

# Taxi reviews 2024: unbooked taxi fares and non-cash payment surcharge

Consultation paper

31 October 2023



## Acknowledgement

We acknowledge the Traditional Owners of the lands and waterways on which we work and live.

We acknowledge all Aboriginal and Torres Strait Islander communities, and pay our respects to Elders past and present.

As the First Peoples of this land, belonging to the world's oldest living cultures, we recognise and value their knowledge, and ongoing role in shaping and enriching the story of Victoria.

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Preface

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# Summary

Taxis provide vital services to the community and are an important part of Victoria's transportation system. For some people, taxis are their primary means of transportation, enabling them to participate in the broader community and economy.

The Essential Services Commission has a role in the price regulation of some aspects of taxi services. In fulfilling our role, our aim is to protect customers from paying too much, while ensuring taxis remain as a viable and accessible option for those who need it.

## Our role in the commercial passenger vehicle industry

Our role is to make determinations that set the:

- maximum fares for *unbooked* taxi services (unbooked taxi fares) that begin in Melbourne, Geelong, Bendigo and Ballarat
- maximum non-cash payment surcharge for all taxi services in Victoria (booked and unbooked).

Taxis in Victoria are commercial passenger vehicles that can perform either booked or unbooked services.

**Booked taxi services** are trips that were made through a booking service provider, for example, via an app, over the phone or via a website.

**Unbooked taxi services** are all other trips, such as trips hailed from the street or at a designated taxi rank.

Legislation requires us to complete a review of these determinations within two years of them last being made. Therefore, we must review the current determinations for maximum unbooked taxi fares and maximum non-cash payment surcharges by 31 August 2024.<sup>1</sup>

In the past, we conducted these reviews separately. As the review timeframes now align, we will undertake a review on both topics concurrently. However, the determinations will remain separate.

## Consultation process

This consultation paper is the start of our review process. We are seeking stakeholders' views on our approach and other matters relevant to our review of either or both topics.

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<sup>1</sup> The legislative framework is set out in Appendix A.

Following this review process, we will make new determinations. The determinations will increase, decrease, or maintain the maximum unbooked taxi fares and maximum surcharges based on review findings.

## Seeking views on our approach to the review

We are interested in stakeholder views on our proposed approaches to setting the maximum unbooked taxi fares and non-cash payment surcharges.

We propose to draw on data from our previous reviews and not issue new compulsory information notices to collect data from industry participants and Safe Transport Victoria. As we last collected data on these topics in 2022, we do not consider that the benefits of updating some of our analysis *for this review* would be proportionate to the cost of collecting it.<sup>2</sup>

### We will review unbooked taxi fares and update our taxi cost index

In reviewing unbooked taxi fares, our objectives include promoting the:

- long-term interests of Victorian consumers<sup>3</sup>
- efficient provision and use of unbooked commercial passenger vehicles.<sup>4</sup>

To promote these objectives, we consider that maximum fares should not be set too high or too low. Fares that are too high may cause an underutilisation and excess supply of taxis.

Alternatively, fares that are too low may lead to an undersupply of taxis.

In 2022 we increased fares for the first time since 2013. We also introduced a mechanism to automatically adjust fares by changes in fuel and labour costs in 2023.

For this review, we intend to engage with stakeholders on matters related to unbooked taxi services, consider changes in the taxi market and to assess changes in the cost of operating a taxi using our taxi cost index.

Our approach to reviewing and setting maximum unbooked taxi fares is set out in chapter 2.

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<sup>2</sup> This includes data sourced from taxi networks (taxi companies that run booking services and may also own vehicle fleets to hire out to taxi drivers) and Safe Transport Victoria about taxi supply, demand and service quality, and cost data sourced from non-cash payment processors.

<sup>3</sup> *Essential Services Commission Act 2001*, s. 8.

<sup>4</sup> *Commercial Passenger Vehicle Industry Act 2017*, s. 110C.

## Questions for stakeholders on unbooked taxi fares

1. Is the cost index we developed during the 2022 review still appropriate?
2. We seek views on how the market for unbooked taxi services has changed since our 2022 review:
  - 2.1. How has the demand for and supply of unbooked taxi services changed?
  - 2.2. Does the use of unbooked taxi services continue to decline relative to booked services?
  - 2.3. Have there been any observable changes to service quality?
3. Should the fare adjustment mechanism encompass the entire cost index or only fuel and labour?

## We will review non-cash payment surcharges and update our benchmarking analysis

In reviewing and setting the maximum non-cash payment surcharge, our objectives include promoting the long-term interests of Victorian consumers and efficiency in the non-cash payment transaction industry.<sup>5</sup> We must also ensure that people and entities who facilitate non-cash payment transactions are able to recover the reasonable cost of accepting and processing these transactions.<sup>6</sup>

We define 'reasonable cost' to mean the costs incurred in accepting and processing non-cash payment transactions, which are moderate, not excessive, and within the limits of what it would be rational or sensible to expect for the given level of service quality and reliability.

In our 2022 decision we set the maximum surcharge at:

- 4 per cent (including GST) for most non-cash payment methods
- 6 per cent (excluding GST) for commercial passenger vehicle specific instruments (like Cabcharge).

Our starting position for this review is that these surcharges continue to be at an appropriate level. However, we are interested in stakeholder views on whether this is the case, and if there have been any changes in the industry that we should consider.

We will update the benchmarking analysis, which compares the maximum surcharges to comparable credit and debit card transactions across the rest of the economy. We are interested in

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<sup>5</sup> *Essential Services Commission Act 2001*, s. 8; *Commercial Passenger Vehicle Industry Act 2017*, s. 122(1).

<sup>6</sup> *Commercial Passenger Vehicle Industry Act 2017*, s. 122(2).

## Summary

views on this benchmarking approach and if there are any alternative approaches that we should consider.

Chapter 3 outlines our approach to reviewing and setting maximum non-cash payment surcharges.

