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Legislative Council

Economy and Infrastructure Committee

Inquiry into the Commercial Passenger Vehicle Industry Bill 2017

Parliament of Victoria
Economy and Infrastructure Committee

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Committee functions

The Economy and Infrastructure Standing Committee is established under the Legislative Council Standing Orders Chapter 23 — Council Committees and Sessional Orders.

The committee's functions are to inquire into and report on any proposal, matter or thing concerned with agriculture, commerce, infrastructure, industry, major projects, public sector finances, transport and education.

The Economy and Infrastructure Committee (References) may inquire into, hold public hearings, consider and report on other matters that are relevant to its functions.

The Economy and Infrastructure Committee (Legislation) may inquire into, hold public hearings, consider and report on any Bills or draft Bills referred by the Legislative Council, annual reports, estimates of expenditure or other documents laid before the Legislative Council in accordance with an Act, provided these are relevant to its functions.

Government Departments allocated for oversight:

- Department of Economic Development, Jobs, Transport and Resources
- Department of Education and Training
- Department of Treasury and Finance

Committee membership



Mr Bernie Finn MLC
Chair
Western Metropolitan



Mr Khalil Eideh MLC
Deputy Chair
Western Metropolitan



Mr Jeff Bourman MLC
Eastern Victoria



Ms Samantha Dunn MLC
Substitute for Ms Hartland
Eastern Metropolitan



Mr Nazih Elasmr MLC
Northern Metropolitan



Ms Colleen Hartland MLC
Western Metropolitan



Mr Shaun Leane MLC
Eastern Metropolitan



Mr Luke O'Sullivan MLC
Northern Victoria



Mr Craig Ondarchie MLC
Northern Metropolitan

Participating members



Mr Cesar Melhem MLC
Western Metropolitan

Committee staff

Committee Staff

Ms Lilian Topic, Secretary

Mr Matt Newington, Inquiry Officer

Council Committees Office

Ms Prue Purdey, Administrative Officer

Committee contact details

Address Economy and Infrastructure Committee
Parliament House, Spring Street
EAST MELBOURNE VIC 3002

Phone 61 3 8682 2869

Email EIC@parliament.vic.gov.au

Web www.parliament.vic.gov.au/eic

This report is available on the Committee's website.

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Terms of reference

Inquiry into the Commercial Passenger Vehicle Industry Bill 2017

On 9 May 2017, the Legislative Council agreed to the following motion:

That, the Commercial Passenger Vehicle Industry Bill 2017 be referred to the Economy and Infrastructure Committee for consideration and report by Thursday, 8 June 2017.

Chair's foreword

There is no question that the Government's proposed Commercial Passenger Vehicle Industry Bill 2017 requires a number of amendments to reflect the reality of the plight of taxi licence holders in Victoria and the compensation that is owed them.

Effectively licences that were purchased at a high price from government as a capital asset the government proposes to reduce in value to zero. This is devastating for many working men and women who have dedicated their lives to the commercial passenger vehicle industry.

Innovation is important and the economy and industry change all the time. Certainly ride sharing as an industry is here to stay. However it is important that any new industry players understand that they need to work within the legal and regulatory parameters that are established in Victoria. Some businesses new to this state have not done so and continue to fail to behave ethically.

The Committee hope that this report and its recommendations, if accepted and acted on, go some way to establishing a fairer and smoother transition for taxi licence holders to the new ridesharing economy.

I hope that the recommendations suggested by the Committee lead to robust debate and thus to a more workable, fair and transparent Bill for this industry.

I would like to thank all those who provided evidence to the Committee for this inquiry. A wealth of information and advice was presented to us and I recommend that all those interested in this Bill consult the evidence found in the transcripts of hearings. This material can be found at Appendix 2 and on our website at www.parliament.vic.gov.au/eic.



Bernie Finn MLC
Chair

Key Findings and Recommendations

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Issues raised

FINDING 1: Estimates of the revenue from the \$2 levy are based on data from existing taxi trips and will likely underestimate the total revenue. 6

RECOMMENDATION 1: That the Victorian Government amend the Commercial Passenger Vehicle Bill 2017 to:

- recognise that the primary purpose of the levy is to provide support to existing taxi-cab licence holders through the Fairness Fund and transitional financial assistance payments
- qualify the status of payments to ensure recipients are not financially disadvantaged
- provide for a reduced rate of levy in rural and regional areas
- specify a sunset clause for the levy's operation. 14

RECOMMENDATION 2: That the Victorian Government remove the \$50 million cap on the Fairness Fund to ensure that all legitimate claims for compensation can be honoured through revenue raised by the commercial passenger vehicle levy. 14

RECOMMENDATION 3: That the Victorian Government consider increasing compensation to primary and subsequent licence holders in an independent and clearly articulated, transparent, equitable and non-arbitrary model for the valuation of perpetual licences and that this model be based on market value valuation methodology. 18

RECOMMENDATION 4: That the Victorian Government provide compensation as lump sum payments at the outset of revocation of taxi licences. 18

RECOMMENDATION 5: That the Victorian Government ensure that:

- existing Multi Purpose Taxi Program concessions for passengers are extended to all commercial passenger vehicle trips
- these trips are exempt from the levy. 19

RECOMMENDATION 6: That the Victorian Government provide a response to the Committee in time for the Parliament of Victoria to finalise debate and pass the Bill, with amendments as suggested through this report's recommendations, by 22 June 2017. 20

RECOMMENDATION 7: That the Victorian Government consider reducing the levy applied to commercial passenger vehicle service transactions.

Purpose of the Bill and background

1.1 Purpose of the Bill

The purpose of the Commercial Passenger Vehicle Industry Bill 2017 is to introduce uniform regulation over the commercial passenger vehicle industry and to legalise ride-share services.

A key component of the Commercial Passenger Vehicle Industry Bill is the imposition of a levy on all commercial passenger vehicle service transactions. The collection of the levy is intended to fund financial assistance to existing industry members and improve services for those with mobility impairments.¹

The Bill also proposes a number of amendments to:

- implement changes to the taxi and hire car industry licencing scheme through:
 - reducing the number of different types of licences under the *Transport (Compliance and Miscellaneous) Act 1983*, establishing only taxi-cab and hire car licences
 - removing licence fees, allowing licences to be issued at an administrative cost only
 - abolishing operating zones for hire-car licences (taxi zones will continue to operate in the interim)
- introduce an accreditation system for booking service providers, including requirements to:
 - maintain records and provide them to the Taxi Services Commission on request
 - implement complaints handling systems
- introduce offence provisions against providing or using an unaccredited commercial passenger vehicle services
- allow the Taxi Services Commission to seek injunctions from the Supreme Court and take administrative action for non-compliance.

The government intends to achieve this through amendments to the following legislation:

- *Transport (Compliance and Miscellaneous) Act 1983*
- *Transport Integration Act 2010*

¹ Victoria, Legislative Assembly, 2017, *Debates*, vol. 3, p. 710.

- *Bus Safety Act 2009*
- *Road Safety Act 1986*
- *Taxation Administration Act 1997*.

The Bill implements the first stage of the Victorian Government's intended reforms to the commercial passenger vehicle service industry. Future reforms are discussed in section 1.3.

1.2 Passage of the Bill

The Bill was introduced into the Legislative Assembly in February 2017 by Hon Jacinta Allan MP.

After the Bill's introduction, the Scrutiny of Acts and Regulations Committee raised a number of issues with provisions of the Bill and sought a response from Minister Allan MP.

These included:

- the delayed commencement of certain provisions of the Bill
- compatibility with the *Charter of Human Rights and Responsibilities Act 2006* in relation to:
 - revocation of 'perpetual' taxi licences
 - limitation of the right against self-incrimination and freedom of movement that may occur during the administration of the levy scheme.²

Minister Allan provided a response to the Scrutiny of Acts and Regulations Committee's concerns and the Committee took no further action.³

The second reading debate occurred in the sitting week of 7 March 2017. Amendments to the Bill proposed by the Opposition and a further reasoned amendment by the Greens to refer the Bill to the Public Accounts and Estimates Committee were defeated. The Bill passed the Assembly unamended on 9 March 2017.⁴

The Economy and Infrastructure Committee conducted an Inquiry into Ride-Sourcing Services in late 2016 and early 2017. Reporting was delayed due to the Committee's significant workload.

² Scrutiny of Acts and Regulations Committee, *Alert Digest No. 3 of 2017*, Victorian Parliament, Melbourne, 2017.

³ Scrutiny of Acts and Regulations Committee, *Alert Digest No. 4 of 2017*, Victorian Parliament, Melbourne, 2017.

⁴ Victoria, Legislative Council, 2017, *Debates*, vol. 5.

The Terms of Reference for the ride sourcing inquiry were:

That the Economy and Infrastructure Committee inquire into, consider and report, no later than 8 December 2016, on the need for, and appropriate structure of, regulation of ride sourcing services such as Uber, with particular regard to —

1. barriers to entry;
2. consumer protection;
3. customer safety;
4. competition;
5. access for people with disabilities;
6. remuneration and workplace rights for drivers;
7. how impacts of such regulation on the taxi industry can be minimised;
8. industry transition; and
9. any other issues the Committee regards as relevant.

The Government's introduction of the Bill in the Legislative Assembly occurred during deliberation by the Committee on its Inquiry into Ride-sourcing Services. In order to provide information and inform the Parliament's debate on the Bill the Committee chose to table its final report on the inquiry in March 2017.

The Report was tabled in March 2017. The Committee recommended the following:

RECOMMENDATION 1: The Committee recommends that the Legislative Council defer debate on the Commercial Passenger Vehicle Industry Bill 2017 while two major issues of concern are resolved:

- a. Finalisation of a satisfactory compensation package for taxi industry members who must transition to the new regulatory regime.
- b. Determination of the efficacy, cost of implementation, and effect on users of the proposed \$2 levy on all rides.

The Committee reiterates its Recommendation and believes that these issues remain to be addressed by the Government. The Committee has not yet received a response to its Recommendation. However the Committee also recognises the need to address the issues before the Parliamentary recess at the end of June 2017, to provide certainty to those who will be affected by reforms to the commercial passenger vehicle industry.

The Bill was subsequently referred by the Legislative Council to the Committee on 9 May 2017 for consideration and report.

1.3 Intended future reforms

In its media release for the Bill, the Victorian Government indicated future reforms for the industry will be introduced later in 2017 for implementation in 2018.⁵

While the Government has not provided significant detail for stage two reforms, the Committee understands they will likely include:

- compensation for existing taxi licence holders
- abolishment of taxi zones
- introduction of flexible fares.⁶

⁵ Department of Economic Development, Jobs, Transport and Resources, 'Changes to taxi and hire car regulations', viewed 30 May 2017, <economicdevelopment.vic.gov.au>.

⁶ Ibid.

For its Inquiry into the Commercial Passenger Vehicle Bill 2017 the Committee held two days of public hearings with 12 key stakeholder groups. These are listed in Appendix 1. This chapter is a summary of the issues of relevance to the Bill that were raised at the hearings.

In preparing this report, the Committee was also informed by evidence it received in its previous Inquiry into Ridesourcing Services, tabled in March 2017.

2.1 Commercial passenger vehicle service levy

The primary issue raised by stakeholders at public hearings was the Bill's imposition of a \$2 levy on each commercial passenger vehicle service transaction. The purpose of the levy is to recover the cost of a support package to members of the taxi industry who are negatively effected by the reforms.⁷

Part 2 of the Bill proposes to implement a levy on each commercial passenger vehicle service transaction. Clause 75 provides that the levy is a Victorian state tax through an amendment to the *Taxation and Administration Act 1997*. In addition, clause 6 states that the levy provisions under Part 2 of the Bill are to be 'read together with the Taxation Administration Act 1997 which provides for the administration and enforcement of that Part and other taxation laws'.

2.1.1 Levy amount

Clause 12 of the Bill prescribes the amount of the levy. Initially, this will be \$2 per transaction. Subsection (2) allows the Executive Government to lower the levy from the prescribed amount. Any increase must be through a legislative amendment.

Subsection (3) provides that from 1 July 2019 the levy will be indexed based on CPI.

At a public hearing, Richard Bolt, Secretary of the Department of Economic Development, Jobs, Transport and Resources explained:

The net revenue that comes from the \$2 levy, which starts in the first full year of 2018–19 at \$44 million on our best estimate, is simply a calculation of the number of trips adjusted for a combination that leads to compliance costs, and clearly those two things interact with each other. The more enforcement there is, one would expect a higher compliance. Where that sweet spot is between the two is clearly going to

⁷ Richard Bolt, Secretary, Department of Economic Development, Jobs, Transport and Resources, *Transcript of evidence*, 23 May 2017, p. 2.

be calibrated by experience, but we are making a reasonable assumption that at a starting point of 28.8 million trips we would get something like \$44 million in that first year.⁸

However Mark Sehata from Exclusive Cab Management provided evidence to the contrary. He stated that the estimated revenue had been underestimated, based on inaccurate trip figures :

There was a large deal of confusion ... in regard to the number of trips in Victoria. [The department] stated there was only 20 million. 13CABS control, I believe, 50 per cent of the taxi market alone. They stated, in their own words, between 15 and 20 million. I would call it 20 million based on my figures. Add Silver Top to that, that is another 20 million. They control another 50 per cent of the market. Add hire car, another 5 million, let us say; add ridesharing, another 5 million. We are talking between 50 million and 60 million trips every year. Based on those figures the government stands to collect their whole package within three years. It is also indexed at CPI with no sunset clause. We expect that that may be reduced due to the fact of population growth and the growth of the number of fares in a deregulated market. Fares drop, demand goes up, and we will probably get a lot more people using the commercial passenger vehicle industry in Victoria.⁹

Further, the Committee notes that the Government does not have access to the annual number of trips that Uber provides in Victoria. Lucas Groeneveld, Uber's state manager in Victoria and Tasmania, told the committee this was commercially sensitive data and that Uber would not provide it.¹⁰

FINDING 1: Estimates of the revenue from the \$2 levy are based on data from existing taxi trips and will likely underestimate the total revenue.

2.1.2 Compliance and cost of the levy

Liability for the levy is placed on the booking service provider for booked services. For unbooked trips (such as rank and hail type service), liability falls jointly on the trip provider and affiliated service (if any).

Stuart Overell, chief operating officer at 13CABS, described the difficulties in processing the levy for rank and hail work:

... that is where it becomes a real burden for our business. We will not know who took the booking, and it would be double-dipping because there could have been another provider taking the booking. It becomes a nightmare for us, and then we would have to re-evaluate how we are going to operate in that space.¹¹

⁸ Ibid., p. 3.

⁹ Mark Sehata, Operations manager, Exclusive Cab Management, *Transcript of evidence*, 23 May 2017, p. 35.

¹⁰ Lucas Groeneveld, State manager, Victoria and Tasmania, Uber, *Transcript of evidence*, 24 May 2017, p. 6.

¹¹ Stuart Overell, Chief operating officer, 13CABS, *Transcript of evidence*, 23 May 2017, p. 28.

David Samuel, general manager of 13CABS, also noted that the introduction of smartphone applications for cabs have ‘blurred’ the lines of booked services and rank and hail.¹² Representatives from the Victorian Taxi Association highlighted that ridesharing services had operated rank and hail services at Avalon Airport, the Spring Racing Carnival, and at the Sydney Airport.¹³

At a public hearing, Lucas Groeneveld, Uber’s state manager for Victoria and Tasmania, reiterated the company’s opposition to the levy. He noted that \$2 comprises a significant percentage of a single trip cost:

Many of these trips come in under \$10. A \$2 tax represents a significant increase and will have a real impact on the way Victorians use our services and use point to point transport. Frontier Economics has estimated that a \$2 levy would result in an economic dead weight loss of around 20c in the dollar caused by higher prices and increased weight time due to lower reliability. Of course this hit to the hip pocket comes in addition to the significant administrative costs that collecting a levy will incur. Cost that will see a significant portion collected, go to waste.¹⁴

Mr Groeneveld also noted that South Australia and New South Wales have implemented levies at a cost of \$1 per trip.¹⁵

Andre Baruch, vice president of the Victorian Hire Car Association, raised concerns about the ‘heavy regulatory burden’ that the levy represents to small operators:

For example, restricted hire car or special purpose licence holders who operate wedding vehicles might have 40 to 50 trips per year, and these could be all day jobs. The quarterly reporting obligations mean that to deliver \$80 to \$100 revenue to government, the operator will have to report quarterly and spend much more than this on compliance and registration obligations. As an aside, looking at the collection of this revenue, there will be a far greater cost to the government to collect this revenue than they will ever get back from it.¹⁶

The Victorian Hire Car Association recommended:

- all trips made through a booking service provider be levied at \$1 per trip
- directly-booked trips should only be levied on operators that undertaken at least 75 trips per quarter.¹⁷

12 David Samuel, General manager, 13CABS, *Transcript of evidence*, 23 May 2017, p. 30.

13 Georgia Nicholls, Chief executive officer, Victorian Taxi Association, *Transcript of evidence*, 23 May 2017, p. 66. Stephen Armstrong, President, Victorian Taxi Association and Chair, Ballarat Taxis, *Transcript of evidence*, 23 May 2017, p. 66.

14 Lucas Groeneveld, State manager, Victoria and Tasmania, Uber, *Transcript of evidence*, 24 May 2017, p. 2.

15 *Ibid.*, p. 5.

16 Andre Baruch, Vice president, Victorian Hire Car Association, *Transcript of evidence*, 23 May 2017, p. 16.

17 *Ibid.*

Several stakeholders also noted that the costs of the levy would likely be passed on to consumers. Rod Barton, president of the Victorian Hire Car Association, told the Committee that similar organisations in South Australia had passed on both the cost of the \$1 levy and associated compliance costs. He stated they were ‘rounding up’ to a \$5 increase.¹⁸

Georgia Nicholls, chief executive of the Victorian Taxi Association, considered it ‘ludicrous’ to believe that small operations — particularly outside of Melbourne — could absorb the costs of the levy. Similarly Eleanor Fitz, director of Amalgamated Taxis Wodonga, stated that regional taxi services would be unable to absorb the cost and would have to pass it on to passengers.¹⁹

Conversely, 13CABS told the Committee it was yet to make a decision on whether it would absorb the costs of the levy.

The Committee also heard that the cost of the levy would impact residents in rural and regional areas, where trips are often shorter and more frequent. Eleanor Fitz noted that regional taxi services provide twice the number of short trips compared to urban services:

In regional Victoria short taxi fares are our norm. We do fares as low as \$4. To put a \$2 levy on that is very significant. The elderly, the unwell, the low-income families, a lot of these people in inclement weather — very hot, very cold, very wet; you name it — will take a bus to the shopping centre and they will get a taxi home to manage all their parcels and shopping et cetera, and to put that levy imposition on is cruel and unjust. It will make taxis unaffordable; they will not take them.²⁰

She also noted the lack of alternative public transport options at night in these areas contributed to this.²¹

Similarly Stephen Armstrong, provided a perspective from his experiences as an operator in Ballarat:

... it would be virtually impossible not to pass that cost on to the customers. Even as a network and the ability of us to collect the levy on behalf of our own operators, that is an impost and that is a cost that we are going to have to deal with. We only have three office staff in our building. It is going to mean that we are going to have to either employ more people or have our current staff work overtime to facilitate the collection and the reporting of the levy as well.²²

Graham Newman, representing the All Aboard network, highlighted the impact of the levy on people with a disability:

¹⁸ Ibid., p. 19.

¹⁹ Eleanor Fitz, Director, Amalgamated Taxis Wodonga, *Transcript of evidence*, 23 May 2017, p. 37.

²⁰ Ibid.

²¹ Ibid., p. 39.

²² Stephen Armstrong, President, Victorian Taxi Association and Chair, Ballarat Taxis, *Transcript of evidence*, 23 May 2017, p. 67

The majority of people with disabilities who depend on wheelchair-accessible taxis are not usually particularly well off and therefore we feel that \$2 levy could be quite significant for them, especially considering that they often do very short trips, for example, from home to their local GP et cetera.²³

2.1.3 Sunset clause

Stakeholders highlighted that the Bill does not contain a ‘sunset’ clause specifying an end date for collection of the levy.

Representatives of the Department of Economic Development, Jobs, Transport and Resources noted this was a policy choice of the Minister. Mr Bolt told the Committee:

The choice of whether to sunset it outright or to leave that for future judgement, given the uncertainty around how much will be recovered and when the recovery of the cost of our system will be acquitted, ultimately clearly is a policy choice for the minister and for government. I would just repeat my point earlier that because on our best estimate it will take at least — and this is on very optimistic assessments of the number of trips — at least eight years for cost recovery to occur and more likely quite a lot more than that, there is a lot of time for the community and, if I can put it this way, the democratic process to work out whether to reduce it to zero, which is effectively the same as to repeal the requirement, or to repeal it outright and take it out of the statute book. I just make the observation that that is available. But the question about whether to put in a sunset clause or not is a policy question that I am not really at liberty to speculate on.²⁴

Rod Barton from the Victorian Hire Car Association, speculated that this was to compensate for the loss of revenue from the annual leased taxi licences.²⁵

Other inquiry stakeholders were in favour of adding a sunset clause to the levy.²⁶

Georgia Nicholls, chief executive of the Victorian Taxi Association believed the sunset clause should reflect the point when compensation had been paid out.²⁷

2.1.4 Administration of the levy

The Victorian State Revenue Office will be responsible for administering and collecting the levy.

Throughout the inquiry and the Committee’s previous Inquiry into ride sourcing services, stakeholders raised concerns about the government’s ability to collect the levy.

²³ Graham Newman, All Aboard, *Transcript of evidence*, 23 May 2017, p. 76.

²⁴ Richard Bolt, Secretary, Department of Economic Development, Jobs, Transport and Resources, *Transcript of evidence*, 23 May 2017, p. 5.

²⁵ Rod Barton, President, Victorian Hire Car Association, *Transcript of evidence*, 23 May 2017, p. 23.

²⁶ David Samuel, General manager, 13CABS, *Transcript of evidence*, 23 May 2017, p. 27.

²⁷ Georgia Nicholls, Chief executive officer, Victorian Taxi Association, *Transcript of evidence*, 23 May 2017, p. 64.

Vasko Nastevski, manager, legislation and government relations was confident that the State Revenue Office would be able to effectively administer and collect the levy due to the mechanisms provided in the Bill. In particular, he noted the offence provisions of the Bill require booking services to be accredited:

... it is a criminal offence not to register with the State Revenue Office if you are liable to pay the levy. And that also extends to, say, for example, if a corporate entity failed to register with the State Revenue Office and they're found guilty in a court, there is also the capacity for the State Revenue Office to take action against individuals of the corporate entity, so directors or the CEO if there was some evidence that they failed to take due diligence or were negligent in respect of seeking registration with the State Revenue Office.

...

... in a situation where a levy payer, a registered levy payer, for example, did not pay or make the return on time, that would trigger a tax default under the Taxation Administration Act. That automatically subjects that tax payer to a 25 per cent penalty and interest, and, depending on the level of culpability of that non-cooperation, that could go up to as much as 90 per cent.²⁸

Similarly, Paul Salter from the Department of Economic Development, Jobs, Transport and Resources believed the offense provisions incentivised compliance:

... if you have got people who are using their own cars to provide services and are signed on with one or more booking service providers, if you are using a booking service provider who is not accredited in this state then they themselves will be committing an offence ... They will choose not to work with you; they will use the other choices that you were referring to in terms of Australian-based rideshare companies and those sorts of things. We have really tried to think through the incentives at play here with a view to getting compliance across the board. There are also new sanctions that are incorporated in the bill. For example, if there is a breach of those requirements to be accredited or to only work with people that are accredited then injunctions can be put in place and any breach of those injunctions can then result in court-based sanctions.²⁹

The Committee also highlights that although Uber opposes introducing a levy on commercial passenger vehicle transactions, the company has complied with levy requirements in other Australian jurisdictions.³⁰

2.1.5 Compensation

Although the Bill does not directly address the compensation scheme for existing taxi-licence holders, this was a significant issue raised during public hearings. It is also one which is inextricably tied to the provisions of the Bill that relate to introducing a levy.

28 Vasko Nastevski, Manager legislation and government relations, policy and legislation, State Revenue Office, *Transcript of evidence*, 24 May 2017, p. 21.

29 Paul Salter, Director, policy and regulation, intergovernmental relations, transport for Victoria, Department of Economic Development, Jobs, Transport and Resources, *Transcript of evidence*, 23 May 2017, p. 7.

30 Lucas Groeneveld, State manager, Victoria and Tasmania, Uber, *Transcript of evidence*, 24 May 2017, p. 6.

As discussed previously, the Victorian Government has not provided draft legislation detailing the compensation scheme. At the time of writing, no compensation payments have been made. The Committee heard from the former Premier, Hon Jeff Kennett AC that this is due to the government waiting until the provisions of the levy have passed Parliament.³¹

The Government is offering compensation based on the number of licences owned and the licence zone. Compensation is available for up to four licences. This is summarised in Table 2.1 below.

Table 2.1 Assistance payments for taxi and hire car licence owners

Licence type	Zone	First licence	Second, third and fourth licence
Taxi: perpetual licences	Metropolitan/urban	\$100 000	\$50 000
	Regional	\$50 000	\$25 000
	Country	\$15 000	\$7 500
Taxi: specific fixed-term MF and UF licences	Metropolitan/urban	\$33 750	\$16 875
Taxi: fixed-term and annual licences	All	Annual fee rebate	
Hire car: perpetual licences	Metropolitan/urban	\$25 000	\$12 500
	Country	\$12 500	\$6 250
Special purpose vehicle licences	N/A	\$1 250	\$625

Source: <economicdevelopment.vic.gov.au/transport/rail-and-roads/taxis/support-package-taxi-and-hire-car-reform>

Richard Bolt, Secretary of the Department of Economic Development, Jobs, Transport and Resources, discussed the three aspects of the proposed compensation framework:

I will briefly just recap — again familiar territory to members of this community — the industry support package. It is not in the scope of the bill. The relevance of canvassing it now is because the levy at \$2 is predicated essentially on recovering the cost of that industry support package. An obvious question arises: what is the size of the package, and is it expected to be delivered in full? I should say the answer is yes, and it comprises the \$50 million Fairness Fund, which closed very recently. We are still sorting through applications and to begin a process of assessment and working with external auditors so that every one of them is assessed case by case. We expect applicants to be notified by mid-2017. Payments are expected to be made progressively.

The \$332 million transition assistance payments, that being the \$100 000 for a first licence and \$50 000 for up to three more to eligible perpetual taxi and hire car licence holders and scaled equivalents to those amounts for other forms of licence. These will begin to be paid following passage of the bill. So once the levy is in place and able to be collected, then those payments will flow. There has been clearly no shift in the estimated payment of \$332 million for that proportion of the industry support package.

31 Hon. Jeff Kennett AC, *Transcript of evidence*, 23 May 2017, p. 53.

Finally, the \$112 million in rebates and forgone licence revenue for all eligible existing annual fee paying licensing holders constitutes a third element of the industry support package. That is a five-year figure, that \$112 million. That is in a sense an arbitrary figure. If we took it over 10 years we would be talking, roughly speaking, double that amount — with a small allowance for possible expected indexation. There is of course the \$25 million of additional funding to assist in the provision of the multipurpose taxi program. So all of those elements are still in place, and it is worth perhaps saying that under any reasonable assumptions of trip numbers and of the level of compliance and administrative costs the recovery of the cost of the full cost of the package will take at least eight and almost certainly more years to effect.³²

Mr Bolt also told the committee that 98 per cent of licence holders would receive assistance from the \$332 transition package on every licence they hold.³³

However, stakeholders from the taxi and hire car industries were concerned that the Bill is silent with regard to financial assistance to the industry and the operation of the Fairness Fund.³⁴

The Committee received evidence from Professor Denis Nelthorpe about the assistance his organisation Westjustice provided to over 150 taxi licence holders who were making applications to the Fairness Fund. Professor Nelthorpe stated that of those applicants, around 130 were experiencing significant financial difficulties.

He also noted many taxi licence holders were referred to his service due to personal difficulties:

... a significant number who were referred by a social worker for personal or relationship counselling, financial counselling, mortgage stress counselling, but that's a program only available in the outer west and we had that project, if the program had been more widely available there would have been more and we had some 16 applicants who were followed up because of serious concerns about their welfare. If you don't want to say exactly what that fear was, but it was a very serious concern. Now, we've had discussions with the four major banks about the financial circumstances of a lot of those clients and we've asked them not to take action anyone that we notify them of.³⁵

Mark Shehata, operations manager at Exclusive Cab Management, considered that payments through the Fairness Fund should be honoured regardless of whether the Bill passes or not.³⁶

Hon. Jeff Kennett AC provided evidence at a public hearing in a personal capacity as an advocate for the taxi industry. He told the Committee of several concerns he holds relating to the Fairness Fund:

32 Richard Bolt, Secretary, Department of Economic Development, Jobs, Transport and Resources, *Transcript of evidence*, 23 May 2017, p. 2.

33 Ibid., p. 5.

34 Bronwyn Lincoln, Partner, Corrs Chambers Westgarth, *Transcript of evidence*, 23 May 2017, p. 33.

35 Prof. Denis Nelthorpe, Chief executive officer, Westjustice, *Transcript of evidence*, 24 May 2017, p. 14.

36 Mark Shehata, Operations manager, Exclusive Cab Management, *Transcript of evidence*, 23 May 2017, p. 42.

... the Fairness Fund has been established outside of legislation. It could be stopped tomorrow. Any claims that are made of the Fairness Fund may not be honoured. I am not saying that they will not be honoured, but they could be. I think it is important that the legislation be amended to recognise the Fairness Fund and to put within that, if you can, the guidelines by which those who sit on the Fairness Fund are adjudicating the claims of the licence-holders. So I am suggesting that there should be legislation to recognise the Fairness Fund.³⁷

Mr Kennett recommended removing the cap on the fairness fund so that all legitimate claims could be honoured.³⁸

Other stakeholders discussed the tax implications of payments under the Fairness Fund. Eleanor Fitz, a director at Amalgamated Taxis Wodonga, said that payments provided under the fairness fund will be taxed at 'crippling' levels.³⁹ Mark Sehata questioned payment arrangements:

When anyone bought a licence they bought a licence with after-tax money. Why is it that now that that licence is being cancelled we are being taxed on the money?⁴⁰

Similarly, Mr Kennett stated:

... [we are concerned that] that any payment will in fact be taxed by the commonwealth government — the ATO — which, to me, is just totally unacceptable because this is not money that they have been given in a way. It is not money that has resulted in individual benefit. This would be money that compensates for fair capital value of a licence. It is not to replace anything else but the reduction in the value of the licence.⁴¹

Mr Kennett later added:

I think there needs to be a new clause added, which is a very simple clause that says that any payment made under either the transition fund or the Fairness Fund is a payment that attempts to recognise the fair capital value of the licence that is being removed. I am not a draughtsman, but it does not have to be much greater than that. There just has to be a statement there that is specifically designed, as you would understand, to give the ATO a clear understanding of these payments, because I do not want to see people get their transitional fund treated one way and any Fairness Fund treated another. It would be grossly unfair, because no one is going to be compensated or given value to the total capital value of the licence, so it will be a lesser amount in two components. To tax then one part of the component further reduces the capital value, so this is nothing else but fair capital value. I think it just needs a simple clause which designates what the payments represent.⁴²

³⁷ Hon. Jeff Kennett AC, *Transcript of evidence*, 23 May 2017, p. 53.

³⁸ Ibid.

³⁹ Eleanor Fitz, Director, Amalgamated Taxis Wodonga, *Transcript of evidence*, 23 May 2017, p. 37.

⁴⁰ Mark Shehata, Operations manager, Exclusive Cab Management, *Transcript of evidence*, 23 May 2017, p. 42.

⁴¹ Hon. Jeff Kennett AC, *Transcript of evidence*, 23 May 2017, p. 53.

⁴² Ibid., p. 57.

Andre Baruch provided the view of the Victorian Hire Car Association:

... our view is that compensation should be the value of taxi and hire car licences on the day before the day that the government made its announcement. In the case of hire cars this is a fixed amount of \$40 000 per licence. The Taxi Services Commission continues today to sell licences at this value. Out of this compensation, licence-holders will in many cases have to pay redundancies to staff and tax⁴³

Mr Baruch recommended amending the Bill to include a compensation scheme for existing licence holders.⁴⁴

The Committee acknowledges that the compensation package for taxi licence holders is a significant cost to government, and that there is no apparent legal obligation to provide financial assistance.

The Committee also realised that there will be some taxi licence holders who will experience substantial losses due to changes to the industry. Whilst this can be attributed to a series of factors, government intervention has clearly had a negative impact on these people. There will also be applicants who see their Fairness Fund applications rejected.

However the Committee heard evidence submitted during public hearings that the uncertainty of reforms had significantly affected the physical and mental health of some licence holders. Although the framework for compensation is not currently provided in the Bill, it is crucial that the compensation package provided to the taxi industry ensures a fair and equitable outcome.

RECOMMENDATION 1: That the Victorian Government amend the Commercial Passenger Vehicle Bill 2017 to:

- recognise that the primary purpose of the levy is to provide support to existing taxi-cab licence holders through the Fairness Fund and transitional financial assistance payments
- qualify the status of payments to ensure recipients are not financially disadvantaged
- provide for a reduced rate of levy in rural and regional areas
- specify a sunset clause for the levy's operation.

RECOMMENDATION 2: That the Victorian Government remove the \$50 million cap on the Fairness Fund to ensure that all legitimate claims for compensation can be honoured through revenue raised by the commercial passenger vehicle levy.

⁴³ Andre Baruch, Vice president, Victorian Hire Car Association, *Transcript of evidence*, 23 May 2017, p. 16.

⁴⁴ Ibid.

2.2 Licence reforms

There are two categories of taxi licences issued under the *Transport (Compliance and Miscellaneous) Act 1983*:

- Perpetual taxi licences, issued before 2014 and purchased from the Government outright.
- ‘New taxi-cab licences’, annual taxi licences that were introduced in 2014 following reforms to the taxi industry. Section 143AB of the Act states that these licences:
 - are merely a permission to operate a taxi ‘on a highway’
 - are not personal property
 - do not vest by operation of law in any other person
 - may be transferred but cannot otherwise be dealt with by the licence holder
 - cannot be assigned.⁴⁵

The Act also provides for three categories of licences for hire cars:

- hire car licence, for pre-booked point-to-point commercial passenger vehicle work
- special purpose vehicle licences, issued specifically for weddings and tours
- restricted hire vehicle licence, issued for pre-booked services using:
 - vehicles over 25 years old
 - vehicles used for services not available to standard hire cars (e.g. motorcycles, tricycles, off-road, 4WD, adventure or tour vehicles)
 - vehicles with a seating capacity between 8 and 9 seat used in connection with a tour package.⁴⁶

Clause 34 of the Bill amends the *Transport (Compliance and Miscellaneous) Act 1983* to introduce licence reforms. Under proposed sections 358 and 359, all restricted hire vehicle and special purpose vehicle licences become hire car licences.

The Bill also proposes to repeal sections of the *Transport (Compliance and Miscellaneous) Act 1983* that prescribe annual licence fees for taxis and hire cars.

The base fee amounts for new taxi licences are provided in section 147A(2B) of the Act. As of 1 July 2014 they are subject to annual increases of the CPI index minus .05 per cent per year.

Table 2.2 below lists the annual fees for taxi licences at the time of writing.

⁴⁵ *Transport (Compliance and Miscellaneous) Act 1983* (Vic), 9921 of 1983, section 143AB.

⁴⁶ Taxi Services Commission, ‘Hire car owners and operators’, viewed 30 May 2017, <taxi.vic.gov.au>.

Table 2.2 New taxi licence annual fees

Zone specified in licence	Conventional taxi annual licence fee	Wheelchair accessible taxi licence fee
Melbourne Metropolitan	\$23 017	\$19 250
Urban and Large Regional Zone	\$23 017	\$19 250
Regional Zone	\$11 509	\$11 509
Country Zone	\$3 556	\$3 556

Source: Taxi Services Commission, 'Fees and charges', viewed 10 May 2017, <taxi.vic.gov.au>.

Perpetual taxi licence annual fees are either \$538.40 or \$52.90 depending on the licence holder's total number of cabs in operation and nature of the licence.⁴⁷

Sections 142(2A) and (2B) of the Act stipulate licence issue fees for hire car licences as \$40 000 for the metropolitan zone and \$20 000 for the country zone respectively.

Fees for special purpose vehicle licences are published through the Government Gazette. At the time of writing this was \$2000.

Hire car, special purpose vehicle and restricted hire vehicle licences are subject to an annual fee. This is \$152.40 at the time of writing.⁴⁸

2.2.1 Impact of revoking perpetual taxi licences

Proposed section 360 under clause 34 revokes all perpetual taxi licences and grants each licence holder a new taxi licence.

The intention to revoke existing perpetual taxi licences has essentially reduced the value of these licences to zero. This is a serious issue for many licence owners, some of whom paid over \$500 000 for a single licence.

Bronwyn Lincoln, representing the Victorian Taxi and Hire-car Families, described the implications of the revocation clause on perpetual licence holders:

Under the proposed [section] 360, all perpetual licences, which are assets, cease to exist, so it revokes them immediately upon the coming into force of law of the bill. Taxi licence holders who have secured loans against those will expect a call from the bank or the financial institution, and we know anecdotally that where these licences have been provided as security, the banks are already communicating with these licence-holders. So they are getting calls: 'Where is your security?'. There is no security for the loans. Many of the banks will then look to these people's houses, so the place where they live is at risk.⁴⁹

⁴⁷ Taxi Services Commission, 'Fees and charges', viewed 10 May 2017, <taxi.vic.gov.au>.

⁴⁸ Ibid.

⁴⁹ Bronwyn Lincoln, Partner, Corrs Chambers Westgarth, *Transcript of evidence*, 23 May 2017, p. 33.

Haydn Carmichael, a barrister also representing the organisation, noted that revocation or acquisition of perpetual licences was not proposed in the Fels inquiry.⁵⁰

Mr Sehata noted the distinctions between licence holders and taxi operators. He stated that a major concern for licence-holders is a loss of an income stream when the licences are cancelled.⁵¹

Stephen Armstrong, president of the Victorian Taxi Association told the Committee of the impact of lost licence values on the Ballarat Taxis cooperative:

... the licence value that we will be losing, that the cooperative holds, is in the vicinity of \$900 000. There is a difficulty that emanates from that when we go to a bank. We run a fleet of eight wheelchair-accessible taxis, which are not cheap to operate in any sense of the word. In fact I have submitted our costings to previous inquiries about the break-even nature of that business — and if you are in business to make money you would just not bother doing it. The stress that that would put on us as a cooperative to try and obtain finance and continue the service as it is now, it would probably be almost impossible for us to continue along the lines we are now.⁵²

In correspondence to the Committee after the hearings, Bronwyn Lincoln, on behalf of Victorian Taxi and Hire Car Families, suggested a number of amendments to the Bill:

- (a) an acknowledgement that the proposed s 360 (clause 34 of the Bill) deprives each holder of a perpetual licence of property rights;
- (b) an obligation on the Victorian Government to make a capital payment to perpetual licence holders for each licence held by them (whether assigned or not at the date the Bill comes into law);
- (c) a requirement that the capital payment be made in a lump sum immediately following the revocation of the perpetual licences; and
- (d) a clearly articulated, transparent, equitable and non-arbitrary model for the valuation of perpetual licences, this model to be based on market value valuation methodology.

The Committee acknowledges that perpetual taxi licence holders will experience an immediate and significant capital loss when their licences are revoked. In many cases these licences have been used as securities for mortgage and other loans.

The Committee considers it imperative that compensation payments for licences are made to licence holders at the outset, rather than provided over a longer period of time. The Committee also acknowledges that this will incur a significant expenditure for the Government, however it is confident that the provisions of the \$2 levy will fund the total of the payments.

⁵⁰ Haydn Carmichael, *Transcript of evidence*, 23 May 2017, p. 39.

⁵¹ Mark Shehata, Operations manager, Exclusive Cab Management, *Transcript of evidence*, 23 May 2017, p. 24.

⁵² Stephen Armstrong, President, Victorian Taxi Association and Chair, Ballarat Taxis, *Transcript of evidence*, 23 May 2017, p. 63.

RECOMMENDATION 3: That the Victorian Government consider increasing compensation to primary and subsequent licence holders in an independent and clearly articulated, transparent, equitable and non-arbitrary model for the valuation of perpetual licences and that this model be based on market value valuation methodology.

RECOMMENDATION 4: That the Victorian Government provide compensation as lump sum payments at the outset of revocation of taxi licences.

The Committee notes that there have been issues raised regarding the impact on the property rights of licence owners under state and federal human rights and constitutional law.

The Committee does not have the expertise to address the issues of constitutionality that have been raised. Due to the timeframe of the inquiry and limited resources the Committee was not able to engage advice on these matters. However the Committee notes that this issue has been addressed by the Scrutiny of Acts and Regulations Committee, which took no action on the matter.

As Professor Denis Nelthorpe stated, it is now important to resolve current issues and to provide solutions to those effected:

What I would say is this is a bit like saying, you know, Kodak might have thought there were unconstitutionality in legislation governing their new competitors. Ride-sharing is here to stay. There are segments of the population like the younger ones who are going to use it. What we need to do is sort out the best solution we can for the problems we have and I'm really not sure as a lawyer, I'm not sure that resorting to the fine print to find a short term way of interfering with this. Obviously it would be better if the legislation survives a constitutional challenge. But ultimately I'd say to those who want to challenge it in that way, your licences might end up worth nothing if you wait long enough. These payments are not - for instance, if you bought one in the last three years or four years, these payments are not going to cover your losses, there's no way, I don't think. But I actually think that the mental health issues, the relationship issues and the financial issues need to be brought to a head.⁵³

The Committee considers that ongoing lack of resolution of issues raised by the Bill will do little to address the issues raised by the taxi industry. Further uncertainty will only add to the hardship these stakeholders have experience and not address the substantive issue of fair and equitable compensation.

