

18 July 2022

By email: transport@esc.vic.gov.au

Price Monitoring and Regulation Division – Transport
Essential Services Commission
Level 8, 570 Bourke Street
Melbourne VIC 3000

Dear Commissioners

TAXI NON-CASH PAYMENT SURCHARGE REVIEW 2022

Thank you for the opportunity to respond to the *Taxi Non-Cash Payment Surcharge Review Consultation Paper (Consultation Paper)*.

This submission opposes the proposed methodology outlined in the Consultation Paper and suggests that the Commission adopts an approach that benchmarks the taxi non-cash payment surcharge to surcharges charged in the rest of the economy. Consumer Action considers there is little justification for a significant difference in payment surcharges for taxis compared to other goods and services, and any difference only serves to increase customer confusion and distrust in taxi services.

Promoting efficiency and long-term interests of consumers

The primary objective of the Essential Services Commission (**Commission**) in setting taxi non-cash surcharges is to promote efficiency.¹ In performing its functions and exercising its powers, the Commission must also promote the long-term interests of Victorian consumers.²

¹ *Commercial Passenger Vehicle Industry Act 2017 (Vic)*, s 122.

² *Essential Services Commission Act 2001 (Vic)*, s 8.

We consider that the long-term interests of consumers are best served, in the context of price regulation, by providers being able to recover the efficient costs of providing regulated services. As such, we consider the Commission's role is to fix those efficient costs by reference to the proxy of the efficient costs of the competitive market.

For this reason, we consider a benchmarking approach should be preferred in setting prices. This is because a benchmarking approach, which assesses benchmarks for EFTPOS and mPOS terminals available in the market more broadly, is the appropriate proxy to assess efficient costs. There is a clear competitive market that can be observed. Setting a surcharge for non-cash taxi payments that is in line with other sectors is also more in line with community expectations, particularly given the community have familiarity with common surcharges for other non-cash payments.

In proposing a bottom-up methodology, the Commission is not promoting efficiency. Instead, it builds in existing inefficiencies to the surcharge level. For example, it builds in the practice of taxis using multiple terminals. The use of multiple terminals appears to serve the interests of taxis and payment processors, not consumers.

Reasonable costs

We note that the Commission is to apply section 122(2) of the *Commercial Passenger Vehicle Industry Act* which requires it to ensure payment processors and drivers are "able to recover the reasonable cost of accepting and processing transactions".

We consider, however, that it does not align with community expectations for "reasonable costs" to be applied in a way that incorporates existing cost inefficiencies within a business. We consider the better approach would be to say that it is reasonable to only recover efficient costs.

Please contact us at on 03 9670 5088 or at info@consumeraction.org.au if you have any questions about this submission.

Yours Sincerely,
CONSUMER ACTION LAW CENTRE



Gerard Brody | Chief Executive Officer