



**VICTORIAN
TAXI
ASSOCIATION**

ESC Taxi Fare Review 2016: Draft Decision, May 2016 Victorian Taxi Association Response

26 May 2016

As the Victorian Taxi Association (VTA) has previously stated, while we recognise it is no fault of the Essential Services Commission (ESC), the timing of this review is inappropriate given the prevailing uncertainty about the future extent of regulation of the commercial passenger vehicle (CPV) industry in Victoria.

The State Government is currently considering complex public policy challenges thrown up by the emergence of illegal ride hail services in Victoria which are illegitimately competing with regulated taxi services in Victoria and have important implications for the future of the CPV market.

The following submissions deal with the proposals which relate to the metropolitan/eastern urban area and the western urban area separately.

[Metropolitan and eastern urban area](#)

Given the demonstrated inability to compel compliance with existing fare regulation by new market entrants, and the unlikely ability to do so in the future, it is only reasonable that all CPV providers be given the freedom to compete on fair terms.

The VTA are yet to hear a compelling argument as to why price surging within the current context is not blatant price gouging. Increasingly, public commentary points to the fallacy of the idea that surges, up to a factor of 10 times, are motivated by a desire to increase supply at time of high demand. Only competition will be effective in restraining this kind of gouging and this will ultimately soften the market and ensure that any increase in price is the result of shifts in demand not simply profiteering.

A genuinely competitive market with dynamic pricing across all service providers would result in competition for both drivers and customers during quiet and busy periods with the customer the beneficiary. Naturally, there should be an expectation on all providers that there is transparency for customers as to the price they will be charged for any given journey. The mechanism by which this is achieved should be determined by providers.

[What has changed?](#)

As outlined in earlier submissions to this review, we agree with the ESC's analysis of the seismic changes in the CPV since the ESC last reviewed fares in 2013-2014.

From our perspective, the most significant shift that has occurred is the existence of genuine external competition, reducing the need for Government intervention. Much of the existing regulation, including fare regulation, is premised on the notion that there was a lack of external

competition to taxi services. As a result of this assumption, there was the belief that (when it came to the setting of prices) there was a market failure which could lead to passengers paying more than they should at certain times of day and too little at other times of day, which would make taxi businesses unviable.

Considering the ESC's understanding of the limitations on their role as precluding the ability to recommend or effect the de-regulation of taxi fares, even if constrained to pre-booked fares only, we must consider the analysis proffered in the two volumes published.

The approach to analysis

The narrative of the draft decision is somewhat confusing, concurrently arguing that the regulator must move away from the previous 'cost-stack' approach because due to taxis (and licensed hire cars) no longer having unchallenged monopoly access to the point-to-point market cost is no longer the most significant driver of demand, whilst also focusing analysis on constituent operating costs and using taxi demand and supply as a proxy for the entire market.

On the one hand, taxi operating costs are largely prescribed by regulation, but on the other, the ESC maintains that operating costs are less and less important in the setting of regulated taxi fares. We find this position contradictory. It points again to the fundamental tension at the time of this review between the current regulatory settings and an increasingly unsustainable case for taxi fare regulation within a vacuum of Government policy on how to realistically, sustainably and fairly regulate the full gamut of players within the CPV industry.

Whilst it is not the ESC's role to consider the future of CPV regulation more broadly, the persistence of prescriptive taxi regulation and reliance on taxi data to inform this review compromises what should be a broader consideration of what, in the fare regulation space, is in the best interests of the passenger and the development of more genuine and fair competition between providers.

We come away from reading the draft decision confused as to whether the ESC considers taxi operating costs as relevant or not in this determination. If indeed the overarching aim is to see a better matching of supply and demand, and a greater capacity for taxi businesses to manage prices in relation to different conditions within the market throughout the week, month and year, maintaining regulated taxi fares, particularly in the pre-booked market is not the way forward. A regulated fare structure can never achieve this.

This also points to an underlying issue with the way demand and supply are analysed. If indeed taxis no longer have monopoly access to the point-to-point market and operators have greater freedom in the way they operate their cars due to legislative/regulatory changes then how does data which shows taxis 'available', 'engaged/occupied' and booking numbers provide a meaningful proxy for the market?

Finally, the analysis fails to properly account for other forces at play in the market which have bearing on the data being relied upon, namely driver supply issues which we strongly believe are having a very significant impact on the availability of taxis actively operating in Melbourne and surrounds (all areas covered by the Knowledge test).

Response to recommendations

Overall, whilst we do not believe the draft decision goes far enough in offering taxi businesses in metropolitan Melbourne and the eastern urban area the opportunity to fairly compete with ridehail providers, we appreciate the attempt made by the ESC within their scope of responsibility to extend some limited control over the pricing of taxi services back to the industry.