### Questions for stakeholders on the non-cash payment surcharge

4. The maximum non-cash payment surcharge is currently set at 4 per cent for most non-cash payment methods and 6 per cent for specific instruments. Do these represent the reasonable costs for providing non-cash payment options? Please provide information to support your views on the current costs of processing non-cash payment transactions.
5. Have there been substantive changes in the industry, such as changes in demand for payment services, new technologies, changes in terminal usage, or service providers entering or exiting the market, since our 2022 review? If so, what are these changes and how have they impacted the industry in a way that can inform our review?
6. What views do you have on our proposed approach of using benchmarking to assess the reasonableness of the current maximum non-cash payment surcharges? Have there been changes in terminal offerings that might affect the validity of our benchmarking analysis?
7. Are there any other benchmarks that we should consider for the review? Do you have any views on alternative approaches we could adopt?

## Send us your feedback by 15 December 2023

Table 1 provides an indicative timeline for our consultation, to help stakeholders plan how to take part in this review.

**Table 1** Indicative timelines

Key milestone	Indicative timeline
Submissions on consultation paper close	15 December 2023
Release draft decision	May 2024
Submissions on draft decision close	June 2024
Release final decision	August 2024

Submissions on this consultation paper should be made by 5pm 15 December 2023. We may not be able to consider, or may not give the same weight to, submissions received after this date.

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## How to provide your feedback

To make a submission, please go to the Engage Victoria website at [www.engage.vic.gov.au/taxireview2024](http://www.engage.vic.gov.au/taxireview2024). If you have any issues in making a submission, please email us at [transport@esc.vic.gov.au](mailto:transport@esc.vic.gov.au) for assistance.

We will treat all submissions in line with our submissions policy. Submissions will be made available on our website, except for any information that is commercially sensitive or confidential. **Submissions should clearly identify which information is sensitive or confidential.** To assist us in publishing submissions on our website, we ask that you avoid including personal details in your submission (for example, email addresses or signatures).

## Request for anonymity

You may also request anonymity in your submission. This means we will not publish your name. This is different to an anonymous submission, where we do not know who the submitter is. We generally do not accept anonymous submissions.

Requesting confidentiality and/or anonymity may affect the weight of your submission. View more information at [www.esc.vic.gov.au/submissions](http://www.esc.vic.gov.au/submissions).



# Introduction

This consultation paper sets out our proposed approach to the reviews of unbooked taxi fares and non-cash payment surcharges. We are seeking views from stakeholders on both topics.

We are required to review and set the maximum unbooked taxi fares and non-cash payment surcharges every two years. Our role is limited to setting maximum fares. We do not have an enforcement role.

## Maximum unbooked taxi fares

Taxis are commercial passenger vehicles that can perform either booked or unbooked services.

Booked commercial passenger vehicle services are trips made through a booking service provider, for example, via an app, over the phone or via a website.

In contrast, unbooked commercial passenger vehicle services are all other trips, such as trips hailed from the street or at a designated taxi rank. In this paper, we refer to unbooked commercial passenger vehicle services as 'unbooked taxi services'.

We set the maximum fares for unbooked trips that begin in the Metropolitan Melbourne or Urban and Large Regional Zones only. The urban zone refers to Dandenong, Frankston and Mornington Peninsula. The large regional zone includes Ballarat, Bendigo and Geelong. We do not set these boundaries and cannot review them.<sup>7</sup>

The fares of unbooked taxi trips that begin in other areas of Victoria are not regulated.

We refer to those that own and maintain taxis as taxi operators. Taxi operators may rent vehicles out to taxi drivers or drive taxis themselves.

## Non-cash payment surcharges

Non-cash payment surcharges are fees charged to taxi passengers for paying by any method other than cash. For example, the surcharge applies when a passenger pays via a credit or debit card, or when using a taxi specific payment system like Cabcharge. The surcharge is added to the standard taxi fare.

We set the maximum non-cash payment surcharge for all taxi trips (booked and unbooked) that begin anywhere in Victoria.

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<sup>7</sup> *Commercial Passenger Vehicle Industry Act 2017*, s 110A.

## **We are covering both topics in a single review process**

We must complete the reviews by no later than two years after a price determination was made. We previously determined maximum unbooked taxi fares and non-cash payment surcharges on 31 August 2022.

In the past, we have undertaken each review separately. As the timing of the reviews is aligned, we will consult on the reviews in a single process.

This means that we are seeking views on both maximum unbooked taxi fares and maximum non-cash payment surcharges at the same time. We will release one draft decision paper and one final decision paper covering both reviews.

At the end of the review process, we will make two separate determinations.

We consider that there are benefits to working in this way, as broader trends and changes in the commercial passenger vehicle market will affect our review of both topics.

We hope to reduce the workload for stakeholders by simplifying the process and creating a single point of contact for stakeholders to highlight their views, or concerns, relating to our taxi roles.

# We seek views on maximum unbooked taxi fares

## We set the maximum fares for unbooked taxi services

Our role is to review and determine the maximum fares for unbooked taxi services that begin in the Melbourne Metropolitan or Urban and Large Regional Zones.

In undertaking this role, our objectives include promoting both the long-term interests of Victorian consumers and the efficient provision and use of unbooked commercial passenger vehicle services.<sup>8</sup>

Maximum fares should not be set too low or too high. If the maximum fares are too low, unbooked taxi service providers will not recover their efficient costs.

This could lead to taxi operators leaving the market which could result in there not being enough taxis to meet demand. If this happens, people who rely on taxis to get around, such as the elderly or those with a disability, may have difficulty getting a taxi from a rank.

On the other hand, if maximum fares are set too high, and unbooked taxi operators charge the maximum amount, informed customers are likely to choose alternative transportation options.

However, we note that many passengers rely on taxis and may not have alternative options available. These customers would be left paying excessive amounts for the service.

Appendix A outlines the legal framework for setting maximum fares for unbooked taxi services.

## Outcomes from our 2022 review of maximum unbooked taxi fares

Our last review of maximum unbooked taxi fares was released in September 2022. Our decision was to increase maximum fares by 11.2 per cent for trips that begin in the Melbourne Metropolitan or Urban and Large Regional Zones. We increased the maximum high occupancy fee and charges by 12.2 per cent.<sup>9</sup>

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<sup>8</sup> *Essential Services Commission Act 2001*, s. 8; *Commercial Passenger Vehicle Industry Act 2017*, s. 110C.

