

*CANBERRA TAXI PROPRIETORS  
ASSOCIATION LIMITED*

**And**

**CANBERRA CABS**

**In consultation  
with**

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*SUBMISSION TO THE  
ACT LEGISLATIVE ASSEMBLY  
STANDING COMMITTEE  
PLANNING & ENVIRONMENT*

*ENQUIRY INTO THE*

*ROAD TRANSPORT  
(PUBLIC PASSENGER SERVICES)  
AMENDMENT BILL 2003*

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## *Introduction*

The Canberra Taxi Proprietors Association Limited, in association with Aerial Taxi Cabs Co-operative Society Limited trading as Canberra Cabs, and Professor Des Nicholls of the Australian National University appreciate the opportunity to make this submission to the Planning and Environment Standing Committee of the ACT Legislative Assembly.

The Road Transport (Public Passenger Services) Amendment Bill 2003 could be interpreted as a piece of legislation designed to establish the administrative and legislative framework to deregulate the ACT taxi industry over a period of time rather than at a particular date.

The ACT taxi industry (the industry) has undergone a number of reviews commencing in 1995 driven mainly by the National Competition Policy agreement between the Territory and Federal Government. There is a considerable amount of information in submissions by the industry to these reviews identifying the public benefit in a regulated industry and refuting the argument proposing deregulation. These submissions are attached as per the list in the Appendix.

As a result of the most recent review conducted by the Independent Competition and Regulatory Commission (ICRC), the ACT Government announced in its response to the ICRC recommendations that “*deregulation is dead*”. However it is seen by many in the industry that the Bill represents an act by the Government to attempt to introduce an Amendment Bill, which in every respect sets out to provide the Government and its administrators with the mechanism to deregulate the industry.

The ICRC recommended deregulation of the industry. The Government responded by stating that it proposed releasing 5-10% more plates per year, admitting that as a result of this approach, licence owners ‘may not receive the high returns enjoyed in the past’. While the ICRC has acknowledged that an increase in plate numbers will result in lower returns to licence owners it has attempted to lessen the effect of its recommendation by asserting that returns are high and can therefore sustain a reduction. This ignores the considerable detail demonstrating the poor returns available to industry participants provided in the May 2001 CTPA submission to the ICRC in its review of the ‘Determination of Prices for Taxi Services’. (Attachment C ). In its response the Government stated that after 2 years the ICRC will review the reform program, and thereafter every 3 years to ‘determine whether the predicted results of reform are being achieved, and to advise on appropriate further action should the desired outcomes not be achieved.’ The Bill or its associated Draft Regulations do not allow for this.

It is amazing that the Government proposed having the ICRC review the deregulation process when it was the ICRC who recommended deregulation of entry into the industry.

It is hard not to interpret this as a case of ‘putting the fox in charge of the chicken coop!’

## *Taxi Plate Auction – A History*

Since 1990 taxi plate auctions have been a publicly understood method for the ACT Government to release taxi plates. Proceeds from auctions have been of direct public benefit, as they were paid into ACT consolidated revenue.

From 1990 to 1997 the Taxi Industry Advisory Committee (TIAC) advised Government annually on the number of taxi plates that should be released at auction. The TIAC had representatives from the taxi industry, regulatory authority, consumer groups, disability advocates, unions, police, and treasury.

The assessment by the TIAC of the number of new licence plates to be released was done using a benchmark formula based on the number of taxis per head of employed population and a guide based on hirings per taxi. In the first instance the number of taxis per head of employed population was tabled and compared to the then accepted benchmark ratio of 1:755. Where the actual ratio differed from the benchmark figure it was a simple mathematical process to determine the number of additional plates required to achieve the benchmark equilibrium.

The guide or check used by the TIAC on the viability of an outcome that saw more plates released was to look at the number of hirings per taxi over the previous twelve months. The benchmark figure used here was 730 radio hirings per taxi per month.