2.3 Accessibility issues

As noted in the Committee's report of the Inquiry into Ride Sourcing Services, disability access is a key issue for the commercial passenger vehicle industry.

Stephen Armstrong, Chair of Ballarat Taxis, described the impact of the Bill on his company:

⁵³ Prof. Denis Nelthorpe, Chief executive officer, WEstjustice, *Transcript of evidence*, 24 May 2017, p. 15.

... our shareholders cross-subsidise the running of our wheelchair-accessible taxis. What would have to happen is we would have to go to our members to ask for more money to subsidise that. I do not think that is going to happen under the current structure and the reforms as they are set out now. That would put enormous pressure on our ability to service the disabled community.⁵⁴

Similarly, taxi driver Lou Bougais told the Committee that reforms to the taxi industry have reduced the incentives to operate wheelchair-accessible taxis:

... for the Taxi Services Commission to actually get people to drive and own wheelchair-accessible taxis requires those people to be incentivised. That incentive now appears to be leaving, and I know for a fact that many of the chaps who have got wheelchair-accessible taxis are handing them back. They are not interested in driving them anymore because there is no income in it for their families.⁵⁵

Lauren Henley from Blind Citizens Australia was concerned about subsidies for passengers with a disability:

One of the issues that the people we represent face at the moment is they get a half-price subsidy to cover the cost of taxi fares ... but some people would prefer to use rideshare services because they have found personally that there is a higher level of service with one of those companies ... but their half-price subsidy at this point in time does not extend to those services. So the flexibility and the choice and control that this sharing environment is supposed to create is not necessarily there for people with disability at this point in time.⁵⁶

The Committee anticipates that the provisions of the Bill will extend existing taxi transport concessions to all commercial passenger vehicle trips, including ride sourcing services. However it is crucial that the government provides these concessions to give passengers with a disability greater choice for their transport options.

In resolving the issues that have been raised on disability access in relation to commercial passenger vehicles the State Government should endeavour to introduce comprehensive regulations to ensure greater access in the future. The Government should seek advice from disability advocates in drafting regulations.

RECOMMENDATION 5: That the Victorian Government ensure that:

- existing Multi Purpose Taxi Program concessions for passengers are extended to all commercial passenger vehicle trips
- these trips are exempt from the levy.

⁵⁴ Stephen Armstrong, President, Victorian Taxi Association and Chair, Ballarat Taxis, *Transcript of evidence*, 23 May 2017, p. 63.

⁵⁵ Lou Bougais, *Transcript of evidence*, 23 May 2017, p. 49.

⁵⁶ Lauren Henley, Policy and advocacy coordinator, Blind Citizens Australia, *Transcript of evidence*, 23 May 2017, p. 77.

2.4 Uncertainty of changes

The majority of stakeholders agreed that further delays to the introduction of changes are only exacerbating issues faced by the taxi industry. The Committee heard very troubling evidence on the impact on taxi licence holders and their families.

The Committee is also aware that there are ride-sourcing organisations such as London Rides who are eagerly awaiting the implementation of legislative change to legally establish ride sourcing businesses in Victoria.

Further, Georgia Nicholls from the Victorian Taxi Association highlighted the impact that uncertainty has had on the industry's ability to introduce innovative practices such as new disability programs:

The concern with this first stage, if you like, of reform not being progressed ... as quickly as possible is there are a number of things that the government have committed to do and that have been announced publicly, including a review of accessible transport services more broadly, some very considerable integration issues with the NDIS rollout, which continues to happen across Victoria, as well as the future of MPTP subsidy programs and the like, and we cannot move forward with those conversations without an understanding of where we sit on these kinds of fundamental questions around licensing. There are very, very considerable commercial concerns particularly around the NDIS which cannot really be productively explored without some certainty on these fundamentals.⁵⁷

Accordingly the Committee believes that it is imperative for the Legislative Council to finalise debate on the Bill before the Parliamentary recess at the end of June 2017. This will enable the Government to establish a fair and equitable compensation process and provide certainty to taxi licence holders, ride sharing operators and other stakeholders.

RECOMMENDATION 6: That the Victorian Government provide a response to the Committee in time for the Parliament of Victoria to finalise debate and pass the Bill, with amendments as suggested through this report's recommendations, by 22 June 2017.

⁵⁷ Georgia Nicholls, Chief executive officer, Victorian Taxi Association, *Transcript of evidence*, 23 May 2017, p. 63.

Appendix 1

Public hearings

Tuesday 23 May 2017 — Federation Room, Parliament House, Spring Street, East Melbourne

Name	Position	Organisation
Mr Richard Bolt	Secretary	
Mr Paul Salter	Director, Policy and Regulation, Intergovernmental Relations, Transport for Victoria	Department of Economic Development, Jobs, Transport and Resources
Mr Adam Ockwell	Director of Operations	Taxi Services Commission
Mr Rod Barton	President	Victorian Hire Car Association
Mr Andre Baruch	Vice-President	
Mr David Samuel	General Manager	13CABS
Mr Stuart Overell	Chief Operating Officer	
Ms Bronwyn Lincoln	Partner	Corrs Chambers Westgarth
Mr Haydn Carmichael	Barrister	
Mr Mark Shehata	Operations Manager	Exclusive Cab Management
Ms Eleanor Fitz	Director	Amalgamated Taxis Wodonga
Mr Illias Bougias	Taxi Driver	
Mr Gerald Fanning	Industrial Relations and Human Resources Consultant	
Hon Jeff Kennett AC		
Ms Georgia Nicholls	Chief Executive Officer	Victorian Taxi Association
Mr Stephen Armstrong	President	
Mr Elgan Potter	Director	London Taxis
Mr Mark Wilson	Managing Director, Victoria	
Mr Graeme Newman		All Aboard
Ms Lauren Henley	Policy and Advocacy Coordinator	Blind Citizens Australia

Wednesday 24 May 2017 — Legislative Council Committee Room, Parliament House, Spring Street, East Melbourne

Name	Position	Organisation
Mr Lucas Groeneveld	State Manager, Victoria and Tasmania	Uber
Prof. Denis Nelthorpe	Chief Executive Officer	WEstJustice
Mr Vasko Nastevski	Manager Legislation and Government Relations, Policy and Legislation	State Revenue Office

Appendix 2

Transcripts

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TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into the Commercial Passenger Vehicle Industry Bill 2017

Melbourne — 23 May 2017

Members

Mr Bernie Finn — Chair

Mr Khalil Eideh — Deputy Chair

Mr Jeff Bourman

Mr Nazih Elasmr

Ms Colleen Hartland

Mr Shaun Leane

Mr Craig Ondarchie

Mr Luke O’Sullivan

Participating members

Mr Greg Barber

Ms Samantha Dunn

Mr Cesar Melhem

Mr Gordon Rich-Phillips

Witnesses

Mr Richard Bolt, Secretary, and

Paul Salter, Director, Policy and Regulation, Intergovernmental Relations, Transport for Victoria, Department of Economic Development, Jobs, Transport and Resources; and

Adam Ockwell, Director of Operations, Taxi Services Commission.

The CHAIR — We might get this show on the road, given that we have quite a schedule today. If we get behind at the beginning, we are going to be in strife for the rest of the day. I extend a welcome to members of the public who are here and also welcome our three witnesses this morning for our first session.

The committee is hearing evidence today in relation to the inquiry into the Commercial Passenger Vehicle Industry Bill 2017, and the evidence is being recorded. To the witnesses: welcome to the public hearing of the economy and infrastructure committee.

All evidence taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action from what you say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege. So here is an opportunity if you are really that way inclined.

Could I ask you to address the committee for a period of time, and we will then allow questions after that. Perhaps if I could ask the three of you to tell us your name and where you are from to begin with for the record, we will take it from there.

Mr BOLT — Thank you, Chair. Thank you, members of the committee. It is a pleasure to be here. The invitation is appreciated. I am Richard Bolt, Secretary of the Department of Economic Development, Jobs, Transport and Resources.

Mr OCKWELL — I am Adam Ockwell, director of operations for the Taxi Services Commission.

Mr SALTER — I am Paul Salter from the Department of Economic Development, Jobs, Transport and Resources, working for Transport for Victoria.

Mr BOLT — I will give a brief introduction. As the committee is well aware, the terms of reference of this inquiry cover the detail of the Commercial Passenger Vehicle Industry Bill 2017. I will also say a few words about the transition package that forms part of the rideshare reforms even though that is not strictly part of the bill or enabled by the bill directly.

The contents of the bill I will briefly summarise. The members of the committee are all familiar with it, but for the sake of setting the scene: as you know, it was introduced into the Legislative Assembly in March and passed by the Assembly unamended. You are now considering it in the Council, and it has been referred to this committee. It implements licensing reforms. It abolishes the annual taxi and hire car licence fees of up to \$23 000 and \$40 000. It establishes one type of hire car licence and one type of taxi licence. Each licence is made available through the provisions of this bill at an administrative cost only. Taxi zones and fair regulation continue to apply for the transitional period, by which we mean the transitional period which is intended to end with the coming into force of a second act, a bill for which is intended to be introduced later this year.

The bill also establishes the commercial passenger vehicle levy, which is equivalent to \$2 on all commercial passenger vehicle trips. The bill, however, does not prescribe that it must be added to each trip. It simply requires it to be funded per trip, and how that is then passed through is a matter for providers and the market. It can be reduced to an amount less than \$2 by regulation subject to CPI indexation. Liability for the levy is placed on the booking service provider, which is defined in this legislation for booked services. For unbooked services, it is either jointly the booking service provider and an affiliated trip provider — if there is such an relationship — or, in the absence of that, the provider.

Additionally the bill provides, related to the previous point, for a new definition for booking service providers and importantly creates a new offence to accept a booking request from a booking service provider that is not accredited. The reasons for those can be explored. It provides new powers to the Taxi Services Commission to seek injunctions from the Supreme Court and take administrative action in response to non-compliance.

I will briefly just recap — again familiar territory to members of this community — the industry support package. It is not in the scope of the bill. The relevance of canvassing it now is because the levy at \$2 is predicated essentially on recovering the cost of that industry support package. An obvious question arises: what is the size of the package, and is it expected to be delivered in full? I should say the answer is yes, and it comprises the \$50 million Fairness Fund, which closed very recently. We are still sorting through applications and to begin a process of assessment and working with external auditors so that every one of them is assessed

case by case. We expect applicants to be notified by mid-2017. Payments are expected to be made progressively.

The \$332 million transition assistance payments, that being the \$100 000 for a first licence and \$50 000 for up to three more to eligible perpetual taxi and hire car licence holders and scaled equivalents to those amounts for other forms of licence. These will begin to be paid following passage of the bill. So once the levy is in place and able to be collected, then those payments will flow. There has been clearly no shift in the estimated payment of \$332 million for that proportion of the industry support package.

Finally, the \$112 million in rebates and forgone licence revenue for all eligible existing annual fee paying licensing holders constitutes a third element of the industry support package. That is a five-year figure, that \$112 million. That is in a sense an arbitrary figure. If we took it over 10 years we would be talking, roughly speaking, double that amount — with a small allowance for possible expected indexation. There is of course the \$25 million of additional funding to assist in the provision of the multipurpose taxi program. So all of those elements are still in place, and it is worth perhaps saying that under any reasonable assumptions of trip numbers and of the level of compliance and administrative costs the recovery of the cost of the full cost of the package will take at least eight and almost certainly more years to effect.

There are questions that have been raised in respect of the bill that I should address, which is the size of the levy. You will have heard words of this kind before, but I will repeat them to open the discussion. The \$2 amount strikes a balance between the immediate impact on consumers, bearing in mind that with the removal of licence fees and other costs and the impact of competition the net effect on trip costs is not simply a question of adding \$2 per trip. In fact we would expect that there is a good argument or indeed reasonable expectation that trip costs in net terms should not go up and should in fact on average go down. That is not a guarantee we can provide, but there is good analysis to support that, or a good expectation that that would occur. So on the one hand it strikes a balance between the immediate impact on consumers, on customers, on travellers, and on the other hand it provides recovery of a fair and reasonable package of assistance that I have just outlined to ensure that industry participants, some of whom are clearly going to be affected adversely by the reforms in total, get some assistance — significant assistance — to go through what is a significant transition for them. So it is a balance between those two. It is a matter of policy judgement, and it has been rehearsed effectively, I think, by this committee in its previous phase of inquiry to which I gave evidence some time ago.

To repeat an earlier point: the size of the industry assistance package dictates the period the levy is in place. A smaller levy amount would require a longer period of time. How long the levy stays at this level is a matter for future political judgement. As I said before, it would take at least eight to 10 years for cost recovery to be done in full. There is a mechanism in the bill to reduce the levy below \$2, including to zero. And there are clearly a couple of parliamentary terms between now and when that period of cost recovery would come up, which allows plenty of time for the community and the Parliament to make a call as to whether and, if so, when to reduce that levy or eliminate it completely by review.

The net revenue that comes from the \$2 levy, which starts in the first full year of 2018–19 at \$44 million on our best estimate, is simply a calculation of the number of trips adjusted for a combination that leads to compliance costs, and clearly those two things interact with each other. The more enforcement there is, one would expect a higher compliance. Where that sweet spot is between the two is clearly going to be calibrated by experience, but we are making a reasonable assumption that at a starting point of 28.8 million trips we would get something like \$44 million in that first year. But when I mention those 10 years for cost recovery, that particular figure is durable or robust against some substantially higher trip assumptions, and we can explore that.

So I think those are the substantial points, Chair, that I wanted to make. The bill — to repeat — has two key purposes: to implement licensing reform and introduce the levy and set the scene for delivering this package, which is the largest assistance package provided, certainly in this country, to an industry undergoing substantial technological and service disruption, and at the same time it sets the scene for providing a higher level of choice and safety for passengers, more flexibility for the industry and a full implementation of the reform in the second phase of legislation. I will leave it there.

The CHAIR — Thank you, indeed, Mr Bolt. I might start with the questioning, if I may. You mentioned that there is the possibility of a levy increase by future administrations, I think were your terms, or future governments.

Mr BOLT — No, I did not. I said I have spoken — —

The CHAIR — No, you also mentioned ‘increase’, I distinctly heard.

Mr BOLT — Can I clarify that, Chair. The bill makes provision for indexation of the levy.

The CHAIR — That is an increase, is it not?

Mr BOLT — That is an increase. But an act to substantially increase, other than simply in accordance with inflation, the levy is not available. That mechanism does not exist in the bill. The only mechanism in the bill is to reduce the levy by \$2. Paul may be able to clarify the indexation provisions. We can go to the relevant section, just to be very clear where that is and how it operates. But it is not open to a government, as a purposeful act of increasing revenue, to raise the levy. No, there is no executive power in this bill for that to occur. It can only be reduced, including to zero.

Mr SALTER — Just to add to what Richard has just said, I refer members to clause 12 of the bill, and subsection (3) of clause 12 provides the indexation mechanism. If, for example, the rate of CPI adjustment as measured by the relevant ABS index is less than a unit of 5 cents, then it basically rounds down. So under the current inflation levels that we have experienced in the first year nothing would actually happen, just to give you a bit of a worked example. Subsection (2) of clause 12 makes it clear that the regulations may specify an amount less than \$2, so it is enabled to reduce the levy by regulation, and that is reinforced by clause 20, which specifies the specific regulation-making powers that are available to the executive through Governor in Council. Subsection 1(b) says specifically that the Governor in Council may make regulations for and in respect to specifying an amount less than \$2 as the amount of the levy.

The CHAIR — So in fact we are not talking about a \$2 levy. Taking indexation into account, we are talking about in excess of \$2.

Mr BOLT — In nominal terms it could rise above \$2; in real terms it will not. In real terms it will remain a \$2 trip levy.

The CHAIR — But in terms of actual dollars and cents it will be more than \$2, due to indexation.

Mr BOLT — Yes.

The CHAIR — Why is there no sunset clause on the levy? Does the department not have the ability to foresee how much is being spent and how long it will take to recoup those costs?

Mr BOLT — The choice of whether to sunset it outright or to leave that for future judgement, given the uncertainty around how much will be recovered and when the recovery of the cost of our system will be acquitted, ultimately clearly is a policy choice for the minister and for government. I would just repeat my point earlier that because on our best estimate it will take at least — and this is on very optimistic assessments of the number of trips — at least eight years for cost recovery to occur and more likely quite a lot more than that, there is a lot of time for the community and, if I can put it this way, the democratic process to work out whether to reduce it to zero, which is effectively the same as to repeal the requirement, or to repeal it outright and take it out of the statute book. I just make the observation that that is available. But the question about whether to put in a sunset clause or not is a policy question that I am not really at liberty to speculate on.

The CHAIR — Yes. We would love to have the minister here to ask her about that. In relation to the transition assistance or, as most people refer to it, the compensation — and I know we have more than touched on this in our previous inquiry — just for the record with regard to this bill, why have the figures that we have been decided upon?

Mr BOLT — As you say, it has been canvassed extensively. It was not my purpose to come here and recanvass that evidence particularly. Again, it was a judgement based upon what was fair and reasonable, taking into account a number of factors, including the extent to which the disruption to the current form of taxi service was in fact driven by, if you like, an external force — namely, the emergence of rideshare applications. It was not done by a direct fiat of government, and it proved impossible, impracticable, to indeed attempt to enforce equity with taxis from that. It means that to an extent what has occurred here is the product of consumers

choosing the new service rather than government itself deciding what had to be done. So there are a number of factors, including that.

On the other hand, the government recognised that in introducing a very complete — in fact uniquely complete — set of reforms such as this, some parties that were owners of perpetual licences would be affected and that a substantial package of compensation, or assistance if I could put it that way, was appropriate, and it struck a balance based upon judgements which were essentially attempting to optimise those various considerations. And then of course the cost for the travelling public that the levy itself imposes had to be the other consideration. I cannot explain it to you any more than that because it was of course a judgement. It is not a formula that can be simply applied and said this is the right thing to do. That was the judgement that was made. The figures that were struck are those that we now know of. We have a levy in front of the Parliament to pay for it, and the government's very clear view is that is a fair, reasonable and balanced consideration.

The CHAIR — Given that there is a fair section of the community who are affected by this and who believe that the compensation is inadequate, is it within the power of the government to increase that compensation?

Mr BOLT — The government can make a policy choice to strike compensation, obviously at the level that it feels strikes that appropriate balance. A different government could make a different choice. Yes, this government has made that choice, and I am not really at liberty to speculate whether they would reconsider it. I would just make the point that the government has, as some committee members are well aware, extended the initial proposal, which was to compensate one licence at \$100 000 and a second at \$50 000, allowing for two more licences to be compensated at the level of \$50 000 each. So it was able to make an adjustment to apply a more complete coverage to the licence-holding community, if I can call them that. But that is the last adjustment that has been made, and that is where the package stands. I really cannot explain it better than that.

The CHAIR — But flexibility is possible in your view?

Mr BOLT — I would say it is a question for government about just how flexible it wishes to be. It is not a question for me to speculate on, Mr Finn.

Mr LEANE — The amount of levy in New South Wales to compensate in their jurisdiction is \$1. That is not in this bill, obviously. Why has this jurisdiction decided to go with \$2?

Mr BOLT — The New South Wales reform is, if you like, a very partial reform. I am advised they already recognise the need to consider extending to a second phase. Licence fees in New South Wales remain in place, and in this case they will not, subject to the passage of this bill. We are looking to enact the most complete series of reforms with substantial benefits to consumers and larger benefits to the travelling public but therefore to an extent that we crystallise impacts on a certain category of licence-holders and we increase the cost of this because we forego all of that licensing revenue I mentioned earlier. It makes sense to substitute for a larger loss of revenue for impacts that the government has decided to make the subject of a substantial assistance package. It seems appropriate to have a larger levy to pay for that. It is simply a matter of proportionality from the cost of the package and the recovery of those costs.

Mr LEANE — The government is proposing to financially assist licence owners for up to four taxi licences. What percentage of taxi licence owners would that cover?

Mr BOLT — My understanding is that 98 per cent will obtain assistance for every licence they hold — 98 per cent.

Mr LEANE — Just continuing on the compensation — and I know it is not necessarily in the bill, but it is a discussion point. In 2010 a licence was valued at around, I think, \$500 000 — I am happy to be corrected — and then by 2014 it halved in value to approximately \$250 000. That was under a previous government, and it was reformed in the previous government. So was compensation given to licence-holders because of the halving of the value of their licences in that period of time?

Mr BOLT — Before I go to the substantial answer, Mr Leane, we do actually have a table here — a graph here — which shows that trend and the fact that at the last known trading date last year the licence values at that point were down at more like 175 000 as a result of the entry of ridesharing. If the committee members were

interested, I can circulate this. I think this was also tabled by the minister at the public accounts and estimates committee recently at the same table.

The broad point in response to your question is that it is that loss of value — it is a substantial loss of value that has occurred due to what we would call market forces — that has led to government acknowledging or moving to saying that the barriers to entry into this market have been lowered to such an extent that the relatively constructed market with high barriers to entry that has supported high licence fees like this is no longer sustainable policy, and therefore the assistance package is a reflection of the fact that for some licence owners there has been a considerable impact, for which compensation is being provided.

I should have made the point earlier, by the way, there is another offsetting factor in those impacts, and that is we are not taking taxis off the road. Taxis will continue to have the opportunity to participate fully in the commercial passenger vehicle market, including in the rank and hail market, which is reserved for a small number of operators. So the value of the businesses has not simply been taken away entirely — another reason why, while indeed the loss of value is substantial and the amounts in the assistance package are less than that, there are offsetting reasons for why full restitution was not decided on.

Mr LEANE — I suppose I am mindful of giving the context. You mentioned that ridesharing has affected the value of the licences to some degree with whatever formula everyone's got — who knows. But the bottom line is — and this is where this bill comes in — that ridesharing operations have not been regulated, and it has been an un-level playing field there for the people doing the right thing.

Mr BOLT — Correct. That is exactly right. So we are now saying to taxi licence holders who are paying an annual fee of the size I mentioned earlier that through this bill you will be relieved of that. So the price of your participation in this market will be equivalent to that which the ridesharing provider will also have to pay, whereas currently, as you say, it is completely out of whack.

The CHAIR — I should take the opportunity at this point to welcome Samantha Dunn, who has been running the gauntlet of Melbourne's traffic, so welcome. That east-west link would have been really good this morning.

Ms DUNN — It would not have helped me at all, Mr Finn.

Mr BOURMAN — Thank you for your presentation, guys. I am pretty new to politics. I am very new to policy development, so I am going to ask some basic questions. One of the bigger problems with the whole issue has been compensation, and we have fairness funds and this, that and the other, so I am trying to figure out at what stage this became advice from the department and when it became just policy decisions by the government. Who decided what was fair? Was that policy or was that a case of the advice given?

Mr BOLT — The arbiter of fairness in any policy matter, Mr Bourman, is definitely the government of the day. Necessarily it is a judgement of values. The department provides advice — and I cannot disclose that advice to you because it is confidential between dealings with ministers about what the impacts of different scenarios may be. And without, as I say, disclosing any of the detail of any advice, there has been intensive interaction, if I can put it that way, between the minister and her department and the wider government in working out what the best approach to this may be.

Mr BOURMAN — Getting specifically to the issue and fairness, what experience would someone need to have in your department to give advice to the government, because obviously they would do policy on a taxi compensation scheme? Looking at the graph you have given us, the cost of a taxi licence in 1975 compared to 2010 is massive; the change is huge.

Mr BOLT — Yes, it is, but, as I say, there are a variety of factors which go to the government's decision as to what constitutes fair and reasonable in the context of that, given the extent to which it occurred due to external factors, given the extent to which existing licence-holders can continue to operate a business under the regime and given that someone has to pay for any assistance and the question about how much it is reasonable to expect taxpayers or in this case the travelling public to pay is also relevant.

As to who in the department is able to give advice on all of that, we have policy generalists, policy specialists. For example, we have the expertise of the commission and people in the department who understand the taxi

industry due to simply having overseen it for some period of time. As to people who understand what reasonable assumptions to make about what revenue collection is expected under this levy, that also comes from other departments, other portfolios such as the State Revenue Office. We draw on a wide range of expertise in coming up with advice to government on these things. It does not mean that we can have perfect foresight as to any of these matters because no-one does, but we feel this has been very thoroughly analysed as to the advice being given to this government on the subject.

Mr BOURMAN — Okay, so it would be fair to say that there was a range or an option at least presented to the government and the government decided whether that was fair or not.

Mr BOLT — We gave advice to government to enable it to choose where it thought the right answer lay as to the balance of the levy and of assistance paid and so forth.

Mr BOURMAN — Thank you. On the levy, the eight years or so, or maybe a little bit more, is based on full compliance, I am suspecting.

Mr BOLT — No.

Mr BOURMAN — No? On what level of compliance — just roughly.

Mr BOLT — It is based upon an assumption about the net impact of non-compliance and enforcement costs. I would rather not go into too much detail and reveal our hand to a levy-paying community, but I think we have made based on experience reasonable assumptions about the level of compliance. I can give members of the committee a table which specifies under different trip scenarios what the expected total and net revenues from this would be. The net revenues are a combination. They take the ideal full compliance figure that assumes no compliance costs and they make a reasonable deduction for the combination of compliance costs and non-compliance, if that makes sense to you.

Mr BOURMAN — It is kind of like bad debt.

Mr BOLT — Would members of the committee be interested to see this table?

Mr BOURMAN — Yes, please.

Mr BOLT — It also shows naturally enough as the starting point the total size of the assistance package. You will see the figures along the bottom of each of the scenarios in there which indicate the cumulative amounts to be recovered from the levy which you can then compare with the costs. That bears out my point that it takes quite some time for the levy to fully acquit the cost of the scheme.

Mr BOURMAN — One last question — and sorry to labour the point about levies. There are probably going to be ridesharing companies that are Australian-based, but my question really does not cover that. Having a law enforcement background and having a bit of an interest in international politics, I am aware there are obviously a couple of big players in the ridesharing industry that are not based in Australia and it is safe to say that the Supreme Court of Victoria has no sway in California. How are we — being the royal ‘we’ — going to be able to attack that as an issue to ensure that if there is going to be a compliance issue we can actually deal with it?

Mr BOLT — The essence of the answer to your question, I believe — and I will take a stab at what I think the right answer is and then defer to my colleagues to see if they have anything to add — is that a booking service provider will need to be, I think the word we have used here is, ‘accredited’ under this legislation. You have to be therefore an entity here and capable therefore of enforcement action being taken against you; otherwise you are outside of the law. What would happen if somebody attempted to operate a booking service internationally with nobody on the ground here, I suspect we have given consideration to that, but I personally do not have a direct answer.

Mr SALTER — One of the features that we have included in the bill is a new offence provision which essentially makes it an offence for someone to do business with someone else who is not accredited as a booking service provider. So if you have got people who are using their own cars to provide services and are signed on with one or more booking service providers, if you are using a booking service provider who is not accredited in this state then they themselves will be committing an offence. It is a mechanism that is being used

under the bill to incentivise compliance with those accreditation requirements, because if you are not accredited it becomes an offence for people to work with you. They will choose not to work with you; they will use the other choices that you were referring to in terms of Australian-based rideshare companies and those sorts of things. We have really tried to think through the incentives at play here with a view to getting compliance across the board. There are also new sanctions that are incorporated in the bill. For example, if there is a breach of those requirements to be accredited or to only work with people that are accredited then injunctions can be put in place and any breach of those injunctions can then result in court-based sanctions.

Mr BOURMAN — You have more faith in the system than I have. One last question: Sunset clause — there is none, either time or money. Do you know how that was arrived at? Was that policy or advice or whatever because it could go on forever, for all we know.

Mr BOLT — I thank Mr Bourman. If I can just come back to that question. I was about to add to Paul's answer, but I think I have lost the thought. Let me go to your question. I replied to this earlier in response to a question from the Chair. No, there is no sunset clause but there is a mechanism to reduce the levy to any amount less than \$2, including to zero.

Mr BOURMAN — Yes, the regulations.

Mr BOLT — And given the intention is that this levy will be given the task, so to speak, of covering the cost of the scheme and that there are on our best and most optimistic estimates at least two parliamentary terms between now and when that would occur, there is in addition to the executive or the regulatory power to reduce the levy plenty of opportunity for community and Parliament to consider whether it wishes to repeal or make some other adjustment to the scheme. I am not advocating that, I am not foreshadowing it, but I think I would just point that mechanism out. But yes, there is no sunset clause. That again is a matter for government as a matter of policy. It goes to the earlier discussion we have just had — that is, that of course we gave advice on various options and scenarios; the government took that advice and made a decision not to include a sunset clause. I cannot say more than that. The only question about that or debate about the validity of that or otherwise is best directed to the minister, and I am sure there will be discussions on that.

Mr BOURMAN — I guess I will leave it with one more comment because I am starting to hog the limelight, and that is that I have not known governments to let go of an income stream. I will leave it at that.

Ms DUNN — Thank you, gentlemen, for your presentation this morning. I have not had a good chance to digest this table, and correct me if I am wrong, but this table is indicating that, assuming there is no growth in trips, there are 28.8 million trips a year; is that correct?

Mr BOLT — That is the base case that you see there. Correct, yes.

Ms DUNN — The reason I ask that question is that I am just wondering what that figure is based on because I am sure that I have seen a different figure in relation to how many trips there are per annum already and that figure is far greater than that, so I am just wondering.

Mr BOLT — The struggle here, Ms Dunn — and I perfectly understand that there is a view out there that perhaps the entry of rideshare has stimulated additional business that otherwise was not being met — and the difficulty for us is that that is completely unmeasurable until this legislation is through. So for us to advise the government that there is a known revenue stream on the basis of trips we cannot count would be not to do our job.

On the other hand, as you can see in these tables, to recognise that that is a plausible question, we have offered a 35 million and a 40 million trip starting point in 2017–18, and estimated each by 1 per cent per year and applied the indexation of 2.5 per cent that I mentioned earlier, which is an assumption about inflation — we do not know what it will be — and even that shows in the most optimistic scenario from a revenue-raising viewpoint of 40 million trips in 2017–18 that we still do not get to break even until eight years from now.

Ms DUNN — So in terms of the figures here, are they simply taken from what is known of taxi trips at the moment, because that is really the only data that is available to you at this stage.

Mr BOLT — That is correct, yes.

Ms DUNN — Okay.

Mr BOLT — I do not know if anyone can add to anything there.

Ms DUNN — I am wondering if it is possible for the committee to get a better understanding of this. It is very hard picking through this issue in relation to licence-holders, firstly, how many individuals hold how many licences over what period of time, because I think that helps in terms of understanding and measuring fairness. It might be you have had the licence for many, many years, or someone who bought the licence for \$500 000. Do you have data on, firstly, how many licences are out there, how many owners own how many of those licences, how long they have been in operation and the price they paid for them? I know that is a big question, and I am happy to receive that information on notice.

Mr BOLT — It is a large question.

Ms DUNN — I do not expect you to reel it all off now.

Mr BOLT — I suspect the answer is we know everything but not necessarily every price that was ever paid. I do not know whether that is the case.

Mr OCKWELL — That is correct. We will not be able to know what price was paid for every licence, and obviously the duration of time, when someone held one over a period of time, without going back and doing some research in that particular space.

Ms DUNN — Yes. So you know that there is a pool of licences?

Mr OCKWELL — Yes.

Ms DUNN — But you do not necessarily know how long they have been in existence for?

Mr BOLT — We should know that, should we not?

Mr OCKWELL — We will have that data.

Ms DUNN — Yes, it is just the actual price they paid.

Mr OCKWELL — The price point, yes.

Mr BOLT — Can we take that on notice, Ms Dunn, and make sure that you get a decent profile of what information is available on the licence release volume as they have occurred over the years?

Ms DUNN — That would be terrific. I think the other part of that is understanding how many of those licences are held by individuals, or in some cases I believe there are companies who hold multiple licences as well. I guess for me it is about understanding how that transition assistance plays out in terms of a few owners with many licences or many owners with few licences, because that obviously impacts on the fairness element of that.

In terms of the \$2 levy it seems that there is an understanding that potentially that \$2 levy might not be passed on to the consumer because essentially you are not paying annual fees anymore. My concern around that is I just want to understand more how that assumption has been arrived at, because I have worked in the private sector and profit is generally an enormous motivation in the private sector. I am trying to understand why —

The CHAIR — Not a bad thing either, Ms Dunn, I might say.

Ms DUNN — Yes, generally it is the number one. I am just wanting to understand the assumptions behind assuming that the private sector will in fact absorb that \$2 levy, or part of, and not necessarily pass it on in whole to the passengers.

Mr BOLT — I think it comes down to what margins will competition dictate in a market that is going to be more open than it has been. It is not a case of saying, for example, that we would expect that there would be loss-making businesses plying their trade under this new regime. It is simply that if you take a cost away and add an impost that the impost is less than the cost. Under competition you expect prices to fall even as margins

are maintained. That is the essence of it. Whether margins are marginally — if you will pardon the expression — squeezed by competition being increased is another question you might raise. There will be no industry if it is not profitable, but that does not mean that prices cannot come down, because we are taking costs out.

Ms DUNN — Moving onto accreditation: if I am right, the booking service needs to be accredited and the driver needs to be accredited, and I just want to understand what that looks like in both those cases.

Mr BOLT — The accreditation of drivers and booking service providers, I believe — certainly drivers — is open already. What does it look like? I think either of my colleagues could be explaining that one. Should we toss a coin, gentlemen? Who would like to talk about it?

Mr OCKWELL — Well, the accreditation regime remains in place as it is right now. There is no change to that particular obligation going forward, although now we are in the proposed new bill.

Mr BOLT — But can you explain perhaps in a little more detail how that actually works — what is being assessed as for accreditation?

Ms DUNN — And that will apply to ridesharing drivers as well.

Mr OCKWELL — Yes, exactly right. With networks or booking service providers we look at the construct of the individual or the partnership or the company behind the network itself. With regards to the individual, in the accreditation process we look at obviously the individual itself, and embedded in the accreditation process itself is an ongoing requirement for police checking, medical history checking, driver infringement checking and the like. Then from that, once they become an accredited entity they go into our data-matching profile as well, which is the continuous monitoring through the Victoria Police database for criminal history.

Ms DUNN — In terms of the booking service accreditation, how does that work?

Mr BOLT — Is that yet operational? That is where I am not sure, because we obviously do not have any basis for that right now.

Ms DUNN — No, that is right, because it is only contemplated.

Mr OCKWELL — In regards to accrediting a traditional network, there is an accreditation regime for network service providers as well. Again it is a similar concept — obviously getting the information from those entities that wish to become a network service provider and working through the company structures, the partnership agreements and the way in which they want to construct that. We would do the same sort of due diligence going forward with that as well.

Ms DUNN — So those arrangements that are currently in place — they would also apply to ridesharing services and other services that might enter?

Mr SALTER — Yes. Just to make that clear, the bill only really changes the nature of the term. At the moment they referred to as ‘network service providers’. The bill changes the term to ‘booking service providers’ and broadens out that concept. But apart from that the existing accreditation regime requirements will continue to apply to those entities.

Ms DUNN — That is it for me for now.

Mr O’SULLIVAN — Thank you, Mr Bolt, for your presentation. I have just got a couple of questions, and my questions essentially are around some of the country aspects to this legislation. One of the things that you have said is that the costs recovery through the levy that will be charged will essentially pay for the buyouts and the compensation and so forth over about an eight-year period. Clearly in some of the country centres the payouts will be much sooner than the eight years. In Bendigo and Frankston they are saying it is about three and a half years, and in some of the smaller locations it could be even under a year before all the compensation and payouts are actually covered by the \$2 levy. In terms of those smaller regional centres and some of the larger regional centres, they will essentially have to continue to pay that levy even though they have paid out the compensation and so forth well in advance of the eight years that you mentioned in your presentation.

Mr BOLT — There is no provision in the legislation that will allow a differentiation of levy rates in country locations compared to Melbourne that I am aware of.

Mr O'SULLIVAN — Was there any consideration or advice given or modelling done by the department in relation to considering those options?

Mr BOLT — Again, to repeat the points I made earlier, those options and the advice we gave to government are confidential, simply because that is the nature of our arrangement.

Mr O'SULLIVAN — No, that was not my question. I asked if you actually prepared some modelling or some other sort of scenarios. I did not actually ask you whether you would present it here today.

Mr BOLT — But that is going to the question of what dialogue has occurred between government and ourselves. I think the main point would be: could such a thing be done, were we to be asked to do so? Well, clearly we could provide relevant options in that regard. I am not sure whether there are practical or legal constraints on actually making differentiations of that kind, but I really do not want to go to the question of what dialogue could be had with the government and ourselves except to say that there is no provision in the legislation, as decided by the government, to differentiate country areas from Melbourne in relation to the size of that levy.

Mr O'SULLIVAN — In terms of some of the compensations that are in place, would you think that that a future government or this current government will look at having a split system where perhaps country areas are different to city areas in terms of when the regulations are applied in terms of reducing the \$2 levy as you said might happen? Do you think there could be a separation between what happens in the city and what happens in the country?

Mr BOLT — Again, it is difficult territory in the sense that that question is probably best directed to the minister. But if we were asked to provide mechanisms for that to be done, well of course we would provide the minister with those. I do not know whether there is any factual information we can provide about the practicability of that. I am not getting that kind of encouragement from my colleagues, so I would simply leave it there to say that if we are asked, of course we will give further advice or advice on that subject.

Mr O'SULLIVAN — So would it be fair to say that country communities are essentially going to subsidise Melbourne communities in this space?

Mr BOLT — Would we say that? The question of how quickly cost recovery will occur — I think in essence your point is right as I understand it. I do not know whether the numbers specifically are correct, 3½ years or less than one year. But because licence fees are lower — because I understand trip levels in the country are pretty equivalent to those in the city — the licence fees are not just lower but a lot lower, then it is reasonable to say that cost recovery will occur more quickly if you looked at it simply as a question of where the cost is being provided in the country versus Melbourne.

Is that a cross-subsidy? I guess that is a matter for your judgement as to whether you want to call it that. Clearly the cost of the scheme is going to be more significantly, as I understand it, incurred in Melbourne relative to the rate at which the levy is recovered. Is there anything we can add at all as to the level of recovery in country Victoria?

Mr SALTER — No, I think the main point — just to reiterate what Richard has said — is that the offsets we have talked about in the sense of reducing licensing costs are less in the country than what they are in the metropolitan environment. So the discussion we have had in part has been about what the effect of the reduction in licence costs and the imposition of the levy have on fares and the effects on the community and consumers. The offsets are less in the country, so there is a high probability that there will be some flow-through in terms of fare impacts in those areas.

As we discussed here today, there are a number of other factors that have got to be brought to bear in relation to that. I think there is an assumption that the impacts in the country in terms of new services and so forth will be low, but I think that is yet to be seen. I think there are a lot of opportunities for the opening up of the market to actually lead to more service providers and more services being provided in country areas, and only time will show that.

Mr BOLT — I just want to add a little to the question of whether it is a cross-subsidy or not. Take what will sound undoubtedly like public servants having a bob each way, but it is nonetheless right to say that it depends on your viewpoint. If you look at the level of licence fees in country Victoria, you could argue that is a current subsidy that is being removed, and everyone is paying \$2 for every trip no matter where. That is in fact equitable and does not have any regard to location. Equally, you could put it the way you put it — that there is a cross-subsidy being removed. I think it could be argued either way. The question about where government wants to land with regard to providing concessions to country passengers or travellers versus those in the city is a policy question. You have raised it, and no doubt you will continue to raise it.

Mr O'SULLIVAN — I could ask a whole range of more questions in that space, but I want to move on to one other area in terms of the time that we have got remaining. That is in relation to taxis that cater for people with disabilities and wheelchairs and so forth. An example has come to my attention in the Bendigo area, where my office is, where essentially the co-op that is in operation in Bendigo cross-subsidises the provision of a service for disability services within the town. There are some 24 different operators that form part of that arrangement in terms of the co-op.

Under this scenario there is probably not going to be the money in the system in terms of that co-op to be able to provide those services to disabilities the same way they currently do, particularly in relation to the vehicles that are used for the transporting of people in a wheelchair. In terms of some of the detail of this legislation and compensation, is there something in it in terms of those sorts of operations being able to provide those services in a way that is going to be very difficult in terms of the service of this bill?

Mr BOLT — I think the question of the impact of reform on people with a disability accessing a multipurpose taxi program is a matter of high priority for government, as it clearly is for you and I am sure all members of the community. That is why the assistance package provides an additional \$5 million per year for five years to the multipurpose taxi program. The first two years of that will be spent increasing the lifting subsidy or lowering the lifting fee, whichever way you want to put it, assisting cost recovery there as well as maintaining the trip subsidy of 50 per cent. But as I understand it, it applies throughout Victoria. At the same time through the course of this year my department will review the accessibility framework, if I can put it that way, to see what further or better use could be made of those funds in later years.

We also have to have regard to what might happen under the national disability insurance scheme as to whether there will be a migration of travelling services, if you like, or mobility services to that scheme. The government is making no assumption that will occur and is certainly not factoring it into forecasts. It will maintain the subsidy until another lease and an appropriate alternative is made available.

On the question that you raise specifically, what I would like to do is just to invite you to give us more information on that, because it will obviously inform our review. Having a look at particular case studies would give us a much better idea of precisely what impact different regimes will have on mobility.