<sup>9</sup> Essential Services Commission 2022, *Unbooked taxi fare review 2022: Final decision*, 31 August, p. 1. High occupancy fees and charges can be applied when the vehicle is carrying five or more occupants (excluding children under 5 years of age).

We also introduced a fare adjustment mechanism to account for changes in fuel and labour costs that may occur before our 2024 fare review. The fare adjustment mechanism resulted in unbooked taxi fares increasing by 4.1 per cent effective 1 October 2023.<sup>10</sup>

Appendix B outlines the current maximum unbooked taxi fares.

## We seek views on our approach

In deciding whether to change maximum unbooked taxi fares, we will consider:

- changes in the costs of operating a taxi service
- changes in the supply of and demand for taxi services
- changes in service quality.<sup>11</sup>

In the past we collected data from industry participants to help us form a view on how the taxi market was performing. While this data provided useful information in previous reviews, we do not intend to collect it for this review.<sup>12</sup>

We will draw on data from our previous reviews and seek views from stakeholders on how the market has changed. As we last collected data on the taxi market in 2022, we do not consider that the benefits of updating our analysis *for this review* is proportionate to the cost of collecting it.

## We will use our taxi cost index to assess changes in the costs of operating a taxi

We maintain a taxi cost index to assess the changes in the costs of operating a taxi over time. The index was the basis for increasing fares in our previous review. The taxi cost index:

- includes the **cost components** associated with operating taxis
- identifies the share of each cost component as a proportion of total cost (**cost share**)
- assigns a **cost inflator** to each cost component.

We developed our current taxi index in 2022 after surveying taxi operators about their actual costs. We used the survey data to identify the cost components and determine the cost share for each component.

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<sup>10</sup> Essential Services Commission 2023, Unbooked Taxi Fare Annual Adjustment 2023: Commission assessment, 24 August, p. 1.

<sup>11</sup> In reviewing the current determination and making a new determination, legislation requires us to adopt an approach and methodology which we consider will best meet the legislative objectives. The matters we must have regard to when undertaking our role and making a determination are set out in Appendix A.

<sup>12</sup> We consider that the value of the data would be lower than in previous reviews. The market is likely still adjusting to the 2022 fare increases and the data will not yet capture the 2023 fare adjustment or the recent legislative changes which mandated taximeters be used for unbooked taxi services.

We seek views on maximum unbooked taxi fares

We propose to update the cost inflators based on the most up-to-date information. The cost components and cost shares will be based on our 2022 survey of taxi operators.<sup>13</sup> Table 2 outlines the cost components and cost inflators that make up the current taxi cost index for a conventional taxi.

In our 2022 review, we used the taxi cost index for conventional taxis as the basis for increasing most fees and charges by 11.2 per cent. We used the taxi cost index for wheelchair accessible taxis as the basis for increasing high occupancy fees and charges by 12.2 per cent. The cost shares for a wheelchair accessible vehicle are set out in Appendix C.

To update the taxi cost index and measure the change in the cost of operating a taxi, we will:

- multiply the cost share for each cost component by the change in its respective cost inflator (index contribution)
- add up the index contribution for each cost component to find the total change in costs.

**Table 2** Proposed taxi cost index

Cost component	Cost share	Cost inflator	Description of cost component
Fuel	6.6%	FuelTRAC (Average price of LPG, unleaded petrol, diesel in Melbourne and regional areas)	Total fuel costs incurred by a taxi
Network (equipment)	5.7%	Consumer Price Index (CPI) (telecommunications equipment and services component, Melbourne)	Equipment costs associated with booking service affiliation
Network (labour)	5.7%	Wage Price Index (WPI) (Victoria)	Labour costs associated with booking service affiliation
Insurance	3.6%	Insurance Council of Australia comprehensive car insurance index	Includes general liability and comprehensive insurance where these are purchased
Vehicle	7.6%	Imputed on CPI (motor vehicle, Melbourne) and Reserve Bank of Australia lending rates for small businesses	Costs associated with purchasing or leasing a vehicle, including fit-out

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<sup>13</sup> Honeycomb 2022, Essential Services Commission: Taxi Operator Cost Survey, June <https://www.esc.vic.gov.au/sites/default/files/documents/ESC%20Taxi%20Operator%20Survey%20-%20Report%2014%20June%202022%20-Final%20version%20-%2020220719.pdf>

We seek views on maximum unbooked taxi fares

**Table 2 (continued)**

Cost component	Cost share	Cost inflator	Description of cost component
Registration	1.2%	Imputed based on actual Transport Accident Charge	Vehicle registration and compulsory third-party insurance (Transport Accident Charge)
Repairs and maintenance	6.9%	CPI (maintenance and repairs of motor vehicles, Melbourne)	Cost of taxi operators' own time, staff costs and costs paid to other businesses for maintenance and repair
Administration	7.7%	WPI (Victoria), CPI (all groups, Melbourne)	Cost of taxi operators' own time, staff costs and costs paid to other businesses for administration (e.g. accountant)
Driver labour	55%	Fair Work Commission's annual wage review	Labour involved in driving a taxi

Note: The fuel component is a weighted average consisting of 23 per cent LPG, 68 per cent unleaded petrol and 9 per cent diesel.

We are interested in stakeholders' views on whether the cost components and weights in the 2022 taxi cost index remain an appropriate indicator of the costs to operate a taxi.

1. Is the cost index we developed during the 2022 review still appropriate?

### **We seek views on whether there have been changes in supply, demand and service quality**

Understanding how the supply of and demand for taxis is changing can provide insight into whether taxi fares are too high or too low. For example, an undersupply of taxis could indicate that fares could be too low. Alternatively, an oversupply of taxis could be an indication that fares are too high.

Since our last review, we are aware of reports that some taxi drivers have charged passengers fares for unbooked services that were above the maximum amount. This was reported to have occurred at major events, such as the Australian Open.