This method of determining the level of taxi plate release operated successfully with the following outcomes in auctions from 1990 to 1995:

<b>YEAR</b>	<b>PLATES AUCTIONS</b>
1990	9
1991	5
1992	0
1993	6
1994	8
1995	15

The Draft Regulations associated with the current Amendment Bill take no account of the demand for taxi services in its annual release of plates for auction. Furthermore the Bill allows for the automatic release of plates by auction on an annual basis as an automatic bureaucratic process without any monitoring of the impact of such releases and without any input from the appropriate Minister.

In the Professor Nicholls paper, “Compensation Issues - The ACT Taxi Industry, July 2003”, ( Attachment G ), Table 1 illustrates that the oversupply of taxis in a declining market will significantly reduce viability, leading to a reduction in public benefit.

Until 1995 the number of taxi plates reflected the demand for taxi services. The method of plate release by the Minister had achieved an equilibrium that acknowledged consumer demand and at the same time allowed those delivering the service to remain economically viable. The then Government and the TIAC could be regarded as ahead of their time in applying this process as it is well supported in later research. Cairns and Liston-Heyes<sup>1</sup>, following an analysis of competition and regulation in the taxi industry, concluded that in the public interest or as we refer to it today, the public benefit test, it was necessary to regulate taxi fares. The study stated that:

*“Modelling this industry as competitive would imply large numbers of firms facing large numbers of customers at a given instant at a given place. These conditions do not hold even approximately in the taxi industry. For example, in the cruising taxi market, it is usual for a single customer to hail a single taxi as it goes by. In this situation, where search may be costly to the consumer, customers who are risk averse may prefer a somewhat higher fixed fare to a fare established through bargaining with operators accustomed to ‘sizing up’ customers, with a high variance across conditions. However, if there are few customers and large numbers of taxis, as may occur at a taxi stand, for example, then the customers have an advantage. Because the only cost incurred for giving a ride is the opportunity cost of being in service when another customer may come, Bertrand competition will drive the price to a low level. The taxi driver may prefer a fixed fare to facing a disadvantageous bargain in this situation, too. This may be the reason for the violence and bickering that broke out in some US cities when fares were deregulated.”*

Having determined that fares needed to be regulated Cairns and Liston-Heyes concluded that for the industry to be viable then demand or usage rate would also need to be regulated. It was evident that this was not an option and so regulating the number of taxis available in the market place was the next best option. Cairns and Liston-Heyes acknowledged that this could produce a situation where

*“a positive medallion value could arise”.*

In this study medallion value and plate /licence value are synonymous. Cairns and Liston-Heyes concluded that their study

*“...can explain why prices and entry are regulated, as a means of promoting the existence and efficiency of a market, and also why medallions have a positive market value.”*

Cairns and Liston-Heyes introduce a second possible justification for a positive plate/licence value. They say that:

*“Given the efficiency rationale, the medallion also constitutes a bond of the owner to the authority, which hopes to prevent ‘shirking’ in the delivery of services. In a decentralised taxi market overseen by civic government, monitoring of quality service, including safety and comfort of passengers, proper maintenance of the vehicle, taking the most direct route, and holding to the regulated fare (or indeed*

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<sup>1</sup> Cairns, R.D. and Liston-Heyes, C. (1996) Competition and Regulation in the Taxi Industry. *Journal of Public Economics*. 59, 1-15.

*to the fare agreed upon if bargaining is permitted) when the passenger is captive, can be potentially difficult. This is a particularly acute problem in large cities, where many rides are taken by people from out of town. Anecdotes abound of 'shirking' in individual cases, but are far from describing the norm of daily operations.*

*If free entry was permitted into the industry, the owner would receive only his opportunity cost of labour and capital, as discussed above, and would have an incentive to 'shirk' to the extent possible. If he were receiving more than these opportunity costs, then suspension of the right to drive as a penalty for 'shirking' would entail an economic loss."*

In summary the Cairns / Liston-Heyes study asks that it be

*"interpreted as implying that there are good reasons for regulations of this industry, and that a positive value for a taxi medallion is not necessarily evidence that regulation is inefficient."*