Mr O'SULLIVAN — Happy to do that.

Mr BOLT — Clearly with mobility in country Victoria, given as you have said there is an argument that there could be less choice available and equally there could be other choices available of the kind that you have mentioned — a community-based service — we need to understand and go into that with our eyes open to make sure we come out ahead as far as disability services are concerned.

Mr MELHEM — A quick question. Some people are saying to us that we pay everyone 250 000 a year per licence. What would be the cost of that if government agreed to that figure?

Mr BOLT — It makes me feel stressed to think about it, Mr Melhem. Do we have an estimate of what \$250 000 per year per licence for all licences would cost?

Mr SALTER — Over \$1 billion.

Mr BOLT — It is over \$1 billion compared to the \$332 million that the transition assistance package already includes.

Mr MELHEM — The second question I have — you made the comment earlier about the value of the business not taking away from existing taxi holders or owners. Can you expand a bit more on that? What you

mean by that? Does that mean they still can sell their business, because there is no licence fee anymore and you do not have to pay for the licence per se? Can you elaborate on what you meant by that?

Mr BOLT — There is still a business to be run. If you have a taxi, you are an accredited driver or you are employing them and you have a vehicle that is fit for purpose, and in the case of rank and hail you have the relevant camera equipment and other equipment required, there is still a business to be run. And a business that has a client base clearly has some potential value. I would have put it that way. If you have got accredited drivers and if you have got potentially some loyal customers, then you have a business that can earn a margin and therefore is presumably saleable. That is, I guess, the basic point. So, in other words, the analogy has been drawn between the Port Phillip and Western Port fisheries buyout and this scheme as to the level of assistance provided. Of course in the case of the fisheries we are moving to ending fisheries, but we are not moving clearly to ending taxi services. We are actually simply lowering the barriers to their entry.

The CHAIR — Gentlemen, thank you very much indeed. We do appreciate you being with us today and remind you that you will receive a copy of the transcript. Please proofread that, and that will be happening within the next two or three weeks. Thank you very much indeed for your time.

Mr BOLT — Thank you.

Witnesses withdrew.

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into the Commercial Passenger Vehicle Industry Bill 2017

Melbourne — 23 May 2017

Members

Mr Bernie Finn — Chair

Mr Khalil Eideh — Deputy Chair

Mr Jeff Bourman

Mr Nazih Elasmar

Ms Colleen Hartland

Mr Shaun Leane

Mr Craig Ondarchie

Mr Luke O’Sullivan

Participating members

Mr Greg Barber

Ms Samantha Dunn

Mr Cesar Melhem

Mr Gordon Rich-Phillips

Witnesses

Mr Rod Barton, President, and

Mr Andre Baruch, Vice-President, Victorian Hire Car Association.

The CHAIR — Gentlemen, welcome to the public hearings of the economy and infrastructure committee. All evidence taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action for what you say here, but if you go outside and repeat the same things, those comments may not be protected by privilege. In fact I would suggest you not try that out.

Could I ask you to begin by speaking for about 5 to 10 minutes, just giving us an outline of what your concerns are, and begin by stating your name and position for the record. We will ask some questions after that. Thank you.

Mr BARTON — Good morning. My name is Rod Barton. I am the president of the Victorian Hire Car Association. Andre Baruch is the vice-president. To keep me on a leash — we know we are tight for time — Andre will read a prepared statement to start with, and then we will go to questions after that.

The CHAIR — Yes, great. Go for it.

Mr BARUCH — Thank you very much. Good morning, committee members. We appear here in our capacities as president and vice-president of the Victorian Hire Car Association, and, in addition, our capacities as operators within the hire car industry. I am also the owner of taxi licences. The hire car association represents the great majority of the 2800 issued licences in the hire car industry. Each one of these is a potential small business. The VHCA also includes strong support and membership within the taxi fraternity. We deeply appreciate the support that many members of this Parliament have shown our industry in times of major change and repeated challenges.

Our goal today in the limited time provided is not to argue against ridesharing or to oppose the deregulation of the industry. Indeed the VHCA strongly supports the introduction of ridesharing in the proper form so as to support the interests and safety of the travelling public. We also have no in-principle objection to the operation of Uber if done in full compliance with the law and on a level playing field. Our remarks today relate purely to our concerns with the Commercial Passenger Vehicle Industry Bill 2017 as it currently stands, along with our recommendations for how this Parliament can safely, speedily and economically address the challenge facing the Victorian transport economy over the next five years.

Others will no doubt tell you about the difficulty that our industry is facing. Since the government's announcement of its intention to revoke taxi and hire car licences with compensation limited to partial payments well below purchase prices, we are aware of at least two suicides from families left penniless. We are aware of at least a dozen families facing homelessness as banks demand further collateral for loans, dozens of retirees who will effectively lose their entire superannuation, several hundred small businesses facing closure, and we have lost track of the number of drivers and their families seeking support for depression, anxiety and hopelessness. We are informed that the hardship fund, which was limited to only \$4 million, has been paid out in full and, further, that 50 per cent of this — half of the fund to help those with an immediate and pressing need — went to the fund administrator or somewhere else.

Our estimate is that within three years on the current model 20 000 Victorians will either have exited the transport industry or be earning below minimum wage. Many of these are older workers with little expectation of finding other employment. However, our focus is on what can be rectified within this bill. Specifically our concerns can be summarised as follows: one, the bill confiscates property without compensation; two, the bill imposes a substantial compliance burden on small operators; three, the bill imposes a cost burden which is too high and should be removed; four, the bill devalues businesses without providing a pathway to an exit or an industry transition; and five, the bill on our advice violates human rights and is grossly unfair to those who have built an industry over decades. As such, this bill has been referred to the scrutiny of acts committee to reconsider compliance of this bill with the charter of human rights in light of specific legal advice received from counsel.

No compensation: the bill revokes all existing perpetual taxi licences and hire car licences; no compensation is payable for the revocation. Those who have currently temporarily assigned their licences do not even receive a new licence. They will be required to reapply should they wish to obtain a new taxi licence. Please note that hire car licences cannot be assigned. This means that numerous agreements will likely be terminated before the legislation comes into effect. The VHCA has received numerous telephone calls from vulnerable operators trying to understand what this means for them and their businesses. Through our conversations with government we understand there is a promise of further process through which licence-holders will receive

some payments for some of their licences, though this is limited and of far less value than licences were worth before the government made its announcement. However, none of this is contained in legislation.

The bill before you simply revokes licences. There is no timetable for when the government will introduce legislation that will provide for payments to licence-holders. As such, the industry has been and continues to be frozen with no investment possible. Operators looking to exit the industry also have no certainty for when, if ever, they will receive anything.

The government has made it clear that the amounts that will be paid are not compensation but are ex gratia payments. We understand this is for legal reasons. Regardless of which way the government goes on this, what is vital is that the payment is brought forward to the immediate. At the very least that will prevent dozens of families from bankruptcy. Banks have called in loans against licences which were previously considered to be completely secure government-related debt. With immediate payment, the losses for licences will be more manageable and the future strain on already stretched government resources will be lessened.

On the topic of compensation, our view is that compensation should be the value of taxi and hire car licences on the day before the day that the government made its announcement. In the case of hire cars this is a fixed amount of \$40 000 per licence. The Taxi Services Commission continues today to sell licences at this value. Out of this compensation, licence-holders will in many cases have to pay redundancies to staff and tax et cetera et cetera.

Confiscation of property: we are not lawyers, and we understand you are in receipt of a copy of the legal advice we have obtained including from counsel. A copy of this can be found in the handout left with you today. It is clear law that taxi licences are property. This has been settled by the High Court. Hire car licence holders are being deprived completely of the value of their property. It is clear that the confiscation of property is a breach of the charter of human rights. However, it is also a betrayal; a betrayal of the confidence of thousands of investors, both from Victoria and overseas, that have invested in Victoria. The government has had use of the money for decades in some cases.

We actually have received communication from numerous overseas investors who are interested in launching claims under investor state dispute resolution treaties for compensation. Our understanding is that the treaties are very clear that compensation must be paid for assets confiscated at the value of the asset before the government announcement was made. In the case of taxi licences, we estimate this to be around \$400 000 per licence. Most of the foreign licence-holders are not members of the VHCA, but we expect there to be numerous potential class action claims. We believe the Victorian licence-holders should be compensated at the same rate as foreign licence-holders.

Outcome: we therefore submit that the legislation should be amended to be comprehensive and provide for the compensation within the same legislation to prevent the industry suffering further years of limbo, to allow operators to exit if they wish and to save families and pensioners from penury.

The levy: we do not object to the principle of the levy. This is a reasonable approach to revenue raising by government. Given that licence fees have been cut for taxis and hire cars alike, it is important that government has revenue that is raised to pay for regulation. However, we are concerned that the \$2 per trip levy will have a major negative impact on industry, which has already sustained heavy losses. The \$2 per trip levy will cause prices to rise for the public without seeing greater revenue for operators. We are particularly concerned because the legislation will impose a heavy regulatory reporting burden for small operators.

Many operators are quite small. For example, restricted hire car or special purpose licence holders who operate wedding vehicles might have 40 to 50 trips per year, and these could be all-day jobs. The quarterly reporting obligations mean that to deliver \$80 to \$100 revenue to government, the operator will have to report quarterly and spend much more than this on compliance and registration obligations. As an aside, looking at the collection of this revenue, there will be a far greater cost to the government to collect this revenue than they will ever get back from it.

We suggest avoiding the imposition of an inefficient tax which will cost the government money to collect. We suggest that all trips booked through a booking service provider be levied at \$1 per trip. However, directly booked trips should be levied only for operators or companies that undertake at least 75 trips in a given quarter.

This means that providers like Uber, Silver Top and Yellow Cabs will collect and remit the levy in full, but the State Revenue Office will be able to avoid adding thousands of new taxpayers with the attendant costs therein.

Other matters the committee should consider: broadly, we are gravely concerned about the future of our industry. The last 18 months have destroyed any trust that the VHCA and most industry operators have in government. The government has cracked down on compliance by taxidriver and hire car operators while completely ignoring the conduct of unlicensed operators. As previous parliamentary committees have determined, Uber remains illegal in Victoria. But the grand prix corporation — a government body no less — and the Spring Racing Carnival together entered into partnerships with Uber. Where the law is not being enforced, a vacuum develops. This is not good for the public's trust and travel operators altogether. The failure to enforce the law has devastated the belief of thousands in the fairness and basic reliability of government.

However, the VHCA takes a pragmatic approach. We would like to see regulation of the ridesharing industry with a view to ensuring three things. One, the viability of the industry into the long term with sustainable returns to allow for investment, capital expenditure and the long-term future. Two, minimum conditions for drivers to prevent a new generation of working poor, wholesale exploitation and drivers working dangerously long shifts. And three, proper protection for the travelling public, including insurance and a requirement that all rideshare vehicles have a 5-star ANCAP safety standard, veritable identification for all rideshare drivers and vehicles, and a maximum online time to prevent tired drivers being on the road.

At present, the sudden increase in the number of rideshare drivers has led to unsustainably low prices. Drivers are earning less than \$10 per hour while Uber and the others continue to operate at a loss and avoid all their taxation obligations. We would be pleased to answer any questions.

The CHAIR — Thank you very much indeed for that very comprehensive view. I have just a couple of questions if I could to start. You mentioned that this legislation and the changes have had a significant effect on a number of your members. Could you expand a little more on the impact that it has had on people in your organisation?

Mr BARTON — What has been reported back from the members now is, we are seeing about a 30 per cent drop in business. Since the announcement, it has been like someone turned the tap on. We cannot compete against a company that is subsidising their fares, nor can the taxi industry. That is the immediate effect in terms of income. In terms of selling of licences, selling your business, you might be surprised, but I was getting to retirement age and I want to exit the industry. The situation now is that I have a business which is 25 years old. I cannot sell it. I cannot give it away. These are the ramifications of what has happened with these things. Nine months ago the government made this announcement, and here we are talking about it still.

Mr BARUCH — Further to that, we have members — some of whom are in this room — that have suffered severe personal losses, who invested a few years ago in this industry and have found that they have lost the value of their licences, they have had debts called in, they are suffering personal problems — depression et cetera — all as a result of the beginning of the introduction of this legislation.

The CHAIR — I notice in your submission that you have suggested the bill may be unconstitutional. I am just wondering if your organisation or if you know of any other organisations that are prepared to test that in the courts if this bill is passed.

Mr BARUCH — Obviously we hope it does not get to that. Nobody wants to have a fight with the government in court. We would rather ward all of that off at the beginning, hence the review that this committee is doing. However, from what we have been advised — and that advice is contained inside this document here — some of what has been proposed does seem to go against the human rights, particularly in relation to real property.

Mr MELHEM — You made a comment earlier that the current licence you have cannot be assigned to someone else. Can you elaborate on that? I think Mr Barton, you said something about being able to sell it. I am a bit confused. Can you take us through it?

Mr BARUCH — Currently, just to give you a very brief outline of both the taxi and the hire car industries — —

Mr MELHEM — I am just talking about hire cars, not taxis.

Mr BARUCH — I understand that, but I need to say both to distinguish between the two. The legislation for taxis allows for the assignation, the leasing of a licence. So the taxi industry is in three levels. You have got the owners of the licence, you have got the operators and you have got the drivers. The way the hire car industry works is that each licence goes directly to a car and the legislation totally precludes the assigning of the leasing of that. So if I want to grow my fleet, I have to invest another \$60 000 at the time and \$40 000 now to buy a new licence to buy a new car. I cannot just lease another car from somebody else to build my business.

That is an imposition on the ability to grow a business if you will, and what that effectively means is for us to grow my business — and personally my business is now six vehicles in Melbourne plus associated affiliates all around the country — for each of those vehicles I have had to purchase a licence either from the government directly or from a business that I have purchased at a cost of \$55 000 plus GST, not plus GST depending on the circumstances. The government since then has reduced the prices. If I want to grow my business today, I have to go to the TSC and say, 'I'd like to buy another licence'. They will ask me for \$40 000. Hopefully they will advise me not to do it, given the current legislation that is being proposed and what is going to happen. That is the only way I can put another vehicle onto my business.

Mr MELHEM — But let us say the legislation passes. What is stopping you from buying another car? You do not need to pay \$40 000 or \$60 000. You could buy multiple cars and have other people driving them. I am just asking the question. Is that possible under the rules?

Mr BARTON — Absolutely possible, except you would have to have rocks in your head to come into this industry now. The market has collapsed. We are not unviable, but there is no way people are going to spend money to come into, I will not say taxis but certainly the hire car industry. Why would you do that? Why would you put any more investment into this industry with what is happening to us?

Mr MELHEM — Is that because Uber has taken a lot of the market share? I am just trying to get an understanding. Is that part of —

Mr BARTON — They have been allowed to buy market share by the Taxi Services Commission instead of enforcing the law.

Mr BARUCH — Because the Taxi Services Commission has not cracked down on the illegal operation of rideshare vehicles providing a public passenger transportation service in breach of the law, not having licensed vehicles, not having licensed drivers et cetera, they have come in. Our customers who vote with their feet and vote with their money obviously look and go, 'I can take you guys for \$100 to the airport. I can take an Uber car that costs me \$30; I'll go that way'. The business has collapsed drastically. As stated before, there has been a 30 per cent cut.

Under the new legislation, yes, I can go and apply for a new licence. We have been advised there will be an administrative cost. There are a number of issues that go with that that have not been addressed. A lot of these are operational issues. For example, currently each licence comes with a VHA plate. That VHA plate gives us certain privileges, certain rights on the roads. We are allowed to use slip lanes on the freeway; we are allowed to park in loading zones in the city when we are picking up or dropping off people. We do not know, and we have asked the government and they do not seem to know, what will happen once this legislation is passed. Will the issuing of a new licence come with a VHA plate? Will there be particular plates that will identify rideshare vehicles? No-one has answers to this.

Mr BARTON — Can I just cut in for one second? The VHA plate is a brand. It is like the Mercedes-Benz emblem on the front of a car. When we drive into the driveway and they see a VHA, they know that we are professional drivers. They know we are licensed; they know we have got good cars and we meet all the obligations.

Mr BARUCH — And we are insured.

Mr BARTON — And we are insured. By taking the VHA plates away from the car you are making us all rideshare operators. That is simply not right. That will further damage the businesses.

Ms DUNN — Thank you for your presentation today. There are a couple of things I wanted to raise. First, you mentioned that there were 2800 hire car licences at the moment.

Mr BARTON — That is correct.

Ms DUNN — I do not necessarily expect you to have this answer right now, but I am interested in understanding how many licences are assigned to how many people or businesses; whether there is a large amount of people who hold single licences or companies that hold multiples. I certainly do not expect you to have that detail.

Mr BARTON — I can give you a good guesstimate.

Ms DUNN — I will take that for now, but you can come back to us with the other.

Mr BARTON — I certainly think more than 90 per cent of the industry would have one or two only licences — mum-and-dad businesses.

Ms DUNN — I am not sure if you were here for the presentation we had this morning or not, but there was a suggestion that in terms of competition companies may choose to absorb the \$2 levy into their operating costs rather than passing that on to the consumer. I am just wondering if you have any views in relation to that.

Mr BARTON — Funnily enough, I do.

Ms DUNN — I thought you might. Do go on.

Mr BARTON — The minister did stand on the steps of Parliament with a company which had never moved a passenger in Victoria and suggested that we should absorb the costs. My business is my life for me and my son-in-law. That little cost to us, without administrative costs, is between \$7000 and \$9000 a year, so she is asking me to take a pay cut of \$7000 to \$9000 a year to accommodate Uber. That ain't going to happen. We are going to pass that cost on.

Mr BARUCH — I will add to that. Similar legislation has been passed in South Australia. Our affiliates are already passing on not only the cost of the levy but the administrative costs as well to us, and it is fairly safe to say that most operators, if not all operators, will do the same thing if that levy gets passed here.

Ms DUNN — In terms of the South Australian example you raised, do you have an idea of what that percentage of their levy is?

Mr BARUCH — Their levy is \$1 per trip.

Mr BARTON — It is \$1. They are rounding up the — —

Ms DUNN — In terms of the ratcheting up to cover off on admin.

Mr BARTON — They are rounding up to \$5.

Ms DUNN — Five?

Mr BARTON — Yes.

Mr BARUCH — As a percentage of the trip, that depends on the value.

Ms DUNN — Yes, because that is going to vary.

Mr BARUCH — Yes.

Ms DUNN — That is a good indication.

Mr BOURMAN — Thanks for the presentation, guys. I am going to ask about consultation. I was reading in your little booklet — sorry, press release by the minister — that it says 'after X number of years', whatever it is, 'of consultation'. Did the Victorian Hire Car Association get consulted during the course of the bill being constructed?

Mr BARTON — Not through the construction. I personally sat on the Andrews government ministerial hire car forum. I was nominated to go onto the rideshare working group, and certainly what was discussed there blindsided us when the legislation came out. We did not see it coming at all.

Mr BOURMAN — Without going into too much detail I am going to assume that what you discussed there was not how it sort of panned out later. Would that be a correct assumption?

Mr BARTON — No.

Mr BOURMAN — Fair enough. Were you guys just a representative of the hire car people or were there more?

Mr BARTON — On the ministerial forum there was another rideshare operator — a rideshare operator, might as well be. There was another hire car service there, yes.

Mr BOURMAN — Most of my questions go to your legal advice, and I am going to take a wild stab and say you guys are not qualified to answer. The last thing I will ask is: you mentioned that temporary licences will be revoked and the holder will have to reapply. How long is a temporary licence generally for? Is there a set period, like for a month, a year, whatever?

Mr BARUCH — Temporary licences?

Mr BARTON — We are not sure — —

Mr BOURMAN — I heard something about temporary licences. Temporary licences will be revoked and the holder has to reapply.

Mr BARUCH — No, that was an assigned taxi licence. For example, the taxi licences that I hold are assigned; somebody else operates them. Under the proposed legislation the government is going to take them off me, take away what I have invested in the industry, take away the income I am getting from those assignments, and if I want to then own a taxi licence, I have to reapply because the government will issue a new licence to the assignee.

Mr BOURMAN — When you say ‘assigned’, someone else owns it; they assign it to you.

Mr BARUCH — Yes.

Mr BOURMAN — All right. You obviously have to pay for it.

Mr BARUCH — As an assignee, yes, you pay a rental payment.

Mr BOURMAN — That will be taken off you.

Mr BARUCH — Correct. Why would somebody continue to pay the cost of an assignment for a licence they can get from the government more or less for free?

Mr BOURMAN — Of course, yes.

Mr BARUCH — So my rental payments are effectively being taken off me.

Mr BOURMAN — It remains to be seen as to whether that is property or income or whatever. As I said, most of my questions relate to some of the stuff your solicitors have brought up.

Mr BARUCH — I think it is fairly clear that the rental payments are income, but the actual loss of the value of the licence, the loss of a capital asset, the loss of profit — —

Mr BOURMAN — Correct. In fact the assignee will not be the person that loses the asset; it will be the person who holds it.

Mr BARUCH — Correct.

Mr BOURMAN — Thank you.

Mr O'SULLIVAN — Just a couple of quick questions from me. You were talking about some of the personal impacts that this is going to have on families and people who are directly involved. That is frightening, some of the information you were saying before. As part of your presentation you have probably glossed over it very quickly, but just reflecting on some of that, it is pretty harsh stuff to be hearing some of those words here this morning.

Mr BARTON — Very serious stuff.

Mr O'SULLIVAN — Yes.

Mr BARTON — Can I just tell my little story? You represent northern Victoria, don't you?

Mr O'SULLIVAN — Yes.

Mr BARTON — I lived in Stanhope, so you know where I am.

Mr O'SULLIVAN — Yes, absolutely.

Mr BARTON — My wife and I bought a small farm up there to retire to. For the last 10 years we threw everything we had at it, trying to restore it, build it up and all that sort of stuff. We tried hanging onto that farm to retire up to. Because of the 30 per cent downturn in our business we had to make a decision as to whether we could hang onto it. We could not do it. We have had to sell it. We now live in a rental property in Gladstone Park. I am 60 years of age. What is the chance of me being in a position to buy my own home again now?

I do not mind the competition. We are more than happy to take them on on a level playing field. Please do not misinterpret what we are doing. We want to take them on, but we cannot take on a company that subsidises their drivers wages. They are giving 40 per cent discount on fares. We are having rolling strikes by Uber drivers now because they cannot make any money. We cannot compete on stuff like that.

We have not learned anything in Australia from what is happening around the world. Germany, for instance — if I may just go into this one — Germany has not only already kicked out the equivalent of UberX, they are now going after UberBLACK because of anti-competitive behaviour. If this was manufacturing, there would be protection for us because it is dumping.

Mr BARUCH — Can I add to that, what my colleague here is too humble to say, and I know he will allow me to say this, when he sold his farm it was secured against a couple of his hire car licences, and the bank turned around and said to him, 'Mr Barton, these are worthless. Please pay them out'. So he has now not only had to sell the property because of the downturn in business, he has had that capital that he has invested taken away from him so he cannot reinvest into a new home when he retires.

Mr BARTON — There is an argument to say, 'Right, but you own a business with no debt'. I cannot sell the business. That is the reality. That is the position we have been put in.

Mr BARUCH — To continue further, to answer your question as well, Mr O'Sullivan, there are plenty of families in the taxi industry that have come out here as hardworking immigrants 20, 30, 40 years ago, been in the industry, worked as a driver, worked day shift, work night shift, worked hungry shifts — which I do not recommend to anybody, having done them once or twice, and that was all I ever did. They have succeeded, they have built up, they have seen the value of a government-controlled, government-protected, government-backed industry. They have invested; over the years they have invested in two or three licences. They have taken on debt to do this — a debt of up to \$500 000, \$1 million, depending on how many licences. The government has now turned around and effectively said to them, 'Thank you for all your hard work. See you later. It's not worth anything'. This is not conscionable behaviour.

Mr O'SULLIVAN — What is the industry going to look like in, say, five years time, in your view?

Mr BARTON — Very, very different. I think one of the things that we forget — this is my line, and everyone gets annoyed with me saying it — I drove cabs, my dad drove cabs and my uncle is another cab driver; it is in my DNA — I understand the cab game. The cab industry has a social and a community role that only the cab industry can do. It is not commercial. As we know, out in the country it is hard to get the cabs and all that sort of stuff. But the problem we have got now is not Uber up there, but it is the fact that we have got

20-year-old blokes with their old cars advertising on Facebook and Gumtree and things like that, 'Cash for rides'. How is the TSC, how is the State Revenue Office going to catch these? There is no way. It is only a question of time when we have an incident — a question of time. As you know, in the country it is a completely different ball game up there.

Mr BARUCH — As well, gazing into a crystal ball, over the next two to three years you will see the industry become highly commoditised. People will stop seeing the value of the service that we provide. They will just see: it is transportation; it is not a service. The industry will dumb down. In my opinion, the drivers that do come into the industry are those that cannot get employment anywhere else. It will be an ever-increasing tumble to the bottom. Unfortunately I think the flow-on effects of that are going to be felt particularly in the disability sector. Those who are relying on their wheelchair accessible taxis to get them around will find that there just simply are not any there. I think this is a major problem. To my understanding, taxis still form part of the essential services. They have to be there. I am not sure what the government is planning on doing to ensure that that continues. It is a worry.

Mr LEANE — I think it has already been fleshed out — I wanted to just discuss the importance of creating a level playing field, which obviously is not there. But I think you have pretty much fleshed that out on previous questions, so I think I will leave it at that.

Mr BARUCH — Can I comment on that? As hire car operators, we do not have an issue with a level playing field, whatever that means. We firmly believe you do not create a level playing field by shafting those that are already in the industry. If you want us to operate truly on a level playing field — where we have got the same cost constraints as the new entrants — buy our licences back from us at what we paid for them.

Mr BARTON — We are not asking for favours. There is a simple thing here. Since 2004 the hire car industry has tripled in size, and all those extra licences were sold by state governments, right? From 2004 to 2013 it was \$60 000, and we bought them from the government. Now they are turning around and saying, 'You can have 25 for your first one, and 12 and a half, and if you have worked really, really hard and you have more than four licences, we going to give you nothing'.

Mr BARUCH — They have not even put that in legislation, Rod.

Mr BARTON — Yes, there is nothing. We just do not trust them. We have seen nothing in writing.

The CHAIR — Could I just ask one final question. What you have told us today is deeply disturbing in terms of the impact that these changes will have on quite a number of people. What are you and what are your members going to do if this bill goes through in its current form? I mean, in terms of your own personal futures, what will you have to do to survive?

Mr BARUCH — In the vernacular, Mr Chair, we have to suck it up. What choices do we have? Again in the vernacular: it appears that under the current legislation the government wants to shaft existing operators in the taxi and hire car industry — not a very smart look by my book. Some of us will survive. The hire car businesses will keep going. We are just taking a massive hit to our assets. What will happen is those that do survive and do come out of it emotionally unscarred, which will be very, very, few of us, will be reliant upon the government for handouts. We are reliant upon the governments for the dole payments so that we can continue to make ends meet. As well there will be a call on the health services from the government because people will be suffering and will need to get assistance.

Mr BARTON — The industry will move from full time — the majority of the industry being full-time employees — to having the casualisation of the workforce. People will come out and drive for a few hours, but they will have to hold down other jobs and stuff like that. That will be a reflection on the standard of services that we do for international tourism, the corporate sector — all that sort of stuff. We dominate the prebook market; that is all changing. The areas where it is first affecting us are in the social side of things — people going to the races, dinner transfers, all that sort of stuff. In the longer term the hire car industry is in a lot of trouble.

The CHAIR — What are your hearing from your own members about how it would impact them — their lives, their families, their homes?

Mr BARTON — They want to exit the industry.

Mr BARUCH — People do not see any hope of going forward.

Mr BARTON — There is no future.

Mr BARUCH — We would like to exit the industry too. We cannot at the moment because we cannot put a value on our businesses. As we have said, there is too much uncertainty. We cannot trade the businesses. We can continue trading day to day, but to actually trade the businesses — to buy, to sell, to invest — it is too hard. Nobody knows what is happening; no-one is going to put any money out.

Ms DUNN — Earlier in your presentation you were talking about the levy and you talked about, I think, an exemption for people who do 75 trips or less per quarter. I just want you to unpack that a little bit.

Mr BARTON — Yes, small operators. They might be people who have got an old Rolls Royce or an old classic car and they just work on weekends. What we are suggesting is that perhaps instead of these people having to become a registered booking service provider and doing quarterly reports and that — because, remember, this was supposed to get rid of red tape, and we are now imposing a level of red tape over the businesses.

Mr BARUCH — It is becoming a tax agent effectively.

Mr BARTON — Yes, we have become tax collectors for the state government. These people, that is a burden for their business, and the government will actually have to spend more money to collect that because they only collect such small amount.

Ms DUNN — Because it is so tiny.

Mr BARTON — Yes, so we are suggesting remove them from the equation and leave the bigger operators to wear that cost.

But can I say just one thing, which really winds me up. I am not sure if the committee members are aware, we do not believe for a second that this levy is just about raising money for the compensation fund. We do not believe it for a moment. There are 5600 cabs in Melbourne. Around 2000 of them are owned by the state government. They lease these licences for up to \$23 000 a year. They have been raising tens of millions of dollars over the years from this revenue stream. Since 2003 there are probably close to \$35 million worth of hire car licences they have sold. So the reason why they have put no sunset clause on it, the reason they have not put a dollar amount on the thing, is because this is a replacement tax for the revenue they are going to forego when they change this legislation — in our view.

Ms DUNN — Thank you.

Mr BARUCH — We believe it is important that the committee notes the magnitude that the government is holding of taxi licences that they currently assign, because it does have an effect on the government's thinking and what they have done and why they have framed the legislation they have. We note in our information that we have given you that the introductory memorandum says that the levy is a tax. This is the same government that Premier Andrews got up and said there will be no new taxes. He is introducing a tax now.

The CHAIR — Gentlemen, thank you very much for being with us today and for what I regard as a significant contribution to the operations of this committee. You will receive a transcript from Hansard in the next two or three weeks. If you could check that and proofread that, you will find no mistakes but please do that and get back to us. We thank you very much for your time and your contribution today.

Mr BARTON — Thank you for hearing us.

Witnesses withdrew.

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into the Commercial Passenger Vehicle Industry Bill 2017

Melbourne — 23 May 2017

Members

Mr Bernie Finn — Chair

Mr Khalil Eideh — Deputy Chair

Mr Jeff Bourman

Mr Nazih Elasmar

Ms Colleen Hartland

Mr Shaun Leane

Mr Craig Ondarchie

Mr Luke O’Sullivan

Participating members

Mr Greg Barber

Ms Samantha Dunn

Mr Cesar Melhem

Mr Gordon Rich-Phillips

Witnesses

Mr David Samuel, General Manager, and

Mr Stuart Overell, Chief Operating Officer, 13CABS.

The CHAIR — Gentlemen, thank you very much for attending today, and we welcome you to the public hearing of the economy and infrastructure committee. All evidence taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege.

If I can ask you to begin by just giving a 5 to 10-minute version of your view of this legislation, and then we will open to questions. Can I also ask you to give your name and position for the benefit of the record.

Mr SAMUEL — I will start. David Samuel, general manager, Melbourne, 13CABS.

Mr OVERELL — Stuart Overell, chief operating officer, 13CABS.

Mr SAMUEL — I might just introduce what we do to start with and give you some background on that. I will keep it fairly brief and let you guys ask the questions. I have done these a few times now, and I do not think generally the views change that much from one to another, but I am happy to take any questions you guys might have.

13CABS operates now in New South Wales, Victoria and Adelaide. We have about 15 000 active taxidriviers at the moment within our fleet driving with us. We consider them to be 15 000 small businesses. We have about 2200 operators. They are most certainly small businesses operating in our fleet. We take great pride in the service we deliver. We were the first in Victoria to launch an iPhone app through which you could book a taxi, a commercial passenger vehicle, long before Uber or others arrived into the market. That is something we are very proud of, and we continue to develop that technology and invest in it, but we also invest in our people, both those that work with us in our call centres and places like that and right through to our taxidriviers and taxi operators, to try and help them navigate something that has become an extremely difficult operating environment for them.

We have already heard from the very articulate Rod Barton talking about the pressures that individuals feel in this industry now, and I think that flows not just in the hire car industry but also into the taxi industry. There is no doubt that people feel a great deal of uncertainty. They feel very unsure about where their future is, and we are of the view that that needs to be resolved ASAP. Enough talking; it is time for Parliament to do its job and resolve this matter. It has been going on for too long.

Anything we say here today must be understood to be premised on the notion that there are people that have contributed a great deal to this industry over many years, over the 150 or so years that we have been here. They have invested in this industry, and it is not acceptable to us that they are not properly accounted for as a part of this transition. While we might support the general direction of this bill, we would ask the Parliament for real consideration of taking care of these people. They have done nothing wrong. They have broken no laws. A company has come along that wants to wilfully break the law, and these people are victims of that behaviour. I do not think it is a good precedent to set — that a company is allowed to come along and behave like that and see other people, who have not broken the law, cast aside as a result.

I am not going to give you figures. I am not going to tell you how much you should compensate. There are licence-holders here that will do that for you. But we will be very firm in the view that they must be accounted for in this process. I think Linda, who is in the audience today, has made very good points that people are willing to transition and accept the future, but they are demanding that they be treated fairly as a part of that process. We would encourage you to consider that very carefully in your deliberations around this matter. Stuart, I do not know if there is anything you want to add.

Mr OVERELL — No, I have got nothing to add. Thank you, David.

Mr SAMUEL — Happy to open it up and take any questions.

The CHAIR — Gentlemen, thank you for that. 13CABS is a significant employer and a big player in the taxi industry. What will happen to your company if this bill goes through as it is?

Mr SAMUEL — We are not scared of the future. We are ready to embrace it. All we have asked for is, when we compete with people in this market, that we do so on equal terms when we enter the playing field. I think the term ‘level playing field’ is thrown around quite liberally. We do not want to be level with these people and a company like Uber. We want to provide the service we have been providing for 150 years, which

we think is far superior to what they do. But when we enter that field to compete, we must all do so on level terms. You cannot have one football team with 22 players and one with 11, one paying to enter the ground and the other not. It is not acceptable.

We do not want to be level with these people. We have drivers who are properly trained. We have cars that are properly insured. We put our livery and our brand on that car, and we do that with pride. We do not want to hide behind anonymity of a car with nothing written on it and driven by some bloke who bought it in 1983 and then pretends that is all good because the consumer wants it. We want to continue to deliver a universally accessible service. We do not want to just pick and choose who we provide that service to. We will look after our disability community. If you can only pay cash, you can use our service. You do not need to have a smart phone if you do not want one. There is still a large proportion of people who do not, or do not have credit cards and do not have access to that type of service. So when we talk about a level playing field, we are talking about the way in which you enter the market, not how we want to run our business. We are not going to sink down to that level, provide a substandard service to 10 per cent to the population and then claim to be some sort of unique service that no-one has ever thought of before.

The CHAIR — What impact have you seen on drivers and operators from the prospect of this bill being passed?

Mr SAMUEL — I do not think much has changed in four years, to be quite frank. This bill is just the next iteration in a lot of deliberation around this issue. The effect that it is having on the people that I see and I deal with on daily basis — being taxidriviers or taxi operators and licence-holders to some extent — is tremendous uncertainty. And in business that makes life very difficult.

What we have here is a framework that in its current form, I think, can deliver the right outcomes if some of those earlier issues that I addressed are dealt with. The most important thing is to alleviate that uncertainty and concern in those people's minds so they can make decisions about their future. I think we take for granted how lucky we are to wake up in the morning and know we have a job to go to, we know we will be able to pay our mortgage, we know we will be able to do those things. A lot of those people are not in that situation at the moment. I am talking about our drivers and I am talking about our operators, not just licence-holders. They want to know what they are going to do next week, and the Parliament needs to assist them in that space by bringing this to resolution.

Mr LEANE — I just want to pick up on something in your response to the Chair that there has been uncertainties for the last four years. Four years ago what would you say triggered that?

Mr SAMUEL — There is no doubt that Allan Fels's somewhat biased and slanted inquiry began this shift. I think the previous government started the ball rolling there, particularly for licence-holders. I do not think after that, after those recommendations were accepted, there was any real tangible way back from that. I think it began a chain of events that have since unfolded that did that. We then moved into the arrival of Uber and companies like that wanting to enter the market and so forth. That had a further effect and created greater uncertainty.

Regulators, it became apparent fairly quickly, were unable to deal with them, or unwilling to deal with them. After some comments I heard in Hobart a week or so ago I think it may not be too great a stretch to say they were unwilling to deal with them. Having said that, it is what it is. They came along, they did that. What has happened has happened. The Parliament needs to respond to that, and I think the government by tabling this legislation is at least making a determined attempt to do so.

Mr LEANE — So picking up on and noting some frustration in your submission, there has not been a level playing field.

Mr SAMUEL — No.

Mr LEANE — And I appreciate that you want to do better than your future potential competitors, and your current competitors are not following any sort of level playing field. I do not know if there is a comment or you want to respond to it — I think you probably want to respond to it — but there are five different political parties sitting in front of you that are all from the upper house. That is probably where the end point of the current bill

is going to be. So in your submission you are basically saying to us, 'Get on with it', and whatever flushes out from these parties as a result, that is what you would like to see happen sooner rather than later?

Mr SAMUEL — Yes, get on with it is the key message. Having said that, there are obviously parameters about what we would think was a good outcome and a bad outcome, but generally speaking, as I said, I think notionally I would like to see the people — a large number of them are in the audience today — looked after. But I would like our company to have the ability to continue to grow and invest in the industry and our future. At the moment it is very hard for us to grow and invest, but we want to grow and invest. We are not going anywhere, we are not a fad. We have been here for 150 years. We are not trying to [inaudible] and run off into the sunset. We are here for the long run, but we want the opportunity to compete on level terms, if we are able to do that. When we invest, we do so with the knowledge that it will return dividends. Not that every time we invest money — only 50 per cent is effective because the other side is doing whatever they want. So the message is, Shaun, yes, get on with it and get it done. Put political differences aside, come together and move this forward. Look after these people, and let our company continue to grow and invest.

Mr O'SULLIVAN — Just in terms of the uncertainty that we have already touched on, and correct me if I am wrong, but are you sort of indicating that in terms of that level playing field — do you believe that this legislation actually creates that from a rideshare perspective in comparison to taxis?

Mr SAMUEL — I think, Mr O'Sullivan, that there is no perfect answer to that question as it stands. All I know is I am yet to see a jurisdiction that even got close to right on this. There are half-baked ideas, short-term political solutions to give people false hope and then probably sell them out down the track, to put it quite bluntly. That is my view, and I think it has happened in Australian jurisdictions to date.

When I look at this legislation what I see most importantly is an enforcement and sanction regime which will have an impact in that space. If you want to operate illegally and you want drivers to drive for you in that illegal context, you are going to find yourself in a lot of trouble. I think this legislation contains the best possibility I have seen yet. I am not saying it is going to be a perfect world and it will work perfectly, but all I can look at is what is written down on that bit of paper, what is currently occurring and whether or not this is a good attempt to fix that. I believe it is a genuine one, and I think it is the best I have seen to date from any jurisdiction, and there are many dealing with this complex issue.

How certain companies want to behave should this legislation pass is yet to be seen, but all I can do is look at what is written on paper and say I think this goes further in creating the level playing field than any other thing I have seen to date.

Mr O'SULLIVAN — If there was an opportunity to make some changes, what do you think are the sort of changes that could come through that would give you more certainty and provide a better outcome?

Mr SAMUEL — I do not think there is a lot at the higher technical level, and the structure is quite good. There is obviously controversy around the levy and those issues. I think that the levy is a way to pay for the necessary compensation for these people. I understand that. I do not think anyone likes the levy, but if you ask me whether I would prefer that or see these people not paid out, I will take the levy.

In terms of the duration of the levy, I would like to see that sunset, to put it quite bluntly. I do not think it needs to go on indefinitely. I think it is somewhat cynical to continue it over a longer period of time, but I do appreciate the government's need to change it in that space. But, as I say, I am not going to argue over the broad structure because I can sit here all day and pick out little bits and pieces. It is a relatively simple piece of legislation as it currently stands, and I think it sets up the structure to ensure — obviously the government wants to secure its funding to pay people — but it also sets up a sanction regime which I think is the most effective I have seen.

Mr O'SULLIVAN — Just touching on the levy that you just referred to. From a company such as yours — obviously a fairly large player in the industry — how do you see the compliance regime working through in terms of the cost of administering that levy, and how is that going to work within your organisation?

Mr SAMUEL — Look, as I said, I do not think anyone and I am sure the government does not want to introduce a levy because it is going to give you guys the opportunity to have a genuine crack back at that issue. In terms of our company, we understand that the benefit of that administrative cost is people being looked after

in the longer term, so we are willing to cop it initially to do that. It is hard to really get an understanding of the administrative costs until it is flowing into you doing it. I think the important distinction here, which has not been made in other jurisdictions, is as a company we are only being required to be accountable for the bookings we take, which is relatively simple for us. We know, and we can see that through the data we receive. It is relatively simple.

Rank and hail is another thing altogether. If we were required to do it like that, like I think they are in other states, it would be tremendously difficult and expensive to do it. But we are more comfortable in Australia where, if we get a booking, we are responsible for paying \$2 for that booking because it is easy enough for us to track. We already supply vast amounts of data to government. At least in this case we know why we are doing it. Most of the other data we supply — we are still not entirely sure why we actually supply it to them — it just costs money, and they do not seem to use it for much. But in terms of this, we know what the outcome is. Is it possible to do it? Yes, probably.

