

# TRANSCRIPT

## LEGISLATIVE COUNCIL ECONOMY AND INFRASTRUCTURE COMMITTEE

### **Inquiry into the Commercial Passenger Vehicle Industry Act 2017 reforms**

Melbourne—Wednesday, 31 July 2019

#### **MEMBERS**

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Dr Catherine Cumming

**WITNESSES**

Mr David Samuel, Head of Public Affairs, and

Mr Fred Lukabyo, Chief Operating Officer, A2B Australia.

**The CHAIR:** Thank you and welcome. The committee is hearing evidence today in relation to the inquiry into the Commercial Passenger Vehicle Industry Act 2017 reforms.

All evidence taken at this hearing is being recorded by Hansard and is protected by parliamentary privilege. Today's hearing is also being broadcast live on the Parliament's website. Therefore you are protected against any action for what you say here today, but if you go outside the room and repeat the same things, those comments may not be protected by this privilege.

Please before you start state your name for the Hansard record. Our apologies for being late, but you are welcome. Give us some time to ask questions.

**Mr SAMUEL:** David Samuel, A2B Australia.

**Mr LUKABYO:** Fred Lukabyo from A2B Australia and 13CABS.

**Mr SAMUEL:** Thank you, gentlemen. Thank you, committee. Apologies for the confusion this morning. It is good to be here again. I will just introduce us quickly and then I will hand over to Fred, who will make a brief opening statement. Then we are happy to take your questions, answering anything you have got for us.

As I said, my name is David Samuel. I am head of public affairs for A2B Australia, and this is Fred Lukabyo. He is chief operating officer for A2B Australia. A2B Australia is our listed entity. Under that we have two key business strains: one being Cabcharge payment processing and on the other side we have our taxi brands, which are usually run under the name of 13CABS. We are almost national now and we are certainly hoping to be soon. Once again apologies about this morning, and I will hand over to Fred now.

**Mr LUKABYO:** Thank you, and once again we thank the committee very much for the opportunity. This is not the first such inquiry, ladies and gentlemen. In fact it is disappointing that we have had so many inquiries over recent years here in Victoria. In fact the mammoth piece of work that was the Fels inquiry ultimately gave us no certainty, little science and in fact ignored the elephant in the room that was rideshare that was in existence globally at the time that that report was delivered to the Victorian government—not that Mr Fels was any stranger to rideshare. That elephant was just ignored in that report, which is perhaps one of the reasons that we are back here again. We appreciate being here.

Before we go directly to the recent reforms, I think it is worth saying that one of the reasons that these issues have arisen is the advent of disruptive entrants into the business. Now, people talk about these disruptive entities as though they were all about technology. Across from the Parliament we have Harry Potter playing. These are simply entities who choose to come into the Victorian market with very different business models to those which had been in Victoria for a long time, and the key features of the business models that these hugely cashed-up entities choose to unleash were any price point they liked, both through remuneration to drivers and in charging to the public; and no barriers to entry. Part of those no barriers to entry meant no quantity regulation but also in practical terms no training. And at the time that these entities came into Victoria with no barriers to entry and no training the Victorian taxi industry was struggling under what was then known as 'the knowledge', and under the system of the knowledge so few taxidriver were able to pass this virtual barrier to entry that it was at the time on paper statistically easier to pass the surgery primaries to become a fellow of surgery in Victoria than it was to be able to become a taxidriver based on the number of applicants and the number of people who succeeded.

So we would suggest to the committee that what was unleashed were some business models from a large number of entities—very large, billion-dollar capitalisations. None of the entities in question, whether domestic or foreign, have at a group level ever been profitable in any public filing. And I will say that again. Victoria had an incumbent industry that was setting about its business—and could do with improvement and welcomes

reviews—but along came people adhering to different business models who were not even interested in turning a profit, who were being funded in large ways and who caused all sorts of change both to the regulation and the operation of the industry. I will add—and it is an important point—that what also went by the wayside with these new business models was a focus on services to Victorians with a disability and a focus on safety. I am pleased to see in recent weeks—literally, I point out to the committee, in recent weeks—discussion from some of these more recent entrants about the advent of security buttons on phones and so forth. Now, these are entities who have been in this business now for several years. So those are where we see the source of the situation we are now in.

The 2017 reforms came along, and we have chosen to comment, both in the submission and here today, on two key areas there. One is the issues of safety and the other is the issue of differences between business models. This means that it will be very hard for local entrants to be able to operate in ways which have worked traditionally, given some of these new entrants who choose business models that are not even financially sustainable without limitation and choose to continue to do so. So these are cracks in the regulatory framework.

