

TRANSCRIPT

LEGISLATIVE COUNCIL ECONOMY AND INFRASTRUCTURE COMMITTEE

Inquiry into the Multi Purpose Taxi Program (MPTP)

Melbourne—Tuesday, 19 October 2021

MEMBERS

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Mr Craig Ondarchie

Mr Gordon Rich-Phillips

Ms Harriet Shing

Ms Kaushaliya Vaghela

Ms Sheena Watt

WITNESS (*via videoconference*)

Mr Gary Schmidt, Chief Executive Officer, Schmidt Electronic Laboratories.

The CHAIR: The Economy and Infrastructure Committee public hearing for the Inquiry into the Multi Purpose Taxi Program continues. Please ensure that your mobile phone is switched to silent and any background noise is minimised.

I wish to begin by acknowledging the traditional owners of the land, and I pay my respects to their elders past, present and emerging. I wish to welcome any members of the public that are watching via the live broadcast.

My name is Enver Erdogan, and I am the Chair of the committee. I would like to introduce my fellow committee members: Mr Rod Barton, Mr Andy Meddick and Mr Lee Tarlamis.

To all witnesses giving evidence, all evidence taken at this hearing is protected by parliamentary privilege as provided by the *Constitution Act 1975* and further subject to the Legislative Council standing orders. Therefore the information you provide during the hearing is protected by law. However, any comment repeated outside the hearing may not be protected. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

All evidence is being recorded, and you will be provided with a proof version of the transcript following today's hearing. Ultimately transcripts will be made public and put on the committee's website.

We welcome any opening comments but ask that they be kept to a maximum of 5 to 10 minutes to allow plenty of discussion with the committee. Could you please begin by stating your name for the benefit of the Hansard team. Over to you, Gary.

Mr SCHMIDT: Thank you, Chair. My name is Gary Schmidt. I am the CEO of Schmidt Electronic Laboratories, based here in Melbourne. I would like to provide an overview of the attempt by my company to introduce a solution for the acceptance of MPTP transactions in taxis which would be much lower in cost for thousands of independent taxi operators than the existing solution and therefore promote the viability of the taxi sector.

In May 2016, more than five years ago, I commenced discussions with the manager of business systems at the Taxi Services Commission, as it was then called, with a view to seeking approval to process MPTP transactions via our new G5 taximeter, which is in effect a purpose-built tablet computer. The manager invited me to submit a proposal, which I did a few weeks later, and he explained that our proposed fee structure was a little too high but invited a revised proposal. When I contacted him again in June 2017 he explained that he was unsure about the future of the MPTP—the entire program, in other words—given the changes that may be required to accommodate other commercial passenger vehicles. Nevertheless, in September 2017 I submitted the revised proposal. The following month the manager wrote to me to explain that the Taxi Services Commission was not able to predict how the MPTP would be structured in future given the emergence of the NDIS and the Victorian taxi and hire car reforms. I understood this to mean that no other data collection providers—that is, organisations which process MPTP transactions for the government—would be approved for the time being. He assured me, however, that he would contact me again as soon as clarity arose on the issue. Despite attempting to make contact on a number of occasions, I never did hear from that manager again and was advised in around April 2018 that he had left the commission.

The following month a taxi arrived at our business premises for some technical work. It had been fitted with an Oiii terminal. The driver explained that he was able to process MPTP transactions on that terminal and that about 300 taxis had recently been fitted with such terminals. I was very surprised at this news. It had been clearly indicated to me that no other data collection providers were being approved at that time, and yet here was a taxi which demonstrated that this was clearly not the case. It was clear to me that I had been deceived into believing that no other taxi and no other data collection providers would be considered for the time being. It was also clear to me that my company had been sidelined from participating as a data collection provider.

On 15 May 2018 I wrote to the CEO of the Taxi Services Commission outlining the above history and asking three questions. Firstly, I asked why another party had been approved as a data collection provider while at the

same time I was told that there was a moratorium on the issue. Secondly, I asked why I was deceived into believing that no other data collection providers would be appointed at that time when this was clearly not the case. And thirdly, I asked why my company was sidelined and discriminated against with respect to our participation. Three days later, on 18 May 2018, I received a disingenuous letter from the CEO of the Taxi Services Commission—

Mr BARTON: Sorry, Gary. Who was the CEO at the time?

The CHAIR: Does this relate to the Multi Purpose Taxi Program or is this more broadly, Gary?

Mr BARTON: No, it goes to the heart of the Multi Purpose Taxi Program.