The Cairns/Liston-Heyes research confirms earlier research by Shreiber<sup>2</sup> who concluded that price and entry regulations are necessary in the taxicab industry to correct resource allocation due to lack of price competition in the unregulated industry, correct misallocation due to pollution and congestion externalities and to stabilise the incomes of those permanently employed in the industry. He also states<sup>3</sup>

*'Supply and demand analysis is inapplicable to the cruising taxicab market. The conditions for reaching equilibrium, specified in supply and demand analysis, cannot exist in the case of taxicabs, and the point of interaction between the supply and demand for taxicab rides is not in an equilibrium position'.*

Schreiber and Cairns/Liston-Heyes conclude that supply and demand analysis is inapplicable in the hail (cruising) market. The conditions of competition do not hold in this part of the industry, even approximately. Similar arguments apply to the rank market. In the ACT the hail and rank markets account for an estimated 40 per cent of hirings. (This percentage is estimated to be between 40-60 per cent throughout Australia). Consequently there are strong arguments to conclude that the economic approach adopted in both reviews of the ACT taxi industry is seriously flawed with respect to a major part of the market.

A report on the socio-economic consequences of the National Competition Policy (NCP by) a Senate Select Committee<sup>4</sup> identified throughout its hearings, and in submissions, the recurring difficulty with the NCP over the way policy had been implemented. Of particular mention were problems with interpreting

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<sup>2</sup> Schreiber, C. (1975) The Economic Reasons for Price and Entry Regulation of Taxicabs. *Journal of Transport Economics and Policy* Vol IX (3), 268-279.

<sup>3</sup> Schreiber, C. (1977) The Economic Reasons for Price and Entry Regulation of Taxicabs. *Journal of Transport Economics and Policy* Vol XI (3), 298-304.

<sup>4</sup> Competition Policy: Friend or Foe. Economic Surplus, Social Deficit? Interim Report of the Senate Select Committee on the Socio-Economic Consequences of the National Competition Policy. August 1999. (See: [http://www.aph.gov.au/senate/committee/ncp\\_ctte/report/index.htm](http://www.aph.gov.au/senate/committee/ncp_ctte/report/index.htm))

and understanding the public interest/public benefit test. Issues identified included:

- a predominance of narrow economic interpretation of the policy, and a
- lack of appeal mechanisms.

This is exactly what happened in the case of both the ACT reviews, in each case the reviews were chaired by economists who argued for deregulation on flawed theoretical economic assumptions, some of which have been identified above. A lack of an appeals mechanism has made it extremely difficult for the industry to argue its case in an independent setting.

The process of taxi plate release described up until 1994 worked and worked well. In 1995 the TIAC had empirical evidence to recommend to Government a release of seven taxi plates at auction. The TIAC understood that its recommendations were based on historical evidence and that based on previous trends a catch-up or get in front of the market in one year may have been desirable. The TIAC therefore anticipated growth in the coming year and recommended the release of twelve taxi plates at auction.

At that time Government had moved to accrual accounting and three year budgeting. Based on some inexplicable reasoning the Minister responsible decided to release fifteen taxi plates at auction and announce another fifteen for each of the next two years. The industry was able to convince the Government that the second two releases were not appropriate.

As it eventuated, externalities to the industry caused a downward trend in taxi hirings and no plates were released in 1996 or 1997. The downturn confirmed the industry's argument not to release the additional plates.

In 1997 the Government abolished the TIAC and in a Memorandum of Understanding introduced accreditation to the taxi industry. Accreditation brought with it benchmark response times against which industry performance was to be judged. The MOU indicated that failure to meet the benchmark response times may indicate a need for more taxi plates. The proposal went no further than that and it provided no method of determining the number of taxi plates required. It might be assumed that one would need to revert to the previous TIAC methods to determine an acceptable outcome.