There are things in the regulatory framework that are good. We are not people who hate all. But we are concerned particularly about safety and particularly about regulations which apply to one sector of the industry and not others. For us particularly regulations around payment systems in taxis are a key feature. We have competitors, many of them foreign competitors, who can charge whatever they like for anything. Because they are not regulated in quite the same way as taxis they charge whatever they like. Their pricing is entirely opaque. One cannot see what they are going to charge for which section, and yet we struggle with price regulation in relation to things like credit card services, regulated prices for fares and so forth.

The other is safety. Safety has always been something the taxi industry has realised is front and centre. We very strongly support training, cameras, reviews, retraining. These are all things which we see as a minimum requirement for safety of people who operate in difficult environments. Some of us do our work day in, day out where there are lights, witnesses and cameras, but on a late night by yourself—no co-workers, a drunk or tired or angry passenger or worse down a long, quiet street—it is a different kettle of fish entirely. We believe that whether the driver is subject to violent assault, whether the driver is subject to verbal harassment—sexual, racist, whatever it may be—

As somebody who has driven commercial passenger vehicles—taxis—I can safely say that these things do occur. And for us to have regulation which gives little regard to the implications of that is disappointing given the amount of work that has been done to try and get regulation right.

We are very, very happy to take any questions from the committee, but the area on which we would focus, because we believe others are better placed to focus on other things, is the requirement for the Victorian ESC to keep focusing on non-cash payment service in taxis when our competitors can charge any amount they like for anything—our competitors in the rideshare part of the CPV—is for us perhaps perverse. The fact that that is required to be done repeatedly on a different basis to the basis that other regulators approach those costs we find particularly perverse in relation to non-cash payment charges, and the absolute dismissal of safety to something which can be solved by a mobile phone which may have run out of power, which may be turned off, which may be thrown out of the window by an angry passenger—those sorts of things do not constitute safety to us. For us safety is about tracking devices fixed to the car—whenever it is on, they are tracked—audio devices in the car, cameras in the car and, above all, driver training. Any questions the committee has we would be very happy to take.

**The CHAIR:** Thank you. Thanks for that.

**Mr QUILTY:** I guess my first question is, if the system was working so well before ridesharing came along, why do you think that customers embraced the ridesharing so enthusiastically?

**Mr LUKABYO:** I am quite happy to answer that. There is no ridesharing company of which I am aware which has ever turned a profit. So if we start by saying that rideshare companies are operating at a loss globally and in Victoria, then we say that these are very successful companies. They have nice models of attracting customers: ‘Your first ride is free’, ‘Your friend’s first ride is free’, ‘Try and do this—it’s fun, it’s sexy’. We should not be surprised that people take that up. We are also more aware than anyone you can imagine of the

shortfalls of the taxi industry. We are realists. We know taxis are not perfect, and we welcome regulation, and we welcome competition. We expect it. We are accustomed to it. What we are concerned about is that playing fields are as far from level as one can get when there are standards which are applied to one sector of the CPV world and not to others. So price, novelty and marketing at a loss are the reasons why the public have so embraced new entrants. The other thing I would say is availability. Taxis were capped in number. Rideshare had no quantity restriction whatsoever. You could suddenly have one everywhere you liked. Suddenly they were easily available. Accessibility is another factor, with the early take-up of demand.

**Mr QUILTY:** Alright. So you want to raise the limit on the non-cash payment processing fee, which I have no problem with, because obviously there is a whole lot of competition going on now. Do you think raising taxi prices is the way to compete with these ridesharing companies?

**Mr SAMUEL:** I think it is a complex question to answer. Ultimately if we raise our prices beyond what customers are willing to pay, then we will fail, and we will not succeed in our business. So I do not think the environment is the same as it was when those recommendations were made. In fact, if you read the recommendations from the Fels inquiry, he says that once there is sufficient competition to basically regulate that market, those provisions and reviews should be removed.

It is in our disinterest to price ourselves out of the market. Having said that, we are still going to look after the welfare of our drivers and make sure they are able to earn a decent living. At the moment the only person restricting that is the same body who is reviewing this non-cash payment processing fee. They are the ones suppressing their earnings, not us. We also believe the market is more complex than simply saying price is the sole reason you would choose a taxi over rideshare or vice versa. There are a number of reasons people choose those services—availability, ease of access to that, a whole myriad of reasons—but ultimately we think that there is sufficient competition now to make price a far easier area to deregulate, particularly when it comes to things like non-cash payment surcharges, rather than imposing those costs on our company and nor on our competitors.

**Mr QUILTY:** So, one more point. Other than this deregulation, which we just mentioned, generally your push is to regulate the ridesharing companies further. You do not think there is instead room to deregulate the taxi industry further?