Mr SCHMIDT: Chair, this is all about the Multi Purpose Taxi Program, because it is all about processing the transactions and providing independent taxi operators with a cheaper solution which would provide greater viability for that sector. To answer your question, Mr Barton, Aaron de Rozario was the CEO at the time.

Mr BARTON: Thank you.

Mr SCHMIDT: So I received what I considered to be a disingenuous letter from him, which advised that the commission would like to hear from industry participants who were interested in providing services and invited me to contact the acting manager of business services if my current company was interested. I recall being absolutely disappointed by that letter, as not only did it fail to address any of my complaints but it appeared to negate all the communications between the commission and my company during the prior two years—just wiped them away.

Over the next 12 months there were a series of positive interactions with the commission. Those communications covered issues like demonstrating our proposed technology, the need to conduct a fuel trial called a ‘proof of concept’ and related issues. On 9 May 2019 we provided the CPVV with a very detailed formal written submission. Two weeks later I was invited to provide a demonstration to the working group and discuss the proof of concept. The demo was set for 6 June, and the following day I was advised that a proof of concept deed—in other words, a signed document—would need to be signed before the proof of concept, meaning the demonstration, could proceed, could be conducted. On 9 August I was advised again that the POCD, the proof of concept deed, was still being prepared. After months of further delay, on 18 December 2019 a meeting was held at the CPVV, and I believe that it was at that meeting when I was advised that a final commercial agreement, in addition to the proof of concept deed, would be needed to conduct the proof of concept before that could be started. In February 2020 I received an email to state that the POCD—the proof of concept deed—was still being drafted and would be available in a few weeks time. However, I never did receive that proof of concept deed; it never arrived. It still has not arrived.

On a number of occasions throughout the entire year 2020, last year, I attempted to negotiate the transaction fees with the CPVV. However, the CPVV would provide no guidance whatsoever on what it would be prepared to accept in terms of transaction fees for providing the service. I repeatedly made the point that I could not negotiate with myself and that negotiation involves two parties communicating with each other. However, no progress was made and there was no attempt by the CPVV to finalise the agreement with my company. However, I did learn that the CPVV had reached an agreement with Uber during that period when it was refusing to deal with my company.

In February of this year, February 2021, one of our customers wrote to the CEO of the CPVV asking why our solution had not been approved. In reply the CEO wrote that multiple data collection providers’ applications were in progress, that applicants needed to demonstrate a range of technical competencies and that the CPVV was assisting data collection providers to meet the requirements. This was a complete misrepresentation of the facts with respect to my company. The CPVV had not advised us of any issues it had with regard to our competency in any aspect of our solution and absolutely was not assisting us at that time to meet the requirements. We could not demonstrate that our solution met the required technical standards because the CPVV refused to conduct a trial of our technology. The CPVV said it could only conduct a trial of our technology after it entered into a commercial agreement with us, but the CPVV refused at that time to negotiate a commercial agreement with us. This ridiculous situation is the CPVV version of *Catch-22*. With respect to our submission, the CEO’s letter to our customer was clearly misleading, deceptive and downright dishonest.

By the time June arrived this year I was completely frustrated by years of stonewalling and unprofessional conduct by the CPVV. I wrote two articles, which I distributed widely throughout the taxi industry through our extensive database. Both articles were critical of the way in which my company had been treated by the Taxi Services Commission and the CPVV over that period of time. I was also extremely critical of the way in which the CPVV had treated the taxi industry itself. Immediately after distributing those two articles, in late June this year I was contacted by the CPVV and invited to attend a meeting to discuss the progress of the submission I had made more than two years earlier. From the date of that meeting in June I feel I have been treated with greater professionalism. We have had a number of meetings since, and I genuinely believe that the CPVV is attempting to move this matter forward. However, I have been presented with new requirements which will increase the up-front engineering costs and place a very significant regulatory compliance burden upon our company. These new requirements did not exist when I made the submission in May 2019, more than two years ago. My concern is now that these additional costs will substantially increase the project risk and overhead to the point where we currently cannot see a way to make this project commercially viable. If my submission of May 2019 had been dealt with in a professional and timely manner at that time, my company would not currently be facing the burden of substantial additional costs.

That is the end of my statement. Thank you.

The CHAIR: Thank you, Mr Schmidt, for sharing your story. It is some positive that there has been some progress made since June of this year, but obviously it seems to be a long journey. On that point I might just move straight to the committee so they can ask questions. Mr Meddick, would you like to go first? Or Mr Barton? Mr Meddick, then Mr Barton.

Mr MEDDICK: I have only got two questions. Thank you, Gary. It certainly sounds like a harrowing experience that you have been through in that respect. To the best of your knowledge, how many platforms now are in use to process MPTP payments?

