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TAXI
ASSOCIATION

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Attention: Transport Division
Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

4 April 2018

Transport Division,

RE: FARE REVIEW FOR UNBOOKED COMMERCIAL PASSENGER VEHICLE SERVICES

Please find the below submission to the Essential Services Commission's current fare review for unbooked commercial passenger vehicle (CPV) services on behalf of Victorian Taxi Association (VTA) members. It is with apologies that it is submitted after the formal deadline for contributions.

The ESC no doubt appreciates the magnitude of change which has occurred within the CPV industry, formerly taxi and hire car industry, over recent years. Major shifts in the market, consumer expectations, competition, regulation, industry participation and technology have occurred concurrently in an industry previously quite stable due to entry restrictions. Without seeking to labour this point, the industry context is fundamental to our perspective on the future of regulated maximums for unbooked fares and also explains why this response is not able to be supported by any meaningful data or insights.

Central to realising the Victorian Government's vision for a genuinely competitive market for CPV services is the ability to compete on price - and many other dimensions of service besides - in a way which has not been possible in a restricted market previously. As the ESC is likely aware, the VTA advocated for the deregulation of fares to facilitate strong competition for customers and other service inputs. However, this position had the important caveat that a period of transition was necessary during which a maximum rate for unbooked services continues to be regulated. This position was ultimately endorsed by the Victorian Parliament and now informs this current review.

The VTA believes vital to the "efficient provision" of services is being able to ensure certainty and transparency for consumers and stability for the industry during this transitional period. As such, we recommend that the ESC maintain the existing schedules of maximum fares in the relevant areas for unbooked CPV services. We depart from this recommendation only to the extent that the fare schedules must be augmented by provision for the Government's CPV trip levy.

The following outlines our reasons for this recommendation and considers how to deal with the trip levy in greater detail.

Why not make adjustments to current maximum fares?

Overall, changes underway in the CPV industry are multi-faceted, continue to attract significant media and community scrutiny, are generally poorly understood and, in many areas, yet to be fully articulated let alone implemented. We believe that the risk of any material changes to regulated maximum fares in this context far outweighs any potential benefit, particularly given the legislative process and announcements by Government suggest the ultimate policy aim of full fare deregulation. We believe the interests of consumers and industry participants are best served by maintaining stable maximum fares for unbooked trips during this period of transition.

The VTA is not aware of any urgent shortcomings of the current schedules of maximum fares which business or consumer data suggest warrant special attention.

The paper notes the need to consider changes in costs to inform potential changes to unbooked maximums. An informed view of the changes to service costs is almost impossible to achieve. The industry still awaits final regulations, details on the implementation and reporting associated with the trip levy and interaction of the levy with federal taxation. All of these will significantly impact business costs which cannot yet be quantified.

The paper also considers the need to analyse changes to supply and demand since last fare determination. We believe the ongoing nature and scope of changes to the industry will limit the utility of any detailed analysis at this time. Any changes in response to perceptible market shifts would be premature given the amount of change which is yet to be implemented, in the case of much of the new legislation, or even yet to be written and approved, in the case of the regulations.

Efforts to get an industry-wide view of changes to the market would also be compromised by the quality of data available. The VTA trusts recent changes to accreditation requirements for BSPs, bolstered by introduction of the trip levy and associated compliance approach, will help remedy this. In the meantime, data used by regulators simply cannot be relied upon as accurate and corrupts the integrity of any macro view of changes to inform fare adjustments.

As the discussion paper notes, some customers who rely on unbooked services are uniquely vulnerable to inefficiencies in the market for unbooked services. We argue that a period of stability in the unbooked market would offer the time for regulators to observe the development of information sources necessary for timely comparison and decision making, maturation of competition more broadly and uptake of new technology likely to mitigate some of these vulnerabilities.

Further, following the deregulation of booked fares, it is likely that many existing taxi businesses will continue to use the regulated maximum unbooked fares as a default for trips partially funded by the Multi-Purpose Taxi Program (MPTP). The primary importance of certainty for this particular cohort, and the pending nature of policy work considering the impacts of the NDIS on MPTP and the future funding of accessible transport in general, also informs our recommendation for stability.

We anticipate the ESC may be concerned that maintaining current regulated maximums for unbooked fares could hamper any reduction in fares. We would argue the emergence of mature price competition, solutions to issues of information asymmetry for customers and genuine innovation is chiefly dependent on regulatory certainty and unlikely to be significantly affected by any actions the ESC take in this review.