**Mr LUKABYO:** The area where we are seeking regulation of all entrants—not just ridesharing but all players—is the world of safety, and the world of access to services for passengers with a disability. We believe that these are key public policy issues which go beyond the commercial day to day of what somebody can charge, because at the end of the day—as my colleague David says—if we were to price in strange ways, customers would run away in droves. What we do say is that the taxi industry has always looked after Victorians with a disability, and our company currently provides a platform under which the MPTP program is provided in taxis for Victorians with a disability. Likewise, we believe that people who work on the streets in commercial passenger vehicles deserve to have their safety—and passengers deserve to have their safety—addressed in the ways that public policy requires. We believe that is required in the legislation.

We are not saying we wish to impose all sorts of regulation that we have gone past these days—the world moves on. We welcome competition and we welcome change. But we do believe there are some areas which are worthy of regulation, and some of these in fact were the reasons why regulation was introduced to the taxi industry way, way back in the annals of history—because the difference between a taxi and a car is regulation. The taxi industry is a creature of regulation all over the world, and the main reasons are around safety, access for people with disabilities and supply.

**Mr SAMUEL:** I think just adding to that, importantly too, we provide a service that our competitors do not. We do rank and hail work. So for a consumer you need some transparency, to know what you are going to be charged if you hail a taxi off the street. You cannot do that with rideshare. That complicates the pricing model to an extent as well. So you do not want to arrive at Melbourne Airport and have 400 people negotiating on a taxi rank what they are going to be charged to enter Melbourne CBD. It is more complicated than simply saying, 'Let's deregulate it all'. There is a place for regulated fares—to protect consumers from exploitation and confusion, basically.

**Mr BARTON:** G'day, boys. I take the view that taxis are a part of Victoria's public transport system. Do you see yourselves as that?

**Mr LUKABYO:** We do. We do, but we would point out that unlike the rest of the Victorian public transport system, we are not subsidised by the taxpayer at large.

**Mr BARTON:** I was going to get to that.

**Mr LUKABYO:** I am sure this is no secret to the committee, but we are a privately funded and consumer-funded service. Those participants in the industry fund it, and those who choose to take rides with us fund it—the rest of the taxpayers do not.

**Mr BARTON:** I absolutely believe that with taxis being part of the public transport system, we have got to have—I do believe in regulated fares. Granny needs to know exactly what she is going to get charged when she goes down to Peter Mac hospital and what is going to be paid, and we do not want a different price going in and a different price coming back out again. She needs to have some consistency around those areas. The industry has been in an upheaval since the Fels report, and I think we have been on a slippery slope since then. I would just like to say the reforms of 2017 were supposed to level the playing field. This is more a comment—there are people in this room that have debts in the hundreds of thousands of dollars, and they are trying to operate a taxi service. I say to you that that is hardly a level playing field. How is the level playing field going?

**Mr SAMUEL:** I think I will just make one opening remark to that comment, and that is had this issue of compensation for existing and incumbent taxi people been addressed properly at the time, then much of this controversy would not exist today around the 2017 reforms. There will always be bits that people do not like, and bits and pieces that you have to change moving forward because you get it wrong, but the fundamental part of the current conversation still relates back to that issue of compensation and what is fair. As a company we hope this committee can make recommendations that will help deal with that issue and perhaps solve that problem.

I will let Fred talk more about the broader framework around the level playing field. It is a strange term at times in business. We are really not talking about having it all the same way or having it our way; we are talking about regulations affecting all businesses in the one market in the same way.

**Mr LUKABYO:** The places where we see the level playing field as perhaps a bit more like a dirt track with a few sand bunkers along the side are in the areas of safety regulation and in the areas of what it takes to enter the market—that is, we still require taxi vehicle owners to do things we do not require owners of rideshare vehicles to do. We still have federal obligations imposed on the taxi sector in relation to the disability and discrimination act which do not, it seems, apply to the rideshare sector. And we still have some obscure pieces of regulation, like non-cash payment charge regulations, which apply to the taxi side but are ignored in a business model that can charge whatever it likes for any opaque part of the service—at which point it would be silly to regulate that because the price would arise elsewhere. So we do not see it as being a level playing field.

We do very much welcome some of the reforms. We welcome a freeing up of access. We realise that it is a good thing for Victorians to be able to get access to vehicles when they need them. We realise that it is a good thing for drivers to know that they are able to enter the industry and work. We also think it is a particularly good thing to place some obligations on the operators of these services which did not exist before the 2017 reforms. As people who do operate these services we realise these are very serious obligations, but in their absence the same people who show scant regard for all sorts of law, custom and practice would no doubt behave like a bunch of Visigoths. So we welcome some accountability all the way through the industry, but we think we are far from having a level playing field. We do accept, as David says, that there are a whole lot of reasons why taxis have regulated prices around the world. Those are good reasons and we accept that, but we also think we are far from level.