Mr O'SULLIVAN — In terms of those fees or the levy: we heard this morning from the secretary of the department that it is not necessarily going to be the case that that will be passed on, and it might be able to be absorbed as a result of not having the licence fees paid up-front. Does that reconcile with what you are seeing in your business?

Mr SAMUEL — Look, it is hard to say at this point. Certainly initially I think it is probably a bit of a stretch to suggest it will not be passed on. It will take time for businesses to adjust to a new pricing regime. Until the fares are deregulated it is not possible to pass it on because the fares are regulated — we do not set them. So before we could actually pass that on or not pass it on, fare setting would have to be put in our hands to do that. So at this point in time it is a very hypothetical question. I cannot see initially, though, how we would not be passing it on, and I think every provider probably would have to. Two dollars every trip is a big hit.

Mr O'SULLIVAN — Will you pass on the administration costs on top of the \$2?

Mr SAMUEL — We have not made those decisions yet. We will wait and see what the Parliament does with this — what the decision is, how much the charge is — and see what the cost is to us. We would make that decision then. I think I am right in saying that, Stuart.

Mr OVERELL — The key is: if it is all round a levy on a booking that we take and provide, that is straightforward for us. If it comes down to rank and hail and trying to work out what is what there, that is where it becomes a real burden for our business. We will not know who took the booking, and it would be double-dipping because there could have been another provider taking the booking. It becomes a nightmare for us, and then we would have to re-evaluate how we are going to operate in that space.

Mr O'SULLIVAN — It sounds rather confusing. Does the legislation give you any comfort in terms of how you are going to deal with those issues?

Mr SAMUEL — It does because it says we do not have to do rank and hail. It says we can but it does not say we have to, so it gives it comfort in that space, yes.

Mr BOURMAN — You said you operate in New South Wales, South Australia and Victoria. New South Wales is a little bit further along the track, as I understand it — maybe not necessarily the right track. Have you learned any lessons from that experience that is worth sharing with other people about how to get this through as a change?

Mr SAMUEL — Shrinking your market while another market grows is not a good outcome. That is what I have learned.

Mr BOURMAN — That is what I expected, yes.

Mr SAMUEL — I think, Jeff, we should point out that when I say we operate in those states, we also operate right across Victoria. We have bureau partners now in Sale, Morwell, Warrnambool, Ballarat — right across Victoria. We provide services for them. We understand the impact it is having in country Victoria as well. It is a profound impact for them, and we understand their concerns.

In terms of other jurisdictions, in Sydney I think, we have seen a number of taxis in the last 12 months actually restricted by 452 licences while our competitor grows. They pay \$45 a year or something ridiculous to enter the market and we are still paying, you know, above \$15 000 to do it. And the premise of that is that, 'Oh, we'll protect rank and hail for you as a regulator'. Well, I have not seen many regulators able to do that in the last four years. If they had we probably would not be sitting here today.

Ms DUNN — Thank you for your presentation today. I was just interested in a few questions, particularly around rank and hail. I am just wondering: firstly, in terms of the data on how many trips you provide a year, what does that look like for 13CABS?

Mr SAMUEL — In terms of rank and hail or in terms — —

Ms DUNN — Overall — everything, booked and rank and hail.

Mr OVERELL — Between 15 and 20 million.

Ms DUNN — And in terms of your business, what would you say is your percentage of the market?

Mr SAMUEL — In Melbourne as a booking service?

Ms DUNN — Yes.

Mr SAMUEL — Probably around 55 per cent of the market.

Mr OVERELL — That is in the taxi space.

Mr SAMUEL — That is in the taxi space, yes.

Ms DUNN — So booked taxis is 55 per cent. I am just trying to get my head around, I guess, the extent and the size of the industry in relation to trips, because of course of the calculations of the levy that apply to how many trips per annum, so that is kind of where I was headed with that. In terms of what 13CABS do, I guess the balance must be rank and hail.

Mr SAMUEL — Yes, roughly. It is hard to gauge, Samantha, because it does shift a lot from day to day. But if you break it down as a 60-40 split I think it is a fairly round figure.

Ms DUNN — It is close to the money.

Mr SAMUEL — Yes.

Ms DUNN — You also made a comment that the bill allows there to be options in relation to rank and hail. It is not necessarily something you would need to participate in. Have you made any decisions yet, should this bill pass and those provisions apply, that you will actually go to a booking service and not participate in rank and hail?

Mr SAMUEL — We have not made those decisions. Obviously our core business is around bookings. Yes, our brand is on the car and we take responsibility for the trip if it is rank and hail — we are happy to do that — but fundamentally our strength and our work is around bookings.

Mr OVERELL — The goal of our business is to remain in the taxi industry, not enter across into hire cars. If this legislation goes through, we can successfully grow our business in the taxi space and not have to resort to looking at alternatives.

Mr MELHEM — Do you hold any licences in your own name — not personally but the company — or are you just a call centre?

Mr OVERELL — The company does have licences, yes.

Mr MELHEM — You do? How many?

Mr OVERELL — We have 34 licences.

Mr MELHEM — What is your view on the actual level of compensation, apart from that you would like more? You have got 34 individual licences?

Mr SAMUEL — Yes. Most of our licences are wheelchair-accessible taxis, which we have built up over the years to service that community. In terms of compensation, ideally, as David mentioned, we would like to see everyone looked after because they have done nothing wrong. The industry has changed. There are competitors coming from overseas who play by a different rulebook. They should not be the ones that pay for that change in direction.

Mr MELHEM — You mentioned something about the New South Wales model. My understanding is that I think \$20 000 compensation was paid but they have retained certain rights — for example, hail and ranks and so forth. You mentioned something about some fault with that system versus the Victorian proposition to basically offer a higher level of compensation. We will come back to whether it is the right compensation or not; put that aside for a sec. What do you see as the difference between the two models, because you did actually say there was some potential problem?

Mr SAMUEL — I do not think it is a potential problem; I think it is a real problem, Mr Melhem. I do not think there is any debate about that. The \$20 000 compensation was different to the compensation model here. It was basically saying, ‘We recognise that Uber has come along and hurt your market a bit, so we are going to give you some cash to account for that’. There was no seizing of the licence, as is proposed in Victoria. The licence remains in place in New South Wales. They are not taking that away; that is the difference. That was all premised on the notion that you create a price difference because taxis get more work — particularly in Sydney because rank and hail is even higher than here — by protecting that rank and hail market. It ignores the fact that smartphone apps have blurred that line tremendously. It is very hard to protect that rank and hail market because effectively I can almost instantaneously hail a cab or a car through a smartphone app. So the promise to protect that market is, I think, somewhat — I would not say dishonest but overly ambitious. I do not think they can do it, and I do not think they are doing it. I think we see in Sydney that it is not occurring.

They also said at the same time that they promised to freeze the release of taxi licences. All that has meant is when new people come into the commercial passenger vehicle industry in New South Wales, they pick up an Uber and they do that. We cannot grow our fleet; we cannot get bigger. Although demand for our service increases we cannot supply it because cannot increase our fleet. So someone else is, and they do not have the same start-up costs as us.

Mr MELHEM — The Victorian government could have taken the soft option, the relatively less damaging option, and adopted the New South Wales model by basically saying, ‘Look, you can still carry on or you can sell your licence et cetera, and we will pay you less’. They could have done that and taken the soft option.

Mr SAMUEL — Yes, they could have. I think it would have been a softer option. I think it would have been disingenuous, and I do not think it would have been an honest way to deal with licence-holders because I still think those people in New South Wales will confront a situation in five years where they cannot move that asset. And the government just paid them \$20 000, so they are going to say, ‘We’ve done it’. That is my personal view anyway.

Mr MELHEM — I appreciate that.

Ms DUNN — I am just wondering if you have any views in relation to services for people with a disability in terms of any impacts this might have in the future and making sure that that group of passengers actually still has access to services.

Mr SAMUEL — I think until government comes to the conclusion and realisation that there is a market failure in this space and actually addresses the issue at its core — that is, that it is very hard to make money providing this service in a commercial sense without proper subsidy — this issue will never be resolved. I think we do a fantastic job. Our drivers, more importantly, do a fantastic job. We have got a large proportion of the wheelchair fleet in our fleet. We are very proud of the job they do, and on the whole they do it very well.

Now you are going to get stories when things go wrong, and naturally that is going to make the front page of the *Herald Sun* because that is the way the world works, but overall at the moment they do a tremendous job in very difficult situations. There is government money being poured into this space, no doubt. You have got your

MPTP program, your performance-based booking system — all these wonderful policies that seem to shift consistently in terms of their goals. There would be much simpler ways to do it. I know that there are others in the room today who would have views on that and are probably better qualified, Sam, to actually present you with the solution. As far as we are concerned, until government acknowledges the market failure in this space and realises that it is very hard to make a dollar out of it — —

I think some of the recommendations out of the Fels inquiry were extremely detrimental in this space. The pricing of the licence is so high. When you can get a wheelchair licence for \$18 000 or a standard for \$22 000, why are you going to pick up a wheelchair?

Ms DUNN — Yes, the differentiation is not great.

Mr SAMUEL — These concerns were raised with government at the time. So there have been flaws in that space. We have had I do not know how many; I think there is another inquiry going on into this, a separate one altogether. It is really not that hard. You want these people looked after. I still argue, on the whole, they are very well looked after — you know, not just in Melbourne but in country areas. I know that our fleets in country Victoria do an outstanding job looking after those people in that cohort, and they take great pride in it, but in Melbourne we need to sit back and say, ‘How can this be done better, and how can the funding be directed so that it ultimately produces better outcomes for those people who rely on that service?’.

Ms DUNN — That is great. Thank you, David.

The CHAIR — Gentlemen, thank you very much indeed. You will receive a copy of the transcript in the next few weeks. If you could proofread that and take the appropriate action if needs be, that would be much appreciated, but in the meantime thank you very much for contributing to our deliberations today.

Mr SAMUEL — Thank you.

Witnesses withdrew.

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into the Commercial Passenger Vehicle Industry Bill 2017

Melbourne — 23 May 2017

Members

Mr Bernie Finn — Chair

Mr Khalil Eideh — Deputy Chair

Mr Jeff Bourman

Mr Nazih Elasmr

Ms Colleen Hartland

Mr Shaun Leane

Mr Craig Ondarchie

Mr Luke O’Sullivan

Participating members

Mr Greg Barber

Ms Samantha Dunn

Mr Cesar Melhem

Mr Gordon Rich-Phillips

Witnesses

Ms Bronwyn Lincoln, Partner, Corrs Chambers Westgarth,

Mr Haydn Carmichael, Barrister,

Mr Mark Shehata, Operations Manager, Exclusive Cab Management, and

Ms Eleanor Fitz, Wodonga Taxis, Victorian Taxi & Hire-car Families.

The CHAIR — I will reconvene the public hearing and extend a very warm welcome to our witnesses. All evidence, as I am sure you are aware, taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by privilege, and you may need lawyers! So be very careful of that.

If I can ask you to address the committee for 5 or 10 minutes, we will then open up for questions. I would also appreciate it if you would give your names and positions and addresses — just a suburb will do — for the official record.

Ms LINCOLN — Thank you very much. My name is Bronwyn Lincoln. I am a partner at Corrs Chambers Westgarth. If it assists the committee, I will indicate that our submission will be presented by four speakers, so that might perhaps assist in relation to questions that the committee might have. We may cover different topics, and I will allow my fellow speakers to introduce themselves before they speak.

I thank the committee for the opportunity to give evidence today. I do so on behalf of the Victorian taxi family association, or the VTF, which represents the largest association representing taxi licence holders in Victoria. It is very important to note as a starting point that the VTF is not against reform. We are not here to advocate against reform but to speak to the reforms which have been put on the table and the fact that they are grossly unfair to all of the members of our client. They strike directly at the livelihoods of over 5000 Victorians who hold licences, and the committee has heard earlier today some individual examples of the impact and the toll that the reforms and proposed changes are taking on individuals and families.

The families that we represent have worked hard all of their lives in pursuit of what you might describe as the Australian dream. Many of them do not have high levels of education and many of them have come to Australia from other countries. They have worked exceedingly hard to contribute to the economy and to Victoria and to Australia, and as they raised their families they acquired taxi licences and engaged in the commercial passenger vehicle industry in the hope of starting a small business.

Taxi licences are assets which were issued by the Victorian government. Many of the families have actually held these licences since the 1950s. This is not a new industry, as the committee will know. For our members their view, and you can understand this view, was that if they worked hard and they acquired the asset — many of them borrowed money to buy the asset in the first place — it would give them a chance to actually self-fund their retirement to support their families. Until recent times, until the reforms were announced, actually this opportunity was realised for them, but when the reforms were announced by the government, that changed in an instant. I will just speak in a moment to a particular provision of the proposed legislation, which is almost to the effect of a guillotine coming down in respect of perpetual licences.

So the focus of my evidence is on the proposed section 360, which committee members may be aware is, if I can refer to it, the revocation clause, and the committee has heard evidence about the impact of this from other speakers this morning. The second focus of my evidence is on the absence within the proposed legislation of the provision for any compensation whatsoever for perpetual licence-holders, and that is of immediate and significant concern.

Under the proposed 360, all perpetual licences, which are assets, cease to exist, so it revokes them immediately upon the coming into force of law of the bill. Taxi licence holders who have secured loans against those will expect a call from the bank or the financial institution, and we know anecdotally that where these licences have been provided as security, the banks are already communicating with these licence-holders. So they are getting calls: ‘Where is your security?’. There is no security for the loans. Many of the banks will then look to these people’s houses, so the place where they live is at risk.

Many licence-holders purchased a licence in their superannuation fund, and that is significant, that the asset was sufficient for the purpose of a superannuation investment. Those people are facing retirement without any asset to rely on. But what is even worse than that is the revocation. If I hold a licence today and I have assigned it to a driver, when the bill comes into force I lose that licence. The person who is driving the cab under the licence that was assigned gets a so-called permit to drive. I get nothing. That is akin to me having an apartment, renting it to you, the law changes, you get the right to live in the apartment and I get nothing. That is grossly unfair. It just does not work within our concept of social justice.

The second point that I wanted to address the committee on is the transitional assistance, which we say is arbitrary. We have requested modelling information. We have received none on behalf of our client. If it is appropriately structured and enshrined in legislation, it might constitute a contribution to capital loss, so to the capital value of a perpetual licence. It is nowhere near that at the moment. It is not fair, it is not genuine and it is not compensation for capital loss at any measure. It just does not address the impact of this wholesale restructuring of the industry that is proposed.

Furthermore, in spite of the government announcements to the contrary, this bill that is on the table at the moment contains no reference to compensation — none. Coming here this morning I heard media reports about the bill. The media reporter was under the impression that this bill addresses the issue of compensation. It does not. There is no right to compensation in the bill, there is no reference to the proprietary nature of a licence, there is no reference to any financial assistance and there is no reference to the Fairness Fund.

Our submission, and you will hear from the other speakers, is that the bill must not be allowed to pass as is, and we sincerely ask that the concerns that are put to the committee are taken into account and the appropriate amendments made. I will table at an appropriate time for the committee two letters which Corrs sent to the Minister for Public Transport in April and May which outline our concerns in relation to the bill. I will hand over now to Mark Shehata.

Mr SHEHATA — Thank you, Bronwyn. Thank you to all the committee members for allowing me the opportunity to present. My name is Mark Shehata. I am an executive of Victorian Taxi and Hire Car Families, and I am also the operations manager of Exclusive Cab Management. I had the pleasure of presenting to you previously in the other inquiry into ride sourcing, if you remember. For those of you who are unaware, my family have licences and operate a taxi business also.

I am here today on behalf of Victorian taxi families, representing taxi licence holders in Victoria, hire car licence holders, taxi operators and taxidriver, but above all I am here as a human being. I am deeply troubled with the mental and financial strain that our members are being placed under. As far as I am concerned all issues can be resolved, should we wish, if we have all aspects discussed and agree on a resolution. While it may be difficult to please everyone, we may be able to find some middle ground which can be somewhat of a compromise.

We respect the right of the government to reform any industry and move forward with changes. The industry is open to discussion in coming to an agreement for the greater good of the majority. There may be some confusion as to why licence-holders are concerned with the bill. There is a perception that licence-holders can continue on with their business. Most licence-holders do not operate a taxi business. There is a clear distinction between someone who holds a licence and someone who operates a taxi. They are two separate entities, they are two separate people.

A major concern for licence-holders is the fact that under the proposed bill their licence will be cancelled, effectively cutting their income payment without any compensation. For many years taxi and hire car licence holders have worked extremely hard to build a small nest egg for their family's future and financial independence. Some have worked over 100 hours in order to pay off their debts for obtaining their taxi licence in the first place. A taxi licence was never cheap. At the time, when it cost \$10 000, we must put in reference that a metropolitan house at the same time was also \$10 000. Most licence-holders have debts secured against their homes or licences and will be left in dire straits once the reforms are implemented. Many licence-holders do not have superannuation and rely on the income derived through their assignments in order to support themselves and their families.

I am not a lawyer, so I will not comment on technical legal aspects of this bill. But I will note that a wise man, Mahatma Gandhi, once said, 'There are unjust laws as there are unjust men'. He was talking of laws and men which did not reflect reason, which were discriminatory, which disregarded true facts in favour of arbitrary settlements. Nothing about this hearing today and no member of this committee intends any injustice, yet there is a great injustice before you.

It is hard for me to find better words to describe the error being made by this government than the words of now Premier, Daniel Andrews, himself. Speaking to a large group of licence-holders in a taxi depot in Huntingdale on 21 November 2012, he said, and was quoted in the *Herald Sun* the following day as saying, and I quote:

These hardworking people are the best working people in the taxi industry, and we need to be careful not to be making them unviable ...

I don't think that is going to do anything to deliver better outcomes for passengers, better outcomes in terms of safety or quality.

Many of our hardworking members who live in suburbs like Frankston, Bentleigh, Carrum and Mordialloc were happy when Mr Andrews won the election in 2014. They had heard his very explicit promises to protect taxi and hire car licence holders and therefore decided not to sell their taxi licence at the going rate at that time for \$300 000. This is how licence-holders feel they have been rewarded. Meanwhile, the government has generated untold millions of dollars in revenue each year over decades from these families by creating and selling these asset classes. Walking away from this promise not only devastates families by ignoring decades of hard work and investment by taxi licence holders, it increases sovereign risk immensely.

A more just settlement is within your hands, but a greater justice will not become law unless you reject this bill in its current form and consider amendments. I am deeply concerned about the issues surrounding families servicing debts against taxi licences and also hire car licences. However, they are servicing debts for a proposed cancelled licence, something they will never receive any commercial benefit from in the future.

If the \$2 levy is absorbed by businesses and is not passed on to passengers, this will replace licence fees. This puts the incumbent industry at a significant disadvantage because they have already purchased a taxi licence previously. In effect they are purchasing a taxi licence twice.

There was a large deal of confusion from the State Revenue Office in regard to the number of trips in Victoria. They stated there was only 20 million. 13CABS control, I believe, 50 per cent of the taxi market alone. They stated, in their own words, between 15 and 20 million. I would call it 20 million based on my figures. Add Silver Top to that, that is another 20 million. They control another 50 per cent of the market. Add hire car, another 5 million, let us say; add ridesharing, another 5 million. We are talking between 50 million and 60 million trips every year. Based on those figures the government stands to collect their whole package within three years. It is also indexed at CPI with no sunset clause. We expect that that may be reduced due to the fact of population growth and the growth of the number of fares in a deregulated market. Fares drop, demand goes up, and we will probably get a lot more people using the commercial passenger vehicle industry in Victoria.

I just want to briefly touch on how some licence-holders are being significantly disadvantaged. If you hold more than four licences you are only paid on four licences. Some people that own a lot less licences are getting far more because they hold them in separate entities. If someone holds four licences in separate entities, they would receive \$400 000. Someone who owns 20 licences in one entity would only receive \$250 000. It is just beyond comprehension. I cannot comprehend how they came up with this analogy. I would like to see the modelling, but it has not been forthcoming at this point.

My parents, like many others in this industry, have come here with nothing. They come from countries where property rights are not respected, and in a country like ours I believe that we should show dignity to the people that came here to start a better life. Finally, I would like to thank each and every member of the committee for allowing me the privilege to appear before you. Thank you for your time.

Ms FITZ — Good morning and thank you for the opportunity to present. My name is Eleanor Fitz. I am a director of Amalgamated Taxis Wodonga, and I am representing regional Victoria because the cooperative operation of Wodonga taxis is very similar to a number of other networks and regional taxi businesses around the state. I have spoken with colleagues around the state and there is a commonality in terms of how the businesses are operated and information is shared.

In regional Victoria taxi operators are saying that the Andrews government's reforms and the intention of a safer, fairer taxi service have fallen disastrously short for the following reasons: the asset cancellation and licence values, past Victorian governments sold perpetual licences to intending taxi operators and/or investors and the perpetual licences were, by the definition of perpetual, continuous, everlasting, unending. It seems they are not. Perpetual taxi licences have long been recognised as assets, personal property, by the Australian Taxation Office for taxation income, Centrelink for assets valuation and all of the major banks for loans and other financial collateral.

To me a major plank of the government's commercial passenger vehicle bill appears to be intentionally structured for denial and revoking of these assets without due compensation. The revoking of the value of the

licences without full compensation has triggered economic chaos for a large number of taxi operators in regional Victoria and, in reality, across the state. The loss of assignment income will have a significant economic impact.

On a personal level, for my story, I have a husband who is legally blind, who is currently terminally ill and he is going to lose \$22 000 a year with absolutely no redress. It is just taken off us, stolen. It was suggested to us in communication with government departments that he could apply for a new permit and he would be able to work again.

The very prolonged process of deregulation and crafting of the legislation which plans to revoke all of these licences and reduce them to zero value has created great economic uncertainty and, more importantly, substantial legacy debt. People have taken out significant mortgages to buy the taxis as a perpetual licence from a government department who in earlier years regulated licence sales and turnover. Looking back, some years back, in lieu of no fare increases for eight years, previous governments established processes that allowed the government-controlled perpetual licences to be traded on the open market. The Bendigo Stock Exchange was set up to enable trade. It was enabled to put licence values into superannuation, and that has all been taken away. It is being stolen. For the taxi operators in regional Victoria, who in good faith purchased licences, to now have the present-value calculations of the licences invalidated and cancelled without full compensation is questionably poor government business planning, and it is a gross infringement on the human rights of the purchasers of the licences.

There is also right now a direct correlation between the draconian bill and rapacious behaviour by the banks across the state, who are now calling in taxi licence loan customers to discuss their loan structures and to seek restructure adjustments either by recall of loans or by demand for the injection of more collateral against the loans. Some of the Wodonga taxi owners who to date have never been late for a payment, have never missed a payment, are being called by their banks for a 'please explain' of their financial positions. In Wodonga and across the state this is seeing some family homes under threat or on the market as the owners frantically try to save their businesses and themselves from bankruptcy. On a personal level, right now I stand between my son and insolvency. He has a mortgage on his home, and he is going to have a debt of \$200 000 and no business to sell — nothing.

The transition adjustment is generally referred to as compensation and the planning of the transition is flawed. The utilisation of population statistics coupled with distance from Melbourne to determine the payment levels of \$100 000 for metropolitan and urban and \$50 000 for regional does not recognise all of the indications of consumer taxi service usage and spend. To just take numbers, to just use the metrics to come up with the solution, is totally unrealistic. This can be evidenced regionally by the lack of other public transport at night. We have not got bus services, we have not got trains, we have not got other options that are available in metropolitan Melbourne. The lack of public transport sees Wodonga taxis and other regional services undertake twice the short trips of urban taxi services, which in turn sees a parallel annual income, yet they are being penalised by the significant dollar difference between urban and regional taxis for the transition payment.

The next point is that disability and wheelchair-accessible taxi service provision is under threat in regional Victoria. The government has long demanded and relied on the taxi industry to provide transport services for the disabled. Wodonga taxis bought the first wheelchair vehicle in regional Victoria. Historically, regional taxi services have been able to purchase wheelchair-accessible vehicles with 100 per cent loans financed by the high value of the licences. That has now gone, so our ability to use the licence as part of the collateral to buy the vehicle and have it modified is no longer. Linked to this is the very clear fact that pre the Fells inquiry the Wodonga taxi WAT licences were valued at \$340 000 each. They are now valueless.

Because of the government's adoption of the inquiry recommendations and the current government's impending new legislation — and I am talking Wodonga specifically at the moment — these licences are devalued to zero, and this sees a net loss to the owners of the four licences that we have with a previous value of \$1 360 000 against a transition adjustment payment of \$125 000. That is it. It is an upcoming reality that in regional Victoria as many of these WAT-licensed vehicles near the end of their life will not be replaced. We cannot afford it, so it will be reduced services for the disabled within the community. They are now becoming aware of this, and they are not happy. They express their concerns in the strongest ways possible. It is an unrealistic expectation of the government that this very expensive area of transport service provision will be

taken up by new entrants. It is the cost of the vehicles, and it is the cost of the modifications, the fitting of the hoist — all of that — and the additional training of the drivers. All of those things add up.

I would like to move on to the levy. The open-ended, unworkable levy is an overt tax, which in time will see small taxi networks become absolutely unsustainable. Regional taxi services have told me they will not be able to absorb the levy, and the ones I have spoken to have said that they will definitely pass on the cost. The administrative burden of the levy will also require the networks to employ staff they will not be able to afford, and the owner-drivers and the hapless bailee drivers will, via the networks, be caught in the middle as quasi-tax collectors. These same drivers will also have to face the angst of customers, and I have no doubt that violence will erupt. It will come. Antisocial behaviour on Friday and Saturday nights will impact and violence will occur, and there will be life-altering impacts because people will fight against the imposition of the levy. It is hard enough getting people to put up the money for the after 10 o'clock at night prepayment, just to put some money on the dash, let alone add in the levy as well. The general public does not like it, they do not want it and they are angry about it.

In regional Victoria short taxi fares are our norm. We do fares as low as \$4. To put a \$2 levy on that is very significant. The elderly, the unwell, the low-income families, a lot of these people in inclement weather — very hot, very cold, very wet; you name it — will take a bus to the shopping centre and they will get a taxi home to manage all their parcels and shopping et cetera, and to put that levy imposition on is cruel and unjust. It will make taxis unaffordable; they will not take them.

The Fairness Fund to assist taxi operators in financial distress is going to be incomplete until the end of June at earliest. It has to wait until the legislation is passed, and for some operators this much-publicised financial assistance will most likely be too late. They will be gone, they will go under, because their banks are calling in on their loans. Additionally the government has elected not to make the assistance payout an ex-gratia payment, although it was advised that it would be a good thing to do. Whatever dollar assistance is offered will be subjected to crippling levels of taxation, which will impact significantly on legacy debt reduction. So if you get \$50 000 and you have to pay \$20 000 of it in tax, the \$30 000 is not going to do too much for my son against the \$200 000 debt.

So in summary the severe financial, social and emotional impact created by the deregulation of taxi licence value has generated statewide economic loss and debt legacy. The badly planned time lines, the token industry transition payment subsequently rebranded as compensation, which was initially offered over eight years and then from industry pressure amended to two years, has seen many taxi operators and their families suffer unreasonable levels of stress. For some it has led to serious hospitalisations. You heard some of the stories earlier this morning. My son had five weeks in a psych hospital in February and part of March, and he is still on very strong medication and not able to work well.

Bank loans are being renegotiated at higher level interest rates in a climate of reduced business return, and some borrowers to meet bank requirements are selling other assets or, at worst, their homes to add to the collateral of the renegotiated licence loans, and this is when banks are supposedly saying that they are not doing this. My own bank branch manager has indicated he would be happy to write to say he has had a directive from head office to go through the process of revisiting and recalling loans.

Future WAT services have a serious shadow over them, and the regional taxi industry is very aware that the impending services reduction will not be well received and the reductions will impact on the quality of life and living for the disabled. We get it; we truly get it. The bill needs serious revision to meet the government mantra of 'safer, fairer taxi services' and action is needed for real compensation for perpetual licences. That is what I have to say, and I thank you for the opportunity to say it.

Mr CARMICHAEL — Chair, members of the committee, my name is Haydn Carmichael. I am a barrister and I appear on behalf of the Victorian Taxi Families Association. Chair, I have observed the proceedings this morning. One cannot but be impressed by the diligence, the thoughtfulness of the participation of this committee upon these important matters concerning, as they do, a transformative proposal in bill form that concerns the interest for all Victorians, where my clients have a significant and historic role in supporting through licensed vehicle operation and commercial vehicle operation an adjunct to the public transport system.

Make no mistake, your endeavours — the checks and balances constituted by your inquiries, your questioning, your examination of the facts and premises that underlie this bill — are a singular check and balance. Make no

mistake, all of those before you trust and rely upon the integrity of this process — its openness to inquiry, its openness to examine the facts that premise this bill. I will demonstrate that there are significant premises which are unrevealed in this legislation, which are unsupported by anything that Fels said and which would appear to contradict apolitical positions of each of the major parties. In particular there is no apparent indication in Fels whatsoever that would justify the revocation of perpetual licence holders for no capital compensation whatsoever. You will look in vain to the Fels inquiry report to find economic justification identified, articulated, expressed or demonstrated to be well founded on evidence for an effect so drastic and so dire in the terms directly explained from people who must be heard today.

I am reminded that a great jurist when addressing an issue of natural justice, which is as you well know the right to be heard by an open mind in an open inquiry, said this: that the law is strewn with examples of cases which were thought open and shut. We are presented in one sense with an open and shut case, after years of reform deliberation in the form of this bill. But it is not yet too late to examine premises which if uncorrected will deliver a profound injustice and an inequity. The jurist said the law is strewn with examples of cases which were thought open and shut yet which upon further consideration and reflection resulted in different judgement.

Mr Bolt today, in response to a question of you, Chair, said something profoundly important to your deliberations: ‘These are matters of judgement’, he said. They are not a formula. If they are, they stand to be tested as judgement, they stand to be examined for the facts that would support the judgement, and if the judgement is all one way, Mr Bolt’s views on this bill remain intact. But I will demonstrate that it is not all one way. There are other ways to achieving these reforms that do not cause an inequity to lawful market participants who have expended their capital in supporting a process that all governments have profited from over time — that is, a licensed system which procured funds in part for government but which provided a mechanism for regulating the industry.

You have heard from Ms Lincoln that nothing about my clients’ position seeks to set to nought the government’s proper concern to realise competitive reforms. The question that I am raising is: where as a matter of fact — and I will tell you, you cannot find it in Fels — can you find any support for the proposition that to revoke perpetual licence rights for no capital compensation whatsoever advances competitive capacity? You will not find it. And in the absence of it, are you in a position to take so decisive a step today as to affirm this bill? The answer must be obvious. It is more than intuitive that there is no factual foundation for a proposition that says take away and give nothing in return but you just continue to compete with all those that have come in having spent nothing at the outset, or not much. Their entry to the playing field facilitated our capacity to continue to fund our competition — not so, but denied by a step that is within the power of government to not take.

There are other routes, and when Mr Bolt said today, ‘These are matters of judgement’, he was saying, with great respect, two other things as I understood it. Judgements can be informed by a multitude of facts. It depends on the facts you are asked or presented with to form the judgement. That is an important matter. When in response, Ms Dunn, to a question of yours concerning assumptions, he conceded squarely and honestly that there were certain assumptions but not others. This does not indicate imperfection in Mr Bolt. It indicates what you, as participants in government process dealing with, in the significance of your high office, the matters of significance, must deal with. You are often called upon, on imperfect information, to make difficult choices. But where the information is so imperfect — such as the question that arose today from Ms Dunn, such as the question of yours, Chair, about the foundation of judgement, about what informed a judgement — and when there are information gaps that emerge as part of the answer, the question arises: well, if that information gap was furnished with fact, would the judgement expressed be different? Would the judgement expressed be different?

What are the key issues here that we might focus upon? An issue so radical, so decisive, so effective to deny former rights relied upon, created and regulated by the system — apolitically, I stress — over many years are on the passage of this bill, were it to go forward unamended, revoked. A guillotine, and no capital compensation whatsoever.

The judgement that I seek is unequivocal of this committee: that the industry reforms which unamended this bill would introduce come at significant capital cost. That fact is incontrovertible. Fels referred to it. Your past deliberations and deliberations of other committees in consideration of taxi reform have needed to address the

historic facts of the valuation of licences, and the significance of the capital investment required to enable participation in this market over time has been evident. So there is a significant capital cost.

Of the question, ‘Ought it be compensated as capital?’, the conclusion that I invite you to draw is that it makes no sense in terms of efficiency, competition or equity arguments that the core participants in the commercial passenger vehicle sector of the public transport system be denied their value of investment or be denied the capital underpinning their competition. I will repeat it: nothing about public policy, nothing about efficiency arguments that have been demonstrated before the committee — nor in questions today, nor in the Fels report — would demonstrate how it is that to deny absolutely by the effect of clause 360 of the bill affecting a revocation without capital compensation at all —

Nothing about the arguments made to justify that new fact of revocation is supported by articulated developed arguments that indicate that to do so supports the capacity of the market participants whom I represent, whom the Victorian taxi and hire car industry association speakers spoke of, in their competition with new entrants. It is this which apolitically this committee must be most concerned with. We can all be committed to greater participation, greater competition and therefore benefits to consumers and more efficiencies in the entire market. All of us can be committed to that. The question is the route. The question that I am posing is whether there is presently any answer to the question: why this route?

I want to come to what Mr Fels said. His report was of course on implementing reform, a significant step by a profoundly experienced man in competition policy. Critically, going to the question of where this idea about revocation as a necessary element of reform without capital compensation came from, I have said that we look to the Fels report and find no answer. Well, let me tell you the answers we do find. Rather than revocation — in referring, as the report at page 241 does on the top of that page, the report titled *Customers First* — the report says:

Under the inquiry’s proposal, an owner of a perpetual and transferable taxi licence will still be:

will still be —

permitted to operate a taxi

free to sell the licence

free to lease the licence to someone wanting to operate a taxi

and be —

entitled to receive income from the lessee of the licence.

On page 241:

... the inquiry is not proposing that licences will be compulsorily acquired; nor is what owners can do with their licences being changed: they will still be able to lease, operate or sell their licences. Accordingly, calls for compensation in submissions must rest on a diminution in the value of licences.

Well, if the premise changes that there is in effect a revocation, then the question of compensation arises squarely and differently.

The new taxicab licence that was proposed, which is a licence free of all the benefits of the asset values that a perpetual taxi licence holds, was a licence which is fundamentally different, and it was assumed by Fels that the two would operate co-jointly. New entrants would be facilitated entry by a lesser species of licence called a new taxicab licence.

Mr Mulder, when introducing the Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Bill 2013, in support of which there was an explanatory memorandum which referred to the Fels report and recommendations, affirmed again that a key foundational element of the reforms was to:

... provide support for the equity and income positions of existing licence-holders.

Page 2, Explanatory Memorandum. Is this bipartisan? Well, there is nothing that I have heard that would indicate on this question as to whether there is foundation and evidence to demonstrate that revocation of

licences for no capital value will advance one jot the competitive position of those holders of licences that are revoked in competition with new entrants. Is it by all measure an apolitical position? Well, the now Premier is reported in the *Herald Sun* on Thursday, 22 November 2012, to have said this at a meeting of taxidrivers. The article says:

Mr Andrews visited a group of licence-holders in Huntingdale yesterday and said he understood their concerns about their equity being washed away.

And this is a quote:

These hardworking people are the best working people in the taxi industry, and we need to be careful not to be making them unviable.

Wise words. For that wisdom to have been the fact in 2012 — foreshadowing the position of Mr Mulder in 2013, affirming the position after long inquiry of Mr Fels — we would need to see some new and significant evidence to justify revocation without capital compensation if what we are wanting to do is to secure the competition of those core heart-and-soul participants in the market already — not those who might come in but those who are there. Where is it to be found? On my best inquiries, I have not been able to find it.

So what is the consequence here? The consequence is absolutely clear that 360 is, as the minister stated in introducing the bill in her second-reading speech, to intend to affect a revocation. Of then the question as to what impact or implication that might have for property rights — which, theoretically different from countries like Russia and so on, Australia seeks to protect and which in any event this Parliament needs to take cognisance of because of the Charter Act — she advanced what can only be described, with great respect, as humbug.

The proposition that was put by the minister was that the government acknowledges that the value of licences has been reduced significantly in recent years and that the revenue that can be obtained from licences has likewise declined. It includes the assertion that, and in the context of the compliance with the Charter Act report, noting section 20 of the Charter Act that:

A person must not be deprived of his or her property other than in accordance with law —

the statement relied upon by the minister said:

This right is not limited where there is a law which authorises a deprivation of property, and that law is adequately accessible, clear and certain, and sufficiently precise to enable a person to regulate their conduct.

Two key criteria: that it is adequately accessible, clear and certain, and yet we have just identified that this revocation proposal has come, it would seem, from the ether, introduced for the first time apparently at around the time this bill was introduced and yet not supported by prior inquiries, at least that I have seen. Secondly, that there is a capacity by reason of the clarity and the certainty of the legislation that a person is able to regulate their conduct.

I can conclude by asking a rhetorical question. When Louis XIV was delivered to the guillotine, it was of little comfort to him to say, ‘There is nothing you can do about your situation’, as he placed himself down upon his knees, nor could he because of the events that occurred. So ask yourselves, with respect, this fundamental question: what can my clients, including the speakers today, do to alter one jot the effect of this threatened revocation in terms of it demolishing, extinguishing, the capital value of their asset? Answer, if it passes nothing.

There is a key issue in this which arises for the consideration of this committee. What can be said is that this legislation represents an unresolved ferment of a lot of thinking and very sophisticated public policy process. Mr Bolt advanced the proposition that this was by far the best of the reform proposals for other states. Two points: revocation is not an essential step in other states, so for it to be an essential element in Victoria, there must be something justifying it. It is hard to find.

Mr LEANE — I do not know if it was Mr Bolt that actually indicated that. It might have been 13CABS. I do not know if it was Mr Bolt that said this.

Mr CARMICHAEL — I am conscious of the time, and the last thing I want to do in any sense is to misdirect you. So may I take that — —

Mr LEANE — Yes.

Mr CARMICHAEL — But of the question as to whether and how we get to an answer — an effective public policy outcome — there is a simple point. There is much in agreement between the major parties. Those who are members of the major parties that come from country areas have spoken of particular issues, and what has emerged is that there is a cross-subsidy effect, a cross-subsidy effect that, as in response to your question, revealed that Mr Bolt's department it seems was not asked to answer the question of whether a levy that would not effect a cross-subsidy that might be introduced would be discriminating so as to protect interests. But the extraordinary and slightly sensational conclusion to be drawn from today's evidence is that Victorian country people will be paying more for a longer period than some others, so indicating an imperfect information-gathering, advice-giving policy-producing process. So of the ferment, what can be said? But that is illustration enough that there is more work yet to be done. The benchmark of process of which this committee stands as a check and a balance, that the integrity of the checks and balances that this process brings and enables, such as through the submissions heard today and that you will hear tomorrow, enables consideration anew to be given. The difficult questions it poses and the inconvenience that arises is that everyone, including my clients, want resolution, they want clarity.

The best work of commercial passenger vehicle reform is yet to be done, and is as yet undone. The best work will produce an outcome to which my clients assent their commitment in competition with new entrants. That is the basis for engaging the best possible outcome in Victoria, not in penalising or prejudicing those that have lawfully participated in a market by inhibiting their capacity to fund their competition from the capital they invested historically in. Thank you very much.

The CHAIR — Thank you. We have overstepped our time limit, but I am going to extend it a little bit further. Can we keep our questions brief and succinct, and I suggest to any member who has a legal question that we might be able to submit those questions on notice and get a response from our two legal representatives here at some stage in the not-too-distant future. First of all, I have only got one question, and that is: it is clear that there is enormous personal distress on the families of the taxi industry, if I can call them that. Ms Fitz, you have told us about your son. Between the two of you, what are some of the other instances that you have seen of the effect that this has had on people personally?

Ms FITZ — Well, I know of two attempted suicides that were foiled, and the people have received counselling and lots of support, but their mental states are very fragile. I know of another operator who has had to divest of just about everything he owns but is hanging on — in his words — by his fingernails to his house. So it is very real. It is very real, and I just do not think it has been understood in any shape or form. Mark?

Mr SHEHATA — Thank you for the question. I have seen a large number of licence-holders suffer from severe depression, sleepless nights, unfortunately marriage break-ups, domestic violence, stress, anxiety. It is beyond comprehension what is happening to these people. They cannot cope. I receive in excess — I know this is very hard to believe but it is true — 100 phone calls a day related to this issue here. So it is significantly impacting, first, the mental health of people and, secondly, the financial health of these people's lives.

Mr MELHEM — I will ask one question, and I might have some other questions that follow on from that. To me, what I get from your collective representation here is that the biggest issue is the level of compensation. That is the biggest single issue. Is that about right?

Mr CARMICHAEL — And the characterisation of it as capital.

Mr MELHEM — Yes, just in that bundle. When the shadow minister, Mr Hodgett, for example, was saying the \$494 million by the Andrews Labor government is a slush fund to keep you happy, that is not true, is it? That does not represent because there is not enough to start off with. It is a misleading statement, full stop. Can I then put to you — and I am not sure whether you put in a submission already — what is the solution? I think I have heard some figures where, as we have proposed, the payment of \$50 000 per licence could fix the problem.