More specifically, we see little justification, or rationale offered, for the dollar or time limit imposed on the application of the peak booking charge (PBC) proposal. Again, if this is a cost driven analysis, there is no basis for a limit of any kind as the cost of taking bookings during peak times is no different to any other time. If, as argued, it is designed to allow taxi companies to better match supply and demand and act as an incentive for drivers to be out on the roads, should it not be left to the very companies with the information available to achieve this to make decisions as to when it needs to be applied?

The restriction of hours during which the PBC can be charged again highlights the very fixed view of the taxi market in terms of demand and supply and a belief that all taxis fit within the same broad three-tiered demand model. We see this as flawed, particularly as it relates to demand patterns which differ greatly for wheelchair accessible taxis and taxis that operate predominantly in the suburbs. Again, while we support the attempt to move away from a highly regulated structure represented by the PBC proposal, it demonstrates that decision making is being done on the basis of a very simple model which tries to second guess the market.

The ESC has specifically asked for information as to how this PBC could be implemented but due to apparent time constraints has allowed a very short period for responses to the lengthy draft decision. There is insufficient time for the VTA to meaningfully engage with members and provide any detail about how the PBC would be implemented. What we can say is that in line with the stated desire to depart from prescriptive regulation, regulators should concern themselves less with how such proposals would play out and trust that the freedoms afforded would be exercised on the basis of supply and demand as intended and effectively regulated by a competitive market. It is these brands now operating in a much more competitive market who have most to lose from imprudent application of the charge and so too, it is these businesses that must manage the various levels of the industry that will need to be educated and involved in the change.

The VTA needs to emphasise that we have made it clear to Government that the shift from a regulated to a market driven price is a significant change for both the industry and consumers to come to terms with. It is not something that can simply be done overnight. As a result we have argued for the retention of an ESC determination of fares for 3-5 years to allow the industry and customers to adjust. We have suggested that during this transition once a company is ready to set their own price they should be able to implement the change, until then they would be required to continue to follow the ESC maximum fare determination. The VTA has also mooted the idea of the limiting the initial change to 'pre-booked fares' only to protect more vulnerable and less technologically savvy customers during the transition.

We feel the need to state that our reserved support of the PBC is contingent on our assumption, informed by the draft decision, that networks will be the responsible level for making decisions on the PBC. The ESC offers the following information about what constitutes a network:

*"We envisage that taxi booking networks would set a charge within the maximum cap of \$10. Booking networks could include traditional networks, smartphone taxi booking app providers or any potential new types of network business models."*¹

The VTA agrees and wants to confirm our view that this is the only level at which the objectives of the recommendation can be met, namely that supply and demand can be better equated, that incentives can be created for drivers to be on the road and that passengers can be informed about the implications at time of booking. We acknowledge independent operators (were there to be any

¹ Taxi fare review 2016: draft report volume 2, May 2016, p. 63.

in the future) would need to be extended this right, so long as there are safeguards for passengers around access to information. Further, networks are the only level at which sufficient information about the market, customer demand and fleet utilisation is available on which to make pricing decisions (either in real time or based on trends and data analysis).

Whilst we are concerned about some of the assumptions of the price index used to calculate the constituent cost of taxi services, we accept that the commercial context prohibits any sensible increase to the base rate for taxi fares in the metropolitan zone. The VTA's efforts for members are instead squarely focused on changes to regulation which will reduce the cost burdens on taxi operators which sit outside the purview of the ESC but is the subject of concurrent review.

We support in full the proposed changes to public holidays and peak tariff hours.

Western urban area

The situation in the western urban area is significantly different to Melbourne, thus justifying the need for a separate consideration for the purposes of fare regulation. Our difficulty with the analysis is that assumptions have been made which greatly over-estimate the similarity between the metropolitan and separate large regional areas, particularly in the calculation of costs and the commercial context.

With regard to the commercial context, taxis drivers, operators and networks find themselves operating under very different conditions to their metropolitan counterparts. Whilst local providers continue to be frustrated by the operation of unlicensed transport providers including individuals that advertise on social media, hire car operators acting outside their licence conditions and community transport providers, ride hail providers have only commenced operating in an organised way in Geelong. Some ride hail providers have mooted an expansion in Ballarat and Bendigo, but attempts to do so have been met with little interest, we suggest, due to high levels of consumer satisfaction with existing taxi services. We cannot assume these circumstances will remain unchanged indefinitely but given taxi fares in these areas are already maximums, and our analysis of operating costs show some areas with significant increases, we argue it is justified and reasonable to determine a modest increase in the kilometre rate of taxi fares in the western urban area. Should regulation lead to a reduction in operating costs, or competition change the demand and supply dynamics at play in these markets, this would still afford taxi businesses the flexibility to adjust fares within this maximum.