**Mr BARTON:** Taxi fares have not gone up in five years, I believe, in Victoria. I find that staggering. We have got a company that can throw their prices up and down all over the place, and yet the taxi operator is still hamstrung with those fixed costs. I accept that I want to have a regulated fare structure, but I think it is grossly unfair for the Essential Services Commission to say, 'Oh, well, we've got rid of licences, it's so much better

now’—not if you are a driver. Now, I would like to ask you in terms of drivers’ income prior to the Uber entry, are drivers the same, worse or better off now in terms of income?

**Mr LUKABYO:** No, we believe drivers are doing worse now as the years pass. Following the large driver income increase, the taxi fare increase, which came after—was it seven years, six years?

**Mr SAMUEL:** Eight years.

**Mr LUKABYO:** Thank you. Someone in the gallery, Mr Chair, suggests it was eight. There was a long period of no increase and then we had a catch-up. Since then it has been several years, and during that time—and I do not have the data in front of me—other Australians, including most of the ones in this room, have had some access to an increase in income and yet the taxidriver has not. This is clearly not desirable. In addition the ESC, for example, currently has a mandate to within two years review what happens in non-cash payment surcharges, and they put fine-tooth combs, they suggest, over these amounts. However, when it comes to driver incomes it seems to be entirely ad hoc and on occasion. When we have gaps like eight years and four years clearly all that can happen is that drivers backslide and a new setting arises. We should not then be surprised that there is this shift to and from rideshare if taxidrivers clearly have no access to any sort of income increase year after year.

**Mr SAMUEL:** It is very hard to adjust the taxi fare when you have not done it for 10 years, because you are catching up in such large amounts and no government wants to oversee a regime that puts taxi fares up by 20 per cent because you have not done it for 10 years. This all went wrong a long time ago when people started to get involved in this process and things were not done on an annualised basis like everyone else’s wages are determined.

**Mr BARTON:** Transurban, for instance.

**Mr SAMUEL:** We started to create gaps in this system that are very hard to recover from. Also, as my colleague pointed out earlier, the companies we are competing with have never turned a profit. If you read the last determination for fares in Victoria, we were told the reason we could not have a fare increase was because we would not be competitive with these companies. How can we be competitive with a company that never turns a profit and has billions of dollars in cash reserves to fund that business model? We cannot do that, and our drivers cannot be subjected to this type of discrimination, basically, in terms of what they are able to earn because some other company chooses to use all their capital to subsidise their business model.

**Mr LUKABYO:** We welcome competition, Mr Chair; bring it on. You will see that we get out there and we promote our companies and brand taxi hard. We are very keen for our drivers to win, but we certainly have no interest in following some of our competitors into the perpetual loss-making spiral that some of them seem to enjoy.

**Mr GEPP:** Thanks for coming along today. One question that has been raised with me on a few occasions has been the issue of depot fees. So can you tell me a little bit about your depot fee model: how it is applied, what impact that has on drivers and particularly if there has been any movement in those fees particularly since these reforms have been made?

**Mr SAMUEL:** It is pretty simple: if you want to affiliate a vehicle with us, you pay a monthly fee. That monthly fee adjusts by small amounts annually. So we are always tracking forward and not doing what I explained before and saying to an operator, ‘This year you’ve got to pay another \$300’. But it is the same amount everywhere regardless of who you are in our company. I cannot speak on behalf of other companies. So you would pay the same amount per month regardless if you had 300 cars with us or one car, and that is Australia-wide as well. So wherever we run a business in Australia we try to charge the same in depot fees per month.

**Mr GEPP:** And is that fee uniform around the country or does it vary?

**Mr SAMUEL:** Yes.

**Mr LUKABYO:** Not quite. In general terms they trend towards uniformity—that is, for example, in some cities we have acquired some legacy businesses, an example is one this month in south-east Queensland, typically which have substantially higher depot fees than we have, and we have reduced those. They trend to being the same nationally. In particular in Victoria where we have introduced services either directly or in partnership in rural and regional Victoria, we have since these reforms put in substantial decreases in cost, and the sorts of increases year to year are of the nature of CPI. We are not talking about anything substantial. We try and make those the same nationally. When it comes to us and our competitors in the taxi space, we are typically somewhere between the middle of the road and above in terms of where we fit for fees in the price schedule.