We seek views on maximum unbooked taxi fares

In response, the Victorian Government introduced amendments to industry regulations to clarify that taxi drivers must use the taxi meter for all unbooked taxi services.<sup>14</sup> The amendments came into effect on 28 September 2023.

We are interested in hearing from stakeholders about any changes in the market for unbooked taxi services since our last review. We are seeking views on service quality, how supply of and demand for taxis has changed and whether demand for unbooked taxi services continues to decline relative to demand for booked services.

2. We seek views on how the market for unbooked taxi services has changed since our 2022 review:

2.1. How has the demand for and supply of unbooked taxi services changed?

2.2. Does the use of unbooked taxi services continue to decline relative to booked services?

2.3. Have there been any observable changes to service quality?

## **We seek views on the current fare adjustment mechanism**

In our 2022 unbooked taxi fare review, we decided to introduce a fare adjustment mechanism for the 2022–24 regulatory period. The purpose of the mechanism was to automatically increase or decrease maximum fares without the need to undertake a review and make a new price determination.<sup>15</sup>

The 2022 determination sets out the fare adjustment mechanism’s formula, timing and conditions.<sup>16</sup> Notably:

- The formula is based on our taxi cost index and applies to both conventional and high occupancy fees and charges. Only changes in the fuel and labour cost components of our taxi cost index are accounted for in the formula, with all other components set to 0 per cent.<sup>17</sup>
- An adjustment in 2023 was only triggered if the formula resulted in maximum fares increasing or decreasing by more than 1 per cent.

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<sup>14</sup> Commercial Passenger Vehicle Industry Regulations 2018, r 19.

<sup>15</sup> We are still required to complete a review of the 2022 determination within two years of it being made.

<sup>16</sup> Essential Services Commission 2022, Determination of Maximum Charges for Unbooked Commercial Passenger Vehicle Services (from 15 September 2022): Maximum charges for commercial passenger vehicle services that begin in the Melbourne Metropolitan Zone or Urban and Large Regional Zone, 31 August, pp. 19–23.

<sup>17</sup> The reason for focusing on these two costs was to account for fluctuating fuel prices and to help address driver shortages – two significant issues being faced by the commercial passenger vehicle industry at the time of the previous review.

We seek views on maximum unbooked taxi fares

- If triggered, we were required to publish an assessment of the fare adjust mechanism one year after the completion of our 2022 review. The revised fares would come into effect one month later, to ensure that the industry had enough time to update fare stickers and taximeters.

We published our assessment of the fare adjustment on 24 August 2023. It resulted in a 4.1 per cent increase in unbooked taxi fares on 1 October 2023.<sup>18</sup>

We are proposing to retain an adjustment mechanism that will index fares in 2025. We seek views on whether the mechanism should be limited to fuel and labour costs, or if it should expand to include other components of the cost index.

3. Should the fare adjustment mechanism encompass the entire cost index or only fuel and labour?

## We are not proposing to change fare structures

We currently set two groups of unbooked taxi fares – fares for the Melbourne Metropolitan and east urban areas (Melbourne, Dandenong, Frankston and Mornington Peninsula), and fares for the large regional areas (Geelong, Ballarat and Bendigo). For both, the determination provides two options for calculating maximum fares:

- **Time and distance tariffs** — where the fare is calculated as flagfall + (kilometres travelled x distance rate) + (duration of trip in hours x hourly rate)
- **Time or distance tariffs** — where the fare is calculated as flagfall + (kilometres travelled at speed above 21 kilometres per hour x distance rate) + (hours spent at speed below 21 kilometres per hour x hourly rate)

The determination also sets out some other fees and charges, such as holiday fees, overnight and peak fees or rates, high occupancy fees and charges, and cleaning fees. We do not set toll fees, the airport taxi rank fee or the commercial passenger vehicle levy recovery fee.

We are proposing to keep fare structures unchanged.

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<sup>18</sup> The 4.1 per cent increase resulted from a 4.75 per cent increase in labour costs and a 0.65 per cent decrease in fuel costs.

We seek views on maximum unbooked taxi fares



# We seek views on non-cash payment surcharges

## **We set the maximum non-cash payment surcharges for taxi services**

Our role is to review and determine the maximum non-cash payment surcharges applied to all taxi services in Victoria (booked and unbooked). Non-cash payment surcharges are fees charged to taxi passengers for paying by any method other than cash.

This includes standard non-cash payment methods, such as payments made with credit and debit cards, and also taxi specific payment methods, such as Cabcharge.

The surcharge is a percentage amount added to the standard taxi fare.<sup>19</sup>

In undertaking this role, our objectives include promoting the long-term interests of Victorian consumers and efficiency in the non-cash payment industry.<sup>20</sup> We must also ensure that those who facilitate non-cash payment transactions are able to recover the reasonable cost of accepting and processing these transactions.<sup>21</sup>

Appendix A outlines the legal framework for setting maximum non-cash payment surcharges.

### **Processing non-cash payments incurs costs**

Cash payments are made between a buyer and a seller (also known as a merchant). Non-cash payments are made between three or more parties – the buyer, the merchant, and also payment intermediaries. These intermediaries effectively charge merchants for the cost of authorising and settling non-cash transactions. Merchants can choose to pass these costs onto buyers through what is called a non-cash payment surcharge.

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<sup>19</sup> For example, with a 4 per cent surcharge, a \$30 taxi fare will cost the passenger \$31.20 if they pay with a credit or debit card.

<sup>20</sup> *Commercial Passenger Vehicle Industry Act 2017*, s. 122; *Essential Services Commission Act 2001*, s. 8.

<sup>21</sup> *Commercial Passenger Vehicle Industry Act 2017*, s. 122. We define 'reasonable cost' to mean costs incurred in accepting and processing non-cash payment transactions, which are moderate, not excessive, and within the limits of what it would be rational or sensible to expect for the given level of service quality and reliability.

The Reserve Bank of Australia regulates non-cash payment surcharges for most sectors of the Australian economy, but not taxis.<sup>22</sup> In Victoria, we have that role.<sup>23</sup>

### **Taxi non-cash payment surcharges are mostly collected by taxi payment processors**

In the taxi industry, the non-cash payment surcharge may be collected by either taxi payment processors, booking service providers, taxi drivers or operators.