Mr SHEHATA — To be honest with you, I cannot comment for everyone in the industry, but what I can comment on is the industry as a whole. To pay out \$250 000 per licence, plus a \$50 million hardship package, that would come to \$1.052 billion. I believe one of you asked that question previously and could not answer the question. It was \$1.052 billion, including a \$50 million hardship package. The \$250 000 will not make everyone

happy, I am going to be honest with you; however, it is somewhat of a compromise. I am speaking in my personal opinion. I am not speaking for everyone, because there are some people that paid \$500 000 for a licence. But you are right in one aspect: this is only about the level of transitional payments or compensation or whatever the government wants to call it. That is the only issue here. We are not opposed to the bill. We are opposed to the level of compensation.

Ms DUNN — Thank you, everyone, for your presentation. In your presentation, Ms Lincoln, you talked about the bill not passing as is. Mr Shehata, you talked about considering amendments to the bill. I just wanted to get an idea of what they look like. That might be a very big question that you might want to get back to the committee on, and I guess we could incorporate that into the Hansard transcript in some way —

The CHAIR — I am sure that will be the case.

Ms DUNN — or as a further submission.

The CHAIR — I will just check with the secretary of the committee. Can we incorporate the questions on notice and the responses in the Hansard transcript?

Ms TOPIC — We can attach them.

The CHAIR — Great. Thank you.

Ms DUNN — Because I imagine there is no short answer, but if there is a really short answer, take it away and supply us with further info.

Mr SHEHATA — I will give a brief, short answer. First of all, compensation on each and every single licence at a fair and equitable level. It is not fair that the first licence is more expensive than the 20th. How does that make any sense? Or the first licence is more expensive than your 30th. It does not make sense. Each and every single licence to be paid out fairly and equitably. I also believe that the Fairness Fund should deliver financial relief immediately. It should not be hindered in any way. Whether the bill passes or not, these people are in financial dire straits; they need immediate financial assistance. There is no benefit to anyone to withhold that money. I believe it should be forthcoming immediately and it should be passed in legislation also.

Ms LINCOLN — Might I just add that if compensation of a capital nature is to be paid in respect of a perpetual licence then it needs to be paid when the revocation occurs, not drip-fed over two years.

Ms DUNN — Okay. Thank you.

Mr SHEHATA — One little thing I would like to add to that is that the taxation issue is of significant importance. When anyone bought a licence they bought a licence with after-tax money. Why is it that now that that licence is being cancelled we are being taxed on the money?

Mr O'SULLIVAN — In terms of the time frame there are 1000 questions that come out of it and we obviously we will not get a chance to get into all of those today, but what we have heard from Eleanor and Mark today is quite concerning, as are a lot of the answers in terms of the impact that it is actually having on drivers and their families and those small businesses, not just in the suburbs of Melbourne but also in Wodonga. I am hearing that very much in other parts of the state as well, so it is good, Eleanor, to hear your understanding and your views from a regional point of view which does not always get the exposure that it should. It is as much an issue, and in fact in some instances more of an issue in some of the country areas than what it is in the city, but it is a significant issue right across the state.

One of the questions I want to ask, Ms Lincoln, is that you said that there had been two letters to the minister with some of the issues that had been raised. Has the minister written back to you and responded to those letters and given any comfort in terms of understanding or wanting to listen to those concerns and try to bring about a better outcome for the taxi industry?

Ms LINCOLN — No, we have had no response, and I seek to table a copy of those letters now if I might.

Mr O'SULLIVAN — When did those letters go to the minister?

Ms LINCOLN — 5 April and 8 May.

Mr O’SULLIVAN — And no response.

Mr LEANE — I have got some questions that I can put on notice that are not on legal but on the industry stance. I do not want to eat into other witnesses time so I will do that.

Mr BOURMAN — I am not going to ask anything about fairness because clearly there is nothing that could be characterised as fair about this situation, but I do have some legal stuff which I will put on notice.

The CHAIR — Thank you indeed for coming in and giving your evidence today. In the next three weeks or so you will receive a Hansard transcript. If you could proofread that, for obvious reasons, that would be much appreciated. I thank you once again for your contribution today.

Mr CARMICHAEL — Thank you very much also. We regret the challenges of time but thank you very much for your attention.

The CHAIR — Thank you.

Witnesses withdrew.

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into the Commercial Passenger Vehicle Industry Bill 2017

Melbourne — 23 May 2017

Members

Mr Bernie Finn — Chair

Mr Khalil Eideh — Deputy Chair

Mr Jeff Bourman

Mr Nazih Elasmar

Ms Colleen Hartland

Mr Shaun Leane

Mr Craig Ondarchie

Mr Luke O’Sullivan

Participating members

Mr Greg Barber

Ms Samantha Dunn

Mr Cesar Melhem

Mr Gordon Rich-Phillips

Witnesses

Mr Ilias Bougias, Taxidriver, and

Mr Gerald Fanning, Industrial Relations and Human Resources Consultant.

The CHAIR — Welcome to you both. All evidence taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege; there is a fair chance that they will not be.

I ask you to make a contribution of, say, 5 or 10 minutes, and then we will open for questions.

Mr BOUGIAS — Good afternoon, Chair, and members of the committee. My name is Ilias Bougias. I am a former soldier and an officer cadet of the Australian Defence Force Academy. I am married, and we have four teenagers. I have been a full-time taxi operator and driver for the previous seven years, and preceding that I was a casual and part-time taxidriver. I have been in the motor vehicle industry for the last 20–25 years, ever since I left the military.

I am today representing those who cannot represent themselves, the men and women who wear blue and white shirts and drive a yellow car 12 hours a day to feed their families and keep a roof over their heads. I submit to you my opinion on the proposed deregulation of the taxi and hire car industry. I notice that I am the only Melbourne taxidriver who is to present to you, and for that I am deeply honoured.

I appear here today because I love our country, our state and our city, and I am extremely perplexed as to why this state government of the world's most liveable city can even contemplate instituting policies which will decimate our taxi industry as it is today and definitely not improve it. The effects will be far reaching and dangerous, and I will clarify these issues further in my submission.

I believe that the ridesharing and deregulation legislation is deeply flawed and that its repercussions have not been fully contemplated and, more importantly, comprehended by the government of our great state.

Firstly, some economics. I will start with the economics and revenue implications to the State Revenue Office. I will use just the industry in greater Melbourne as my example. Currently the Taxi Services Commission has approximately 1400 metropolitan taxi licences that it leases to the industry at an annual rate of \$23 000 each. These leases have now just been cancelled. That is a net loss to the State Revenue Office of \$32 200 000 per year. There are approximately 5109 metropolitan licences, including the 600 green tops — the part-time taxis. These taxis pay an annual Victorian registration fee of \$2900 per annum. That equates to \$14 800 000-odd, and hence the State Revenue Office and VicRoads will fail to receive those funds annually.

Shortly this will be reduced to a normal car registration fee of \$700, and the Taxi Services Commission fee of \$550. That equates to just \$6 380 000-odd. So just on that figure alone the state is dropping \$8 430 000. The 600 green top taxis I mentioned pay an annual licence fee of \$8500 each. That fee is also about to be cancelled; hence that equates to a loss to the TSC and the SRO of another \$5 100 000.

By my calculation, just on these figures alone, Victoria is about to lose \$45 million a year. Even if an extra 15 000 ridesharing vehicles joined the fleet, which is modelled, each paying their \$550 per annum, the loss would only be reduced by \$8 250 000. So we are looking at a \$37 million loss. Please bear in mind that these figures are only from greater Melbourne, and I have no knowledge of the country taxi industry at all. Hence I do not feel qualified to speak about it. I do, however, know that Bendigo Taxis have just announced that they will not be able to provide a wheelchair accessible taxi service on weekends after a certain hour. This will most likely flow into other hours and days of the week. I need not mention the effects that will have on the aged and infirm in the Bendigo area and obviously other parts of country Victoria as it seeps through.

This leads me to my next point. I have seen nothing in the proposed legislation or any regulation that accommodates the needs of the elderly, infirm or disabled. The most important part of my industry's role is to look after those who need us most. My two most favourite customers are a 91-year-old gentleman who served in the Royal Australian Navy during World War II and a 75-year-old lady who suffers from cerebral palsy and up until recently was a court stenographer in every single one of our jurisdictions. Nowhere in these proposed changes have I seen any mention whatsoever of the M40 taxi card, wheelchair accessible taxis or the safety, security and comfort of passengers and drivers.

Taxis currently have cameras, back-to-base communications, GPS tracking services and driver duress alarms. They also have communications with their network service providers — as in voice communications. All these are accessible to the Taxi Services Commission and the police at any one time. There is no mention of these in

the proposed legislation, and their absence in the legislation and regulation indicates to me that the government expects that there will not be any required in the future. This action is foolhardy, negligent in the extreme and would undoubtedly leave the government and its bodies wide open to extensive litigation by aggrieved parties in the future — God forbid.

The yellow office, as I call it — the taxi — is also an emergency service. Thousands of times a day it takes people to and from hospitals and doctors' appointments at a minuscule cost compared to what it would cost the ambulance service in Victoria to do so. On numerous occasions accountable and responsible drivers have gone above and beyond the call of duty to care for passengers and their needs. This is solely because the cars are liveried, the drivers are recorded, they are monitored and the drivers are accountable to you — the state of Victoria.

Many times the yellow office has been the first car at the scene of an emergency, and more often than not the driver performs admirably, above and beyond the call of duty for the reasons I have just expressed. Babies have been delivered by taxidrivers. People have been stopped from jumping off bridges because of taxidrivers. Injured people have been pulled from mangled cars because of taxidrivers. I know this because it has happened to me on four separate occasions.

My next point — let's discuss this ridiculous \$2 levy. Why should the Victorian public, our visitors and our tourists be forced to bear the follies of this government's actions? Purposely destroying a multibillion-dollar industry and then expecting the industry's clients to compensate that industry is ludicrous. The sheer mention of a \$2 levy should be scoffed at and removed from every document in this noble building. Why should an 87-year-old infirm, aged pensioner, Mrs Smith from Wangaratta, be forced to pay an extra \$2 per trip to go to and from the shop three days a week? One, can she afford it, and two, will there even be any taxis to actually charge her that \$2 in the future?

Let's talk about this levy and how it will be collected. Multinational corporations registered in offshore tax havens generally do not reveal such data to state revenue offices, neither do some people in the industry. The SRO has serious concerns about whether any information they receive will be accurate. Senior officials within this office have expressed this belief to me.

I fail to see how these proposed changes assist myself or any of my 16 000 full-time and 10 000 part-time colleagues. This bill encourages a fourfold increase of the fleet, hence reducing all our incomes by a minimum of 40 per cent. The accepted business model of the previous 50 years in Melbourne and in most western cities is that there has been one taxi for every 10 000 citizens. This bill guarantees that the existing model would be blown out of the water, hence making it unviable for anyone to call it a full-time career or business.

Greater Melbourne's taxi and hire car industry turns over approximately \$1.4 billion a year. It is a vital part of our economy. I cannot fathom how this government can contemplate sending a large proportion of these funds to multinational corporations who are registered in offshore tax havens. As our economy begins to struggle and as our debt and deficit increase, we need these funds here more than ever. I estimate that in excess of \$170 million will leave the Victorian economy every year, never to return, once and if these proposed changes are brought into effect.

This industry has been failed by successive governments. We have failed to enforce our existing regulations and legislation. As a perfect example, the Taxi Services Commission has a gazetted strength of between 32 and 36 inspectors. Currently I believe there are only 17, perhaps even less. Some of them themselves have told me that it is impossible to do their jobs, and they are truly fearful of a fourfold increase in the fleet.

Senior managers within the Victorian police force, acting senior sergeants and above, have told me the taxidriver accreditation and roadworthiness of taxis and ridesharing cars is not their primary concern and never has been. And yet they fear the day when 50 unregulated, unliveried and unregistered ridesharing cars are waiting in front of every single nightclub in Melbourne. I need not explain why.

Now, to my final point. Sixteen years ago the Department of Treasury and Finance commenced to look at deregulating the taxi and hire car industry. It had received departmental submissions from various stakeholders concerning the expected impacts of any proposed changes. DTF took the position of deregulation. The risk to government would have been the payment of compensation to taxi and hire car licence holders, and this would have imposed a heavy budgetary burden on the state government. Also, a drastic change to ownership laws

would have meant a larger negative political burden that no government would willingly undertake. DTF concluded and advised prolonging these discussions between various groups and making them public, hence lengthening the process. This would have allowed market forces to drive the value of licences down, thus making it easier and cheaper for the bureaucracy and the government to achieve their aim.

The creation and introduction of the ridesharing applications enabled the bureaucrats, and the current government in power, to recommence this strategy a few years ago. Hence the introduction of Professor Allan Fels to our industry. Being a Brunswick boy and a one-eyed Carlton supporter, one of my favourite Australian sayings is, ‘You do not move the goalposts during the middle of the game’. It seems to me that this is precisely what the government and the bureaucracy are intending on doing.

You all know that I lease my licence and hence have no capital skin in this game, but I am honour-bound to say something and to say it firmly: the proposed changes mean that this government is forcefully acquiring assets that were bought under a set of rules that have been in existence since the 1950s. This will destroy entire families. It is nothing but an outright and blatant attempt at theft. To give someone only a miserly 10 or 20 per cent of an asset’s true value can only be described as that — theft. An asset can be described as something that a bank can take a security on, which is precisely what has been occurring in this great state for the previous 50 years. I urge the government to think very, very carefully and tread very softly. It will be stealing people’s assets, livelihoods and superannuation and making their retirements, which they had planned for, precarious and insecure, causing much anxiety in their old age.

You have just met some lawyers, and there are at least two other firms who are preparing litigation, and I know for a fact that the state insurance office has already briefed its reinsurers and what may soon occur. Their depth of cover is only \$2.5 billion, and it is only a drop in the bucket. I as a taxpayer do not wish to foot the bill for yet another disastrous governmental decision.

So far, what I know of, three men have taken their own lives, two have died of fatal heart attacks, eight have survived heart attacks, one has had a stroke, 11 homes have been repossessed, numerous families have broken up — all this has been caused solely because of this legislation and the careless wish to disregard and deregulate this industry. If the government believes that it cannot afford to purchase the licences back at their true values, I suggest that it withdraws the bill. It should also consider the cost and implications of possible litigation should these bills be passed by this noble Parliament. Every licence has the same value, and every licence should be acquired by the government at the same value as every other one, not this ridiculous proposal that is currently before Parliament. I know for a fact that the government does not wish to pay the fair market value for these licences because my own distant relevant, Minister Jenny Mikakos, told a colleague of mine, Dr Linda De Melis, that it would be too expensive to do so. Hence I implore you to stop this legislation proceeding through Parliament. Nothing will be achieved by stealing the assets of hardworking Victorian families and reducing their incomes to nothing but near enough to the poverty line.

The social cost will be horrendous, and the legal cost of litigation and compensation to the aggrieved parties will be too great a burden for any government to incur. I have seen too much death and violence recently, and I do not want to see anymore. I know the mental health of many in my industry is at breaking point, and I fear what may occur. I have personal experience of numerous conversations with good, honourable men who are in this room who have never done a thing wrong in their lives aside from parking and speeding tickets and who have told me that before they lose their licences, their homes and their families they will try to stop this in any way they can. I cannot be more subtle. There are 30 000 families involved in this industry. They vote, they remember and the ripple effect is electorally amazing — the law of unintended consequences.

I thank the committee for hearing me and for allowing me to speak to you today. I feel as though I have done my duty to my fellow citizens of Victoria and my colleagues in the transport industry. Good afternoon.

The CHAIR — Mr Fanning, do you have anything to add to that?

Mr FANNING — Yes, Chair and honourable members of the committee. My name is Gerald Fanning. I run a consultancy service. I have worked for both sides of the house on major projects over the years, but I mainly work in the commercial building industry and associated infrastructures. I was contacted a week before Easter by the Victorian — I cannot remember now; there are so many of them — and I went to a number of meetings with the various industry groups. They sought my views on the due process that has been engaged in to bring about the legislation and asked me to comment accordingly.

I have titled the submission 'A fair go for the taxi industry'. Basically it is based upon the Australian term 'fair go' being iconic and resonant in Australian history and in Australian day-by-day grammar. It emerged with its current meaning — an equitable opportunity, a reasonable chance, even-handed treatment — in the shearers strike of 1891, which saw the defeat of the unions in that particular dispute but the subsequent birth of the Australian Labor Party.

This is the same Labor Party that has proposed the deregulation of an industry it controlled and subsequently regulated, leading up to and including the decision to deregulate it and offer a pittance for some licences but not others, all in the face of an entity that has entered the market in defiance of existing regulatory regimes. In recent years the fair go has become a contested term, one that can be claimed by all Australians regardless of wealth, background or political persuasion, so the current debate over the taxi industry's right to a fair go is as much a debate over claiming the values and history associated with the term as it is a debate about redefining the term in an Australia vastly different to the struggle of shearers in the late 19th century.

It is well established that the relationship between taxidriviers and taxi owners is one of bailor and bailee rather than employer and employee; however, this in itself distinguishes the taxi industry from a more traditional owner and contractor arrangement. Drivers pay the owner as opposed to a client paying a contractor. Unless the driver obtains work, the owner has no income other than by driving himself or herself. The owners, through separate contractual arrangements, set up systems that help solicit work for the driver and contribute to their own income. In that sense, although not meeting the legal tests found in employment law or workers compensation law, the drivers are workers relying on their own skill and labour to earn a living and also to earn a living for the owner. This contrasts with Uber, which claims to be merely setting up a connection between a car owner and a passenger. The driver is usually the owner, but if an owner engages another person to drive, that does not constitute a bailment arrangement but a contract for services, which is regulated by the common law.

In the case of taxis, as opposed to Uber, the income of both the driver and the owner, both of whom can be described as workers in the commonly understood sense of the word — that is, the pub test, so popular amongst politicians nowadays — is entirely dependent on the existence of a licence issued by the government. By reducing the number of such licences, the regulatory authorities — that is, the government — have taken a definite step to deny these workers the ability to earn their living using the skills and assets acquired, in many cases, over a lifetime

In these circumstances equity demands that owner and driver be adequately compensated for the denial of their future earning capacity. This is made all the more pressing by the failure of the authorities to regulate Uber from the outset. Our submission seeks the upper house to hold the subject legislation until such time as due process evaluates the compensation payable for each licence and, importantly, establishes a level playing field for all competitors in the industry. I thank the committee for their time today.

The CHAIR — Thank you very much indeed. You have told us today that you represent the grassroots of the taxi industry, if you like — the drivers — and you said you fear what is going to happen if this legislation is passed in its current form. What exactly do you fear? What you think will happen?

Mr BOUGIAS — An excellent example, Mr Finn, is the fact that they tried to storm the steps of Parliament only three weeks ago. When somebody loses their home, their business, their family, under the tremendous stress that they have been under for the previous four years, I really do fear that acts of violence may become very evident, let alone what they will do to themselves.

The CHAIR — So acts of violence against — —

Mr BOUGIAS — I do not know, but I can tell you, having seen how angry they are and having held many of them in my arms as they cried at the taxi rank at the airport, having seen them talk to me about a fellow driver passing away last week at the toilet ranks at the airport, knowing full well that the heart attack was caused by the stress that he was under, the emotions are just building up. That is the scenario that we are under. I know chaps — there is one in the room right now who owes \$800 000 on one taxi and one house. He is going to lose both very shortly. What will he do with his two or three kids and his wife?

Ms DUNN — Thank you both for your presentation today. I just had a couple of things. You talked about the \$2 levy and why should passengers be forced to pay that cost. Do you think that cost should be one that is borne across the state by all taxpayers, then? Where should the funding for compensation come from?

Mr BOUGIAS — In my humble opinion, Ms Dunn, I do not think that the state should compensate taxidriviers by simply doing one thing. Let them keep their licences.

Ms DUNN — I guess there is an interplay in that in relation to the value of licences dropping, which probably has impacted on ridesharing services coming into the state. If you think that taxidriviers should keep their licences, are there other mechanisms as well, because essentially it looks like the level of the value of licences is on a downward trajectory?

Mr BOUGIAS — Correct. Let us look at it as a perfect scenario. There are 4.6 million people living in Victoria. There should only be 4600 taxi licences, not 20 000, 25 000 or 30 000 full-time or part-time licences. You do not need multinational corporations employing people at \$6 to \$13 an hour to drive people from East Melbourne to the city every 3 hours so that they work like slaves. What has been happening is that these people's income has gone from one amount to this amount. That is why the room is so full. Get rid of the illegals, monitor the industry properly, supervise them, employ plenty of Taxi Services Commission inspectors, keep the industry professional, make sure they are all well dressed, their cars are roadworthy, their cars are modern, create pride in the fleet, and the world's most livable city will have the world's greatest taxi industry, same as the boys in London.

Ms DUNN — Just as a follow-up — and it is probably to Mr Fanning this time — you talked about essentially evaluating the compensation level. I am just wondering if you can expand on what you think that might look like.

Mr FANNING — Perhaps if I go back to the beginning of the matter — and understand that I have only been involved for about six weeks — as I stated, in my previous career I worked for governments and in 1983 I had the privilege of assisting the minister for transport of the day in introducing the new Transport Act. Very interestingly, that act included for the first time a definition of consultation — that consultation should occur at the contemplative stage. The feeling of everyone I have spoken to in the industry is that that did not occur, because if that had occurred you would have had a due process come out of it because it would have been at the contemplative stage which everyone understood and everyone participated in. They might not be happy with the outcome, but at least they were party to it and they owned it. That is the answer, Ms Dunn. I cannot put it any other way. It would have evolved, as all restructuring evolves in major industries, and I have been a party to so many of them. You can handle them if you consult at the contemplative stage. I learned that lesson in 1983 and have practised it ever since. It works.

Ms DUNN — There is only one other question I had, and it might be for Ilias. We had another witness talk about the market failure in relation to wheelchair-accessible taxis and providing services to people with a disability. I just wondered if you had any observations around that and whether you agree with that sentiment as well.

Mr BOUGIAS — I do, because for the Taxi Services Commission to actually get people to drive and own wheelchair-accessible taxis requires those people to be incentivised. That incentive now appears to be leaving, and I know for a fact that many of the chaps who have got wheelchair-accessible taxis are handing them back. They are not interested in driving them anymore because there is no income in it for their families. And if they are driving them, they are all hanging around at the airport taxi rank hoping to get large families coming backwards and forwards.

Mr BOURMAN — Gerald, here is a question that I just thought of. Most drivers, as I understand, are generally not the licence-holders, so there will be people that lose their jobs as a result of this.

Mr FANNING — Yes.

Mr BOURMAN — And under current Victorian law and general decency there will also have to be redundancy payments and things like that as people lose their jobs. Is that fair to say so far? There is an unpaid cost here to the businesses that may or may not survive, but to do the right thing by the workers at the end as the industry contracts it could well continue or hasten the push to the end.

Mr FANNING — Because the employment law does not cover this industry — the employment law in this country that every other worker enjoys protection under, and for that matter employers enjoy protection under — you cannot argue redundancy, because they are not covered by the Fair Work Act or any other relevant industrial legislation. It is a bailor-bailee arrangement, and that is the difficulty.

Mr BOUGIAS — We are all ABN self-employed, Mr Bourman.

Mr BOURMAN — But, to paraphrase it, they are out of luck.

Mr FANNING — Well, not necessarily. If the consultative process had determined the terms of reference between the parties — that is, the industry represented by all the thousands of people who work in it along with the appropriate government department and persons concerned — you would have brought about a formula which dealt with it all, but that has never occurred with respect to the government of the day.

Mr BOURMAN — But as it stands now, as it is now, all those drivers will be out of luck. They will just stop working.

Mr FANNING — In my humble opinion, yes.

The CHAIR — I am told that we have no further questions, so I thank you very much for coming before us today and giving your evidence. It has been extremely helpful — very, very helpful indeed. In thanking you, can I just point out that in about three weeks time you will receive a Hansard transcript of your section of the hearing; if you could proofread that and get it back to us, that would be marvellous. In the meantime, thank you very much and good luck to you all.

Mr FANNING — We appreciate it. Thank you very much.

Witnesses withdrew.

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into the Commercial Passenger Vehicle Industry Bill 2017

Melbourne — 23 May 2017

Members

Mr Bernie Finn — Chair

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Witness

Mr Jeff Kennett, AC.

The CHAIR — Ladies and gentlemen, we will begin this afternoon's session of the hearing and welcome our next witness, who is of course the Honourable Jeff Kennett. Mr Kennett, all evidence taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action for what you may say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege, which I am sure will disappoint you enormously.

I would ask you to make some preliminary comments for perhaps 5 to 10 minutes and we will then open the floor to questions.

Mr KENNETT — Thank you, Chair and members of the inquiry, firstly for allowing me to address you. May I start by indicating that at no stage have I ever or do I now have a vested commercial interest in any taxi licence. It has been written and rumoured that I do, but I have never had a commercial interest in a taxi licence. It is true that I have taken a great interest in the taxi industry over the last perhaps 30-odd years, but only in recognition of the service they provide. I saw them as part of the public transport system — flexible. Whereas trains and buses normally follow routes, taxis can go anywhere they like. Secondly, because of the nature of the people who own those licences, who are a very good cross-section of Victorian and Australian life, they invariably only owned one licence, they worked extremely long hours and, in my opinion, were the salt of the earth.

Further, can I just say I think from previous experience either you directly or indirectly will be aware that in the 1990s we reformed the taxi industry without legislation. To bring about change, in my opinion, does not require legislation; it simply requires good management and cooperation by both sides.

The current process to reform the taxi industry started under the Baillieu government and under the leadership at the time of Allan Fels. It was partly done in the early stages of ridesharing, but not as obviously then as it has become in the last two years. I personally do not think that we needed legislation to change the taxi industry. In other words, I think the taxi industry and ridesharing, for which there is legislation necessary to regulate it and to put the safeguards in for the community, could have coexisted. So I am not opposed to ridesharing in any shape or form, whatever the organisation may be that brings it about.

The process that was started by the Baillieu government was without the government at the time having any idea of what outcomes they wanted. Sadly, the inquiry took no account of the history of the industry, the make-up of the people who were behind it or the ramifications of the changes that they then sought to impose. Mr Baillieu's successor, Dr Napthine, introduced the changes that Allan Fels recommended and that started again another wave of reform. With the success of the Andrews government, the Andrews government recognised they had to introduce legislation to make legal the illegal performance of ridesharing. But I think too, sadly, they then decided to totally restructure the taxi industry at the same time. As I said, I do not think it was necessary. You could have put any reforms you wanted to in place for the taxi industry without legislation, and then you could have legislated to make ridesharing as whatever the community wanted in terms of safeguards et cetera.

The result of that has been that there has been a substantial amount of unnecessary hardship for those who have licences, and I think there are just over 3000 in the metropolitan area with perpetual licences and some perhaps 2000 outside of the metropolitan area. This issue has now been going on for a number of years, again without any concern at all for the welfare of those who own those taxi licences, many of whom are now elderly, many who cannot drive and many who have leased their licences out to other drivers in order to earn an income.

I have been working as best I can with the government of the day in a bipartisan way. I do not see this as a partisan political issue. As far as I am concerned, I have been working with many members of the taxi industry that I have known for very many years to try and bring about an equitable outcome. I would have liked to have seen an equitable outcome as quickly as possible to reduce not only the financial hardship, because we are now seeing individuals having their houses reclaimed as banks now recognise that these licences, which they were prepared to lend against to 100 per cent, are now worthless. So to my knowledge there have been a couple who have lost their houses, but it is not only the financial cost, it has been the mental cost — the delay in getting this matter resolved and getting to a position of what I would call fairness and equity. I guess, Chair, that is why I am here today, because while I have been working closely with the government over the last year, we still have not got to a position where we have got what I consider to be a fair and equitable outcome bearing in mind that this is not a reform of the taxi industry. If we can just put aside for one moment ridesharing, it is the impact on the taxi industry that is my greatest concern.

This is not a reform. This is the cancellation of licence plates. This is a restructuring of the industry in the same way that governments, both mine previously and successive governments, have removed licences from scallop fishermen and commercial fishermen in Port Phillip Bay, but where a substantial amount of money has been paid recognising the fair capital value of those licences. As you know, the taxi licence system has been in place for over 50 years. The government have sold them, awarded them. They have been changed in a commercial sense from time to time by sale, and before this process started under Mr Baillieu, licences were selling for about \$535 000. Sadly, some people bought licences at that time.

What is fair and equitable? At the moment the government has set up a scheme which allows for transitional funding for \$100 000 per licence and \$50 000 for second, third and fourth, and then a fairness fund, which looks at the financial impact on the individual licence-holder. As I think I said before, most of these licences we are talking about are held by an individual or one family. Very few have multiple licences; some do, but very few in terms of the main. So what is fair and equitable?

My great concern is that we have got nowhere close to establishing a figure that is fair and equitable. I feel that there is a great social injustice being done here, and I really mean that. Unlike the commercial fishermen, who got compensation up to \$1.6 million when their licences were revoked under the current government, these individuals, the taxi licence holders, find themselves in a position where their assets have been substantially reduced in value — I was going to say destroyed — their lives have been totally destroyed in terms of their financial position and now their mental anguish is very real.

When I look at the legislation I think there are a number of issues that we have got to look at. One of the ones, and I do not know if any of those who spoke this morning has referred to it, is the concern we have that any payment will in fact be taxed by the commonwealth government — the ATO — which, to me, is just totally unacceptable because this is not money that they have been given in a way. It is not money that has resulted in individuals benefiting from. This would be money that compensates for fair capital value of a licence. It is not to replace anything else but the reduction in the value of the licence.

If I can just make some suggestions to you, because I have looked at the legislation. To be quite honest, if the government want to proceed down this way, and I understand that they do — as I said before, I do not think you needed to; I think you could have separated the taxi industry to allow them to continue to operate and legislate for ridesharing — I think we need to make sure that, firstly, any compensation paid is seen as compensation in trying to establish the fair capital value for the licence. It is in two parts: it is in the transitional part, which is the \$100 000, \$50 000, \$50 000, \$50 000 and whatever the Fairness Fund decides. It is not for any other reason, and that should be included in the legislation, Chair. It must state there that any payment made is in fact because we have restructured the industry, and it is a recognition of trying to determine fair capital value.

Why is that important? Because if the Parliament will put that into the legislation, that will give to the ATO an instruction that this has nothing to do with income replacement or anything else. It is simply to do with the reduction in the capital value. As you know, the ATO has in recent times decided to tax some of these similar sorts of payments because they have determined, through the looseness of the legislation, that in fact it is income replacement. This is not income replacement. This is restructuring and the removal of licences. It is the denuding of the taxi industry as we know it. So that is the first point I would like the inquiry to consider and hopefully try and influence the government that that amendment be made.

Secondly, the Fairness Fund has been established outside of legislation. It could be stopped tomorrow. Any claims that are made of the Fairness Fund may not be honoured. I am not saying that they will not be honoured, but they could be. I think it is important that the legislation be amended to recognise the Fairness Fund and to put within that, if you can, the guidelines by which those who sit on the Fairness Fund are adjudicating the claims of the licence-holders. So I am suggesting that there should be legislation to recognise the Fairness Fund.

I would further like to suggest that the Fairness Fund is being talked about in a way that there might be \$50 million to meet any claims that are made under the Fairness Fund. The Fairness Fund has been sitting as a group of individuals in judgement of people at the moment based on their needs, financial hardship et cetera. No payments have been made as yet. It was established to try and short-circuit the pain that some of these people were going through, and yet no payment from the transitional fund or the Fairness Fund has been made. But the government are talking about an upper cap of \$50 million which will be funded by the \$2 levy. Can I make a suggestion to you. I do not know what the Fairness Fund is going to recommend. I hear that they are going to discard some claims because they cannot prove up the claims that the individuals are making. On the other

hand, I have seen evidence where I think they are being fair and reasonable and there will be amounts of money paid eventually. I would like to suggest that the \$50 million talked-about cap be removed in terms of discussion, and in the legislation we indicate that the proposed \$2 levy stay in place to meet any and all of the recommendations of the Fairness Fund so that for those who have made claims, if the totality of their claims is above \$50 million, the government will honour the decision of the Fairness Fund committee.

The government have indicated that they are prepared to extend the \$50 million, but I think on behalf of the taxi owners they want assurance that this government or the next government are not going to alter the basis on which they work. The beauty of this is that it allows the levy to stay in place to cover the total cost of any award made by the Fairness Fund. It will not be great over a number of years, but it is fair and it is equitable.

Chair, I would also like to ensure if the legislation is passed, hopefully with amendment, that once royal assent is given all payments under the transitional aspect of the compensation plan should be paid within 30 days. These people have been waiting for months. Their lives have been destructed and for many their mental health is chaotic. I know of two deaths. I will not put my hand on my heart and say they are suicides, but I think they are. So there has been a great deal of stress. The question is: whatever form the legislation takes, when it has passed the Parliament, received royal assent, I would like this committee, this inquiry, to strongly make sure in the legislation there is a provision that will enable the payments to be made quickly.

Again I have had assurances that that will happen, but I think it is important that we actually have it in the legislation. To be quite honest, I would like the same of any allocation made by the Fairness Fund. The Fairness Fund have been sitting. They have interviewed a lot of licence plate holders. They have made their decisions, good and bad; I do not know the outcome of individual applications. But I think it is only fair and equitable that if the Fairness Fund has made a decision in favour of a licence plate holder which together with the transition fund represents a reduction in the capital value of the licence knowing that the licences will all be revoked the moment the legislation is passed, then the moneys allocated by the Fairness Fund should be paid — in fairness, in decency — to those who claim them.

Now the government might say, 'Well, that's going to be millions of dollars'. The \$2 levy, which I know some members of the Parliament are opposed to — I recognise that — is a fair price to pay over a period of time to make sure that these individuals are properly and fairly recompensed. That cannot only cover the capital of the money that is paid by the Fairness Fund but any interest that the government might accrue if in fact they pay out the awards decided by the Fairness Fund quickly. It is terribly important that we try and reduce the pain that these people are feeling.

Licence plate holders, as I said earlier, probably only number about 5000. They are not a political force as we know some other groups of Victorians or Australians are. They are small businessmen and women. They fundamentally act alone. They are, in the nicest way possible, not an organised political group, so they are just individuals or individual families who go back in many cases to just after the Second World War. This inquiry has the opportunity to make recommendations to the government that will not present the outcomes that I would like in the sense that had I been in control I would have enacted. As I said earlier, I would have continued to drive the taxi industry to provide a flexible, viable, professional service and I would have legislated ridesharing to meet the criteria of the community along the lines of the taxi industry where appropriate, particularly in terms of safety. That has not happened; I accept that.

I have, as I said to you before, had many meetings with Minister Jacinta Allan and there has been, I think, a fair amount of goodwill in those discussions. But I understand the electoral cycle, more importantly the parliamentary cycle, and I think you have only got a couple of weeks really left to go in June before the Parliament gets up until the end of the year. This cannot go on until the end of the year. These families, these individuals are hurting, and I would ask sincerely that the inquiry in its findings make recommendations which I hope the government in goodwill will accept in order that the legislation can be passed before the Parliament rises. Otherwise, the indecision and the pain will continue for another few months and that does not behave any of us, regardless of our political leanings et cetera.

People have asked me what is the right amount of money to pay in terms of the transitional fee, and there are amounts that have been floated and talked about. It is very easy to suggest an amount but I also understand that the government is the government and while we may agree or disagree with their legislation — components of it, actions, amounts — all we can try and do is influence change. From my discussions with the minister I genuinely think she would like to see this matter resolved. I certainly would, in the interests of those that I do

not represent commercially or in any other way than just trying to give them some support for what I think is an absolute injustice. But I hope that the government will take on board whatever your findings are. Given that the government themselves have made these changes, they then have a responsibility to resolve the issue quickly and fairly. I thank you.

The CHAIR — Thank you indeed, Mr Kennett. We will pass on to some questions. I have just got one to start with. We have heard today some very disturbing evidence about the impact of these changes on individuals, starting from suicide, attempted suicide, suspected attempted suicide, heart attacks, family breakdown — a whole range of hardships. But there has been no payment, as you say, from the Fairness Fund. Why is that the case? What is wrong with the Fairness Fund if it is not helping people through these difficult times?

Mr KENNETT — If I could try and accurately reflect the comments of the minister, I think she is waiting until the legislation is passed, because she says until the legislation is passed and we know we have the levy in place, then we cannot pay any moneys out. I have argued to her that this is not fair, and of course it is not until the legislation is passed, technically, that the licences are revoked. But in the meantime the capital value of all those licences has been absolutely reduced. And now the banks have been approaching many of these licence-holders because the asset which they used for borrowing has been totally reduced.

The minister would argue, I think, that we need the legislation to get the levy in place to fund the Fairness Fund. I think the minister argues that until the legislation is passed, taxis are still legal but of course without a value and with no prospect of a value, because they going to be replaced by a licence fee of about \$583 which anyone can apply for. That is one of the reasons I think we need this settled quickly.

As I said before, as you know, wearing my hat at Beyondblue I have met many of these individuals in the industry in diabolical straits. I did not say before that the two people I know of did die by their own hand, because at the end of the day you cannot be 100 per cent sure. But I can say to you very genuinely that this issue has brought them great distress and they are not with us today, and there is no other reason they are not. So it is one of the reasons why I would like to see this resolved. I would like to see the minister and the government understand that if you are going to restructure it and if you are going to reduce someone's asset, then you owe it to those people to do it fairly and to treat them in the same way as we have treated, and this government has treated, commercial fishermen in Port Phillip Bay.

The CHAIR — Mr Kennett, as you pointed out today, you have a closeness with the taxi industry that goes back some — it must be 30 years, I suppose, or getting close to it anyway.

Mr KENNETT — Last century.

The CHAIR — Also, with your involvement in Beyondblue and your concern about the mental health of people, could you expand a little further on what impact you have seen these changes have on those in the taxi industry? We have today had people give evidence that we could well have catastrophic results if this legislation is not handled properly.

Mr KENNETT — I do not doubt that you are going to have catastrophic results, because there will be many who have made submissions to the Fairness Fund who will have their applications rejected. Many of those, sadly, is because many of them are, in the nicest way, simple men and women. They do not have records going back a long time. Some of them do not use accountants. The Fairness Fund has KPMG advising and they are wanting to see records and evidence, and a lot of these people do not have them. Many of those who are rejected by the Fairness Fund are going to find themselves in diabolical trouble.

I have seen people in my office in tears. I have seen husbands and wives in tears. I have seen people who are losing their house. The best way I can properly describe it is: imagine yourself if the government came along and said to you that one of your own assets which you had worked hard to protect and develop is all of a sudden worthless. Where do you go? Who do you turn to? I have asked myself that question many, many times. If someone came along and said to me that my assets that I have worked for are worthless, I do not know what I would do, and I am, fortunately, better off than many other people. You are going to see everything. We have already seen just about everything, every emotion. You have seen funerals, you have seen people who are trying to be responsible, trying to do the right thing. We cannot imagine the pain because we are not in that position.

That is why the Parliament must act reasonably and fairly. Not left or right — I am not worried about politics of it. Just treat people decently. That is all I ask, and do it quickly.

The CHAIR — We have heard suggestions today that there could even be violence as a result of this from drivers and people who are desperate, if you want to use that term. Do you feel that that could be on the cards?

Mr KENNETT — I hope not. Again, there have been demonstrations where there has been acts of violence et cetera, et cetera, and I yesterday appealed to those in the industry not to act irresponsibly because it does not help all of those — it does not help you in adjudicating, it does not help those who support and I think, from what I have heard, the attendance of many today has been without any rancour whatsoever, and I would always advocate peaceful demonstration and certainly not violence.

Please understand, some of these people are losing their livelihoods — they are losing everything they have got. One chap I know, who has been here for 45 years, came to this country for a new opportunity, worked hard, worked as a taxidriver, earned enough money to buy a licence 35 years ago, got his house et cetera — it is all he has got. He is still driving. He is about to lose his house because the bank that used his licence and fully used the licence as the mortgage on his borrowing have said, ‘This licence is now worthless’. So he is not just losing his licence, he is losing everything he came to this country for and where he has raised his family.

Again, I am sorry we are at this stage. It is not the way I would have handled it. I am all in favour of legislating ridesharing, but the two could have coexisted very easily and very well. You would not have issued any more licences; you would have allowed those people who still have them to keep them, to trade and keep working et cetera. But that is not what the government has done, and there are models in New South Wales et cetera which are different. All I can do is work to what we have now. That is why the greatest plea I make is to have this legislation passed quickly. If it does not and if the government does not see fit to incorporate some of the things that I have suggested to you, which I hope you will consider in due course, the question you have got to ask yourself is whether you can honestly pass the legislation at all.

Mr MELHEM — Just following on from that, Mr Kennett, that is the issue that the government and the opposition — you made some mention about the opposition. The opposition cannot be saying the \$494 million the Andrews Labor government is going to put out is a slush fund to basically bribe or buy votes. We all believe that that is not the case. When you have got an approach like that from the opposition in relation to that, that makes life difficult. Secondly, the attack on the \$2 levy, which does not help. I am really pleased to hear you talking about that bipartisan approach because that is the only way to fix this problem, instead of playing politics. Have you got any sort of advice to both the opposition and the government on how to address that or expand on the point you made earlier?

Mr KENNETT — I have watched the debates and heard the comments from all sides of Parliament and I am not here today to be political. I am here with a hope of bipartisanship, which you referred to, which has got to be resolved. The amounts of money here are not inconsequential. Therefore it is, I think, acceptable that the government should be trying to over a period of time receive sufficient funding to pay out a fair capital value for these licences.