I would urge the committee to start looking for the sorts of contributions we make in terms of marketing, training—the sorts of things that some of our rideshare competitors do not do—offers of assistance. Prior to coming here we were in our office where, being the end of the month, there was a queue of drivers trying to make sure that they were complying with some of their obligations in relation to the levy payments. We had staff who were helping them. These were not obligations which necessarily involved our company, because these drivers have a variety of driving income sources, but we were trying to assist these drivers because those are some of the things we do as part of our depot fees. It is the end of the month and that is the time of the month where people are looking at this sort of administration. So there are lots of things that we do for those fees. The trend here and nationally for us on those fees has been down and not up, and where we have shown increases in any recent years they have been of the order of CPI.

**Mr GEPP:** Just for the record, what sort of monthly fee are we talking about? What is the actual cost of the depot fee? Do we know what the rate is?

**Mr LUKABYO:** Yes. The rates for fees for us are typically in the order of \$600 a month depending on the service, and they are similar around Australia—between \$600 and \$700 a month.

**Mr BARTON:** You have mentioned the levy. There has been widespread speculation that there is widespread non-compliance of the levy. Now, I know that 13CABS would be doing absolutely the right thing: whenever you take a booking and you pass that on, that levy would get passed on to the State Revenue Office. Now, the drivers when they are doing their rank-and-hail work—we are not dropping any drivers in it, but we are asking—what is your view? Is it even? Is everybody paying the levy?

**Mr SAMUEL:** It is a very hard question to answer. We know there would be non-compliance, as there is in any regime like this. The level of that is hard to answer, but it is a complicated scheme. So of all the bookings the driver does, we pay that on their behalf—we pay that to the State Revenue Office. For any rank-and-hail job or private job they do, they have to pay that. So it is hard for us to exactly know. We provide them with tools so that they can see what they have to pay.

**Mr LUKABYO:** And assistance.

**Mr SAMUEL:** And assistance, yes. And beyond that we have very little visibility as to what they actually then do. But we give them the tools and they are there. I think it is just a complicated model. I mean, I do not think there were many people who loved this idea initially. It is an expensive way to go about it both from a government position and also from an industry position. It would probably be a lot simpler if you just charged an upfront fee annually to enter the market. I know people will say that is a ‘barrier to entry’. We think a levy is a barrier to entry for customers. There are people in the community for whom a dollar on top of that trip means something. So I think that there are barriers to entry. It is a complex argument and piece of economics I understand, but the levy is acting in many respects as a barrier to entry for consumers.

**Mr LUKABYO:** And if I can comment to the committee, we welcome audit—that is, all of the records related to levies related to any of our companies can be audited and in the case of the Victorian companies can be audited within Victoria. I would put to the committee that our competitors cannot say that—that is, there are a lot of black boxes with a lot of our competitors which are outside of the jurisdiction and outside of the country. We welcome audit in relation to our own levy obligations at any time.

In relation to particular drivers, there will be non-compliance and there will be non-compliance for all the usual reasons. Some of it in our industry will be complication and competence—that is, we have a lot of people for

whom English is a second language. We have a lot of people who do not have skills which relate to accounting and finance. So there will be non-compliance because of skill and there will no doubt be non-compliance because of avoidance, which we do not have a number for. I do not think it is very high. But we do think it is disappointing that if there is some consumer willingness to pay, it goes to levies not drivers, and we do know that even a dollar for some of the passengers we take, particularly those with disabilities, can be a non-trivial amount.

**Mr DAVIS:** I just had a question also about the levy and what the levy is spent on. The levy was originally intended to support compensation for those who had licences removed or revoked, but we now know that the licence or the levy is being used for funding the department and the officers. Do you support the use of that levy for that purpose?

**Mr SAMUEL:** Naturally we would like to see adequate compensation being paid to the industry. If we have to have a levy, then that is what we would want to see it spent on.

**Mr DAVIS:** It should be quarantined—

**Mr SAMUEL:** Yes, it should be.

**Mr DAVIS:** for the purposes of actually compensating people.

**Mr SAMUEL:** It should be spent on compensating those people who had—

**Mr DAVIS:** Not to fund bureaucracy.

**Mr SAMUEL:** No, I would not think that is appropriate.

**Mr DAVIS:** Good.

**The CHAIR:** Okay. Well, on behalf of the committee I would like to thank you for your time and contribution. In a few weeks time you will receive a copy of the transcript for your approval and typographical error correction.

**Mr SAMUEL:** Thank you very much.

**Mr LUKABYO:** I would like to thank the Chair and the committee.

**The CHAIR:** You are welcome.

**Witnesses withdrew.**