Mr SCHMIDT: As far as I am aware, you have got the existing Cabcharge or A2B Australia platform, which is based on their EFTPOS terminals. That has been there for over 20 years. Then I believe that there is the company Oiii, which has a small number of taxis fitted with terminals, I believe. And of course we all understand now that Uber is also a player in this space.

Mr MEDDICK: I guess my next question then is: what platform do Uber use? What is the terminal they have, the technology?

Mr SCHMIDT: Well, as far as I know—I am no expert on this, Mr Meddick, but as far as I understand—they use the app that is used for dispatching jobs, as far as I understand. I have no further detail; I have never seen it in use.

Mr MEDDICK: I was just concerned that there might be a correlation and that in terms of MPTP use they might have a different terminal—like, instead of just using it via the app, they might have a terminal and that might be the very platform that you have just described. That was my only concern there. But I had best hand over to Mr Barton, who has probably got a far better idea of what is going on in this space than I do. Thank you, Gary.

Mr SCHMIDT: Pleasure. Thank you.

The CHAIR: Mr Barton.

Mr BARTON: Thank you, Chair. Gary, I will just explain the importance of this holding you out of the market—how serious it is. If Mr Schmidt's meters had been approved several years ago, it would have given the opportunity for all the independent operators, including all the hire car operators and including Uber operators, to do work directly for the Multi Purpose Taxi Program. In Uber's case the drivers would not have to pay 30 per cent to go back offshore. They could run one of Schmidt's meters in the car. The hire car guys—they have been wanting to enter this market but they have not had an instrument of choice making it commercially viable for them to do so. That is another issue. It is very concerning, very concerning, that the Schmidt meters have been pushed to one side. But is it a coincidence, Gary, that all of a sudden when we got an inquiry up the CPVV wants to help now?

Mr SCHMIDT: Well, I cannot call that.

Mr BARTON: I can.

Mr SCHMIDT: You can call it, yes.

Mr BARTON: Is that a fair assessment, Gary? I guess I am saying the broader things—it is not just about trying to get a product in for you, but it has broader ramifications for the rest of the industry. It could have shown great promise, once again, but we have been giving a free kick to a foreign taxi company.

Mr SCHMIDT: Yes. Well, from the industry's perspective our solution costs one-third of the cost of the existing Cabcharge solution for an independent operator. You know, they typically have to spend something like \$99 a month to have an EFTPOS terminal in the car that will process the MPTP transactions. And many of them in Melbourne, for example, do very few MPTP transactions—the sedans I am talking about—but they are still required to have a facility for processing the transaction. The only option that an independent taxi operator has got is a Cabcharge EFTPOS terminal. There are no options for the independents, and there are thousands of those independents. So they are forced to pay \$99 a month; right? And it is a lot of money to pay if you are only going to do a small handful of transactions a month. Basically they are paying that simply to meet the regulation that is required for a taxi. A lot of them have told me that if it was not for the regulation that they have to actually have a device for processing the MPTP transaction, they would not bother getting the terminals.

The CHAIR: Sorry, to cut you off, Mr Barton. Mr Schmidt, it would be good to have obviously more terminals approved, because they would be competition and choice for more of the independent operators.

Mr SCHMIDT: Mr Chairman, you know, this issue goes back for me well over 20 years; okay? When Cabcharge was first given the exclusive right to put electronic terminals into taxis for the purpose of processing MPTP transactions I argued the point with the existing chairman, and I think it was the of Victorian Taxi Directorate back then. I said, 'Look, you approve taximeters, you approve a whole range of other devices to go into taxis and you don't pick favourites, you don't pick winners; right? There has been our taxi and half a dozen other players out there in the market. Why have you done this with the Multi Purpose Taxi Program transactions? Why didn't you just set a set of specifications and invite parties to meet those specifications and to offer their services to the taxi industry?'. No, they decided to create a monopoly situation by forcing every taxi operator in Victoria, every taxi in Victoria, to have a Cabcharge EFTPOS terminal. That was the decision that was made then by the Victorian Taxi Directorate all those years ago, and that situation has effectively remained the historical situation and has brought us to where we are today.

The CHAIR: Thank you for clarifying that, Gary. Over to you, Mr Barton.

Mr BARTON: Look, I am just concerned about the hurdles that Gary has been put up against. Gary, you sell meters into New South Wales, and I understand that you do the equivalent Multi Purpose Taxi Program in New South Wales—is that correct?

Mr SCHMIDT: No, we do not. We do not process transactions in Victoria either, Mr Barton. You know, Cabcharge also won the exclusive contract from the New South Wales government to process their subsidy scheme transactions.