Taxi payment processors are merchant aggregators that provide terminals and equipment and facilitate payments between taxi drivers and customers.<sup>24</sup> The terminals used to process non-cash payments may be bundled with other taxi services, such as integration with taximeters and dispatch systems, Multi Purpose Taxi Program subsidy processing and tax invoicing.

Booking service providers may also take non-cash payments from taxi passengers. This collection method is more common now due to the increasing use of smartphone apps to book taxi services.

While not common, taxi drivers or taxi operators may use payment terminals that they have sourced directly from a bank or merchant aggregator.<sup>25</sup> In this case, the taxi driver or operator will collect the surcharge.

### **Outcomes of our previous decisions**

In our 2019 review, we set the maximum non-cash payment surcharges at:

- 4 per cent (including GST) for most non-cash payment methods
- 6 per cent (excluding GST) for taxi specific payment instruments (like Cabcharge).

We found that most payment processors required a surcharge of between 3.5 per cent and 3.9 per cent to recover reasonable costs. In consideration of the cost assessment, benchmarking and stakeholder views, we set the surcharge for most non-cash methods at 4 per cent. We set a higher surcharge for taxi specific payment instruments, such as Cabcharge, because firms' submitted data showed that this method incurred higher costs.

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<sup>22</sup> The Reserve Bank of Australia (RBA) does not permit the surcharge for non-cash payment transactions to exceed the average cost of acceptance over a recent 12-month period. As guide, the RBA reports that the cost of acceptance for non-cash payments is around 0.3 per cent for eftpos, 0.5 per cent for debit card and 1 to 1.5 per cent for credit card transactions. See: <https://www.rba.gov.au/payments-and-infrastructure/review-of-card-payments-regulation/q-and-a/card-payments-regulation-qa-conclusions-paper.html#surcharging-consumers-q4>.

<sup>23</sup> We set the maximum non-cash payment surcharges for taxis only. Surcharges for rideshare and other hire cars are regulated by the Reserve Bank of Australia.

<sup>24</sup> Merchant aggregators are payment service providers that use a single centralised merchant account. These aggregators allow small businesses (or 'sub-merchants') to process non-cash transactions without needing to create an individual merchant account.

<sup>25</sup> An example of a merchant aggregator that operates in other industries is Square.

We seek views on non-cash payment surcharges

After following a similar approach in our 2022 review, we decided to maintain the maximum surcharges at 4 per cent and 6 per cent.<sup>26</sup>

## **We seek views on our approach**

In reviewing the current determination and deciding on whether to change the maximum surcharges, we will benchmark surcharges against comparable credit and debit card transactions occurring in other sectors of the economy.<sup>27</sup> This will be our basis for considering what the reasonable costs of processing non-cash payment transactions is likely to be.

In our first two reviews, conducted in 2019–20 and 2022, we assessed the reasonable costs of taxi non-cash payment services by using benchmarking analysis and a building block model.<sup>28</sup> The model used actual cost data submitted by non-cash payment service providers, which we collected via compulsory information notices.

Given we collected extensive financial information during the previous two reviews, and due to the cost on industry associated with data collection and provision, we do not intend to update the model for *this review*.

## **We will consider the reasonable costs of processing taxi non-cash payments**

Our starting position for this review, is that the current maximum surcharges are allowing non-cash service providers to recover the reasonable cost of processing non-cash payment transactions. We are interested in stakeholder views on whether this is the case.

While we are not proposing to issue compulsory information notices, we ask non-cash payment service providers to submit information to support their views on whether the current surcharges are appropriate.

We are also interested in understanding if there have been any changes in the payment processing industry that we should consider which might call into question the above approach. This includes how the level of competition in the industry has or has not changed since our last review, and how the industry has changed following the coronavirus pandemic.

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<sup>26</sup> The usefulness of the data we collected for our 2022 review was limited due to the impact of the coronavirus pandemic.

<sup>27</sup> In reviewing the current determination and making a new determination, legislation requires us to adopt an approach and methodology which we consider will best meet the legislative objectives. The matters we must have regard to when undertaking our role and making a determination are set out in Appendix A.

<sup>28</sup> A building block model calculates the amount of revenue that will be sufficient in recovering relevant economic costs. The components of the model are the return on capital, a return of capital (depreciation) and operating expenditure.

We seek views on non-cash payment surcharges

4. The maximum non-cash payment surcharge is currently set at 4 per cent for most non-cash payment methods and 6 per cent for specific instruments. Do these represent the reasonable costs for providing non-cash payment options? Please provide information to support your views on the current costs of processing non-cash payment transactions.
5. Have there been substantive changes in the industry, such as changes in demand for payment services, new technologies, changes in terminal usage, or service providers entering or exiting the market, since our 2022 review? If so, what are these changes and how have they impacted the industry in a way that can inform our review?

### **We seek views on our benchmarking approach**

We propose updating the benchmarking analysis that we conducted in our previous reviews. We consider that benchmarking can provide a reasonable check on whether the current surcharges continue to be appropriate.

Our benchmarking approach involves using prices for processing non-cash payments that are available to small businesses. We collect market offers from banks or merchant aggregators and compare these to the average revenue processed by taxis. In our 2019 review, our approach resulted in a cost range between 1.9 per cent and 3.4 per cent. In 2022, the range was between 1.2 per cent and 5.7 per cent.<sup>29</sup>

As part of our benchmarking assessment, we previously assumed that taxi drivers were using two EFTPOS payment terminals. This is due to a requirement for taxi drivers to use a terminal that can process Multi Purpose Taxi Program transactions.

Stakeholders have said that it is common for drivers to use a second terminal, as it provides access to better terms and incentives, and acts as a backup if their primary terminal fails. We are interested in hearing if this assumption remains accurate.