In 1997 the Government created, and made appointments to, a Transport Reform Advisory Group (TRAG), made up of the same or similar groups who formed the TIAC. TRAG differed from the TIAC in that it included bus/coach and hire car representatives and it was not charged with recommending taxi plate numbers or taxi fare levels to the Minister. TRAG met for the first time in May 1997.

Since benchmark response time statistics have been used to determine the number of taxi plates to be released, there have been no additional plates released. The industry has met or bettered the benchmarks.

The exception to this position is with wheelchair accessible taxi (WAT) services. The accreditation benchmark response times for WAT services are the same as for standard taxi services. These benchmarks are for the most part not achieved by WAT drivers and

additional WAT plates have been released. In the two years 2000/2001, twenty additional WAT licence plates were released bringing the total WAT fleet to twenty-six, or in excess of 10% of the total taxi fleet. The additional vehicles have not produced a better response time statistic, the reasons for which are addressed later in the paper.

The interesting point is the method of release. The twenty new WAT licence plates and the existing six WAT licence plates were all released as restricted taxi licence plates for a six year lease period at a fee of \$1,000 per year paid to the ACT Government/department. This was the first departure from the auctioning of transferable plates since 1990. It was not based on demand and it had no positive effect on service levels. On the contrary, it has eroded the standard taxi income in a downward trending market making the industry less and less viable for all involved in it, including the 20 new WAT operators.

## ***PURPOSE OF THE AMENDMENT BILL***

The Amendment Bill attempts to achieve the following:

- a. By omitting *Section 39* of the Act, the Amendment Bill removes from the Act the Ministers power to determine the number of taxi licences in operation. The explanation provided for this is so that the Government's stated aims of having from 5-10% of the standard taxi fleet numbers auctioned as additional plates each year can be achieved. This ignores any rational view of needing to establish an equilibrium of supply and demand and is only a reaction to Treasury threats that National Competition Policy funding from the Federal Government may be adversely affected if the ACT Government does not react in this manner. The amendment sets the scene for deregulation, particularly as the Bill contains no mechanisms for not releasing further plates, irrespective of the level of demand and/or the state of the industry.
- b. By omitting *Section 40* of the Act, the Amendment Bill removes from the Act the previous prohibition on the Road Transport Authority preventing it from issuing taxi licences that would exceed the number determined by the Minister. The omission of *Section 39* and *Section 40* together set the scene for no Ministerial involvement in determining the taxi licence numbers and no prohibition on the RTA in issuing taxi licences. This view is fully supported by the proposed Road Transport legislation (Hire Car and Taxis Amendment Regulations) 2003 to support the Amendment Bill. The proposed amendment regulations require the Road Transport Authority to auction taxi licences every twelve months in accordance with the Governments formula of 5-10% of the standard taxi fleet. The regulation also provides the Road Transport Authority with the power to issue restricted taxi licences on request.

The combination of the formula of 5-10% of standard taxi licence numbers being auctioned every twelve months and the power of the Road Transport Authority to issue restricted taxi licences at will is deregulation of entry. The 5-10% auction process will see the standard taxi fleet in the ACT double in size in eight years. The Cairns/Liston-Heyes research shows that the market will no longer exist and the services to the public will be in chaos. That this is so can be seen from both overseas and Northern Territory

(NT) experiences with respect to deregulation of entry into the taxi industry; these experiences are well documented in Nicholls<sup>5,6</sup> ( Attachments I and J).

The NT Government deregulated entry with full compensation (at market value). The impact on the public was dramatic, with public benefit issues relating to vehicle quality and safety, driver and customer safety, price-gouging, and no-shows all causing major problems for both the industry and the Government. This led the Government to create a Commercial Passenger Vehicle Board to manage the industry and make recommendations to Government (including the setting of fare levels) and the reregulation of entry for a period of 6 months, which was extended to 12 months. Entry was again deregulated in early 2003 only to have the Minister announce in early June 2003 that entry was to be reregulated. The history of attempted deregulation in the NT simply mirrors many overseas attempts to deregulate which have resulted in reregulation.