Mr BARTON: Oh, right. Okay.

Mr SCHMIDT: Even though we have lots of taximeters there, right, we were never given a look in the door there. So Cabcharge has managed to get the market, effectively, in both Victoria and New South Wales, but it has also had the market in Queensland since 2007. They have been the exclusive supplier in Queensland as well for their subsidy scheme transactions, which operate pretty much the same way as they do in Victoria. So it is exactly the same set-up. You know, the three governments have all decided to provide this monopoly situation, effectively.

The CHAIR: Is your suggestion, Gary, that being a single operator—because in some sectors there is a natural monopoly, like we have in a lot of our infrastructure programs. I am talking here big infrastructure, both

state and federal. But you are saying in this instance it creates a barrier for more people to do this work. Is that the suggestion? I am wondering. Maybe, Rod, you could give a comment on that. Is that the idea?

Mr BARTON: Yes. Well, it restricts the competition. And people, whether they want to use Schmidy's meters or whether they want to do 13CABS—because people pay a depot fee at 13CABS. They do so because they make a decision that there is work there available and all that sort of stuff, and they will make a commercial decision. They may not want to pay a depot fee, so they may want to be an independent. And I think—I am only surmising here, Gary—that then Schmidy's meter would be an option for them, and that is really in the choice. But what I am concerned about is that everybody has to meet the same sort of data collection and all that sort of stuff. And I am assuming, Gary, that you will be able to meet those requirements.

Mr SCHMIDT: Yes, we can meet the technical requirements, but what has been done just recently with this latest release of documentation is that the regulatory compliance costs have skyrocketed to the point where, as a new entrant coming into the marketplace like this, for us it really is very much borderline viable. You know, the viability of the whole scheme—for us to now enter it—has been knocked out of the window. It is out of the field. The costs are just too high for us to meet the regulatory compliance.

I will explain what that means. There is a suite of standards called the Victorian Protective Data Security Standards. This is something that is under the control of overview of OVIC, the Office of the Victorian Information Commissioner?

Mr BARTON: I am familiar with them.

Mr SCHMIDT: And these standards specify how government departments are supposed to deal with personal information, private information, of people in society. Those standards are structured for government departments. But what is now required is that we as a proposed processor of MPTP transactions have to meet exactly those same standards, which are just over the top. You know, the cost of compliance is tens of thousands of dollars a year for us—tens of thousands of dollars a year. It is a real barrier to entry. We cannot meet the same regulatory compliance hurdles that a government department can meet. And in fact we do not actually deal with any personal data. The only things that we would be dealing with are card numbers, and card numbers do not identify who the member is or any of their personal details. The card number itself does not identify anything about the person who uses that card. So unless there is a breach inside the CPVV itself, no amount of card numbers that are out there in the marketplace can breach the individual privacy of people. But yet we have to meet this standard, the Victorian protective data security standard, which is just crazy.

We also have to meet penetration testing of our equipment. Penetration testing means testing that is done by experts who attempt to hack into the systems—the server and into—

The CHAIR: Yes, it is an interesting issue you raise with the changing of the regulation. I do notice, though, the issue of cybersecurity and protection of cyber data is evolving, not just in your sector. In other sectors I have reflected on there has been an upscaling, an extra cost burden, of this extra security that industries and companies are having to invest in, not only protecting people's privacy but, in particular, for cyber breaches. So I can see how, since the last two or three or four years, the expectations and potential costs for companies have increased in this regard. But as you are saying, if this had happened in 2019 it might have been different.

In terms of the questioning, Mr Barton or Mr Meddick, do you have any? Mr Meddick.

Mr MEDDICK: Yes, I have one more, and I am sorry, Rod, to interrupt you there, mate. I am trying to get my head around the costs that are having to be incurred by your company, or would be—so real, already established and potential—and for others. I assume this company Oiii has to meet these types of regulatory cost burdens as well, given they are a similar type of platform. I am sorry to keep coming back to this, but in terms of the Uber app, I assume that there is virtually no cost burden in that one whatsoever in terms of these things, and I note that you are talking about the testing regime that you are going to have to go through that you have not even had a chance to go through yet. Would that have applied to that app, or would it have—and you might not know—just been accepted because it has been in use overseas that it just processes an MPTP docket the same as it would anything else?

Mr SCHMIDT: Mr Meddick, I cannot answer that because I just do not have any knowledge of it. I do not have any real knowledge of the way the Uber app works with respect to MPTP transactions, and so I have got

no idea what arrangements have been made between CPVV and Uber. I have never been in an Uber cab with an MPTP card. I do not have an MPTP card so I have never seen it operate. I am sorry; I wish I could answer the question and I would if I knew the answer, but I do not know the answer.