We are also interested in stakeholder views on whether there are other comparable cost data or benchmarking approaches worth implementing or adding to the existing approach. For example, alternative approaches could include:

- benchmarking costs in other industries

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<sup>29</sup> The usefulness of the data we collected for our 2022 review was limited due to the impact of the coronavirus pandemic. A decrease in taxi revenue due to lower demand during this period meant the range of processing costs we benchmarked expanded.

We seek views on non-cash payment surcharges

- benchmarking *changes* in surcharges/costs in other industries (rather than the actual surcharge/cost)
- developing a cost index that is reflective of the cost components faced by non-cash payment service providers operating in the taxi industry.

6. What views do you have on our proposed approach of using benchmarking to assess the reasonableness of the current maximum non-cash payment surcharges? Have there been changes in terminal offerings that might affect the validity of our benchmarking analysis?
7. Are there any other benchmarks that we should consider for the review? Do you have any views on alternative approaches we could adopt?

We seek views on non-cash payment surcharges

## Appendix A: Legislative framework

The *Commercial Passenger Vehicle Industry Act 2017* and the *Essential Services Commission Act 2001* govern our role in regulating maximum fares for applicable unbooked services and maximum non-cash payment surcharges. We must also have regard to the transport system objectives and decision-making principles under the *Transport Integration Act 2010*.<sup>30</sup>

The Commercial Passenger Vehicle Industry Act requires us to complete a review of a price determination no later than two years after it is made.<sup>31</sup> The previous determinations for maximum unbooked taxi fares and maximum non-cash payment surcharges to apply to taxi fares in Victoria were made on 31 August 2022.

In reviewing the current determination and making a new determination, we are required to adopt an approach and methodology which we consider will best meet the legislative objectives.<sup>32</sup>

### Objectives in setting maximum unbooked taxi fares

Our objective under the Commercial Passenger Vehicle Industry Act for determining maximum fares for unbooked taxi services is to promote the efficient provision and use of unbooked commercial passenger vehicle services.<sup>33</sup> This objective complements our objective under the Essential Services Commission Act, which is to promote the long-term interests of Victorian consumers.<sup>34</sup> In seeking to achieve this objective, we must have regard to the price, quality and reliability of essential services.<sup>35</sup>

The Commercial Passenger Vehicle Industry Act includes additional matters we may consider in deciding the manner in which to regulate maximum fares. These provisions state that the manner in which we may regulate prescribed prices (that is, to determine maximum fares) includes determining maximum fares according to, among other things, the Fair Work Commission's annual

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<sup>30</sup> *Transport Integration Act 2010*, s. 24. The definition of a transport body under s. 3 of the *Transport Integration Act 2010* includes the Essential Services Commission when it is exercising its functions and powers under any transport legislation in respect of the transport system. Transport legislation is also defined under s. 3 to include the *Commercial Passenger Vehicle Industry Act 2017*. Transport System is also defined under s. 3 to mean all components which make up the system for moving persons and goods.

<sup>31</sup> *Commercial Passenger Vehicle Industry Act 2017*, s. 110(F); *Commercial Passenger Vehicle Industry Act 2017*, s. 112(2).

<sup>32</sup> *Essential Services Commission Act 2001*, s. 33(2).

<sup>33</sup> *Commercial Passenger Vehicle Industry Act 2017*, s. 110C.

<sup>34</sup> *Essential Services Commission Act 2001*, s. 8.

<sup>35</sup> *Essential Services Commission Act 2001*, s. 8.

wage review under section 285 of the *Fair Work Act 2009* of the Commonwealth<sup>36</sup>, the commercial viability of operating a taxi service and any other matter the commission considers to be relevant.<sup>37</sup>

## **Our role in setting maximum non-cash payment surcharges**

The Commercial Passenger Vehicle Industry Act states that our objective in relation to the non-cash payment transaction industry is to promote efficiency by regulating the amount that may be imposed by way of a non-cash payment surcharge.<sup>38</sup> In seeking to achieve this objective, we must ensure that persons facilitating the making of non-cash payment transactions are able to recover the reasonable cost of accepting and processing such transactions.<sup>39</sup> ‘Reasonable cost’ for the purposes of section 122 of the Act is defined to include ‘any fees payable for the acquisition of transactions involving the use of debit, credit or charge cards’.<sup>40</sup>

The Essential Services Commission Act states that in performing our functions and exercising our powers, our objective is to promote the long-term interests of Victorian consumers.<sup>41</sup> In performing our functions and exercising our powers in relation to essential services, we must, in seeking to achieve this objective, have regard to the price, quality and reliability of essential services.<sup>42</sup>

We do not regulate non-cash payment surcharges for rideshare and hire car services.<sup>43</sup> Rideshare and hire car non-cash payment surcharges are regulated by the Reserve Bank of Australia under the national payment systems framework.<sup>44</sup>

## **Matters we must have regard to**

In undertaking our role, we must also have regard to a number of other matters under the Essential Services Commission Act to the extent they are relevant in any particular case. These include:

- efficiency in the commercial passenger vehicle industry and incentives for long term investment

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<sup>36</sup> *Commercial Passenger Vehicle Industry Act 2016*, s. 110E(1)(ga).

<sup>37</sup> *Commercial Passenger Vehicle Industry Act 2017*, s. 110E(1)(gb).

<sup>38</sup> *Commercial Passenger Vehicle Industry Act 2017*, s. 122(1).

<sup>39</sup> *Commercial Passenger Vehicle Industry Act 2017*, s. 122(2).

<sup>40</sup> *Commercial Passenger Vehicle Industry Act 2017*, s. 122(3).

<sup>41</sup> *Essential Services Commission Act 2001*, s. 8(1).

<sup>42</sup> *Essential Services Commission Act 2001*, s. 8(2).

<sup>43</sup> *Commercial Passenger Vehicle Industry Act 2017*, s. 112(2).

<sup>44</sup> Reserve Bank of Australia 2016, *Standard no. 3 of 2016: Scheme Rules Relating to Merchant Pricing for Credit, Debit and Prepaid Card Transactions*, section 2.7, 1 Sep 2016 varied with effect from 1 Jan 2022, <https://www.rba.gov.au/payments-and-infrastructure/review-of-card-payments-regulation/pdf/standard-no-3-of-2016-scheme-rules-relating-to-merchant-pricing-2021-11-18.pdf>, accessed 25 September 2023.