I think the fund you referred to first was the Hardship Fund, which was the \$4 million that was earlier in place. About 63 payments were made under that; not all of the \$4 million was paid. This is a new round, new legislation which has two components — the transition amounts and the Fairness Fund — all of which to me represent a reduction in capital value, with the government trying to establish for each individual, where they make an application, what is the fair capital value. So, Mr Melhem, I am not interested in the politics of this, but I will be, very much so, if these people are hung out to dry.

Now I am only an ageing superannuant, but I still have a voice, and I do not want to see these people hurt. Regardless of your politics, you have a responsibility as parliamentarians to treat people fairly. The responsibility of a government should always, firstly, be the safety of their community — forget your politics. Secondly, in this case, it has got to act fairly. So put your politics to one side; I do not care what they are. I will talk to you all, and I think the debate publicly to date has been reasonably conducted. I think under the circumstances, where there have been demonstrations and a bit of outbursts, that is understandable, but please understand that these people deserve to be treated as you would treat yourself or want to be treated under the same circumstances.

Mr MELHEM — One last question from me. Mr Kennett, you talked about how you work out the compensation. I think at one stage you were recommending establishing an independent body to deal with those who purchased licences before 1990, I think, from my reading of some of the areas you were looking at, and on a case-by-case basis for people who purchased licences post-1990. Would you care to elaborate on that model?

Mr KENNETT — I think, Mr Melhem, that is where the Fairness Fund's deliberations come into play, because they are sitting there adjudicating and they have got access to information that I do not have because they can call it up from the taxi secretariat et cetera, et cetera. I guess I am saying I am happy to hand over to the Fairness Fund the responsibility to adjudicate based on information that is provided. I know that is going to cause some hardship to some because they will not get any compensation, but I am not part of that. I am prepared to accept the process that is currently in place as long as it is equitably handled across the board. I am not quite sure, but I think you come from a union background. If you were leading these men and women as a unionist, I wonder if you would be making demands very dissimilar to what I am asking.

Mr MELHEM — No. I do not disagree with the demand at all, and I think I made earlier this morning that it is all about compensation. I think we should stop playing politics. I mean, people are arguing about the \$2 levy, worrying about consumers and everyone else. Let us call it what it is. It is important to get the right compensation.

Mr KENNETT — It is not even compensation; it is fairness. It is establishing the reduction of a fair capital value for a licence. That is all it is. It is just trying to ask, 'What is fair?'. We have had a system for 50 years. All of a sudden it is going to change. All right, governments have that right, but if you are going to have the right, then you have got to treat people fairly and equitably. That is all I would ask.

Ms DUNN — Thank you, Mr Kennett, for your presentation today. Clearly there are a range of amendments you have flagged that should be incorporated into the bill before us, but they do centre around this concept of fair capital value as, I guess, the cornerstone of that. I am just wondering if you have any views as to what that looks like, because of course it does come with its complexities because of the time span of licences that have been out there, the different prices people have paid and circumstances, and I just wonder if you have turned your mind to the nuts and bolts of what that looks like.

Mr KENNETT — I think there needs to be a new clause added, which is a very simple clause that says that any payment made under either the transition fund or the Fairness Fund is a payment that attempts to recognise the fair capital value of the licence that is being removed. I am not a draughtsman, but it does not have to be much greater than that. There just has to be a statement there that is specifically designed, as you would understand, to give the ATO a clear understanding of these payments, because I do not want to see people get their transitional fund treated one way and any Fairness Fund treated another. It would be grossly unfair, because no-one is going to be compensated or given value to the total capital value of the licence, so it will be a lesser amount in two components. To tax then one part of the component further reduces the capital value, so this is nothing else but fair capital value. I think it just needs a simple clause which designates what the payments represent.

Mr BOURMAN — In your presentation you said — I am going to paraphrase here — that the way you would see the perfect world, as perfect as it can get, is to leave the taxi industry alone, as is, and then regulate ridesharing. To ensure a level playing field given how much the taxi industry undergoes now, how would you see that regulation? What sort of thing would they have to put on ridesharing to actually make it fair, given that they would not have to have cameras in the cars, cages, back to base and so on?

Mr KENNETT — It is probably a very simple claim to make, but I would not have got to this position, to be quite honest. We have got a new player on the field which is giving the community different options. I accept that. I would make sure that I had enough information about the cars and the drivers to protect the public interest, and then I probably would not have issued any more licences, allowed the existing licences to remain, allowed the taxi industry to continue to use their taxi ranks as we know them today and allowed them to continue to operate and sell and trade those plates as they existed.

That would give me, the public, the opportunity as to whether I use a ridesharing device or whether I use a taxi device, and to be quite honest if — and I do not believe it is the case because I think the taxi industry is terribly maligned when something goes wrong within its ranks, when of course for every time a passenger is

disadvantaged, there is a taxidriver who is equally disadvantaged by someone who misbehaves — the taxis cannot provide a professional service, no-one is going to use them, so they are going to die on the vine.

Mr BOURMAN — Market forces.

Mr KENNETT — Yes, exactly. So you could easily have had the two systems. The trouble we have got now goes back fundamentally starting almost three years ago and the way in which it was originally started, which with Mr Baillieu's government was about reform. It was not about restructuring; it was about reform. That was Dr Napthine. This government has moved to restructure, and that is fine. That is the government's right. As I said, I would not have got to this position.

I do not understand why people do not appreciate this industry and do not appreciate the people who are in it. I mean, they are the salt of the earth, and they come from all nationalities and they have for years — Greeks and Italians et cetera after the war. So it still would have been possible. I just think we are too far down the track now. Too many people's lives have been destroyed by months and months of indecision.

Mr BOURMAN — One last question. It is about the infamous \$2 levy, which appears to be political but I will get with it. You said the \$50 million Fairness Fund should not be capped — no problems with that. But at what stage does that \$2 levy get stopped, or does it just become a new tax? I am not fond of taxing.

Mr KENNETT — Again, if I was there, I would put in a KPI that once the moneys associated with the Fairness Fund had been paid and any interest associated with paying the Fairness Fund moneys immediately had been met, that levy would have to be removed. That also could be contained in the legislation. With due respect, it requires separate accounting. So the Parliament is entitled to know, of the fund, how much has been spent, how much of the \$50 million is left? How much of the total allocations by the Fairness Fund — do we need to go to \$51 million, do we need to go to \$53 million? So the members of Parliament should always know, and then the Treasurer, if he pays out immediately, would be able to put an interest charge on it which would also be totally transparent. So it would have a life, and it is not going to be that long because the number of trips undertaken — be it by taxis and/or ridesharing — is substantial. So it is only going to be in place for a few years, and I know some think \$2 is a lot of money. It is nothing compared to losing your assets and not getting reasonable compensation, and we owe it to the community, I think, to do it.

Mr O'SULLIVAN — Mr Kennett, thanks for coming in today. A question that I have got in my mind — and I am looking for some guidance from you because we have heard a whole range of comments here today about the impacts of this legislation. We have heard about the assets becoming worthless. We have heard about payments coming under scrutiny from the ATO and perhaps having to pay tax on that compensation. We have heard about outside income that some of the families might have started to undertake as a result of this now precluding them from approaching the Fairness Fund. We have heard much of this sort of commentary. At the same time we are talking about fairness and wanting to resolve this quickly to take away the uncertainty.

In my mind a question I have is: how can we pass this legislation, how can we vote for it when there are so many holes in it, it is going to cause so many problems for so many people — and from your former position with Beyondblue you would know better than most the impacts that that uncertainty would have — but at the same time we are hearing that we need to resolve this quickly? So I am a bit confused as to where we should go in terms of having bad legislation with bad outcomes against ending the uncertainty.

Mr KENNETT — That is a good question, and it is made more difficult because of the remainder of sitting weeks in this parliamentary session. Had we had this inquiry, had we been sitting, at the beginning of the year, then we might have resolved all these issues and you would have passed it more normally. A lot of this is just parliamentary draughtsmen and women doing work quickly and efficiently and professionally, and I think they can do that. The real issue is whether the government is prepared to move on any of these things to allow that sort of instruction to be given. And if you cannot, if that cannot be done, then it is quite possible the legislation will not be passed and cannot be passed. My worry with that is, with due respect, these people, a lot of them, their condition is going to get worse.

The banks — and I am not one who attacks the banks; I know they have made mistakes in the past, but they are still the lenders to most of us for our mortgage and everything else, and we cannot do without them — they are under a lot of pressure, they are seeing these assets reduced in value, in many cases to zilch, so they are saying, to protect their shareholders, 'We have got to seize the assets that these people have'. So if this cannot be

resolved quickly, then we run the risk of it being held over until the next session, and the pain that these individuals have been suffering is only going to grow. So there is a human cost in all of this. But I understand the technical issue you are raising, and I think, personally, if it was a choice between the two, I would much rather not have the legislation than not provide proper provision within it to protect the individuals.

There is just one other alternative that I think is probably not feasible. The government could withdraw the legislation and they could introduce legislation as it affects ridesharing and allow the two systems to operate. They could do that in the same way that they have done it fundamentally in New South Wales to some degree. Now it would not be exactly the same, but you could do that. You did not need to disrupt the taxi industry. You did need to make provision for ridesharing, and if we had done that, no-one would be upset, with due respect, perhaps only the ridesharing, who are unaccountable at the moment.

Just understand, that sort of outcome would have put pressure on the taxi industry to modernise itself and to deliver good service et cetera, et cetera. And you are actually seeing this now with some of the taxis that have got what they would call 'more luxurious offerings' than just the common taxi service. So that is an option if anyone has got the courage to do it. Now that might not satisfy a lot of the taxi industry people, because they are in diabolical trouble at the moment, but I do not want to see legislation that is going to worsen their conditions.

Mr LEANE — Thanks so much, Mr Kennett, for your assistance to our committee. This is a precedent, I think for all of us, that we have an ex-Premier prepared to come and give evidence to our humble upper house committee.

The CHAIR — I think it could be a first for him too.

Mr LEANE — So we do appreciate that you have given us time to assist us. You will understand the two-party adversary democratic system better than me — much better than me. We actually have five parties sitting here, but let us go to the two-party adversary system. Taking on board 100 per cent of what you are saying about the \$2 levy and what that means, where it is going to go to and the importance of that, there has been a lot of sabre-rattling from one side of politics that it is an outrageous tax, that it is a slush fund and that it is all sorts of things. So being, I suppose, an icon of that side of politics in this state, have you had a chance to discuss with that side of politics the view that you have put to this committee today?

Mr KENNETT — Firstly, thank you for your kind welcome. This is the first time I have ever appeared before a Victorian parliamentary inquiry. I have never done so. I do not think I have ever attended a protest rally. The reason I am here should be seen as the seriousness with which I consider this issue, and I was first in this room 41 years ago, so it is a long time ago.

I am going to be quite frank with you. I have been terribly disappointed in the way my side of politics has handled this issue since the establishment of the inquiry under Ted Baillieu. With hardly any concept of what they wanted out of it, it has been an absolute, unmitigated, unfair balls-up. I have had discussions. I understand the political ramifications of the \$2, but I just want to leave you with an example, if I may. When I established Beyondblue in the year 2000, I established it here in Victoria and had it as a bipartisan group from day one. I had a former Labor health minister in Caroline Hogg and I had a former Nationals Party member in John McGrath on the committee. It is the bipartisanship of Beyondblue that has in part made it so successful, so much so that as you know I am planning to stand down at the end of June. I have been looking for three years for my successor, and it has taken me three years to get former Prime Minister Julia Gillard up as my successor. She will do a very good job.

I am appealing to the Parliament of Victoria: forget your politics and treat these people as you would treat yourself or you would have your children treated if they were being subjected to this restructuring and having their assets destroyed. So yes, I have spoken to all sides of politics on this issue. I guess that is partly why we are here, because the Parliament listened in part and the upper house sent it to a committee, otherwise we probably would have found ourselves with the legislation being debated without the inquiry having the opportunity to take on board some of the submissions that have been made to you to try and find an equitable way to resolve it.

I say to those who oppose some of the ingredients of this legislation to put themselves in the position of those the legislation affects and do whatever you can to be fair, equitable and, more importantly, decent. It does not matter whether there are 30 000 people or only 5000 people or even one person — parliaments are there to

protect the safety of the individual and to treat them decently. There are a lot of occasions where that does not happen, I understand it, and we make a lot of comments and say a lot of silly things from time to time; I have done that myself from memory, but it was last century, a long time ago. But this is an opportunity for this inquiry, regardless of your politics, to actually represent a small group of people who have no friends — not in the media, not in the unions — they are just hardworking men and women who deserve to be treated fairly.

Mr LEANE — Forgive me, I am struggling to understand your part of the submission around that ridesharing could exist with the current taxi system. The reason I am is that this is not the first inquiry that we have been party to — there was a previous inquiry — and a lot of the submissions representing taxi licence owners, taxidriviers and the taxi industry were about how unfair the playing field was with new players coming in and some of those new players being multinational gorillas that do not care about a local jurisdiction's laws and regulations. That is why I cannot understand how you are saying that the two could live side by side but separately.

Mr KENNETT — I think very easily. I am not opposed to new technology, and what will happen is new technology will be continually introduced into the taxi industry as we know it today, and that is happening already. I think what the taxi industry and some of those who might have made those submissions say is that ridesharing is not subjected to the same controls that are imposed on the taxi industry by government, and that involves costs and it involves a whole range of registrations et cetera. I can understand some members saying they are fearful of change. A lot of people are always fearful of change, and the only thing we can be sure of is the rate of change is going to get faster and faster as our lives progress. But the real challenge, the real complaint, is not that new technology has arrived with a new system but in fact that those who are coming here do not have to meet the same standards of the taxi industry, which is costly and time consuming et cetera. If that was done — which is why I say I support legislation to legalise ridesharing.

And the other thing I think we are all aware of is that our population is growing; the demand for flexible transport services is greater, not less. I think the other thing that I can say, and you will have read, I am sure, is that some of those ridesharing services, not all, are starting to experience troubles themselves because they are new and because they are not able to be regulated, and many of the drivers are complaining about the amounts of money they are getting. A lot of the newer ridesharings have learned from the early ridesharings, and they are doing things a bit better. I think you need to legalise them and regulate them — that will not affect their efficiency in terms of moving from A to B, but it will put them on more of an even par. So I think you will find that the two will survive easily.

I saw a taxi yesterday and I spoke to the driver and, while I do not like the multiple colours that are now allowed, to get away from the yellow and pink that I wanted initially, it was brilliantly presented. It was neat, it was tidy, the driver was neat and tidy and the competition will keep them on their toes. But if they do not want to compete, they will sell their licence, or they will stop operating. I am not worried about competition, do not get me wrong, and I think the expressions you have referred to are more an expression of frustration from those drivers. I think there is plenty of work out there for those who want to work.

The CHAIR — Mr Kennett, in about three weeks time you will receive a transcript of today's proceedings. If you would be kind enough to proofread those — not that that will be necessary, but if you would be kind enough — that would be a marvellous thing. We thank you for making history with us today.

Mr KENNETT — Mr Chairman, can I thank you and your colleagues, and can I strongly suggest you do not send me a transcript. I never read anything I said in this Parliament in the 23 years that I was here. I never corrected *Hansard*. What you have said, you say and it is finished. So thank you. Please do not worry about sending it to me; I will not read it.

The CHAIR — We will save the stamp.

Mr KENNETT — Thank you for your time.

Witness withdrew.

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into the Commercial Passenger Vehicle Industry Bill 2017

Melbourne — 23 May 2017

Members

Mr Bernie Finn — Chair

Mr Khalil Eideh — Deputy Chair

Mr Jeff Bourman

Mr Nazih Elasmar

Ms Colleen Hartland

Mr Shaun Leane

Mr Craig Ondarchie

Mr Luke O’Sullivan

Participating members

Mr Greg Barber

Ms Samantha Dunn

Mr Cesar Melhem

Mr Gordon Rich-Phillips

Witnesses

Ms Georgia Nicholls, Chief Executive Officer; and

Mr Stephen Armstrong, President, Victorian Taxi Association.

The CHAIR — Welcome to the public hearings of the economy and infrastructure committee. All evidence taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege. So I thank you for joining us.

Could you perhaps say 5 or 10 minutes worth of words to begin with, starting by giving us your name, your company — if that is appropriate — and your suburb for the record. We will ask some questions a little later as well.

Ms NICHOLLS — Thank you, Chair. My name is Georgia Nicholls. I am the CEO of the Victorian Taxi Association. We are based in Port Melbourne. I am going to hand over to our president, Stephen, just to kick things off for us.

Mr ARMSTRONG — I am Stephen Armstrong, president of the Victorian Taxi Association, only for a short time — the last six months. Prior to that I was vice-president for a number of years — 20 years — mainly in the position of looking after urban, country and regional areas. In my other roles, I am the chairman of Ballarat Taxis and also the chairman of a taxi company in Shepparton.

Just to give you a bit of my history and background, because I think it might be relevant, I first got involved in the industry in 1977. Prior to that my grandfather, my father and my uncle have been involved in the taxi industry since the 1940s — I think, as Mr Kennett said before, at the time of the Second World War. So it has been a family business.

I have held every position in the taxi industry that is imaginable, from a part-time and full-time driver to a call centre operator, call centre manager, manager of our cooperative, to a Director and to our Chairman. So I think I come here today with quite a bit of experience. I will give a bit of background about the taxi industry in Ballarat, if I may. We are a cooperative, we are a not-for-profit organisation, which is pretty similar to every other country or regional taxi operation, whether it be a cooperative or a taxi company — not-for-profit organisations with directors who are taxi operators and taxi owners. We have in our time in the last 30 to 40 years in Ballarat never had an outside investor in our company or our cooperative whatsoever.

I guess we are here today at a point in time where, if this was two years ago, I would be making a lot of other suggestions about what we should and should not be doing. However, as was conveyed before by Mr Kennett, I know firsthand the angst, the anxiety and the stress that our operators and our owners are going through. I have sat at home at night taking calls from other country operators in tears, and I know that we are at a point in time when something must happen and it must be a fair and equitable outcome that we try and achieve.

That is where I sit today. I am happy to answer any questions. I would probably rather answer the questions so that we can achieve that fair and equitable outcome — and answer your questions and your concerns about what you may want to know about the industry.

Ms NICHOLLS — I might just note that it is perhaps somewhat disappointing on behalf of the people that are in this room that we are here again before a committee that has only wound up what was effectively a 12-month inquiry into the very policy problems that this first piece of legislation brought forward by the current government attempts to deal with. It has been put much more articulately to all of you by Eleanor, by Mark and by others who live and breathe the impacts of this indecision on a day-to-day basis, but I cannot overstate to you the human and commercial toll that this continues to take on the participants in the commercial passenger vehicle industry in Victoria every hour that it goes on.

I hope that you are more than aware of the Victorian Taxi Association's position on the way we think the reforms should be progressed in Victoria, given the amount of information that we gave to the previous inquiry on the matter. Whilst, as Stephen said, we do not believe that the package that has been brought forward for the Parliament's consideration is by any means perfect, it is definitely the most ambitious attempt on behalf of any state government in Australia to deal with the fundamental shifts that have occurred in the industry in which we operate.

We want to see the committee use this opportunity, in what is quite a brief period for you all to consider the legislation before the Legislative Council at the moment, as an opportunity to discuss and agree and to try and find the common ground — which we do believe exists — which can be landed on in order to give both to the

industry participants the certainty they deserve about their futures and to commercial providers of services the best opportunity to offer high-quality services to the passengers of Victoria and to give them the benefits of fair and equitable competition in the market.

We do believe that there is scope for a number of amendments to be made to this legislation to see a fairer and more equitable outcome both for industry participants and for consumers of commercial passenger vehicle services in Victoria, and we urge this committee to use this opportunity to discover those areas of commonality.

The CHAIR — Thank you very much indeed. Could I ask either of you, or both: what would this legislation in its current form do to the taxi industry in regional areas if it were passed?

Mr ARMSTRONG — I guess, speaking purely from a Ballarat perspective, because that is obviously what I know most about, and as I said before, being a not-for-profit organisation, the licence value that we will be losing, that the cooperative holds, is in the vicinity of \$900 000. There is a difficulty that emanates from that when we go to a bank. We run a fleet of eight wheelchair-accessible taxis, which are not cheap to operate in any sense of the word. In fact, I have submitted our costings to previous inquiries about the break-even nature of that business — and if you are in business to make money you would just not bother doing it. The stress that that would put on us as a cooperative to try and obtain finance and continue the service as it is now, it would probably be almost impossible for us to continue along the lines we are now.

Speaking for Ballarat — but this is going to run along all the other urban and regional centres that I am aware of — our shareholders cross-subsidise the running of our wheelchair-accessible taxis. What would have to happen is we would have to go to our members to ask for more money to subsidise that. I do not think that is going to happen under the current structure and the reforms as they are set out now. That would put enormous pressure on our ability to service the disabled community.

We have already seen in Bendigo they have reduced the number of service hours in order to keep their vehicles on the road and to keep it for the wheelchair and disabled community there. After 10 o'clock at night you cannot get a service from a wheelchair taxi in Bendigo. I can quite conceivably see that going right across the state in other regional services as well.

The CHAIR — So that would severely impact on the independence of people in wheelchairs and with severe disabilities.

Mr ARMSTRONG — It would certainly impact on the social inclusion of people. There is no doubt about that.

Ms NICHOLLS — I think I might take the opportunity to echo the comments that I know David Samuel made to the committee earlier with regard to the whole wheelchair accessible taxi space, which I know was of significant concern to this committee in its previous inquiry around ride sourcing, as well it should be. I think that fundamentally the changes that have happened within the commercial passenger vehicle industry threaten the viability of wheelchair-accessible services, no matter what this current piece of legislation says, and that is for a range of reasons.

The concern with this first stage, if you like, of reform not being progressed — or were it not to be progressed in the coming weeks and months as quickly as possible — is there are a number of things that the government have committed to do and that have been announced publicly, including a review of accessible transport services more broadly, some very considerable integration issues with the NDIS rollout, which continues to happen across Victoria, as well as the future of MPTP subsidy programs and the like, and we cannot move forward with those conversations without an understanding of where we sit on these kinds of fundamental questions around licensing. There are very, very considerable commercial concerns particularly around the NDIS which cannot really be productively explored without some certainty on these fundamentals.

I think again it underscores the need for these sorts of initial decisions to be made, and it is only when those have been made that the implications can be fully explored and worked through. The so-called second tranche of legislation that we expect will effect much more fine-grained changes to the way that taxis and other commercial passenger vehicle services are regulated at a grassroots level, if you like, simply cannot even begin to be considered until we move through this initial hurdle.

The CHAIR — Apart from the taxi services, are there many ridesharing services in regional Victoria?

Mr ARMSTRONG — Unofficial rideshare services, yes, which you are probably aware of. In Ballarat and Bendigo, we have had Ballarat Rideshare, Cash for Lifts, a number that we have reported to the Taxi Services Commission for investigation. That is a danger for us — not only the effect on services, but the safety aspect of that. On some of the Facebook sites I have seen, ‘Don’t forget, don’t drink before you drive these people because there are 05 rules’, et cetera. It is amazing what you look at when you go through these things. So the proliferation of unofficial ride-sourcing services is a real worry as well as a threat.

Mr LEANE — I do not want to paraphrase you, but a previous witness today talked about four years of uncertainty in the taxi sector and looking to get some sort of certainty. Just taking on board that there is little bit of frustration in your verbal submission, so your advice to the committee is — to the MLCs today and the MLCs that are not here today — to thrash this bill out; people will put their points of view and their amendments or whatever they want. There was a statement about no bill, but your preference would be that there is a bill but then the outcome of this committee and the legislation.

Ms NICHOLLS — Yes, I think from the evidence that has been given today, if we go back to the previous witnesses that you have heard on similar issues, I am sure the level of angst that is being experienced by people that are here in this room and the others that they represent is pretty apparent to you. The idea that discussions or further inquiries are likely to uncover some sort of solution which does not fundamentally have at its heart a number of trade-offs which are very, very difficult political decisions that need to be made, you could do another six months of inquiries and take witnesses and fly around the world looking at the way other governments have dealt with this, but, yes, we would have much preferred to see an outcome where —

Mr LEANE — We do our job.

Mr NICHOLLS — you do the job of making a decision, because that is what we are here for.

Mr BOURMAN — I will be pretty brief. You said that your preference would be to see the legislation go through with a number of amendments. Just for the avoidance of any doubt, what sort of amendments would the association like to see?

Ms NICHOLLS — I think a number of the amendments proposed previously by Mr Kennett were very sensible in their scope and fundamentally strike at three real issues. The transition assistance package obviously is not explicitly stated in the bill itself. I appreciate the recommendations that Mr Kennett made around the potential resolution of the taxation issue if it was to be stated explicitly in the bill, and whilst I cannot claim to have advice which would confirm or deny whether that indeed would resolve the problem for the ATO, if that would be the case, then we would certainly support it.

The other clearly contentious issue is around the scope and amount of compensation that is being offered as a result of the structural adjustment that is proposed to licensing. We have provided pretty significant submissions on this in the past, but again it comes back to the trade-offs being discussed by the representatives of the Legislative Council and a decision being reached as to what a fair and reasonable amount of compensation would be. We certainly do not accept particularly that not covering every licence, for example, and that the level is acceptable in its current form.

The other controversial issue obviously is the levy — the shape and nature of that. I think certainly the fact that there is not a sunset clause is of particular concern to us, so again Mr Kennett referred to the fact that a sunset clause could sensibly be constructed which reflects the levy ending only at the point at which the government of the day had recovered the full value of funds paid out. I think that is probably a sensible way of approaching it.

Ms DUNN — Thank you for your presentation today, and thanks for the clarification on those amendments, because I think in terms of the committee we are interested in working a way forward in relation to this matter. But I just wanted to ask you, and it has been a theme of mine today, there are many different numbers thrown around as to how many trips there actually are per annum. What are your views in relation to how many trips per annum there are?

Ms NICHOLLS — I think the contest around the number of trips that happen is probably reflective of the fact that the data that there is is not particularly decisive. It is rubbery, and so I would prefer to reserve the right not to give you a figure.

Ms DUNN — That is fair enough.

Ms NICHOLLS — But I think that there is a range within which the modelling needs to be conducted to give the government and the Parliament potentially assurances around what kind of time period we would be looking at in terms of a repayment period. There are also some assumptions that need to be made about the ability to enforce the levy and the coverage of the trips that would be achieved. And there is always a certain level of contestability around the number of trips that happen outside of booked services — that happen either amongst secondary networks and informal groups of taxidriver and hire car drivers, of rank-and-hail trips and the like. That is where the uncertainty comes from, I think. It does make it difficult, I think, to be decisive around what the number of trips are going to be that the levy would successfully apply to. But if we worked in a range between probably the data that is reported from networks to the Taxi Services Commission and some sort of loading for the fact that is supposed to cover a broader number of service providers in the industry, it would be a sensible way to approach it.

Ms DUNN — From information provided to us today it would seem a fairly conservative figure, and of course it matters in relation to recovery of funding, so there is a nexus between that. So thank you for your comments in relation to that. The other thing I think is probably of concern to all of us is the impact on wheelchair-accessible taxis. Mr Armstrong, you have touched on that in a regional sense already today. I take your point; you have actually outlined also a number of issues that are impacting on that, whether that is the NDIS, the review of accessible transport and the like. I am just wondering, do you have any views in terms of what is required to ensure the ongoing security and future of that service, because it is so integral to accessibility for our community members.

Ms NICHOLLS — I think the comment I was harking back to previously that was made by David Samuel was around the idea that essentially this is an area of market failure. It always has been. There has been a number of attempts by successive governments to put in various different types of incentive and subsidy programs both for users of the services and for providers of the services to encourage the reliable provision of wheelchair-accessible taxi services. I think outside of Melbourne there is a general understanding as to the quality and reliability of services that are offered. In the metropolitan market, as David acknowledged, there is a high level of variability because of the unique service challenges of such a large geographic region. Fundamentally there needs to be a going back to those principles around what the environment for the provision of wheelchair-accessible services should look like and to what extent you can expect commercial providers to be successful in the provision of those services without very significant subsidies for their provision.

We have seen the extension of a subsidy program currently offered by the Taxi Services Commission around the purchase of wheelchair-accessible taxis in the urban area, and we are very grateful to the minister for her willingness to listen to the challenges of urban taxi operators in renewing their wheelchair-accessible taxi fleets. That has been a good interim measure. Obviously we think there is still significant work that needs to be done. We eagerly anticipate the establishment of the accessible transport review to really dig into these issues and try to go back to those first principles and look at what the potential approaches are to resolving this once and for all. But I do not think those kinds of things can really begin in earnest without some certainty around the fundamentals on licensing.

Mr MELHEM — I think you have answered in relation to the \$2 levy, and I take it that the association is still supportive of the levy as a means to recover the cost of compensation.

Ms NICHOLLS — Look, it is a difficult one. I would be loath to sit here and say that I support the concept of a levy, but we are living in times where we have to be realistic around what we can expect. Our original submission to this inquiry and to the committee, to a previous inquiry by this committee and to the government, was around an approach to recovering the value of compensation that was structured around entry costs and annual fees for the operation of commercial passenger vehicles. We still think that is a fair and more equitable way of collecting the value of compensation funds over a period of time from the industry; however, given what I have just said to you about the urgency of an outcome, we have come a long way, and I think there are probably some changes that can be made to the way that this has been conceptualised in the current legislation,

which have been noted by a number of witnesses already today, which would see the impact on passengers lessen significantly as well as the costs on the industry softened.

Mr MELHEM — I take you back to the issue of compensation, and I have got to be careful here about what sort of question I ask, because it sort of trying to get a figure. I do not think you will ever get an agreed figure. Have you got any views on how we can break that impasse — for example, what could be a likely acceptable solution? Mr Kennett threw a few ideas on the table earlier. Has the association got a view, because my understanding is you have not got any major issues with the legislation as such; it is the issue of compensation that is one of the areas that you have highlighted. Do you care to share some practical examples where we might find a solution, if there is one?

Ms NICHOLLS — It is a very difficult question, as I am sure you know. There is probably not a solution which is going to suit every licence holder within the Victorian taxi industry. I have to be honest about that and say that I think that there probably is not a silver bullet to this. If there was, I would be here telling you to embrace it and run with it with both hands. I think that, as you all know, the vast majority of licence-holders hold one taxi licence, so a significant improvement on the value that was being afforded to people that hold one licence would be a very large step forward for those holders.

Having said that, there is also a significant number of people that own more than that. There is a very small number of people in the taxi industry that own more than four licences. For them, whilst the impact is probably less on their day-to-day finances, there certainly is a number of them that have significant debts that will be left exposed as a result of the fact that the compensation funds end after the first four licences. I think probably there are some improvements that could be made to the coverage of licences, which also, whilst not contributing hugely to the overall value of the package, would really assist those holders in terms of the impacts that they were feeling in that transition.

I guess there is not a right number, but I do believe that there are significant improvements that could be made to the package which do not blow out the compensation offer to such an extent that we are going to see payback periods in the decades and which, assuming that there is a genuine intent by members of the Legislative Council to engage in that debate, can be found.

Mr MELHEM — Just one last question. Mr Kennett also talked about another option is to legalise ridesharing and leave the taxi industry alone as it is. Is that an option the industry might look at, from your point of view? Have you got any view on that?

Ms NICHOLLS — We have quite a strong view on it, and I think it is a conversation that I have had with most of the members of this committee or at least other representatives of their parties. No, I do not believe that legalising one area of the industry and maintaining the requirements that exist on the current taxi industry is a sustainable way forward. I think that essentially the question about the future value of taxi licences relies on the profitability of a business which operates a taxi as compared to the profitability of a business that does not operate a taxi licence but provides some other form of commercial passenger vehicle service. You can only justify the purchase of a very high value piece of capital to operate that business if there is a significantly higher return from doing so in the long term.

I think that attempts by other state governments to suggest that from a regulatory perspective they are going to be able to protect the so-called ‘rank and hail’ market from the penetration of other competitors and therefore protect licence value are disingenuous at best. In Sydney we already see a rank provided for ridesharing services at the airport. If that is not a very clear indication that these service providers exist to provide exactly the same service as one another and therefore are fundamentally in competition with one another, then I do not think there is a clearer example of it. The impact over time on licence value will be to see a continued deterioration in the marketability of those licences. If we do not accept that and try to deal with the transition that confronts the industry right now, the pain will only continue to persist, I believe, for the participants in the taxi industry.

Mr ARMSTRONG — The other part of that is — as Georgia alluded to — at Avalon Airport obviously we have a ride sourcing or ridesharing rank that has been established there. We have seen them at the Spring Racing Carnival, we have seen them at the Australian Open. So even though Mr Kennett had good intentions, through my experience, the ability of the Taxi Services Commission to regulate in that space would be problematic.

Ms DUNN — Just coming back to the \$2 levy, earlier today we heard some views that operators or drivers might absorb that \$2 levy into their operating costs and not pass that on to passengers. I just wondered if the association had any views in relation to that.

Ms NICHOLLS — It is very difficult for me to comment on the likely behaviour of commercial providers within the industry, but I think the likelihood of the ability of particularly small taxi operations outside of Melbourne to absorb the costs of the levy — it is a ludicrous proposition. Having said that, we are also expecting significant changes to the way that taxi services are regulated as a result of forthcoming reforms, so it is a little bit difficult for us to project exactly how that would play out for the passenger, but I think it is fairly clear that in the short term the customer will certainly see an increase as a result of the imposition of a levy.

Mr ARMSTRONG — From our position in Ballarat and our owner-operators, and I am one of those, it would be virtually impossible not to pass that cost on to the customers. Even as a network and the ability of us to collect the levy on behalf of our own operators, that is an impost and that is a cost that we are going to have to deal with. We only have three office staff in our building. It is going to mean that we are going to have to either employ more people or have our current staff work overtime to facilitate the collection and the reporting of the levy as well. And as I said before, we are not-for-profit organisations, most of it, so that is again going to come out of the shareholders' and the members' pockets. So there is a double-edged sword there for our taxi operators.

Ms DUNN — And I am assuming that is just because your margins are so tight. Even with changes you do not have the ability to just say, 'Sure, I'll absorb it'.

Mr ARMSTRONG — You are right; we do not have that ability. I have been chairman since 1992. We have never once paid a dividend out to any of our shareholders or members, who, I might add, are all active taxi operators.

The CHAIR — Thank you very much indeed for coming in today and making yourselves available to be witnesses in this inquiry. You will be receiving a transcript in about three weeks time. If you could have a bit of a proofread of that and get back to us with anything that might not be up to what you would expect, that would be a marvellous thing. Thank you very much indeed.

Witnesses withdrew.

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into the Commercial Passenger Vehicle Industry Bill 2017

Melbourne — 23 May 2017

Members

Mr Bernie Finn — Chair

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Mr Jeff Bourman

Mr Nazih Elasmr

Ms Colleen Hartland

Mr Shaun Leane

Mr Craig Ondarchie

Mr Luke O’Sullivan

Participating members

Mr Greg Barber

Ms Samantha Dunn

Mr Cesar Melhem

Mr Gordon Rich-Phillips

Witnesses

Mr Elgan Potter, Director, and

Mr Mark Wilson, Managing Director, Victoria, London Taxis.

The CHAIR — Good afternoon, gentlemen. Welcome to the public hearings of the economy and infrastructure committee. All evidence taken at this hearing is protected by a parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege.

I would ask you to make an opening statement of about 5 to 10 minutes and then we will open for questions, but could I ask you first of all to state your name, organisation and suburb for the benefit of the record. Thank you.

Mr POTTER — Good afternoon. My name is Elgan Potter. I am a director and shareholder in the London Taxi Company Australia, and I live in Hunters Hill in Sydney.

Mr WILSON — I am Mark Wilson, managing director of London Taxis Victoria, and I live in Hampton, Victoria.

Mr POTTER — Thanks for your time today. We are very different from most people attending today and tomorrow in that we do not currently operate in the market in Victoria. We are bringing a fresh set of eyes and commercial evaluation to the point-to-point industry and wish to enter the taxi industry in Melbourne and broader Victoria. I would like to just take a few minutes to explain who we are and why we think our business will be successful if we enter the Victorian market. I will then specifically address the issues relating to plate costs, the proposed levy and timing in some detail.

Who are we? London Taxis is a privately owned Australian business of which I am a shareholder and director. I got into this 12 months ago, primarily because I could see that the taxi market and the point-to-point transport business could be done better in my view. My background is completely different to this industry; I am from the big data software analytics business. I used to work with the big supermarket chains and their loyalty programs, dealing with data a lot, understanding customers and customer loyalty. So taxis and point-to-point transport is very different for me, and I have learned a lot about it in the last 12 months.

What is so great about the London taxi vehicle? We import the London taxi vehicle from the UK. Those of you who have been to London will, I am sure, be familiar with it. Those who have not I am sure have seen it on lots of British TV shows. It is an iconic vehicle that is built purely for taxi purposes. There are 26 000 of them on the road in London today. The vehicles that we are getting here in Australia are brand-new, exactly the model that is on the road in London today. The company has a full volume approval for Australia, so we can legally bring in as many vehicles as we wish. The vehicle operates as a taxi not only in London but also the rest of the UK, Ireland, India, Azerbaijan and the United Arab Emirates, so quite an unusual list of countries. It is the only purpose-built taxi in the world.

What is different about the taxi? It is 1.9 metres tall. It has very wide and high doors to make for easy access to the rear. The driver is the only person who sits in the front. Next to the driver there is a space for luggage, where the front passenger would normally be. We carry five passengers in the rear. There is a perspex safety screen between the driver and the front and all passengers in the rear. Of those five passengers in the rear, three face forward and two face back in a very spacious environment. They have all been designed for the Australian climate and have upgraded air conditioning. The passengers have their own aircon controls in the back of the car. They have the ability to mute the conversation with the driver. Lots of little things have been designed over the years to really customise it as a purpose-built taxi. It is not a regular sedan that has been converted to a taxi like virtually every other vehicle in the current taxi fleet.

Enough about the vehicle, what is different about our proposed service for the Victorian public? Our drivers are high quality, with tailored training and with a very good service ethic. We recruit great drivers by letting them earn the best money in the industry. They earn great money because passengers love the vehicles and our utilisation rates are high, so the number of trips per hour is higher than the industry average. We do that because passengers love the vehicles and have high loyalty rates. Once passengers have tried the vehicle, or they think it is quirky or they think it is great, we get a lot of repeat business. We have been operating as a taxi fleet in Sydney for some six weeks now and already have a large number of passengers who use us three to five times per week because they have identified the product, they like it and they come back and use it again and again.

We have teamed up with a booking app called Rydo, which is a taxi booking app which makes it very easy to book the vehicle. We encourage forward bookings as well as instant bookings. We cater to able-bodied and disabled passengers. Our vehicle has a hearing loop for the hearing impaired that connects directly to a hearing

aid. We have bright yellow grab handles and seat edges for visually impaired passengers. The vehicle is classified as a wheelchair-accessible taxi in the UK and Ireland, and we are very keen to be able to carry wheelchair and disabled passengers in Australia. We want to bring down wait times for all disabled passengers.

We would like to think we offer a better deal for disabled passengers in that all our vehicles are the same. Once you are used to the vehicle, the specifications for our entire fleet are exactly the same — same width, same dimensions, grab handles in the same place et cetera. But I would like to address the issue of disabled passenger wait times and drivers historically not responding to disabled bookings. I think the best way to address that is the way that we plan to address it, and that is that when you book one of our vehicles, the driver will not know if he is attending an able-bodied or a disabled passenger booking, and why should he? We will treat everybody the same. I said, ‘Why should he?’ — or she? We provide a safe workplace for drivers, with a secure perspex screen between the driver compartment and the passenger compartment, and expect a significant proportion of female drivers in our fleet. Ten per cent of our Sydney drivers are female, including a 60-year-old lady who was not driving taxis previously.

Enough about the background for what we are attempting to do and onto the bill. We support the bill to deregulate the taxi industry. Why? We believe the competition will improve taxi services in Victoria. It will bring in new, innovative providers such as ourselves. It will bring new, purpose-built vehicles to market. It will attract better drivers who may not have driven taxis previously, attracted by higher income in a safe working environment. We provide a fair deal for drivers. The costs that we give drivers access to vehicles for is on par with the costs for existing taxi vehicles. It is the same price to drive one of our vehicles as driving a Camry despite a London taxi vehicle costing about three times the price of a Camry to put on the road. We charge the same fare as a regular taxi. We carry five passengers for the price of four. So we are trying to provide a high-quality service for the same basic price, or business class for the price of economy.

On the specific issues of the bill, with regard to plates, we believe that doing away with prohibitive taxi plate costs will make us commercially viable in Victoria. That is the simple reason why we have not launched in Victoria already. We do not want a handout from governments. We are privately funded and well-funded to conduct our operations.

In terms of the levy, I can understand the rationale behind a levy. However, I do not agree with it being positioned as an extra tax. A taxi plate currently costs \$23 400 per annum to rent from the Victorian government. The levy will cost less than half that based on the number of trips taken. So we are viewing that as a reduction in operating costs of a great enough degree that allows us to commercially enter the market.

If I take that one step further, the cost of a plate per annum is \$23 400. If you divide that by 365 days, you get \$68 per day. If you look at a taxi being on road 12 to 15 hours a day, a taxi doing a trip an hour as a starting point, then that equates to \$25 to \$30 per day in levy costs. That is based on one trip per hour. Now we are experiencing higher utilisation rates than that in Sydney, but even if the number of trips is 1.5 trips per hour, you are still showing a massive reduction in the cost. I do not really care if you call it a plate cost or a levy; it is just a cost to operate on the road for us, and we see a significant reduction in that cost through the change from a plate cost to a levy.