Technology continues to advance more rapidly and consumers are becoming more informed and active in decision making. Businesses will only respond by positioning themselves using differentiated pricing signals in a context where costs, competitors and regulations are known and thus the effects of change can be measured and the impact on the business model understood dynamically. It is hard to conceive in this current state of shifting sands how any established operator with costs associated with incumbency and

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compliance could hope to achieve this in the absence of stability in the market. Such investment and experimentation could not be justified. As such, regulatory stability is the most important precondition for mature price competition, particularly in the unbooked market, regardless of the outcomes of this review. Short term efforts to modestly reduce fares should not be pursued at the expense of providing the stability for transition required for consumer confidence and service continuity.

Change to the industry foreshadowed some years ago informed the ESC's own move away from a market analysis plus cost-stack approach to fare setting, a decision which is never more justified than by the current climate of change. However, we appreciate the ESC may be concerned to understand why there has not been greater differentiation in fares since the shift to regulated maximums in 2014. The VTA contends that while the prospect of greater diversity and differentiation in the taxi and hire car industries improved following implementation of the recommendations of the Victorian Taxi Industry Inquiry in 2013-14, entry and exit costs remained high and regulatory intervention in the industry was still very high. It is only recently that subsequent reforms have seen more diversity in services in metropolitan Melbourne and is now strongly emerging in urban, large regional and country areas. It is only the drastic changes to entry and exit costs in the past 6-12 months that have provided real relief to input costs and exit barriers that are preconditions for differentiation.

It is also important for us to echo the paper in noting the industry is yet to get clarity on what the additional regulatory conditions will be for providers of unbooked services, or indeed what the baseline requirements for providers of only booked services are. This is a major impediment to accurate cost and market analysis, forecasting of competitive landscape in each of the sub-markets and thus business planning.

Providing for the trip levy

Though clearly a tax on businesses, not consumers, the trip levy will naturally have to be accounted for as a significant cost on CPV providers. The actual cost is impossible to determine in the absence of final information on the reporting and compliance system and therefore no practical experience of the transaction costs between industry players, internal credit and compliance costs for Business Service Providers (BSPs).

Even if an estimate of the gross amount per business which will likely need to be allocated to levy compliance from gross revenue were possible, the fact unbooked fares will remain regulated prevents the burden of this total cost from being efficiently distributed across all trips/customers via fares. This may result in some fare types or customer segments being inadvertently advantaged or disadvantaged. Maintenance of fare regulation for unbooked trips should not have the effect of penalising any customer cohort or business model or disincentivising the continued provision of these services.

Therefore, we argue it is most transparent, most easily implemented and most equitable to make provision for a new 'extra' charge which allows drivers to charge the total amount of the trip levy as declared under the CPV Act, plus 10% in acknowledgment that the entity collecting the fare will be required to pay GST as it will form part of the taxable supply of service to customers.

Transaction costs associated with changes to fares, and those which arise from implementation of the trip levy, extend far beyond the meter change costs referenced. However, we have already outlined above the difficulties of understanding the new cost profile of services in this climate of change. In sum, we do not believe there are sufficient benefits to be gained from adjustments to current maximum fare schedules which would justify the costs and uncertainty of doing so. Making provision for the Government's trip levy is necessitated in the meantime given the timelines for implementation.

On this note, any delay between introduction of the trip levy and introduction of new maximum unbooked fares which recognise this shift will create serious strain on service providers, limiting their capacity to recover the cost of this new tax. This could lead to operators being reluctant to offer unbooked services or not complying with the prevailing maximums, thus exposing potentially vulnerable customers who rely on unbooked services to restrictions in supply or create confusion and lack of transparency in pricing. Aligning these dates is necessary to avoid short term externalities which may adversely affect consumers.

Also important to consider in relation to the trip levy is the effect of the mandated 55/45 driver/operator farebox split. If maintained following introduction of the trip levy, this would massively inflate the amount to be collected from the passenger so as to account for the 55% or more to be taken by the driver in the event the driver and the entity responsible for transacting the levy to the SRO under the legislation or any relevant agreements are not one and the same entity. If 55/45 remains in place, any provision made in the fare schedule for the trip levy should be explicitly excluded from the definition of the gross farebox so as to prevent this inflationary impact.

In the meantime, the VTA continues to advocate strongly to the Taxi Services Commission for a review of driver agreement implied conditions, mostly urgently the 55/45 farebox split. This is supported by a range of arguments we will gladly share in writing with the ESC if relevant, but most importantly, the mandated farebox split sought to solve a power imbalance between industry participants which has been corrected by other reforms and now only serves to keep regulatory costs on operators high and likely dampening innovation in pricing in the booked market.

We have endeavoured to keep this submission brief and focused but look forward to continuing to engage with the ESC as the review progresses.

Yours sincerely,

Peter Valentine

Director

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