- the financial viability of the industry
- the degree of, and scope for, competition within the industry
- the relevant health, safety, environmental and social legislation applying to the industry
- the benefits and costs of regulation for consumers and regulated entities
- consistency in regulation between states and on a national basis.

Under section 33(3) of the Essential Services Commission Act, we must also, in making a determination, have regard to:

- the particular circumstances of the regulated industry and the prescribed services
- the efficient costs of supplying the regulated services and complying with relevant legislation
- the return on assets in the industry
- any relevant interstate and international benchmark for prices
- costs and return on assets in comparable industries
- any other factors that the commission considers relevant.<sup>45</sup>

In addition, in making a determination, we must ensure that the expected costs of the proposed regulation do not exceed the expected benefits, and that the determination takes into account and clearly articulates any trade-offs between costs and service standards.<sup>46</sup>

The Transport Integration Act requires that we must have regard to the transport system objectives in exercising our powers and performing our functions under any transport legislation.<sup>47</sup> The transport system objectives we must have regard to include:

- social and economic inclusion
- economic prosperity
- environmental sustainability
- integration of transport and land use
- efficiency
- coordination and reliability

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<sup>45</sup> *Essential Services Commission Act 2001*, s. 33(3).

<sup>46</sup> *Essential Services Commission Act 2001*, s. 33(4).

<sup>47</sup> *Transport Integration Act 2010*, s. 24(1). The definition of a transport body under s. 3 of the Transport Integration Act includes the Essential Services Commission when it is exercising its functions and powers under any transport legislation in respect of the transport system. Transport legislation is also defined under s. 3 to include the *Commercial Passenger Vehicle Industry Act 2017*. Transport System is also defined under s. 3 to mean all components which make up the system for moving persons and goods, including the services components including passenger, freight and any other transport services to move persons and goods.



- safety and health and wellbeing.<sup>48</sup>

Under the Transport Integration Act, we must also have regard to a number of principles in making our decisions.<sup>49</sup> We may determine the weight to give to each transport system objective and decision-making principle.<sup>50</sup>

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<sup>48</sup> *Transport Integration Act 2010*, ss. 7–13.

<sup>49</sup> These include, the principle of integrated decision making, triple bottom line assessment, equity, transport system user perspective, precautionary principle, stakeholder engagement and community participation and transparency.

<sup>50</sup> *Transport Integration Act 2010*, ss. 26–27.

## Appendix B: Maximum unbooked taxi fares

### Melbourne Metropolitan and urban area

**Table B.1: Maximum fares for unbooked taxi services that begin in the Melbourne Metropolitan Zone or the urban area (Dandenong, Frankston and the Mornington Peninsula) of the Urban and Large Regional Zone – ‘time or distance’ tariffs**

	Tariff 1 ‘Day’ (9am–5pm)	Tariff 2 ‘Overnight’ (5pm–9am, excluding peak)	Tariff 3 ‘Peak’ (Fri & Sat nights 10pm–4am)
<b>Standard fare components</b>	<b>Maximum charge up to</b>		
Flagfall (\$)	\$4.85	\$6.05	\$7.20
Distance rate (\$/km) (when speed is above 21 km/hr)	\$1.878	\$2.088	\$2.299
Detention rate (\$/min) (when speed is below 21 km/hr)	\$0.658	\$0.731	\$0.805
<b>Other fare components (applicable to tariffs 1, 2 and 3)</b>	<b>Maximum charge up to</b>		
High occupancy fee <sup>a</sup>			\$16.35
Airport taxi rank fee <sup>b</sup>	For trips from the airport rank		Pass-through
Holiday rate <sup>c</sup>			Tariff 3 rates
CPV levy recovery fee			Pass-through
CityLink and EastLink tolls <sup>d</sup>			Pass-through
Cleaning fee			Up to a maximum of \$120

<sup>a</sup> For taxis carrying 5 to 11 passengers (excluding children under 5). <sup>b</sup> As published by that airport in a daily newspaper generally circulating in Victoria and on that airport’s website. <sup>c</sup> For trips commencing on Christmas Day, Boxing Day, New Year’s Day and from 6pm on New Year’s Eve. <sup>d</sup> As published from time to time in the *Victorian Government Gazette* in accordance with the *Melbourne City Link Act 1995* or the *EastLink Project Act 2004* as applicable.

**Table B.2: Maximum fares for unbooked taxi services that begin in the Melbourne Metropolitan or the urban area (Dandenong, Frankston and the Mornington Peninsula) of the Urban and Large Regional Zone – ‘time and distance’ tariffs**

	Tariff 1 ‘Day’ (9am–5pm)	Tariff 2 ‘Overnight’ (5pm–9am, excluding peak)	Tariff 3 ‘Peak’ (Fri & Sat nights 10pm–4am)
<b>Standard fare components</b>	<b>Maximum charge up to</b>		
Flagfall (\$)	\$4.85	\$6.05	\$7.20
Distance rate (\$/km) (at all times)	\$1.553	\$1.725	\$1.908
Duration rate (\$/min) (at all times)	\$0.399	\$0.438	\$0.473
<b>Other fare components (applicable to tariffs 1, 2 and 3)</b>	<b>Maximum charge up to</b>		
High occupancy fee <sup>a</sup>			\$16.35
Airport taxi rank fee <sup>b</sup>	For trips from the airport rank		Pass-through
Holiday rate <sup>c</sup>			Tariff 3 rates
CPV levy recovery fee			Pass-through
CityLink and EastLink tolls <sup>d</sup>			Pass-through
Cleaning fee			Up to a maximum of \$120

<sup>a</sup> For taxis carrying 5 to 11 passengers (excluding children under 5). <sup>b</sup> As published by that airport in a daily newspaper generally circulating in Victoria and on that airport’s website. <sup>c</sup> For trips commencing on Christmas Day, Boxing Day, New Year’s Day and from 6pm on New Year’s Eve. <sup>d</sup> As published from time to time in the *Victorian Government Gazette* in accordance with the *Melbourne City Link Act 1995* or the *EastLink Project Act 2004* as applicable.