In terms of whether an operator passes on the levy or absorbs some or all of it, then I think competition will decide that. Let me give you an example in Sydney. Our Sydney fleet qualifies as a maxi taxi, which allows us to charge 50 per cent higher taxi rates at any time of the day or night. We choose not to do that to be more competitive in the marketplace. I think that is what competition will bring to the market in Victoria.

One last point on the levy I would make is that for it to be equitable it has to apply equally to all operators in the taxi, hire car and rideshare sectors. London Taxis utilises the latest update Schmidt G5 Taximeter that logs all of our fares. This will allow us to comply with the levy legislation without too much trouble.

Lastly, on the issue of timing — and I will spend a bit of time on this — we have been trying to enter the Victorian market for over a year now and having various discussions with government. The timing of the passage of this bill is critical to us, as I will explain. We have 120 London Taxis vehicles in Australia right now, with 80 more to arrive later this year, so we will have a fleet of 200 in Australia by the end of this year. There are 100 vehicles that operate in Perth as taxis. We do not own those vehicles; they are owned by a separate organisation. We supply parts to them, but that is all.

Now, I should explain that for us to get these vehicles here has taken quite a while. The engines are built in Italy by VM Motori, which is part of Fiat Chrysler. Brakes and transmissions come from Bosch in Germany. The bodies come from China. A lot of the rest of the parts are made in the UK. All of these components have to be ordered in sequence. I ordered the engines for these 200 cars in February last year. It took eight months for the vehicles to arrive complete because of the lead times in sourcing engine parts. All the parts go to the factory in Coventry in England and then get shipped to us with a lead time on shipping of about seven weeks. So 200 vehicles is all I have got this year. If I wanted to put another 100 on the road, I could not. It would take eight months to 10 months for us to get more vehicles to put on the road. So we will have 100 vehicles.

Right now we have 120 vehicles here, 80 more coming. We will have 100 vehicles on the road as taxis in Sydney by the end of June. I would then like to put the remaining 100 vehicles that we have here on the road in Melbourne this year, but to do that we need to know by the end of June. We cannot leave expensive vehicles sitting idle. As I mentioned, these vehicles cost approximately three times the price of a Camry to buy. So just to be clear: if the bill does not pass by the end of June, for whatever reason, then the only commercially viable option for us is to deploy all of those vehicles in Sydney.

We need to have a critical mass, a large enough fleet, to support the service and operations that back it up. We service all these vehicles to make sure they stay up to standard and meet the warranties on the vehicles, so we need premises here to support that but we need 100 vehicles here to support an operation, to cover overhead costs.

If we had to deploy the vehicles in Sydney, that would be a very tough decision. I think it would be a shame, as London Taxis, I think, are very well suited to a cosmopolitan city like Melbourne. Late last year I had one of our vehicles here for some meetings with various individuals in government and the TSC and I drove one of them down Collins Street at lunchtime on a Thursday. A busy day and the whole length of Collins Street, from here to the other end, every other person either gave me the thumbs up, pointed, waved or nudged the person next to them. The response we have had from passengers in Victoria has been fantastic, from what they have seen, and the response from passengers as travellers in our vehicles in Sydney has also been fantastic.

So our investment would employ not only drivers but mechanics, overhead staff, people who are helping with the network, and it would help with tourism. London Taxis is ready right now to invest tens of millions of dollars of private money to employ drivers and support staff and invest in the economy to introduce a high-quality, competitive service in the Victorian taxi industry. We want to improve point-to-point transport services for able-bodied and disabled passengers alike, but we need regulatory certainty in order to make this investment.

I urge you to pass the bill without delay. Whatever needs to be done to get that done by the end of June — if it is talking to government or making recommendations, any sort of suggested changes, I would just ask you to do it in time, because for us if the bill does not pass by the end of June, I am afraid we will not be operating in Victoria and the 100 vehicles will be reallocated to Sydney where we have certainty and they are already performing well. Thank you.

Mr MELHEM — The people who will be operating your vehicles will be employees of your company?

Mr POTTER — They will operate under the same structure as currently, the same structure with a valid agreement for drivers.

Mr MELHEM — So there is an employee-employer relationship?

Mr POTTER — Yes.

Mr MELHEM — So that is how the model will actually work in Melbourne?

Mr POTTER — Yes, the same model as it currently operates here.

Mr MELHEM — I suppose it will just be the award rate? I am just trying to understand how the model works as far as the level of fares, investments, the return on investments and meeting all employee requirements. So this model of taxis in Sydney is profitable, otherwise you would not bring them here to Melbourne?

Mr POTTER — The structure is a bailment agreement where the gross fare revenue is split 55-45 between the driver and the operator.

Mr MELHEM — Who gets the 55?

Mr POTTER — The driver.

Mr MELHEM — The driver gets it?

Mr POTTER — Yes. Because the vehicles cost more, the key to making it a success is to, A, buy cheaper and buy in bulk, so when we are negotiating rates on collision insurance and various other supplies we have to do that cheaper. But the key thing is we have to be very popular with passengers. That means we need a higher utilisation rate, so that is the percentage of the total shift time that the driver is on the meter. We need high utilisation rates for the driver to make more money. That means we make more money than the current scenario as well to cover our higher costs, but we are confident that we can achieve that.

Mr MELHEM — So an existing taxi licence holder, for example, can replicate what you are saying by hiring the car, licence, the whole package?

Mr POTTER — Yes. So if a driver wants to come to us and drive under our network, they are very welcome to do so. We go through a selection process and a training process, and we are fairly rigorous on that because we want good drivers to provide good service. The service element of it, I think, is where we can really make a difference, and it is not that hard. I have not lived in Melbourne for 20 years now, but in the last 20 years that I have lived in Sydney I have ordered lots of taxis to home over the years and I have not had one taxidriver open the door for me at my home when they come and pick me up. It is little things about service and getting passengers on side, making sure the car is clean and that you are there on time for pre-bookings. They are the kinds of things we approach on, as well as the way that you interact with passengers, to help the drivers provide the best service they possibly can to get repeat business, because repeat business is how you get the cars busy.

The CHAIR — I hear the message that you have given us — that you want the legislation passed as quickly as possible. Clearly this committee will make recommendations — hopefully in the not-too-distant future — and that will give the government time to make the appropriate changes and get the legislation back into the upper house. Can I suggest to you that you make representations to the government that they might like to accept the recommendations of this committee so in fact we can pass this bill before the end of June.

Mr POTTER — I am very prepared to do that, absolutely.

The CHAIR — That would be very helpful, I am sure.

Mr MELHEM — We do not want to be interventionist.

The CHAIR — I do not even know what they are yet.

Mr POTTER — I have obviously been talking to the government for over a year about our desire to launch here and why it is not economically viable under the current structure, so I have made suggestions. But, yes, I guess we will have a look at what comes out of it. We are keen to be in the market.

The CHAIR — Thank you.

Ms DUNN — Thank you for your presentation today. I just wanted to touch on the issue of people with a disability using your service, because I know in previous meetings I have had with you that your vehicles do not necessarily meet the disability standards for accessible public transport. However, what I am wondering is: do you know if your vehicles can actually fit a power wheelchair or a power scooter in them?

Mr POTTER — Our vehicles meet the wheelchair standards in other markets.

Ms DUNN — You do not mean in Australia though, do you?

Mr POTTER — In Australia they do not. In the UK and Ireland they meet the wheelchair standards, where the vehicles are side-loading wheelchairs. There are no rear-loading wheelchair taxis in the UK; they are all side-loading. In Australia the federal standard that we have is for rear-loading wheelchairs. We are very keen to

carry both disabled passengers in general and wheelchair passengers in particular, and we are keen to work with both the federal government in terms of that legislation and state governments to find a way for our vehicles to comply, run a trial, prove that they are up to the job and get them working.

But all I would say is that there are 26 000 of them on the road in London capable of doing this work and doing this work today, so I am confident that we can pass the test required in the trials to put these on the road. I think they are very unlikely to be able to carry every single kind of wheelchair, but we want to be able to help bring down wait times and play a part in doing that. I am not going to pretend that we can do all of it, but we want to play a part in bringing down those wait times.

Ms DUNN — Understanding that there are different sizes of power wheelchairs and scooters, do you know whether they generally fit in your vehicles?

Mr POTTER — A larger power wheelchair would not, but smaller power wheelchairs do. We have been lucky. In the standards in the UK there is a definition by the government of a standard wheelchair, and that is what is used in the test. There is no standard definition in Australia, unfortunately, so it is a little harder to actually say yes as to whether we will meet those requirements or not. All I can say is: under this proposed legislation, there really is not a massive incentive to do predominantly wheelchair work.

We want to do it; we genuinely want to do it. One of the reasons that I got into this year ago was about trying to provide more comfortable vehicles that were more practical. My mum was in a wheelchair for the last couple of years of her life. I would to really make a difference to wheelchair wait times. I think a big part of that is what I said before — that drivers need not know who they are picking up. I think that is a big part of it. The only way that works is if your fleet is homogenous and all the same and they can all do it.

Mr O'SULLIVAN — Just a couple of questions from me. Mr Potter, you said that the taxi licence plates here in Victoria were worth \$23 000. I am uncertain of that, and I saw some people shake their heads in the gallery as well.

Mr MELHEM — That is the annual fee.

Mr POTTER — That is an annual fee to rent the plates. It has got nothing to do with the cost of the plates or the value of the plates, I am sorry. That is what I have been quoted by the Taxi Services Commission to lease a plate from the government — an annual fee to lease the plate, per annum.

Mr O'SULLIVAN — We might just seek some clarification on exactly what that figure is. But in terms of the setting up in Sydney, what were the costs that you had to incur in terms of the regulatory costs in setting up and operating in Sydney?

Mr POTTER — In Sydney we started this business in March last year. We approached the state government for taxi plates. Andrew Constance, the transport minister, had just given an assurance to the taxi industry that there would be no more plates issued in New South Wales for four years. We therefore had a look at operating this vehicle as a hire car booked-only service. We did a trial on that basis with just a few vehicles. It did not really work because passengers kept trying to hail it because it looks like a taxi. It sort of screams out, 'I'm a taxi'. So we took the decision at the beginning of this year to launch on taxi plates. We commercially rent taxi plates from owners at a commercial rate in the market, which is typically a little cheaper than that Melbourne rate. It comes out at around \$19 000 a year, so we are leasing from the plate owners, individual plates from those owners, on a monthly fee that we pay to them. That is one of our costs.

Why can we afford to do that in Sydney and not here? We can afford to do that in Sydney because, A, it is a little bit less than here. It is \$4000 or \$5000 less per annum than the cost of a plate from the government here. The other big difference is the taxi rates that we can charge to passengers in Sydney are substantially higher than in Melbourne, so the per kilometre rate in Sydney is 35 per cent higher than it is in Melbourne for a daytime rate. The night-time rate is 45 per cent higher. The utilisation rate — that is, the percentage of the time that we are on the meter — is substantially higher than we believe it to be in Melbourne. If you look at it, some of the costs are a bit lower but the revenue is also higher and that has made it commercially viable for us to launch on that basis.

We have only been on plates for the last two months, but that is working. Passengers are loving it, our drivers are staying in the cars and it is working well.

Mr O'SULLIVAN — So you are now on the rank and hail system completely the same as the taxis are?

Mr POTTER — Yes, we have been doing that for the last two months. We are normal taxis. We have had to put signs on the taxis saying, 'We are a normal taxi. We charge the normal price', because some people are a little bit confused that maybe it was a bit different. So it looks like a premium vehicle, but we have put some signage on that says, 'No, we charge the same price as a regular taxi and we carry five for the price of four'.

Mr O'SULLIVAN — There are probably two aspects to my final question, which is: how are you received by the customers, but how you are also received by the rest of the industry?

Mr POTTER — Actually the taxi industry is interesting. When we are in the airport holding yard, we always get lots of drivers come and sit in the vehicle and test it out and try it and press all the buttons and take selfies and pictures. We have 30 cars operating on the road in Sydney now — this week — and we are ramping it up. We are putting 10 or 15 cars a week on the road. In Sydney we have not had difficulty sourcing plates from the market. Given that there has been a fair bit of impact of rideshare on the industry and there are more plates available now than there were a year ago, we are able to get plates.

In terms of drivers, we have some excellent drivers who get it; they really get that the product is different. What we are trying to achieve is we need to get higher volumes, a higher utilisation rate, for it to work. There will be some drivers who are a little bit, maybe, afraid to dip their toes in the water and give it a go, but we have had some great success with particularly younger drivers, female drivers and drivers who have come to us from ridesharing, who are maybe a bit disillusioned in that regard, and are giving it a go. We have been able to get drivers and plates, and therefore it works.

The CHAIR — No further questions?

Mr POTTER — If I could just go back to that point on incomes, I guess I have explained the structure under how we operate the income, but the point is that the driver makes more money than currently and we make more money than currently to pay for a more expensive car. That is basically what we are trying to achieve.

The CHAIR — Thank you so much indeed. You will receive a transcript of today's hearing in about three weeks. If you could have a bit of a proofread of that and get back to us if need be, that would be marvellous. Thank you very much for your contribution today, and good luck.

Mr POTTER — Thank you for your time.

Witnesses withdrew.

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into the Commercial Passenger Vehicle Industry Bill 2017

Melbourne — 23 May 2017

Members

Mr Bernie Finn — Chair

Mr Khalil Eideh — Deputy Chair

Mr Jeff Bourman

Mr Nazih Elasmr

Ms Colleen Hartland

Mr Shaun Leane

Mr Craig Ondarchie

Mr Luke O’Sullivan

Participating members

Mr Greg Barber

Ms Samantha Dunn

Mr Cesar Melhem

Mr Gordon Rich-Phillips

Witnesses

Mr Graeme Newman, All Aboard; and

Ms Lauren Henley, Policy and Advocacy Coordinator, Blind Citizens Victoria.

The CHAIR — Welcome to the public hearings of the economy and infrastructure committee. All evidence taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege.

Thank you for coming in. I would ask you to start with 5 to 10 minutes of opening comments, and if you could begin by giving us your name, organisation and suburb for the record, that would be a marvellous thing. Thank you very much.

Ms HENLEY — Lauren Henley, appearing on behalf of Blind Citizens Australia, and I am based in the Melbourne CBD.

Mr NEWMAN — I am Graeme Newman, I am here today representing the All Aboard network. I live in Diamond Creek.

The CHAIR — Thank you very much. Who would like to go first?

Mr NEWMAN — I guess, as a representative of All Aboard, we are watching with interest as to what is happening with the deregulation of the taxi industry. We do have some concerns, and I guess if we look at the information that is in the first part of the bill, the thing that is of concern to us is the \$2 levy. The majority of people with disabilities who depend on wheelchair-accessible taxis are not usually particularly well off and therefore we feel that \$2 levy could be quite significant for them, especially considering that they often do very short trips, for example, from home to their local GP et cetera.

I have put together a bit of a presentation, which has been distributed. Some of those things that I have raised there that are of concern to the All Aboard network are perhaps not relevant quite yet but will become more so as more and more legislation is passed towards the deregulation of the industry. I think that is about all I would like to offer at this stage.

The CHAIR — Thank you. Ms Henley, would you like to say a few words?

Ms HENLEY — Yes. I think Blind Citizens Australia also has a few concerns around the \$2 levy in particular. Our members and the people whom we present are amongst the most frequent users of rideshare and taxi services in Victoria. The people we represent rely very heavily on those services and are often on very limited incomes, so again we would echo those concerns that it may actually be a cost barrier for people to be able to get around their community when they do not always have an alternative means of doing so. So that is my first comment.

I guess it is a space we have been looking at very closely in other states and territories as well. Obviously point-to-point transport in terms of taxi services, rideshare services — everything that falls under that category of point-to-point transport — has been evolving significantly over a number of years with the shift towards a sharing economy, so we are very keen to make sure that the regulatory framework that is put in place in response to those changes is actually adequately equipped to meet the needs of passengers with disability. Although regulations need to give people choice and control over the services they use, whether it be taxi services, rideshare services, community transport or hire cars, we do think that government has a role to play in actually regulating accessibility requirements for those services.

There are a number of things that we would like to see in future in terms of equal access to information, whether it be online booking services or access to vehicle registration numbers, so people are able to actually pursue complaints if they have problems with drivers, and access to metered fare information through the provision of talking taximeters, and that is technology that is readily available. While I understand that those things do not necessarily fall within the provisions of this bill, there are regulations that may be made under this bill in the future, and we would be keen to see some of those things discussed in relation to those regulations.

The CHAIR — Do you see this legislation and the ramifications of this legislation as a threat to cab services, or ridesharing services for that matter, for people with disabilities?

Ms HENLEY — I think the people who we represent certainly are embracing the shift towards a sharing economy. They are very keen to be able to have the flexibility to use rideshare services, so I think this bill is a

good first step in trying to set up a framework that can better regulate that sort of industry and provide choice and control but still protect consumers in terms of their safety and their rights.

One of the issues that the people we represent face at the moment is they get a half-price subsidy to cover the cost of taxi fares — taxi trips from point A to point B — but some people would prefer to use rideshare services because they have found personally that there is a higher level of service with one of those companies, whether it is Uber or some other company that has emerged, but their half-price subsidy at this point in time does not extend to those services. So the flexibility and the choice and control that this sharing environment is supposed to create is not necessarily there for people with disability at this point in time.

The CHAIR — So would you suggest that the legislation include the discount component for people with disabilities?

Ms HENLEY — Absolutely. We would be very keen to see that.

Mr MELHEM — You have already answered the question, because I was going to ask you about your concern in relation to the legislation, particularly the subsidy which you currently receive for using traditional taxis. I think you have answered that. But having said that, are there any other concerns you have in relation to your group? I think you talked about safety concerns and the subsidies. Are there any other concerns you have that you would like to share?

Ms HENLEY — Yes, sure. We have just completed a submission around point-to-point transport for the New South Wales government because they are looking at some changes around deregulation of the taxi industry in response to the changes that have emerged as a result of this shift towards a sharing economy, and we are very concerned about some of the things that have been put forward in New South Wales. Just as an example, deregulation — I know that people are trying to create a market-led approach to give people more choice and control, but for people with disability to ensure their rights are upheld in that sort of environment, you cannot just rely on the goodwill of companies like Uber to make sure all of their systems are accessible to people with disability. It is not going to happen. There need to be regulations to ensure that they comply with accessibility requirements. So as an example, registered taxi vehicles in New South Wales at the moment and in Victoria are required to include the vehicle registration number on the door of the vehicle in tactile raised print so that someone without sight has a means of accessing it. In New South Wales, with this deregulation agenda they have actually proposed that they remove that requirement, which means that the people we represent actually have no way of pursuing an issue if an issue does happen to arise, because they cannot access the vehicle registration number.

There are also other things that come into play. I mentioned talking taximeters. So without access to information about metered fares we do not know if we are actually being ripped off. We do not know if we are being overcharged, and it is really difficult to uphold our rights. To try and resolve those issues at the moment you have to go through the process of lodging a complaint with the human rights commission. That can take from three to 12 months to resolve; that is after it has actually been allocated to someone, which is currently taking four months just for that to happen. There is nothing to force the other party to actually come to the table and conciliate a matter, and if it does not conciliate, you have to take the matter to court, which a lot of people cannot afford to do.

So to rely on a market-led approach to accessibility, I think, is very dangerous, and it is going to result in a backward step in accessibility. So I would be very keen for any changes that are introduced to regulate rideshare services in the future to mandate some really strong accessibility requirements.

The CHAIR — Mr Bourman?

Mr BOURMAN — I have everything. It has been quite well covered off, actually, and in the submission.

Ms DUNN — Thank you both for your submissions today. I just wanted to explore the issue — and it has come up a bit today — around wheelchair-accessible taxis in that we have heard that there are significant difficulties in that market now. Graeme, you in your submission talk about the risk, I guess, to that service with deregulation. I was just interested in your views around what you see as the core issues at the moment in relation to wheelchair-accessible taxis. Is it around financial constraints or are there not enough vehicles? What

sort of factors are playing out at the moment that make it an issue now, because that will help in terms of what we need to do in the future?

Mr NEWMAN — I guess, firstly, in a more competitive marketplace the higher cost of putting a wheelchair-accessible-type vehicle on the road can be up to four times the price of putting a sedan on the road. I have forgotten the numbers now, but there are a significant number of wheelchair-accessible taxis already on the road. Some of those are very busy providing some excellent services, some of them perhaps not. Government has tried to put a lot of incentives in place: the multipurpose taxi program, which provides a half-fare discount for people who are judged to have that requirement; the lifting fee, which gives the drivers some incentive to do wheelchair work rather than high-capacity taxi work; and even some of the subsidies that are provided, especially in the country areas, to help people who want to enter into that market to purchase those vehicles.

It is difficult to understand why those incentives are not really working as well as they could. People with disabilities, people who require wheelchair-accessible taxis and do not have close networks, a lot of the people that I have worked with in the past form personal relationships with drivers of wheelchair-accessible taxis and do get excellent service. But if you call one of the major service providers and ask for a wheelchair-accessible taxi, sometimes people have been known to wait for 3 hours or more for a vehicle to turn up, and we are not really sure why that happens.

I have been involved a little bit with the department for transport, people who are looking at those incentives at the moment. I am pleased to be part of that consultation, and hopefully we can work out ways of improving the service.

Ms DUNN — Get to the core of it. Great. Thank you.

Mr O'SULLIVAN — Just one question from me, Chair. Ms Henley, I guess I am just trying to get an understanding, because we have heard evidence earlier today in relation to some of the impacts that the \$2 levy will have and generally what some of the impacts will be on taxis, particularly in regional areas in terms of disability services provided there. On the other side of that ledger, if we look at ridesharing, whether it be Uber or any others that might come into the marketplace, what sort of facilities do they currently provide in that space, and in other states what sort of services do they provide; is it different to what it is here in Victoria?

Ms HENLEY — In terms of whether there is a higher frequency? Sorry, I am trying to understand the question.

Mr O'SULLIVAN — Is there any capacity in terms of what Uber are doing now in the disability sector to cater for that market?

Ms HENLEY — It seems to be mostly focused around the customer service side of things, so for people who are blind, for example, two of our biggest issues include short fares — for example, I came here from Flinders Lane today, but I have not been to Parliament House before so I still had to get a taxi because walking would have stressed me out — I did not know where I was going — and sometimes to get a taxi to pick up a really short fare like that is quite difficult. So that is one of the issues.

The other issue is around getting assistance from the vehicle into the destination. We will often rely on taxis if we are going somewhere that is just a one-off destination, we are not familiar with the area, there is no point really investing the time and energy into learning how to get there, because you are not going to need to get there again. Therefore you might not know the location very well and you rely on the driver to be able to get you exactly to that point where you need to be. Taxidivers are sometimes a bit hesitant to do that — not all the time; it is not a one-size-fits-all, but some people in their own interactions have found that rideshare services actually provide a better level of service and for that reason they are going over to those sorts of services instead of taxis.

Mr O'SULLIVAN — I have used Uber at times in the past, and once you get to your destination and you hop out you still have got no idea how much it has actually cost you until you see on your credit card statement or on the app at some stage.

Ms HENLEY — Yes, that is right, and I think that is one of our major concerns with any sort of passenger transport service — just making sure that people who are blind or vision impaired have access to the information they need to be able to make sure their rights are upheld if they are overcharged. It is really critical.

The CHAIR — Thank you very much for joining us this afternoon and for your contribution to our hearings. We very much appreciate it, and indeed it was very helpful, I must say, as well. You will receive a transcript within the next probably two to three weeks. If you would be kind enough to just proofread that and let us know if that is okay, one way or the other, we would appreciate that. I thank you once again very much for coming in this afternoon.

Ms HENLEY — Thank you very much.

Mr NEWMAN — Thank you for the opportunity.

The CHAIR — The hearing now stands adjourned.

Committee adjourned.

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into the Commercial Passenger Vehicle Industry Bill 2017

Melbourne — 24 May 2017

Members

Mr Bernie Finn — Chair

Mr Khalil Eideh — Deputy Chair

Mr Jeff Bourman

Mr Nazih Elasmr

Ms Colleen Hartland

Mr Shaun Leane

Mr Craig Ondarchie

Mr Luke O’Sullivan

Participating members

Mr Greg Barber

Ms Samantha Dunn

Mr Cesar Melhem

Mr Gordon Rich-Phillips

Witnesses

Mr Lucas Groeneveld , State Manager, Victoria and Tasmania, Uber.

The CHAIR — All right we'll open this public hearing of the Economy and Infrastructure Committee. And I welcome to the hearing Mr Lucas Groeneveld from Uber and introduce the members of the Committee who are here tonight, Mr Nazir Elasmir, Mr Jeff Bourman, Mr Luke O'Sullivan, myself Bernie Finn and Sam Dunn and Sean Leane who is also here. All evidence at this hearing is protected by parliamentary privilege, therefore you are protected against action for what you may here tonight but if you go outside and repeat the same things, those comments may not be protected by this privilege and nastiness may follow.

So I would ask you to perhaps start, or give us an opening statement of about five to ten minutes and then we'll open up to questions, but can I also ask at the beginning if you could give your name, your company, position and your suburb for the record.

Mr GROENEVELD — So thank you for inviting me to present to the committee this evening. I appreciate the opportunity to address you. My name is Lucas Groeneveld and I'm the state manager for Uber here in Victoria. In my opening statement I'll speak about the role of ridesharing and why it's good for Victoria, the feedback we've heard from more than 80,000 of our riders, and the potential impact of the levy on competition and innovation in the industry. Now apologies Mr Finn, in terms of the suburb, would you like me to say that now?

The CHAIR — Yes that would be good, yes.

Mr GROENEVELD — Apologies, so Lucas Groeneveld from Southbank, Victoria.

The CHAIR — Thank you.

Mr GROENEVELD — So as state manager for Victoria I have the good fortune of leading a local team of almost 100. All of us are passionate about getting people from A to B in a safe, reliable and affordable way, and providing every day Victorians with the opportunity to earn extra money using their own car. It's why we've been encouraged by the efforts of the Victorian Parliament to modernise the regulatory framework of the commercial passenger vehicles. Smartphone technology has changed the way people move around their cities.

Ridesharing has benefited hundreds of thousands of Victorians. For riders it means safe, reliable and affordable ride from A to B is available at the push of a button. It means great customer service, friendly drivers, clean cars and even most of the time, water and mints. And it means more services for those who rely on affordable point to point transport, to get home safely or as an everyday necessity. For drivers it means flexible income at the push of a button. Drivers have full control over when and for how long they drive. They are able to log in and out of the app whenever they choose and there is no minimum time a driver needs to be on the platform. This flexibility ensures ridesharing drivers can be driving around their personal commitments.

Mums drive for a couple of hours in between school drop-offs. Many teachers drive in the school holidays and some try to save for a holiday or a wedding and others use it as a way to help them out of unemployment or under-employment. All together there are some 18,000 Victorian who use the Uber app to earn money. And they play an important role in helping more than 850,000 riders get around Victoria. Since these reforms were first announced, we've heard from almost 100,000 of our Victorian riders.

Riders who struggle to understand why they're being asked to pay a levy that is double that of any other State or Territory in the country. Riders who are concerned about the impact this levy will have on already stretched travel budgets. Riders who depend on reliable and affordable short trips. These are shift workers in the hospitality industry who just want to get a safe ride home instead of walking in the dark. Victorians with accessibility needs, who use uberASSIST to get to or from medical appointments and younger people from suburban areas of Melbourne who catch our trains and then safely connect the last mile home with an Uber.

Many of these trips come in under \$10. A \$2 tax represents a significant increase and will have a real impact on the way Victorians use our services and use point to point transport. Frontier Economics has estimated that a \$2 levy would result in an economic deadweight loss of around 20c in the dollar caused by higher prices and increased wait time due to lower reliability. Of course this hit to the hip pocket comes in addition to the significant administrative costs that collecting a levy will incur. Cost that will see a significant portion collected, go to waste.

These reforms are intended to set up Victoria's point to point transport system for the long term. It's about realising the benefits of competition and new technology, deliver better services, new earning opportunities and more affordable and reliable transport for Victoria.

And while I understand that there are many Victorians eagerly awaiting these reforms, it is important that we get them right. The intent of this levy has long been debated and ultimately the issue of industry compensation is one for the government and indeed this parliament to determine. However we know this challenge is not unique to Victoria. We have seen the rest of the country implement reform without imposing such a significant cost on the travelling public. This levy in its current form will undermine the benefits of reform increasing fares and creating barriers to entry for new players. It will also delay further service improvements and innovation. We know Victoria is keen to embrace the Smart Cities agenda and we want to support that.

The future of ridesharing is about using technology to get more people into fewer cars for the benefit of riders, drivers and of course, cities. Private vehicles sit, on average, on the side of the road, around 95 per cent of the time and in the short time that they are actually being used, they carry on average just one passenger being the driver themselves. By embracing the technology in our pockets and making a better use of the cars and roads we already have we can change that. Already we see thousands of people using Uber across Victoria to connect to and from public transport and drivers picking up people on their commute to work. Across Melbourne nearly two thirds of all Uber trips today start and end in areas with limited or no public transport access.

In the near future ridesharing technology will bring sophisticated car-pooling networks here to Melbourne. Matching multiple riders in the same vehicle along the same route. Today Uber offers car-pooling options through a product called uberPOOL which we operate in 30 cities around the world. In mature markets such as San Francisco it makes up 40 per cent of all of the trips that we make. This technology and tighter integration with public transport has the potential to change the face of our cities. It will help reduce congestion on our roads, pollution in our air and importantly our reliance on private cars. This is a future we want to help create in Victoria and we're optimistic we can get there with the right policy settings.

It's why we recruited a talented local operations team and very recently invested millions of dollars in our brand new partner support centre here in Port Melbourne. To sum up, we welcome the spirit of this bill and it's intention to open up competition and a lot greater choice for consumers. But the levy in its current form will undermine the benefits of this reform. We urge the parliament to carefully consider alternative models and in doing so look to those already adopted in other States. On that note I will conclude and I'm more than happy to take any questions you may have.

The CHAIR — Thank you very much indeed and I might kick off those questions by asking you to expand a little bit on,

I think you referred to it as uberASSIST because there has been some considerable concern expressed by a number of witnesses to this enquiry about what will happen to people with disabilities if the number of disability accessible cabs goes off the roads?

Mr GROENEVELD — Yes, certainly. So Uber is committed to providing safe, reliable and affordable transportation to all Victorians including those with, obviously, accessibility needs. We have run a service here in Victoria called uberASSIST for the last couple of years now. This is a service where our top rated driver partners are given additional training in information on how to serve those members of the community with accessibility needs. We also make sure that these operators, or these driver partners rather, have vehicles that are adequate to provide services to those people with mobility needs up to and including multiple wheelchairs. We have heard a lot of great feedback from both riders and drivers alike about the use of the service and how it's empowered many people to get out and take trips that they may otherwise not have felt comfortable in doing so.

But also by example, I was in Greenlight, sorry the partner support centre in Port Melbourne a few weeks talking to one of the drivers who provides these services, and they were reflecting on I guess just how much you know they drive both the standard UberX product as well as the uberASSIST product but when they take these uberASSIST trips, it makes them feel good about what they're doing. They're taking, whether it be an elderly person who may not, who's just learnt how to use the app from their grandchild, through to someone who is potentially mobility impaired, it's a really nice experience that our drivers enjoy delivering.

Beyond that, and particularly around concerns of a fixed or larger wheelchair or mobility device, we recently ran a pilot in Newcastle in New South Wales for a service called uberWAV. So this uberWAV is a wheel chair assisted vehicle, and these are vehicles that can obviously operate similar to — —

Bells ringing.

The CHAIR — We might just pause there for a moment, it seems the people in the other house are having a small melt down or something but we'll get back to you in a moment? No problem. Talk amongst yourself for a minute and then we'll be off.

Hearing interrupted.

Order! Order! We'll return to the public hearing now that the crowd have got their act together. Mr Groeneveld, thank you.

Mr GROENEVELD — Thank you I'll continue on, maybe take a step back as well.

The CHAIR — Could I also just as an adjunct or an add on to that question, could I ask you about the number of vehicles that you have which can carry people with disabilities, particularly in wheelchairs and how many people that you would have driving uberASSIST at any given time?

Mr GROENEVELD — I'll complete my answer and talk about the WAV trial and then I'll move back to your other question. So in Newcastle we did trial the, or continue to trial a wheel-chair assisted vehicle program, and that was very well received by industry groups up there as well as the riders. One thing of course that we did hear from these riders was that, they wanted more choice around subsidies so as it stands, other services such as Uber that are providing accessibility services aren't able to receive government subsidies that are targeted at helping people with needs move around Victoria.

So I guess on that point we'd obviously encourage the government to open up funding and subsidies to other providers. What we do know is that when you open up the market to more competition it will generally deliver a customer service to those people in need and as a product of that as well, it has the potential to reduce proper costs across the industry. With respect to your other question, at today we don't but the uberWAV trial is something we were working through in Newcastle, it's not a service that we currently offer in Victoria, partly owing to the commercial viability of running a service such as that without access to the subsidies. The uberASSIST product itself, I don't actually have those numbers on hand, however it's of interest I can take them.

The CHAIR — Would very, very much appreciate that. Just one other question, there has been I understand some concern expressed by Uber drivers of recent times about payments or how much they're actually getting out of their work. What is the latest from your perspective on that?

Mr GROENEVELD — Sure, so what we hear from drivers is the number 1 reason they choose to partner with Uber is for the flexibility. So the way it works is the drivers, once they work through on-boarding process, they're able to use our services whenever and however they want, so whether that be just driving a couple of hours a week on a Friday night or equally in addition to working with other services. Drivers do have choice around having our app open as well as Shebah and GoCatch and any other providers whether it be point to point transport, or food delivery, or anything else that they want to do. And so with respect to that, it's difficult to provide an exact number of or around earnings because every single person's circumstances are different.

The CHAIR — All right. Mr Elasmar do you have any questions?

Mr ELASMAR — Yes thank you, Chair. And thank you for your time and your effort. In the beginning of your statement you talk about how important it is for the driver from point A to point B for safety of their passengers and I believe that's the case for all decent drivers, but my question is, the government has set a budget for taxi drivers, compensate them and in your submission you did not support that. Now my understanding is there's a lot of people under hard financial ship, mortgages and things like that. Are you still in the same and why you're not supporting them?

Mr GROENEVELD — Look, I think ultimately it's up to the government to determine an appropriate compensation package. Our concerns are really today focused around the levy and the fact that a \$2 levy represents one that is that double that of anyone else in the country and one that will substantially impact the everyday rider here in Victoria and the future innovation, the point to point transport space here in Victoria.

The CHAIR — Mr Bourman.

Mr BOURMAN — Thank you Chair, thank you for your presentation Lucas. The collection of levy as you were mentioning, it's come up time and time and again, are you, you being Uber, I'm trying to think how to put this, if you don't like the serve the levy as it is, what's your actual suggestion, what do you think that is a good outcome for everyone?

Mr GROENEVELD — Yep, look certainly so I mean I guess we don't, on face value we don't support a levy in that we know it will impact the way that Victorians do move around the state, and we have obviously seen other jurisdictions achieve the same reform outcomes with either no levy or a \$1 levy that does have a sunset clause. What I guess, what I will add to that though is my understanding is that the government's predictions or modelling that they've used to arrive at the levy that is being proposed today is based on taxi data that dates some years back. And doesn't necessarily consider the explosive growth in the point to point transport market that we've seen since Uber's arrival. What we know from operating here in Victoria, as well as in the hundreds of other cities we operate in around the world, is that when you provide the public with access to safe, reliable and affordable transportation options their behaviours do change and people, they either don't buy a car, or don't buy a second car or don't use their car and they switch that over knowing that they can get a ride home whenever they need one.

What we also know is that Deloitte did a study sometime back and found that two thirds of all the trips on the Uber platform are actually new trips to the industry. So this isn't about a pie that's getting – it's this big and getting cut up in different ways and some goes to taxi and some goes to ridesharing, it's about the whole pie growing. And this has also been supported by the IPART Tribunal in New South Wales and even the Australian Taxi Industry Association, who both found that since Uber's arrival, taxi trips have actually grown as well. So we're confident that with the growth that we're seeing in the point to point transport industry here in Victoria and more broadly of course in Australia, that if the government were to potentially re-engage with some lead industry stakeholders they could look to deliver these reforms and this compensation without such an impost on the Victorian public.

Mr BOURMAN — Okay. One of my own personal concerns has been that Uber I think is an American company, first of all is that correct?

Mr GROENEVELD — We are an international company operating in 500 cities around the world, we are principally headquartered in San Francisco, but as an example, we have over a hundred staff here in Melbourne, and we've just spent millions of dollars opening this new support centre in Port Melbourne so in every city that we're operating in, we're very invested in that.

Mr BOURMAN — Yes. As an entity in Victoria you registered ABNs, ACNs and all of that sort of stuff?

Mr GROENEVELD — Ah, so to be honest I would need to come back to you on the exact company structure. That's something that I'm not a hundred per cent familiar with.

Mr BOURMAN — To get to the point, one of my concerns is and I'd have no idea of your company structure but if Uber decides to not pay the \$2 levy and I'm just making an example here, and the Victorian government, whoever oversees it decides they want to initiate legal action for whatever reason, is there going to be someone in this country that we can do it for or are we stuck trying to do it over international trade agreements or that sort of thing?

Mr GROENEVELD — So let me start by saying that as you may be aware in South Australia we are a registered booking service and they do have a \$1 levy in South Australia which we do pay. In New South Wales, they're set to introduce a \$1 with a sunset clause, but equally we will pay. We're obviously not supportive of a levy, but if something is enacted in legislation we are here for the long haul and it would be detrimental to our business to think that we could get away with or try to not pay that.

Mr BOURMAN — I guess also, and this again is nothing about your company as such but there's going to be - unlike taxis where they've had a lot of time, they've regulated quite heavily, there's going to be a fair amount of trust in Uber or in any other company about what they tell us is true. And therein there's been some stories, anecdotes I've heard where in other countries they're not necessarily a hundred per cent convinced that what Uber is saying is the whole picture. What comfort can we get as people that are enacting this legislation and what comfort can we get that the levy will be paid for an international company? I'm not sure if I'm getting it across right but — —

Mr GROENEVELD — I understand the basis of the question. I think the reality is that we work with transport agencies across the world including here in Australia. If a levy was put in place and you wanted to obtain comfort around the payment of that, or the basis for the payment of that, I'm confident that we could come up with an arrangement either it would be an independent audit process or something to that extent that would provide you with assurance over what is happening.

Mr BOURMAN — Okay, thank you. One last one if I may Chair?

The CHAIR — Yes, be quick.

Mr BOURMAN — You said two thirds of the trips are new in general, how long is that sustainable for because obviously in other countries that Uber's been around for a while, I tried Uber in Nevada a couple of years ago and I had no problems with the service per se but obviously it can't go on forever, have you seen an increase and then a contraction in the market in those places where it's been for a while and what sort of size would that have been if you have?

Mr GROENEVELD — Yes, so to my knowledge we haven't seen a contraction in any established market. A lot of what we talk about, for example when I was mentioning the affordability of the levy and the impact that will have on today's affordability as a concern. An equal concern is around the future of transportation in Victoria and it comes back to when we - when the public know that they have access to safe, reliable and affordable rides they do change their travel patterns. And what we'll see is with the example of uberPOOL where you start moving many people with one car instead of three cars, is that people's adoption, their increased adoption of these services continues to grow over time.

Mr BOURMAN — Okay, thank you. In the interest of time I'll let that go, thank you.

The CHAIR — Thank you very much indeed. Ms Dunn.

Ms DUNN — Thank you Chair and thank you for presentation this evening. Firstly I'm just trying to get an idea of how many trips per annum Uber are delivering in Victoria?

Mr GROENEVELD — So as I'm sure you can appreciate, they're commercially sensitive figures but I'm not able to share in an open forum.

Ms DUNN — Well the taxi industry have shared their figures, so I do not accept your point they are commercial.

Mr GROENEVELD — Well I understand but we are a commercial enterprise, it is I guess within our discretion, and there are sensitivities around those figures. If they're of interest in terms of determining levy modelling or similar purposes then again I'm sure you know; we'd be happy to have a dialogue with Treasury to provide a level of comfort to them around what those future growth projections might look like.

Ms DUNN — And it is exactly why I asked the question because it's in the interests of understanding how much I guess, revenue is to be made if levy's applied to trips across the full range of passenger services so in terms of - you talked about trips being under \$10, what proportion of trips are under \$10 for your riders?

Mr GROENEVELD — I don't have the exact number on hand, what I do know is that they do make-up a significant proportion of our trips because of Uber's, I guess the flexibility and ease of use of Uber, many people are taking these short trips whether it be to or from train stations, tram stops, bus stops, moving between modes of transport or just to get home, it might be raining and they want to get home quickly at the end of the night. We have seen significant adoption of our services for short trips.

Ms DUNN — In terms of I guess regulation of commercial passenger vehicles, there are issues around safety and security standards and them being met particularly with restructures we're looking at, of course part of keeping passengers safe is compliance by providers and part of that I guess is enforcing compliance around that. Now I'm aware of an incident that was reported in the New York Times in March this year, that Uber used a Greyball tool in the United States jurisdictions to identify enforcement officials and block their ability to use the Uber app. I'm just wondering whether that is something Uber will be abstaining from doing in Victoria?

Mr GROENEVELD — Sure, did you want me to touch on safety first or specifically that?

Ms DUNN — It's really specifically around using Greyball to I guess block out enforcement officers?

Mr GROENEVELD — Yep, certainly. So the Greyballing was a technology initially developed for a variety of reasons including engineering testing, marketing and activations and in many jurisdictions driver safety where they were concerns. There is, as may have been mentioned in the New York Times article, a global review underway to understand exactly how this technology has been used in the cities that it operates in and that's a review that's ongoing.

