court.

Roads and Maritime Director of Safety and Compliance, Peter Wells justified the suspensions by stating that taxi and hire car services in NSW must be provided by an operator accredited by Roads and Maritime, in a licensed and insured vehicle, driven by an authorised driver. Uber is not accredited and neither are its drivers. Uber drivers are now facing the risk of a registration suspension and big fines if they're caught driving for Uber - something Wells has dubbed "illegal ride-sharing".

It is apparent from the Queensland experience and the experience across the globe that Uber has no intention of complying with any legislation and regulations. Their intention is obviously to ensure they have a money making venture where they have little to no overheads all being undertaken under the guise of digital disruption which supposedly is all about benefitting the consumer. Let's see Uber for what it really is – they have no concern for the safety and quality of service to the travelling public.

If they did, they would have approached this in a very different manner and looked to work with regulators to develop a system and approach which was legal and was all about protecting the safety of passengers while delivering a quality, transparent yet accountable public passenger transport service.

The only way to deal with those in our community who believe the laws do not apply to them and essentially want a lawless society is to fine them heavily and implement significant targeted enforcement strategies.

Submission by Black & White Cabs to Infrastructure and Planning Committee regarding Transport Legislation (Taxi Services) Amendment Bill 2015

These need to be aimed at crippling their illegal operations and developing and implementing alternate enforcement regimes – in this instance attaching a loss of demerit points to the committing of the offence. Looking the other way and trying to embrace Uber would be akin to Police looking to work with the bikie gangs to ensure their illegal activities could somehow be dressed up as legal. Ludicrous in the extreme, yet this is how the State Government seems to want to deal with Uber. This focus on embracing Uber needs to stop and the Government needs to be visible and determined in their efforts to ensure Queenslanders receive public passenger transport services in this instance taxi services via quality providers who can ensure the safety of passengers while delivering high quality, efficient and affordable services.


Recommendations

Black & White Cabs Pty Ltd supports the Transport Legislation (Taxi Services) Amendment Bill 2015.

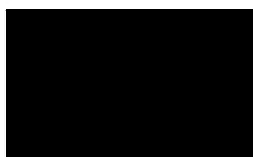
It is clear that the existing penalty regime of fines no longer acts as a disincentive to modify behaviour or discourage illegal activities.

It is the view of Black & White Cabs that the situation in Queensland with respect to enforcement of the law against illegal taxi services is unsatisfactory and urgent action is required.

There is a very real outcome of the taxi industry disintegrating with thousands of jobs lost and honest hard working mums and dad's losing their lifetime investments if Uber is allowed to continue to operate in an unregulated unenforced environment.

Should you have any further queries relating to this matter, please do not hesitate to contact me on 

Yours faithfully



Greg Webb
Managing Director
Black & White Cabs

From: [REDACTED]
To: [Infrastructure, Planning and Natural Resources Committee](#)
Subject: [SPAM ?] Addendum to submission
Date: Thursday, 22 October 2015 3:44:03 PM
Importance: Low

Dear Sir/Madam,

I have just forwarded Black & White Cabs' response to the Infrastructure, Planning and Natural Resources Committee regarding its inquiring into the Transport Legislation (Taxi Services) Amendment Bill.

However new information has come to light which we believe adds credence to our submission. A newspaper article of 22 October 2015 in the NT News (<http://www.ntnews.com.au/news/national/uber-driver-charged-with-alleged-rape-of-passenger-at-vauclose/story-fnjbnxug-1227578216362>) identifies that an Uber driver has been charged with alleged rape of passenger at Vauclose. Whilst there is obviously a presumption of innocence until this matter goes to Court, this instance reinforces the need for drivers of taxi services including on demand services to undergo rigorous criminal and character checking processes and in fact be accredited with the Department of Transport and Main Roads in order to preserve the safety of the travelling public.

I would like this email to be added as an Addendum to our submission.

Should you need further information please contact me on [REDACTED]

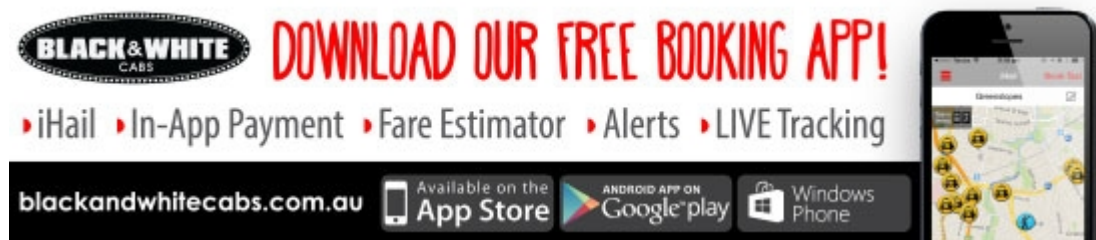
Yours faithfully

Regards

Greg Webb
Managing Director | [Black & White Cabs](#)

phone [REDACTED]
fax [REDACTED]

Find us on [Facebook](#)



The information transmitted in this email is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any opinions or advice contained in this email are not necessarily those of Black & White Cabs Pty Ltd or any of its subsidiaries. This email and any attachments are believed to be free of any virus or defect, but it is the responsibility of the recipient to ensure that they are virus free and no responsibility is accepted by Black & White Cabs Pty Ltd or any of its subsidiaries for any loss or damage arising in any way from receipt or use thereof. If you are not the intended recipient you must not use, interfere with, disclose, copy or retain this email and you should notify the sender immediately by return email or by contacting Black & White

Cabs Pty Ltd by telephone on [REDACTED].
