

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

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Mr Jeff Bourman

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Mr Luke O'Sullivan

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Mr Greg Barber

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Witness

Mr Vasko Nasteovski, 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 NASTEVSКИ— 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 NASTEVSКИ— 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 NASTEVSКИ— 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 Elasmarr.

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.