Mr MEDDICK: My concern springs from—and Mr Barton might be in a better position to talk about that, I do not know—it just seems to me that there is a market operator sitting on one side over here with relatively few operating costs incurred, and then there is the traditional operator in the market here that is having to meet the cost burden and the legal burden of the aspects of the industry that they are involved in. They are involved in the same industry and they are all looking for a slice of that particular section of that industry, but only one is being asked to meet certain costs. It almost feels like that section of the market is being priced out of it and it is being handed to the other side by proxy as a result. That is kind of what it feels like to me, and I might be leaping to conclusions that are not there. But, you know, I do not have a terrific grasp on technology, as my family will tell you, so it just sort of feels like this is how that is headed, just from trying to keep my mind on the terms of a regulatory basis and who that should be applied to and who it appears not to. Is that a fair sort of thing to be thinking?

Mr SCHMIDT: To answer you, I think there is a real point that you are making, but if I can put it this way: huge companies have a much bigger and greater capacity to take a long-term view of investment and of compliance regimes, and to put structures into place which little companies like mine do not have. And there is a big disconnect. There might be a disconnect between the way one company is treated and another; I have no particular knowledge of that, but what I do know is that small companies like mine are at a decided disadvantage when it comes to enormous up-front costs, when it comes to trying to amortise up-front costs over a period of time. We do not have the capability, the flexibility or the deep pockets that large offshore organisations or publicly listed companies would have, so we are obviously precluded from the marketplace as the compliance burden increases.

Mr MEDDICK: Thank you so much, Gary.

The CHAIR: Mr Barton.

Mr BARTON: I might just help a little bit here. I have had some information given to me that the regulator has actually spent to the tune of hundreds of thousands of dollars to accommodate Uber into their operating system. I am advised that it is closer to \$1 million rather than a couple of hundred thousand dollars. They have also got external legal advice—even though they have got about 30 lawyers working there, they have gone out and got further legal advice outside—to accommodate Uber into the market. Have you been offered any financial support to help meet the regulatory burden there?

Mr SCHMIDT: None at all. None at all.

Mr BARTON: Okay. We will be able to ask the regulator and the—

The CHAIR: Gary, it has turned to an interesting point of discussion, and the point that Mr Barton makes. I think with some of this information we might have further questions at a later stage once we have absorbed all the initial information following the public hearings. Are you happy for us to reach out to you if we have more questions after going over that?

Mr SCHMIDT: Yes, certainly.

The CHAIR: Rod has worked directly in the sector, I know a bit about the sector and so do Andy and Lee—we have all got some background and understand how the industry works—but obviously with the finer details I would like to go over all the transcripts and evidence. We may reach out to you a bit more on this stuff. That is an interesting aspect that Mr Barton is sharing with the committee—thank you—but we will discuss that all, and we might have to come back to you at a later stage with some further questions, because I see where this questioning is going.

Mr SCHMIDT: Mr Chairman, may I just offer one more thought, please?

The CHAIR: Yes, of course.

Mr SCHMIDT: In terms of the regulatory compliance, over the last few weeks that has actually come down a little bit. It started off being a higher burden, a much higher barrier, a much taller hurdle. We were required at the outset to meet ISO 27001 compliance—which is a privacy compliance, international standard organisation standard 27001; that has since been relaxed. That was likely to cost something in the vicinity of \$180 000 for us to set up, to actually meet. That fortunately has been set aside, but we are still left with compliance burdens, hurdles, which are still too high for us to make a commercially realistic, viable project out of becoming a data collection provider, as things currently stand.

The CHAIR: Yes. And look, I would like to get all the evidence, like I said. I know about the ISO. The law firm where I previously worked at implemented those systems, and they can be costly, but at the same time they are recognised as a risk regulatory framework or process. So there can always be, ‘What’s the standard required for your subsection?’. But I guess we will get that information once we go through the other witnesses as well, and that is why I am saying we might need to come back to you maybe with some additional questions at a later stage.

Mr SCHMIDT: A pleasure.

The CHAIR: It is really great to have you on the first day of public hearings. I really appreciate it. All the witnesses today have been very helpful, and so have the committee members. On that note, I would like to thank you again for your informative presentation and for sharing your story.

Mr SCHMIDT: Thank you very much. Thank you all.

The CHAIR: And to the watching public, that concludes today’s hearing. The Inquiry into the Multi Purpose Taxi Program will continue on Thursday, 21 October. See you all then. Thank you.

Committee adjourned.