Ms DUNN — So will you be using that sort of technology in Victoria or you don't know?

Mr GROENEVELD — No, it's part of that review. There is no further use of Greyball until these concerns have been reviewed.

Ms DUNN — Thank you. I'm just also interested in terms of an expanding transport market in relation to regional areas in Victoria, I'm just wondering what determines a market size in terms of Uber moving into that particular area in the sense of regional centres was, what's the number where it would be contemplated?

Mr GROENEVELD — Yeah, sure. I mean perhaps for the benefit of the rest of the committee as well, so Uber operates currently outside of metropolitan Melbourne so the last couple of years we've operated in Geelong and down the Mornington Peninsula. In both of these regions, the service has been very well received by riders and drivers alike. The Mornington Peninsula is a particularly interesting one because obviously a lot of Victorians call Mornington Peninsula home but many, many more Victorians call it sort of summer home and it is a town or a region that swells very quickly in summer and the benefits of Uber there have really been amplified as, you know, locals have been able to get in the car and earn flexible income when this tourist season does hit. Equally, from a rider side, suddenly people have access to reliable and portable transportation when they're down on the coast and previously this is something that wasn't as achievable without the likes of ride sharing. With respect to other expansion across Victoria we continue to have great interest from other regions including Ballarat and Bendigo and other towns, or cities I should say. This is something we continue to look at.

What I will call out is in many of these smaller towns we do see a high concentration again of shorter trips because generally, you know, geographically they're more condensed and whether it be getting home from the restaurant or the pub back to the house at the end of the night or if it's a tourist town, having the flexibility for people who come in to get a ride back from the restaurant and be able to spend an extra couple of hours at night at the pub. These generally are concentrated towards being shorter trips. We are conscious that with the proposed \$2 levy, this would again represent a significant proportion of that trip, significant tax on that trip and so, we would, I guess, like to see that remedied to some extent as it relates to launching into regional towns. But we are very - we are very excited upon, I guess, the closure of this reform or the passing of this reform into launching into other areas in Victoria.

Ms DUNN — I might leave it that, Chair.

The CHAIR — All right. Mr O'Sullivan.

Mr O'SULLIVAN — Thank you, Chair. A couple of my questions have already been referenced already, but I would like to just expand on the question in relation to regional Victoria. I'm a regional Victorian MP. Do you see that the \$2 levy if it is passed in the legislation would be a restriction in terms of your expansion out into your Ballarats, Bendigos, Wangarattas, Echucas, Milduras, those sort of towns?

Mr GROENEVELD — Yes, certainly. So I mean, I guess, coming back to my point around the costs for the consumer, we would inevitably see that, rural areas or country areas being, I guess, over taxed relative to the

rest of Victoria just based on the trip composition and so I guess we would encourage the government to look at that when it frames up what the levy needs to look like. I don't think it would necessarily prevent us from moving into these towns but we do know that it would decrease adoption of those services. We know that it would potentially reduce the idea of competition and further investment in these areas as a result and so we really don't think it would be a great outcome for those Victorians living outside of metropolitan Melbourne.

Mr O'SULLIVAN — Has your company already made a decision that you would be forced to pass on the cost of a \$2 levy?

Mr GROENEVELD — So I think what we've heard across the industry is that this is a significant tax and it's not a tax that network operators will be able to absorb. It's inevitably a cost that will be passed onto the travelling public.

Mr O'SULLIVAN — What about the administration of the levy?

Mr GROENEVELD — Look, we would see, you know, I think we would happy to, on our end, absorb any costs associated with administration.

The CHAIR — Mr Leane.

Mr LEANE — Thank you. Do you accept Uber has been operating illegally in this state?

Mr GROENEVELD — So the reality is that the transport legislation, both here in Victoria and across Australia, was drafted in a day before we had things like a smart phone, GPS, other technologies that make ride sharing work here today and so we welcome the fact that this reform, the reason we're here today is because the government has recognised the benefit of ride sharing to the communities here in Victoria and we know that there over 18,000 driver partners who use our services, use ride sharing and earn an income and the 850,000 riders who use Uber to get around Victoria and so we welcome the reforms that are coming through today and it provides certainty to the industry.

Mr LEANE — And I suppose further to that, you've mention impost into the sector as far as the levy but Uber hasn't been a legitimate part of the sector. Uber hasn't been so I think we have to take that part of your evidence with a grain of salt and I want to further talk about the levy. Yesterday we had a previous premier of this state, a previous Liberal premier of this state, who actually implored this committee of MLC to support the \$2 levy because of what the levy was to deliver. Unfortunately, the current Liberal members are opposed to the levy. They voted against it in the assembly and we believe they'll move an amendment to remove the levy in the legislative council. Have you had discussions with opposition shadow or opposition members of this parliament around amendments to this Bill?

Mr GROENEVELD — No, not personally.

Mr LEANE — Has anyone at Uber had discussions with opposition shadow spokespersons and opposition members of this parliament about this Bill?

Mr GROENEVELD — I'm not aware of conversations. I know that we have dialogue with all members of government and opposition. I'm not sure as to what those —

Mr LEANE — Can you take on notice that if you could investigate if there has been any discussions, in particular, anything in writing, that the opposition has committed to remove this levy if they form government next year they've committed to you, can you take that on notice and get back to this committee?

Mr GROENEVELD — I mean I guess it's not within my remit around that but I can take it on notice and feed it back through.

Mr LEANE — I want to explore uberASSIST. When you brought up uberASSIST, I looked on my iPad and I've got to tell you, uberASSIST isn't very user friendly because what comes up is articles about other states, nothing in Victoria. So if I'm a wheelchair bound person and I decide I'd like to use uberASSIST, I've got to tell you, your website in Victoria isn't very user friendly at all because nothing comes up to help me. So can you tell me how many wheelchair bound clients have had trips supplied by Uber in the last month?

Mr GROENEVELD — I don't have that data on hand. With respect to your feedback on the website, it's duly noted. As it relates to the app itself, the uberASSIST product is clearly there on the product slider. So if you're a rider and you open up the app, you can swipe through and uberASSIST is there, is there as a product option.

Mr LEANE — As an option?

Mr GROENEVELD — Yeah.

Mr LEANE — So can you take on notice how many trips wheelchair bound passengers Uber has facilitated in the last month and maybe if we could know in the last six months as well, that would be helpful in helping us in deliberations around this particular committee and our deliberations. We'd very much appreciate that. I think I'll let other people ask questions and we can come back if you want.

The CHAIR — We're actually coming to the end of our time, Mr Leane, if you've got another one it would be good probably about now.

Mr LEANE — Does Uber the service, does the service attract GST payments?

Mr GROENEVELD — So Uber in Australia pays all of its applicable taxes. As with regards to GST, that's a national issue that we're currently in dialogue with the ATO over.

Members of the gallery interjecting.

The CHAIR — Order! Order!

Mr LEANE — I've got to say the politicians are sitting over this side and you've just given a political answer. So I'll take that probably as a no but I'm happy for you to — —

Mr GROENEVELD — No, sorry. It's a no. So the way we're structured is that all of the people who drive on the platform are independent contractors. They think of them as small businesses so they have tax obligations that they fulfil.

Ms DUNN — So to clarify, they'd be remitting the GST?

Mr GROENEVELD — That's correct.

The CHAIR — So Uber as a company has no responsibility for GST?

Mr GROENEVELD — So we pay all of our applicable taxes and our driver partners in turn, they pay theirs.

Members of the gallery interjecting.

The CHAIR — Right. Order! Order! Order! As you say, and as Mr Leane said, Uber has been operating illegally for some years now. How have you managed to get away with that?

Mr GROENEVELD — So again I think it comes back to the fact that the current legislation around transport was created the day before the technologies we have today and the adoption we've seen from riders and drivers is because there is a space, there is a gap in the market that has been filled and again the fact that we're here today and the fact that the government has acknowledged the need to put regulation around this industry, to create certainty for the industry and to encourage further competition, innovation and investment, to deliver better customer experiences for all Victorians.

The CHAIR — Yes, I appreciate the sales pitch, that's very, very good.

Members of the gallery interjecting.

No, Order! Order! What I'm really keen to know, what I'm really keen to know is why Uber has not been prosecuted in the years that you have been operating illegally in Victoria?

Mr GROENEVELD — So I have no comment on that just because I'm not in a position to answer the question.

The CHAIR — Has Uber had any contact from Victoria Police at all?

Mr GROENEVELD — So, we have a good working relationship with law enforcement agencies.

The CHAIR — So a company acting illegally has a good working relationship with the police?

Mr GROENEVELD — That is correct.

The CHAIR — Interesting way of doing business?

Mr GROENEVELD — Well, with respect, with respect to, you know, we often have information requests from law enforcement around whether it be a trip or something of that kind and so we work hand in hand with law enforcement, as we work with other government bodies as requested.

The CHAIR — Thank you very much. Our time, in fact we've gone over time, so I thank you very much for being with us this evening. Thank you very much for your time. And you will receive a copy of the transcript in a few days for proof reading and if you could just have a bit of a look at that and get back to us, that would be a marvellous thing and we thank you very much for being with this evening.

Mr GROENEVELD — Thank you. Thank you for the time.

Witness withdrew.

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into the Commercial Passenger Vehicle Industry Bill 2017

Melbourne — 24 May 2017

Members

Mr Bernie Finn — Chair

Mr Khalil Eideh — Deputy Chair

Mr Jeff Bourman

Mr Nazih Elasmr

Ms Colleen Hartland

Mr Shaun Leane

Mr Craig Ondarchie

Mr Luke O’Sullivan

Participating members

Mr Greg Barber

Ms Samantha Dunn

Mr Cesar Melhem

Mr Gordon Rich-Phillips

Witnesses

Professor Denis Nelthorpe, Chief Executive Officer, WEstJustice.

The CHAIR — Professor Nelthorpe, welcome.

Prof. NELTHORPE — Thank you.

The CHAIR — I will tell you now that the evidence taken at this hearing is protected by parliamentary privilege, as you're probably aware. Therefore you are protected against any action for what you say here tonight but if you go outside and repeat the same things, those comments may not be protected by this privilege. If I could ask you to start by stating your name and position and suburb for the record. I'm going to open up for 5, maybe 10 minutes with an opening statement and then we will move to questions. Thank you.

Prof. NELTHORPE — My name is Denis Nelthorpe. I am the chief executive office of WEstJustice which is a community legal centre covering two thirds of West Melbourne. Previously we were three separate legal centres, one of those being Footscray Legal Centre.

I live in the western suburbs in Moonee Valley and I work obviously across the west. In 2011–12 our legal service started probably the only legal centre in the country, started a service to assist taxi drivers and we did that because we became aware of very significant exploitation of drivers, particularly in relation to the insurance arrangements and then as we conducted further case work it became clear that there were a range of exploitations that were grossly impacting the driver population. That was in relation to things like basic payment arrangements, the so called 60/40 split, many of them weren't being paid that, the insurance arrangements where it wasn't their vehicle but they were being forced to pay insurance premiums, and in particular, the excesses on accidents and then after making those payments were basically left for dead with judgments and some of them were being bankrupted. As we continued the work we started to realise that many owner drivers didn't own anything, they were actually leasing both the car and the licence and that they had some of the same problems. We also assisted a significant number of African owner drivers who had taken out wheelchair taxi licences in what was clearly a botched option of the licences which caused enormous difficulty.

The CHAIR — They're out of here. Please continue, thank you.

Prof. NELTHORPE — Right. Now, we did most of that work before the Fels inquiry was announced by the previous state government but by the time the Fels inquiry came along there was one overwhelmingly obvious proposition that couldn't be avoided and that was that the fair or the returns from the taxi industry were not large enough to support three different entities trying to take a share of that funding. The pie wasn't large enough to support licence owners or vehicle operators and drivers so we made submissions to the Fels inquiry really based on the proposition that by the time that inquiry had been called, the industry was in serious trouble.

There were obvious difficulties and those difficulties related in my view almost exclusively to the fact that the licence they knew had reached such incredible levels that by the time the owner or the purchaser of that licence paid the interest on the licence, tried to make a return on it, then you had the owner of the vehicle who might be separate trying to make it and finally the driver, all three could not possibly get a fair deal out of that transaction. We made submissions to the Fels inquiry that there should be a change in the 60/40 rule down to 50/50. We argued and worked with both the insurance industry and the taxi industry to try and introduce proper insurance arrangements.

Victoria for a variety of reasons was the only state in Australia where there was no real insurance on the taxi industry and despite the changes introduced by the previous government, that is still a problem and we are working with the Victorian Taxi Association and the Insurance Council to try and solve that. So I think when we're looking at this legislation the starting point for me was that things were — there was a real problem back in 2011–12. Now, we then worked with the regulator of the Victoria Taxi Association in trying to make some of those — or work through those sort of reforms. I might add, it's also interesting that when you look back at the Fels inquiry submissions very few of them even mentioned Uber.

Uber really wasn't a major factor in that review and the best way of showing that is that the knowledge test that was introduced might have been a good idea if Uber hadn't have appeared, but because of the timing at the very time the knowledge test was introduced, you could actually transfer straight over and drive for Uber and so if you failed the knowledge test, and I might add the knowledge test was also completely botched, almost no one could pass it and so it meant that most people just transferred over and went to Uber.

Now, we also saw a significant number of small licence holders who were in financial difficulty so about, I don't know when it was, 18 months ago perhaps when the first \$4 million hardship fund arose we assisted about a dozen people, a dozen licence owners to make application, some of whom were successful and we also entered into negotiations with their creditors which is something WEstJustice does across the range for a lot of

our clients. When the more recent fund was announced the department contacted us and asked us whether we would run a major program to assist licence holders.

We ultimately took about 1000 calls, responded in depth to 500 of those, held about 200 first instance face to face interviews and assisted about 150 make their applications. Our teams wasn't just with the lawyers and volunteers of the legal service. We had financial counsellors and a social worker and the social worker is here with me tonight. It's worth noting that out of those 150 we think about 130 have significant financial difficulties, or certainly have finances that I wouldn't want to have.

We also had a significant number who were referred by a social worker for personal or relationship counselling, financial counselling, mortgage stress counselling, but that's a program only available in the outer west and we had that project, if the program had been more widely available there would have been more and we had some 16 applicants who were followed up because of serious concerns about their welfare. If you don't want to say exactly what that fear was, but it was a very serious concern. Now, we've had discussions with the four major banks about the financial circumstances of a lot of those clients and we've asked them not to take action anyone that we notify them of.

That's difficult because we were only taking instructions initially to help with the application. We had discussions with the minister's office and the department and we believe that we are going to be funded to run a small, and I emphasise small, service for those who are most in difficulty. We're not offering and can't offer to assist everyone, so those that have, for instance, investment properties that are at risk will have to go and see their accountant or a financial planner. But those who are faced with, or have already lost their home, we will hopefully be able to assist in some way. Now, when it comes to finally the legislation my comment would be we cannot sort out their finances, nor can the licence holders sort out their finances until they actually know what they're getting.

We can't get them to go and see accountants to work out a whole lot of subsequent questions. Where there are a whole - they can't sort out their personal lives and clearly a significant number have either lost relationships or have serious personal issues that in my view will not be resolved until there is some finality and I think the legislation will go some way to that and I would also that the sort of insurance issues that we have been trying to resolve can't be - the Victorian Taxi Association and others in the industry don't have time to turn their mind to those sort of issues until we deal with the fundamentals around how we deal with these licences.

That's a summary of the work we've been doing, the work we will continue to do and why we think the legislation - and by the way, you know, if I had been the one running how they sort of structured the transition payments or some of those funds, I'd have probably done it differently, but I'm not wearing it. I think it would have been better to probably focus most heavily on the most recent purchases. I think those who've had the licences the longest have actually, as Mr Fels said, had a pretty good return on the investment. Those who bought it in the last seven to ten years have clearly, and the most recent ones, have obviously copped it pretty bad and, you know, there's no getting around that and it has put their houses at risk.

The CHAIR — Thank you very much for a very comprehensive opening comment. It has been suggested to us yesterday that this legislation may well be unconstitutional. Have you had any thoughts on that from a legal perspective?

Prof. NELTHORPE — Look, we've tried to remain relatively neutral on the politics of the legislation. What I would say is this is a bit like saying, you know, Kodak might have thought there were unconstitutionality in legislation governing their new competitors. Ride-sharing is here to stay. There are segments of the population like the younger ones who are going to use it. What we need to do is sort out the best solution we can for the problems we have and I'm really not sure as a lawyer, I'm not sure that resorting to the fine print to find a short term way of interfering with this. Obviously it would be better if the legislation survives a constitutional challenge. But ultimately I'd say to those who want to challenge it in that way, your licences might end up worth nothing if you wait long enough. These payments are not - for instance, if you bought one in the last three years or four years, these payments are not going to cover your losses, there's no way, I don't think. But I actually think that the mental health issues, the relationship issues and the financial issues need to be brought to a head.

The CHAIR — Do you think the compensation transition payment, call it what you will, is adequate?

Prof. NELTHORPE — I think the difficulty is that it's a one size fits all. So it's probably overly adequate if you bought the licence a long time ago and it's inadequate if you bought the licence more recently, but I can understand why it was done that way. It's also hard to answer that question until you see how the hardship fund deals with those people who on the face of it, let's say the transition payment is 100,000, you bought it for 500,000, then if the hardship fund hands some of those people or regards some of those people as being entitled to 400,000, then no, that would probably would set it back to where it needs to be. As I said, I would have preferred to sort of slant it towards who purchased most recently, but I can understand why they didn't.

The CHAIR — I note that there is no mention of compensation in the legislation, but if there were to be a reference to that compensation in the legislation, should it be on a sliding scale, the likes of which you're perhaps suggesting?

Prof. NELTHORPE — I think there would certainly be a justification for having a sliding scale but if it's a choice of delaying, the longer you delay that legislation the worse things will be. Can I give this example, about 20 years ago a well-intentioned state government initiative around the country that sold Ministry of Housing properties to the tenants went belly up. One of the things that was to put to me and one of the legal services I was running at the time was we should run a class action. Now, there was one running in Sydney, it had all the most incredibly complex legal problems in it and a bit like the bushfire one, it bounced between the Federal and High Court for about three years. It took ten years. My comment at the time was, by the time they got a solution a fair proportion of the borrowers would have either have died, disappeared or gone bankrupt and my fear is that the longer this goes, the same fate will occur, that at some point there's a need for finality.

The CHAIR — Thank you. Ms Dunn.

Ms DUNN — Thank you, Chair, and thank you, Denis for your presentation tonight. I was just interested, you talk about being in discussion with the big banks in terms of not taking action. I'm just wondering how those banks responded to that suggestion, did you have success?

Prof. NELTHORPE — Yes, but in part because if the banks were to take action against some of our clients right now what they might actually do is bring in other players like the taxation debt. They might actually reduce their capacity to recover, so it's not necessarily a smart thing to do to pursue them right now. But I would add I've also — it's been difficult because we're not yet funded, I don't want to go and offer the banks that I'm going to do something we can't do, but I have said to some of them that if they were to take 100 cents in the dollar of the funds being handed over, it wouldn't be a great look. So for instance, we have a client who's lost their house, they still owe 200,000. Now, the question is going to be if they get 200,000 from the various amounts and the bank says we want the whole 200,000, I would have thought the public would be pretty unhappy about paying \$2 a ride for that outcome. So one of the issues here is can we try to ensure that regardless of what the debts are, that the licence holders do actually get some benefit from this and not much point no matter how much money you give if it all ends up with the four majors, that's not going to help anyone.

Ms DUNN — And in terms of I think you said, you know, you talked about you were down to assisting I think 150 people with applications, I wasn't sure whether 130 of that had what you described as significant financial difficulties, is that correct, of that?

Prof. NELTHORPE — Yes, you interpreted correctly.

Ms DUNN — I'm just wondering, I think you went on to say that — I wasn't sure whether they are all facing home losses?

Prof. NELTHORPE — No.

Ms DUNN — Or some of them are of that 130?

Prof. NELTHORPE — Some will be. The difficulty is that, in preparing the hardship application was not the same as trying to determine the state of their financial circumstances. So, they're all different. We certainly have some clients whose homes are at risk, and we have some clients who've already lost them. But when I look at the debts, for instance, I mean, I've looked at a couple of them and thought, how were you able to

borrow that much money when you don't actually appear to own anything? But then again, I see that a lot in my work. So, all I will say is that 130 certainly seem to have some very significant debts to the financial institutions.

Ms DUNN — Yes. Okay. That'll do me for now. Thanks, Chair.

The CHAIR — Mr Elasmar?

Mr ELASMAR — Thank you, Chair. Thank you, Professor. WEstJustice is an organisation to give free advice, and thank you for your time being here. My question is, you just mentioned there's a lot of people under hard financial shape. Would your organisation give an advice to us as a government as soon as possible to pay these people?

Prof. NELTHORPE — I believe that an early resolution of this is in everyone's interests, yes.

Mr ELASMAR — Thank you.

The CHAIR — Mr O'Sullivan?

Mr O'SULLIVAN — Thank you, Chair. Thank you, Professor. Just, my question's sort of an open-ended one, but I'd like you to, sort of, be fairly succinct, if you could, in answering it. We've heard yesterday and, in parts, today, that this legislation's got a whole range of holes in it in terms of how it impacts, particularly the taxi industry. What would be the three things that you would do to fix it?

Prof. NELTHORPE — Well, I think the first thing to note is that my understanding is that this is actually, there's another tranche of regulation or legislation that needs to follow, because I'm certain things like some of the insurance arrangements will be in that. I do think, ah, trying to ensure that the state recovers some of the compensation. The only thing that I think would be seriously worth considering is whether there should be more of a sliding scale on the payment of the transition payments. I do have to say I have some difficulty with the idea that some, and, you know, I think everyone has to accept that there have been changes to the industry that could not have been anticipated. So, someone who bought a licence three to four years ago or five years ago, could not have anticipated what has happened. So, I think I'd have to say I have some difficulty seeing those people treated in the same way as someone who obtained a licence for \$40 000 forty years ago and has had a return on that licence for forty years. That would be the one thing that I would probably have a look at, I have to say.

The CHAIR — Mr Leane?

Mr LEANE — Yes, thanks. I don't know if I've even got a question, but I just wanted to say that Mr O'Sullivan says that he's heard this bill's got a lot of holes in it, and I think people hear — —

Mr O'SULLIVAN — You were here yesterday, weren't you?

Mr LEANE — People hear different things.

Mr O'SULLIVAN — Well, you were here yesterday.

Mr LEANE — But what I've heard from your evidence is that we did have a number of people telling us, similar to yourself, saying to the Legislative Council, get on with it. Get on with the legislation. Fight it out in there. If people want to move amendments and are successful, that's the way it works. So, as far as the people you represent, you want to see us do our job and actually open up facility for them to be assisted. Is that?

Prof. NELTHORPE — I think for those people who are in the most difficulty, which would be by and large the recent purchasers, the passage of the legislation providing certainty so that, and, look, the outcomes of debt negotiations may not be great. I mean, I'm not pretending that we're gonna sort of go and rescue everybody by any extent, but I also think that there are personal relationships, family relationships that are worsening by the day, and the passage of the legislation will at least bring a degree of certainty to those people. And I actually think that's important.

Mr LEANE — Thanks.

The CHAIR — Any further questions? Yes, Ms Dunn?

Ms DUNN — Thank you, Chair. Going back to those 130 people, or even the 150 applications you've assisted with, are they generally on the whole people who are single licence holders?

Prof. NELTHORPE — Look, there were a variety of people who we assisted. I will say there are people we assisted who wouldn't normally attract assistance from a legal centre. But there were a significant number, my guess is that there are at least 50 to 80 who are in significant difficulty, and if we applied our normal legal centre rules they would well and truly qualify for our assistance.

Ms DUNN — Yes. And, on the whole, do they only have one taxi licence, or not necessarily?

Prof. NELTHORPE — Look, there are some that will have maybe two or three who acquired them in, I would've thought relevantly naive circumstances. We certainly, perhaps I could say this, we encouraged anyone who had a significant business, in terms of both the number of cabs or the number of licenses, to go to their accountant, because we thought they would know more about their, and we also said because legal centres don't normally deal with family trusts and that sort of thing, we said if you've used an accountant, set up a family trust, you probably should get the accountant to help you fill it in, because they'll know more about it than we do.

Ms DUNN — Yes. That's fair enough. And I just wondered, in terms of, because your organisation has assisted through that process, whether you had any observations about the ease or difficulty in relation to those hardship applications?

Prof. NELTHORPE — Yeah, two that I think are worthwhile. Even some of the applicants who had significant assets but who were from migrant backgrounds, had enormous difficulty filling in those forms, and we were more than happy to assist. But I also have to say that we had some applicants who were advised to leave material and information out of the applications deliberately, and we were put in the position of saying that we wouldn't swear the stat dec because of what they'd told us. I think that was probably unfortunate as well.

Ms DUNN — Yes. Thank you for that. Thank you, Chair.

The CHAIR — Any further questions? Professor, thank you very much indeed for being here tonight. We do appreciate your time very, very much indeed. You'll be receiving a copy of the transcript in the next few days. If you could have a read of that and see if that's all as it should be. I'm sure it will be, but if you could do that we would appreciate it, and thank you so much indeed for your time and your effort tonight. Thank you.

Prof. NELTHORPE — Thank you for the opportunity to address you.

Witness withdrew.

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into the Commercial Passenger Vehicle Industry Bill 2017

Melbourne — 24 May 2017

Members

Mr Bernie Finn — Chair

Mr Khalil Eideh — Deputy Chair

Mr Jeff Bourman

Mr Nazih Elasmr

Ms Colleen Hartland

Mr Shaun Leane

Mr Craig Ondarchie

Mr Luke O'Sullivan

Participating members

Mr Greg Barber

Ms Samantha Dunn

Mr Cesar Melhem

Mr Gordon Rich-Phillips

Witness

Mr Vasko Nastevski, Manager, Legislation and Government Relations, State Revenue Office Victoria.

The CHAIR— Mr Nastevski, thank you very much indeed for your time and trouble in coming in this evening. All evidence taken at this hearing is protected by parliamentary privilege, therefore you are protected against any action for what you say here tonight, but if you go outside and repeat the same things, those comments may not be protected by privilege. If I could ask you to just state your name and position and suburb

for the record, and then give an opening statement of 5 or 10 minutes, and we'll then ask a few questions and let you on your way. Thank you.

Mr NASTEVSKI— Vasko Nastevski. I'm the manager of legislation and government relations at the State Revenue Office, Melbourne. Thank you to the Committee for the invitation to appear at this inquiry into the Commercial Passenger Vehicle Industry Bill.

At the outset, I'd just like to point out that the Commissioner of State Revenue would've liked to have been here, but, unfortunately, he's interstate, so it made him unavailable for tonight, so he sends his apologies. So, I'll just read out a bit of a statement to begin with.

The government has asked the State Revenue Office to take on the responsibility for the administration of the proposed levy. So, whilst the SRO has not been involved in the development of the policy reforms that are reflected through this bill, nonetheless, we have been involved in designing the administrative framework behind the levy and how that might be administered.

We've got particular expertise in implementing new taxes and levies or, conversely to that, implementing different schemes where the government might like us to issue grants to certain cohorts of people. But in doing so, whether it's imposing a new tax or issuing grants, we always aim to make our administration and collection process as easy and as fair as possible for all users.

At the same time, and having said that, we also take our compliance responsibilities seriously, and we have various mechanisms at our disposal in order to give effect to those. In being invited to this hearing, I was asked to, by the committee secretary, I believe, I was asked to give a presentation on the provisions of the bill. So, with the committee's indulgence, I might go through some of the main features of the bill where they impact on the State Revenue Office's administration, and hopefully I'll tie in the relevant clauses.

I won't go sequentially, but I'll jump around a little bit. So, firstly, to begin with, I'll start with clause 10. Clause 10 identifies who is liable to pay the levy. So, effectively, there's two levels of liability here. So, there's one for booked trips, and there's another level for unbooked trips.

In terms of booked trips, the levy liability falls on the booking service provider. And, of course, in the new digital age, a booking service provider can operate outside of Victoria, outside of this jurisdiction through, you know, different types of software applications. So, the provisions in the bill actually contemplate that.

So, hence the definition of a booking service under clause 5 of the bill, especially disregards the location of the booking service and where they might be actually situated, and, read together with clause 8, clause 8 provides the extra territorial operation of these provisions.

The second tier of liability falls in relation to unbooked trips. This is your rank and hail type work. What the provisions do in this situation is, in the first instance, the trip provider is liable for the levy, so the person who provides that trip.

In the alternative, there might be situations where the trip provider might decide to affiliate with a booking service provider. So, if they were to enter into an affiliation agreement in respect to the levy in those instances, the provisions allow the booking service provider to make the returns and pay the levy on behalf of the trip provider.

So, this is a mechanism in place where it provides for some attraction, I guess, to trip providers to allow somebody else to do the books on their behalf. It relieves that administrative burden on them, and allows the bigger players in the industry to take on that responsibility.

Having said that though, where there is such an affiliation agreement in place between a booking service provider and a trip provider, the provisions still maintain that both of those parties are jointly and severally liable, and why that's the case so, for example, if the booking service provider is finding difficulties, I should go back one step.

The provisions contemplate the booking service provider passing on the cost of the levy to the trip provider in order to make those returns. So, of course, if the trip provider is not making those payments to the booking

service provider, the provisions allow the booking service provider to recover those amounts even through a court of competent jurisdiction. And at the same time, depending on the level of culpability and who's actually not cooperating, that jointly and several liability provisions give the State Revenue Office the ability to look at both parties in those circumstances.

Having established who's liable for the levy, the next significant clause I'd like to draw your attention to is clause 14, which is the registration provisions. And these are registration provisions that relate to the State Revenue Office administering the levy. If a party is liable to pay the levy, the bill proposes that the person who's liable for it must register with the State Revenue Office for the purposes of administering this levy. This is not uncommon in returns based revenue lines.

We do this in relation to payroll tax, insurance duty, every other return based system has the same sort of arrangement in place. It provides the State Revenue Office with a line of sight of the taxpayers, so we know who's actually in the base so we know who they are. But it also establishes a relationship between the levy payers and the State Revenue Office, particularly where there's recurring payments having to be made by one particular taxpayer.

Having said all of that, it is a criminal offence not to register with the State Revenue Office if you are liable to pay the levy. And that also extends to, say, for example, if a corporate entity failed to register with the State Revenue Office and they're found guilty in a court, there is also the capacity for the State Revenue Office to take action against individuals of the corporate entity, so directors or the CEO if there was some evidence that they failed to take due diligence or were negligent in respect of seeking registration with the State Revenue Office.

Now, having established who's liable and the fact that they have to register, clauses 15 and 18 of the bill respectively provide for the registered levy payer to make returns and the levy payment to the State Revenue Office within 30 days after the end of the return period. Clause 13 tells us that the return period is each quarter of each financial year, so 30 days after each quarter the returns and payments are due.

I'll just point out here that the quarterly period aligns with the requirements that players in this industry would have in relation to their regulatory obligations with the Taxi Services Commission, but also with the Australian Taxation Office in relation to income tax or GST purposes. So, in that sense, the information that they would be covering in making those ATO returns is exactly the same information they will need to consider in making the returns to the State Revenue Office in relation to paying this levy.

So, having gone through all of that, I think the next clauses of the bill are also important. Clause 6 directly links the bill to the Taxation Administration Act, together with clause 75 which makes part 2 of the bill, which is the part that articulates the levy. Clause 75 makes part 2 of the bill a taxation law under the Taxation Administration Act.

So, effectively, the levy becomes a tax law for the purposes of us administering it, and that then puts the levy within the framework of the TAA. So, that exposes it to all of our, or State Revenue Office's, powers of compliance and enforcement. So, for example, if, in a situation where a levy payer, a registered levy payer, for example, did not pay or make the return on time, that would trigger a tax default under the Taxation Administration Act. That automatically subjects that tax payer to a 25 per cent penalty and interest, and, depending on the level of culpability of that non-cooperation, that could go up to as much as 90 per cent. The —

The CHAIR— Could I ask members of the gallery to please turn their phones off or I may be forced to throw it in front of a speeding tram. Mr Nastevski, thank you very much.

Mr NASTEVSKI— So, just moving on. The Taxation Administration Act also provides the State Revenue Office with extensive investigation powers. These powers give the officers of the SRO the ability to compel information from third parties including from various commercial entities, individuals and even government agencies. And the State Revenue Office already collects and obtains information in respect to a wide variety of matters from entities such as the Australian Taxation Office, VicRoads and with the passage of this bill, there are provisions in this bill that provide the SRO with power to share information with the Taxi Services Commission. So, we'll be able to get that data from them as well. Also under the bill, there's a requirement that

whether you're a trip provider or booking service provider, you need to be accredited with the Taxi Services Commission. So, once the SRO has that power to obtain information from the Taxi Services Commission, the SRO will know who should be registered for the purposes of the levy. So, we'll get that information from the Taxi Services Commission. There's also the ability under the Taxation Administration Act, where we don't have sufficient information to make an estimated assessment of a legal liability, should that be the case.

And the final parts of the bill I'd like to take the committee to is clause 51 to begin with. This relates to where there's contraventions of part 2 of the bill, which is the levy aspects of the bill, but also the TAA. So, this is where we have that intersection between, the State Revenue Office's activities and the Taxi Service Commission. So, for example, clause 51 of the bill provides the Taxi Services Commission with the power to suspend or cancel the driver's accreditation, but also a booking service provider's accreditation, and they may do this where there's been contraventions of part 2 of the bill or under any provisions of the Taxation Administration Act. So, where the SRO has found certain patterns or behaviours of non-compliance that may also be cause for action by the Taxi Services Commission.

Finally, under clause 37 of the bill, the bill makes it a criminal offence for a booking service provider to provide a service if they're not accredited or they've had their accreditation suspended or revoked. And at the same time, it makes it an offence, a criminal offence, for a driver or trip provider to knowingly take on driving activities with somebody who's not accredited at the time through the Taxi Services Commission. And the TSC at the same time — the bill provides the TSC with the ability to seek an injunction at the Supreme Court should that be necessary for any matters that they see fit. They were the main clauses of the bill that particularly relate to the bill's interaction with the State Revenue Office's activities around administration of the new levy. So, the final thing I'd like to say is that the SRO's experience in implementing new taxes we've got a lot of expertise in this space. We're reasonably resourced and equipped, both legislatively and in terms of staffing as well, and we do, we basically, that's our business. We, our business is to enforce the law in these circumstances.

The CHAIR— Thank you so much for filling us in, quite comprehensively, I'd say, on those sections of the bill. Now, I'm just wondering, is the State Revenue Office still carrying the cost? Obviously, you've put a great deal of work into this. Are you still carrying the cost for doing that, or has a treasury or finance or somebody come to the party to assist you financially on that?

Mr NASTEVSKI— Ah, no. There hasn't been any funding allocated as yet. So, we're still working through a lot of the costs that might be associated with administering the levy. So, there is work being undertaken, you know, with us, with DTF.

The CHAIR— How much do you anticipate it's cost you so far?

Mr NASTEVSKI— Look, we've done some preliminary work. Some preliminary scoping work on this, and what I can say is that, and mind you, these would be estimates only at this stage, but we've had a look at, what sort of IT system would be necessary to implement the relevant portal for users to use. So, some of that background scoping work we've estimated at something like about \$128,000, but, in addition to that, to actually build the IT infrastructure necessary, and again, these are estimates at this stage, we think that might cost at something like about \$1.37 million to build that system. But, having said that, of course — —

Members of the gallery interjecting.

The CHAIR— Order!

Mr NASTEVSKI— Having said that, of course, there will be further costs down the track once we work out you know, our different compliance activities. There would be the necessity to provide education material out there. There'd be a bit of downstream work such as objections and perhaps even, you know, challenges with litigation.

The CHAIR— Okay. On the subject of compensation, it was suggested to us yesterday that any compensation paid now would be subject to federal tax from the Commonwealth Government, or the ATO. Is it your understanding that if the compensation was included in the legislation, as it's not currently in the legislation, as you're aware, but if the compensation or payment or whatever you want to call it was included in the bill, that would not be subject to tax?

Mr NASTEVSKI— I don't have expertise in that area to be honest. I'm not, I can't answer that.

The CHAIR— Fair enough. Thank you. Mr Leane, have you got any questions?

Mr LEANE— No, I think so. Look, I think the bottom line is that what you've told us that provisions of the bill will afford the SRO everything they need to be able to fulfil what you've been asked to do in this instance?

Mr NASTEVSKI— Yeah, I'd say that that's correct.

Mr LEANE— Yes. Thanks.

The CHAIR— It will probably cost them millions. Ms Dunn?

Ms DUNN — Thank you, Chair, and thank you for your presentation tonight. A couple of things. One is around, just in terms of the remittance of that levy, should that levy,

I guess, only apply in certain parts of Victoria, or different range of levies apply depending on whether you're a metro or regional?

Mr NASTEVSKI — Sure.

Ms DUNN— For example. Would that be challenging or pretty straightforward from the SRO's perspective?

Mr NASTEVSKI — Off the top of my head, I mean — —

Ms DUNN — It's a bit of a hypothetical, I know.

Mr NASTEVSKI — It is a bit of a hypothetical, and in the first instance you would think that it will introduce some level of additional complexity, but when we're working through an IT system and it's all automated it really, it would generally be straightforward, because the people that would be making those returns would know what level of payment they would need to make. So, the actual calculation of levies is reasonably simple. That's number of trips times whatever the amount is. So, in that sense, it's not really, I don't foresee it as being all that difficult.

Ms DUNN — Thank you. The other issue I wanted to touch on was, I guess, in terms of compliance around paying the levy for any booking service provider that might be based offshore and your ability to ensure compliance in relation to those companies. I'm just wondering what mechanisms might be available to you?

Mr NASTEVSKI — Well, in the first instance the provisions in this bill, which I articulated in my opening presentation, captures those organisations. So, that brings it within the ambit of the bill. So, that gives us access directly to them. In terms of — —

Ms DUNN — Is that through the TAA?

Mr NASTEVSKI — Both through the provisions of this bill, I think it was clause 8 which provides it with extra territorial jurisdiction, but also the Taxation Administration Act, of course does that. But, in terms of, you know, chasing overseas based entities, we do that all the time on a daily basis.

I mean, we have overseas based transactions occurring all the time where people might list with overseas based companies in overseas exchanges. We deal with that scenario all the time. So I think, in terms of what level of comfort can you have that there will be a level of compliance, I mean, I guess it's just the whole suite of reform that's occurring through this particular bill. I think I mentioned at the outset that, you know, if somebody's not complying there is that ability by the TSC to revoke their accreditation or not to give them accreditation. So, then it becomes a question, a business decision for them, because then drivers won't be allowed to operate in that environment as well. So, there's various incentives, disincentives, there's obviously the full gamut of the Taxation Administration Act, which imposes some pretty severe penalties. I mentioned quite a few criminal offence provisions that are installed in this bill, including where they refuse to register with us. And that, those criminal sanctions extend to individuals of those, or potentially of those companies. So, whether that's directors or the CEO. So, there's various, I guess, incentives and disincentives built into the levy scheme.

Ms DUNN — In terms of the activities of the SRO, I'm just trying to get an idea of, I guess, how much energy is put into compliance and enforcement?

Mr NASTEVSKI — Ah, just generally or, just — —

Ms DUNN — Well, it's too hard to say in relation to this because you're not operational, but I guess as a general measure?

Mr NASTEVSKI — We've got quite a comprehensive compliance focus, if I can put it that way. We administer quite a number of revenue lines. We've got a reasonably significant, investigations function, both based in Melbourne and Ballarat. We cover a wide array, how can I put it? This will all be on the SRO web page as well. We actually inform people as to areas we're looking at. So I'm not sure. It's just a normal operation for us. Like, we've got access to various data that we obtain depending on the compliance focus. As I said earlier, we've got the ability to compel people to provide us with information. You know, in the recent past we've invested quite a bit on our IT infrastructure, so we've got various business intelligence systems and data matching systems where, if I'm not mistaken, the target rates or the strike rate where we actually identify where people have an issue with complying is somewhere, you know, above 90 per cent mark.

Ms DUNN — That's great. Thank you. Thank you, Chair.

The CHAIR — Thank you. Mr O'Sullivan?

Mr O'SULLIVAN — Just one question from me. Do you have confidence that you'll be able to collect any levy that goes through in the legislation or gets through, that you'll be able to collect it from Uber and Uber drivers and customers and the Uber franchise itself?

Mr NASTEVSKI — Oh, look, my view is that we've got enough mechanisms built into this particular bill, but also because it's read together with the Taxation Administration Act. We've got enough legal mechanisms in place to be able to do that, and, as I mentioned, I mean, Uber would need to decide whether they want to cooperate in this new scheme and should they not want to do that, well, the provisions in the bill actually contemplate that as well.

The CHAIR — Sure. Mr Elasmar.

Mr ELASMAR — So, what he's saying is if refuse to pay the levy, under this bill you have the power to investigate, correct?

Mr NASTEVSKI — Under this bill and also under the Taxation Administration Act, yes.

Mr ELASMAR — That's all. Mr Chair.

The CHAIR — Okay. Any other questions? Thank you very much for coming in this evening. You will receive a copy of the transcript at about, or, a few days anyway, and if you'd be kind enough to have a look at that and get back to us if need be, that would be a marvellous thing, and we do appreciate your time and effort in coming in this evening. Thank you very much indeed.

Mr NASTEVSKI — Thank you.

The CHAIR — And that endeth the hearing. Thank you.

Committee adjourned.