It is notable that when Governments/organisations introduce the deregulation of entry, in general no attempt is made to increase demand. One exception to this has been in parts of New Zealand where deregulation of the taxi industry corresponded with deregulation of the bus industry. This led to two cities (Wanganui and Palmerston) allowing taxis to service fixed routes (with low patronage) formerly serviced by buses, with councils paying a subsidy to many of the passengers (students, pensioners, etc). This has been alluded to for the ACT (in the ICRC's most recent review of ACTION buses) but nothing has happened.

In taking the approach that it has (for the release of new plates) the Government has placed little weight on the impact of their decisions on public benefit issues, or the impact on productivity, profitability, drivers and their income. This is despite the fact that the National Competition Council has stated that public benefit/public interest issues should be given the same weight as financial issues in making decisions relating to regulation/deregulation. With a proposed automatic annual increase in taxi numbers, and no corresponding increase in demand, there is significant evidence, as Nicholls has demonstrated, to confirm that productivity (and profitability) will decline. Consequently quality of service, safety, and related factors will all be adversely affected.

What the ACT reviews, and Government has failed to acknowledge is that profitable fares from servicing high-density ranks/locations are required to offset non-profitable fares in low density/outlying locations. With the proposed increase in the number of taxis, as overseas experiences show, new entrants congregate at high-density ranks. This increased competition at these locations has a significant impact on low density/less (non) profitable locations.

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To 'get the balance right' the Government must acknowledge the overseas and Northern Territory experiences and recognise that for the public benefit fares and entry must be regulated to ensure an orderly industry which will service the public in a safe timely and orderly manner.

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<sup>5</sup> Nicholls, D. F. (2003) The Impact of Deregulation on the Northern Territory Commercial Passenger Vehicle Industry. Research Report for the Australian Taxi Industry Association.

<sup>6</sup> Nicholls, D. F. (2003) The Role of the Public Interest in the Application of the National Competition Policy to the Australian Taxi Industry. Research Report for the Australian Taxi Industry Association.

## *Service to the Public*

Coinciding with the first external review of the industry in late 1999 – early 2000 conducted by Freehills, the ACT Government commissioned an independent survey of the industry. This was at the time that the (then) Minister for Urban Services was attempting to assist Yellow Cabs Canberra principals to establish a second taxi network in the ACT. For reasons unknown, the Minister must have expected an adverse finding from the survey to support his predisposition to altering the market place. The Minister's error is perhaps not all that puzzling given that the Minister did not seem to recognise that the ACT taxi market was a single provider market place because the market had determined that outcome. The ACT was once served by three taxi networks and the inefficiencies and diseconomies of scale that this provided saw the emergence of one of the three.

The cry “*monopoly*” when referring to the ACT taxi market has existed ever since. Even to the point in 1966 when the then Minister for Territories ordered Aerial Taxis to close its books to new members and instructed new plate holders to form their own network. New plate holders did this and once again there were three competing networks. Nine months later the Minister for Territories rescinded his legislation, at the request of the new networks, and allowed the new plate holders to join Aerial. More recently Queanbeyan cabs have been allowed to operate in the ACT.

Since then communication technology advances within the taxi industry have exceeded expectation and there are now fewer networks throughout Australia. It is no longer an economically viable proposition for each taxi company to have its own call/dispatch centre. The industry norm is now to have multiple users of the same call/dispatch centre so that the benefit of the high cost technology can be experienced by all.

In the ACT with only a small fleet to amortise the cost of this technology the single network provider, Canberra Cabs, has been a leader in the field. Canberra Cabs was the first to introduce fleet wide data dispatch, the first to have mobile EFTPOS, the first to voluntarily install in-car safety cameras. The ACT enjoys technology in its taxi industry found only in other cities where the population far outnumbers Canberra and makes the provision of the service viable.