## Large regional area

**Table B.3: Maximum fares for unbooked taxi services that begin in the large regional area of the Urban and Large Regional Zone, including Geelong, Ballarat and Bendigo – ‘time or distance’ tariffs**

Fare component		Maximum charge
<b>Standard fare components</b>		
Flagfall (\$)		\$4.15
Distance rate (\$/km) (applies when speed is above 21 km/hr)		\$2.128
Detention rate (\$/min) (applies when speed is below 21 km/hr)		\$0.744
<b>High occupancy trips</b>		
For trips with 5 or more passengers: not applicable if the commercial passenger vehicle does not have the capacity for carriage of 5 or more passengers in fixed seats. ‘Fixed seats’ does not include positions for the carriage of persons in wheelchairs.		
Flagfall (\$)		\$4.15
Distance rate (\$/km) (applies when speed is above 21 km/hr)		\$3.220
Detention rate (\$/min) (applies when speed is below 21 km/hr)		\$1.127
<b>Other fare components</b>		
Late night fee	For trips commencing between 7pm on Friday and Saturday nights through to 6am the following morning; and from midnight to 6am on all other days	\$3.95
Holiday rate <sup>a,b</sup>		\$4.85
CPV levy recovery fee		Pass-through
CityLink and EastLink tolls <sup>c</sup>		Pass-through
Airport taxi rank fee <sup>d</sup>	For trips from the airport rank	Pass-through
Cleaning fee		Up to a maximum of \$120

<sup>a</sup> For trips commencing between 7pm on evenings prior to all public holidays, through to 6am the following mornings and trips commencing on Christmas Day, Boxing Day, New Year’s Day and from 6pm on New Year’s Eve. <sup>b</sup> The ‘late night fee’ does not apply during times that the holiday rate applies. <sup>c</sup> As published from time to time in the *Victorian Government Gazette* in accordance with the *Melbourne City Link Act 1995* or the *EastLink Project Act 2004* as applicable. <sup>d</sup> As published by that airport in a daily newspaper generally circulating in Victoria and on that airport’s website.

**Table B.4: Maximum fares for unbooked taxi services that begin in the large regional area of the Urban and Large Regional Zone, including Geelong, Ballarat and Bendigo – ‘time and distance’ tariffs**

Fare component		Maximum charge
<b>Standard fare components</b>		
Flagfall (\$)		\$4.15
Distance rate (\$/km) (at all times)		\$1.729
Duration rate (\$/min) (at all times)		\$0.568
<b>High occupancy trips</b>		
For trips with 5 or more passengers: not applicable if the commercial passenger vehicle does not have the capacity for carriage of 5 or more passengers in fixed seats. ‘Fixed seats’ does not include positions for the carriage of persons in wheelchairs.		
Flagfall (\$)		\$4.15
Distance rate (\$/km) (at all times)		\$2.851
Duration rate (\$/min) (at all times)		\$0.618
<b>Other fare components</b>		
Late night fee	For trips commencing between 7pm on Friday and Saturday nights through to 6am the following morning; and from midnight to 6am on all other days	\$3.95
Holiday rate <sup>a,b</sup>		\$4.85
CPV levy recovery fee		Pass-through
CityLink and EastLink tolls <sup>c</sup>		Pass-through
Airport taxi rank fee <sup>d</sup>	For trips from the airport rank	Pass-through
Cleaning fee		Up to a maximum of \$120

<sup>a</sup> For trips commencing between 7pm on evenings prior to all public holidays, through to 6am the following mornings and trips commencing on Christmas Day, Boxing Day, New Year’s Day and from 6pm on New Year’s Eve. <sup>b</sup> The ‘late night fee’ does not apply during times that the holiday rate applies. <sup>c</sup> As published from time to time in the *Victorian Government Gazette* in accordance with the *Melbourne City Link Act 1995* or the *EastLink Project Act 2004* as applicable. <sup>d</sup> As published by that airport in a daily newspaper generally circulating in Victoria and on that airport’s website.

## Appendix C: Taxi cost index

**Table C.1** Conventional taxi cost index

Cost component	Cost share	Cost inflator
Fuel	6.6%	FuelTRAC reported average price of Melbourne and regional areas. Consisting of 23 per cent LPG, 68 per cent unleaded petrol and 9 per cent diesel.
Network (equipment)	5.7%	CPI (telecommunications equipment and services component, Melbourne)
Network (labour)	5.7%	WPI (Victoria)
Insurance	3.6%	Insurance Council of Australia comprehensive car insurance index
Vehicle	7.6%	Imputed on CPI (motor vehicle, Melbourne) and Reserve Bank of Australia lending rates for small businesses
Registration	1.2%	Imputed based on actual Transport Accident Charge
Repairs and maintenance	6.9%	CPI (maintenance and repairs of motor vehicles, Melbourne)
Administration	7.7%	WPI (Victoria), CPI (all groups, Melbourne)
Driver labour	55%	Fair Work Commission's annual wage review

**Table C.2 Wheelchair accessible taxi cost index**

Cost component	Cost share	Cost inflator
Fuel	7.0%	FuelTRAC reported average price of Melbourne and regional areas. Consisting of 20 per cent LPG, 36 per cent unleaded petrol and 44 per cent diesel.
Network (equipment)	4.3%	CPI (telecommunications equipment and services component, Melbourne)
Network (labour)	4.3%	WPI (Victoria)
Insurance	3.9%	Insurance Council of Australia comprehensive car insurance index
Vehicle	11.5%	Imputed on CPI (motor vehicle, Melbourne) and Reserve Bank of Australia lending rates for small businesses
Registration	1.1%	Imputed based on actual Transport Accident Charge
Repairs and maintenance	6.3%	CPI (maintenance and repairs of motor vehicles, Melbourne)
Administration	6.5%	WPI (Victoria), CPI (all groups, Melbourne)
Driver labour	55%	Fair Work Commission's annual wage review