

# 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 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 taxidrivers 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.**