Analysis of costs

In consultation with our members in Ballarat, Bendigo and Geelong, and on the basis of the evidence provided to us², we reject the assertion that the costs of running taxi services in these areas have reduced since fares were last reviewed by 7.9%. Specifically:

- **Registration and insurance** – Commercial registration on Wheelchair Accessible Vehicle (WAT) vehicles in all three cities has increased significantly, from \$1,400.20 in 2014 to \$1,525.10 in 2016, an increase of 8.92%. Businesses have also seen an increase in insurance costs (subsequent to introduction of the implied conditions). In Ballarat, this increase ranged from 8% to 15% across vehicles depending on claims history and vehicle age.

² Specific examples relate to the operation of wheelchair accessible taxis as these are owned and operated by the co-operative networks in the three relevant cities. Whilst certain costs vary based on vehicle type, we have taken the information provided to us to be generally representative of shifts in constituent costs. Time did not permit us to collect comparable information from individual taxi operators.

- **Driver accident expenses** – since the implementation of the implied conditions in July 2014, operators of taxis have had to comply with much stricter rules around the collection of money from drivers for damage done to vehicles under their operation, this change was made despite an absence of complaints on the issue from drivers in these areas. This has increased vehicle running costs because the costs of repairs which do not warrant insurance claims in most cases cannot be recouped, even in part, from the driver responsible. Ballarat Taxis has estimated that this has added approximately \$700 per year to the running cost of each network-owned vehicle when total costs incurred in this area are averaged across their fleet of eight WATs.

- **Administrative costs and network affiliation** – the ESC’s analysis uses a telecommunications equipment as a proxy for network running costs, but this is far too narrow to capture the changes in costs associated with network operations which inform the network affiliation fees of western urban networks. The real drivers include:
 - o Wage costs, which naturally increase every year
 - o Administrative expenses associated with network-owned vehicle operations which have been considerably inflated due to obligations imposed on operators by the introduction of the implied conditions and the need to be able to demonstrate compliance with them; and
 - o Coordination costs, which are particularly high for operators of WAT vehicles and all vehicles which supply services to contractors and under schemes such as the DVA transport service and the NDIS trial site in Geelong.

- **WorkCover** – Though not employees, Bailee drivers are considered employees for the purposes of WorkCover and thus operators must pay a percentage of their income for worker’s compensation insurance. WorkCover premiums are calculated starting with an industry base rate, which is then decreased or increased based on employer claims history, business type and size, number of employees and other variables. Ballarat’s WorkCover premiums have increased by 0.078% in the past year. While this increase is modest, the premium amount now applies to the 55% of the farebox retained by the driver, not the 50% previously retained by the driver at the time of the last fare review. For example, in May 2014, if a taxi took \$300 on the meter during a shift, the driver would retain \$150 and the network would have to pay approximately \$2.49 to WorkCover out of their 50%. Now, if a taxi took \$300, the driver would retain \$165 and the operator would pay \$2.90 to WorkCover. This shows, increases to WorkCover premiums have been compounded by a change to the farebox split, which over a year amongst several vehicles, effects operating costs significantly.

Further, whilst we accept the data provided by the ESC regarding the overall decrease in fuel prices, the global market for fuel is highly volatile and cannot be predicted with any accuracy on a two-year horizon. In considering the determination of maximum taxi fares it is necessary to include a buffer against such potential catastrophe.

For the reasons outlined above, we assert that an overall 3.00% uplift to kilometre rate for the tariff rates in the western urban area is necessary. We believe that there should be no change to the existing fixed rate variables such as the booking fee, late night fee or holiday surcharge.

Response to recommendations

We have responded below to each of the proposed changes to western urban area fares.

1. No change to the current level of maximum fares outside peak tariff periods.

As outlined above, we assert that an overall 3.00% uplift to tariff rates in the western urban area is necessary.

2. Late night fee (\$3.40) could be charged from 7pm (instead of midnight) to 6am on Fridays and Saturdays. No change to late night fee times on other days.

3. Holiday fee (\$4.20) could be charged from 7pm the evening prior to public holidays, and continue to 6am on the following mornings.

Whilst we support the intent with which both these recommendations are made, businesses in these areas have made clear that in their experience, customers are deterred by the imposition of significant values which accrue on the meter prior to a trip commencing. If indeed this has the effect of reducing demand during these times, even marginally, this removes any benefit for drivers of the extension of hours and thus acts contrary to the intent of the proposal. Instead, as explained, we support an overall uplift to the tariff rate to have the same incentive effect for drivers without the potentially perverse impacts on demand.

END.

If you require further information please contact:

David Samuel
(03) 9676 2635
ceo@victaxi.com.au