

From: [REDACTED]
To: [taxiinquiry](#)
Subject: New Submission to Inquiry into the Commercial Passenger Vehicle Industry Act 2017 Reforms
Date: Tuesday, 25 June 2019 1:54:05 PM

Inquiry Name: Inquiry into the Commercial Passenger Vehicle Industry Act 2017 Reforms

Mr Stephen Armstrong
[REDACTED]

President
Victorian Taxi Association
[REDACTED]

SUBMISSION CONTENT:

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Driver Agreement and Implied conditions (Paper attached)- Why is the taxi industry singled out to be the only Regulated CPV provider to have the CPVV govern the commercial relationship between their stakeholders. We are told we are now competing on a level playing field yet this is a myth, we are restricted unfairly and are at a complete disadvantage in our ability to provide flexible fare structures and to be innovative in offering other services.

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Q1: Taxi Association for non metropolitan members.

Q2: It is a very confusing process for taxi operators, replacing a vehicle has become a convoluted process which was not well thought out or explained to taxi operators. It is even more difficult if you wish to purchase an existing taxi and operate it yourself. The very fact that you are required to give false information on the online application process in order to retain existing number plates is bewildering to say the least and it has obviously been implemented without the required industry consultation. The process has had some operators given advice from CPVV that they cannot operate the business whilst the application process is being completed, up to 10 days. The system needs to be refined.

Q3: We have been advised many of our members are spending an additional four to 8 hours per week depending on the size of the business in extra administrative tasks. The collection and compliance for the Levy as well as the requirement to now develop a risk register and monitor independent operators as a BSP for the new CPV industry Further reforms Act will only exacerbate this further. This is a serious impost in particular for small to medium business owners many of whom operate from the kitchen table. The confusion around vehicle registration and the cost of meeting the new PBBS contractual clauses in regard to providing additional information has become impossible for some BSP's to meet and as such there is a potential for Wheelchair services to be diluted as we have seen in a larger Urban area already.

Q4: Whilst there have been some improvements in accessibility and consultation at some levels this does not filter down for the local taxi operator who just wants a query answered and the ability to get on with business. There have been many cases when two different answers have been given for the same question, if you cannot get the same answer from the regulators departments it would seem there are major consultation issues within the CPV itself. At times you can be on the phone awaiting the phone to be answered for up to 20 minutes and then not get an answer to your query, a CPV operator section as a sign in area of the website should be developed with real time answers given in order to reduce downtime for time restrained CPV operators.

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File1: [5d119adbf1738-Letter to Inquiry into CPV Industry Act Reforms 2017 re implied conditions review.docx](#)

File2:

File3:

24th June 2019

Dear Inquiry Committee Members,

RE: REQUEST FOR REVIEW OF DRIVER AGREEMENT IMPLIED CONDITIONS

On behalf of the members of the Victorian Taxi Association (VTA), we write to formally request a review of the ongoing scope and enforcement of the driver agreement implied conditions as they apply to relationships between drivers and operators of Victorian taxis.

As a result of a series of recommendations of the Victorian Taxi Industry Inquiry (VTII), June 2014 saw the gazettal of a series of conditions which would be automatically implied upon 'Bailee' relationship between taxi drivers and taxi operators.

The VTA was active in advocating to changes to the conditions during the passage of reform legislation in 2017. Whilst our position was routinely met with agreement, it was consistently communicated to VTA representatives that these matters needed to be dealt with by the CPV under the powers conveyed by S162L of the *Transport (Compliance and Miscellaneous) Act 1983*. Further to this, any limitation on powers to amend the implied conditions can be mitigated through enforcement decisions over which the CPV has authority.

In considering the need for such review, we ask that the Commission consider the context which lead to the initiation of the VTII and its findings against subsequent changes within and reforms to the industry for commercial passenger vehicle (CPV) services.

At the time of the VTII, the implied conditions were conceived of primarily as a mechanism to correct the power imbalance which existed between Bailee drivers and operators. This imbalance was largely as a result of restrictive licensing and considerable entry barriers. Whilst the balance of power between industry players had swung between parties depending on the supply of labour over the years, exploitative behaviour on the part of some operators, particularly fleet operators which were blatantly unfair on drivers and was a major contributor to poor quality of service, necessitated a policy response from Government. This is especially true with regards to the mandated of a minimum 55% share of farebox revenue for Bailee drivers (commonly referred to as 55/45).

However, the conditions within the industry which permitted this perverse outcome are no longer present. Almost free and unlimited entry to the industry, a drastic lowering of operating costs imposed through regulation, a highly competitive market, more informed and mobile customers thanks to community awareness and technological advancements and the eradication of legacy licensing has simply eradicated the need for 55/45. As a result, we request that the regulation of farebox splits be removed and would welcome the opportunity to participate in a review to consider this.

Not only does maintaining 55/45 in its current form run against the competitive neutrality principle at the heart of recent reforms, it has the effect of stifling innovation in pricing services. The burden on operators to be able to prove compliance with 55/45 at a shift level is a brake on changes to

pricing in an increasingly competitive markets. For example, discounting, loyalty rewards, commercial partnerships, branded tie-ins and flat fares are all next to impossible with 55/45 in place.

It should also be noted that a review of the success of the implied conditions conducted by the TSC in 2016, before the realisation of the above market shifts, had already identified the detrimental impacts of 55/45 on non-metropolitan taxi businesses which had not previously displayed the service failures which led to the VTII.

Further, other elements of the implied conditions need to be reviewed in light of the shift from the traditional taxi/hire car dichotomy to a more plural market for CPV services. For example, the requirement for Bailee drivers to be indemnified by operators is necessary because of their inability to procure insurance for vehicles they do not own and was fully supported by the VTA from the time of the VTII. This condition was imposed for the protection of drivers who had no alternative way of protecting their personal assets from the costs associated with a work related road accident. This exposure is not unique for taxi drivers but exists for any CPV driver not operating/driving a vehicle which is owned by them (and registered in their natural or business name). We know this is not uncommon in many business models and am confident the TSC too is aware of a range of businesses which have been started to supply vehicles on short or long term lease agreements for this very purpose. The implied conditions in their current form do not apply to these relationships.

Given recent reforms to the industry have been processed with the view to creating fair competition in the market, the question of insurance and indemnity requirements remains an area which we believe has not been adequately investigated and resolved.

We note the recent decision on the part of the Transport Accident Commission (TSC) to equalise vehicle registration requirements for all vehicles providing commercial services and again ask that the CPV continue this work with a thorough review of the implied conditions.

A more comprehensive review would need to consider whether the requirement for an agreement **in a defined form was even necessary**, if so, what relationships in the changing landscape of the industry it should apply to and how the CPV plans to enforce whatever requirements are resolved.

Regards,

S. Armstrong

Stephen Armstrong

President/Victorian Taxi Association