It is not surprising therefore to find that the survey commissioned in October 1999. did not turn out the way the Minister for Urban Services had perhaps envisaged. The first survey rated eight characteristics of the industry and these were:

- response time;
- driver ability;
- route taken;
- knowledge of Canberra;
- accuracy of fare;
- handling of fare;
- courtesy of driver; and
- condition of cab

On a scale of one to five where one was very dissatisfied and five very satisfied, ACT consumers rated the taxi industry at 4.14. Any other State or Territory Government would be proud to have to seek only a 0.86 improvement to attain a perfect score. Needless to say the Minister for Urban Services found the survey outcomes less than supportive of his agenda. The survey outcomes may have been considered an aberration by some in the bureaucracy at the time and another survey, by the same independent surveyor TTS Research, was commissioned in January 2001. Not surprising to the industry the score on this occasion was 4.48. In April 2002 the survey produced a score of 4.41 providing the government with consistent independent advice that the Canberra community rated its taxi service very highly. . The surveys and the obvious public benefit provided by a regulated taxi service that they demonstrated did not feature highly in the ICRC's review. It would seem that if the evidence does not fit the predetermined outcome then the evidence should be ignored.

In 2003 another TTS Research survey was conducted and the industry scored 4.32. From these surveys the industry believes that it is not unreasonable to claim that the service it provides is considered by the ACT public to be more than satisfactory. The industry also believes that for the service to continue at this level the Government must regulate in a way that ensures in the words of Cairns, Liston-Heyes...

*‘A non negative profit for the service provider.’*

A Government can only do this by regulating both price and entry.

## *The Way Forward*

Price is regulated in the ACT and should remain regulated. The ICRC presently determines fares and does so using a weighted cost index, which it designed. The principle of price regulation must remain for a taxi service to meet any public benefit test. The method and process of price regulation is a matter for further discussion, and is addressed in principle only in recommendation 4.

Entry is regulated in the ACT and presently relies on the industry meeting benchmark response times to identify a need or otherwise for more taxi plates. This process has never been tested as benchmarks have been met since the adoption of the process. Given that the process of benchmark response times does not have a proposed method of determining the number of taxis required, there is reason to doubt its usefulness. It is proposed that the method of hirings per taxi, assisted by the guide of taxis per employed population and in addition the guide of benchmark response times be used to determine annually the number of taxi plates required. In doing so the number of WATs in circulation and the standard taxi equivalents that they represent needs to be included in the total standard taxi fleet.

Taxi plate numbers therefore need to be determined by the Minister on advice from TRAG or a specially appointed Taxi Council Advisory Committee. This will require the Amendment Bill *Section 7 & 8* proposing to omit *Sections 39 & 40* of the Act to be deleted.

## *Parents of Children Under Two*

Assembly debate on 17 June 2003 confirmed that this element of the enquiry is described as “*the question of services to parents of children under two years of age is, obviously, related to car seats being available.*” The view is put in the debate that “*the service in the ACT is very different from the service in other States in Australia on that aspect. We do not have them (car-seats) or it is quite difficult to get a taxi with one, and they are standard equipment in most other places.*” The statement “*they are standard equipment in most other places*” does not stand up to scrutiny. In NSW for example, and only in the metropolitan area, station wagons are meant to carry a child car seat and this is legislated.

In the ACT the single service provider, Canberra Cabs, without legislation has made car seats available to passengers on request. Canberra Cabs will take a booking for a taxi with a car seat and will assign the hiring to a taxi that is nearest to both the hiring and the airport or Lyons, Canberra Cabs base. Car seats are stored at both locations and a taxi driver simply calls by one or the other location and proceeds to the hirings pickup point.

At the completion of the hiring the driver drops the car seat at either Lyons or the airport. The passenger pays only for the booked trip and Canberra Cabs pays the driver for the inconvenience he or she may experience by diverting for the car seat. It is of course impractical for all cars to carry a child car seat throughout their shift as this inhibits available luggage space. Again the single service provider has subsidised this service for the Canberra community and in financial year 02/03 did so for 691 hirings to the value of \$13,820.

All Canberra Cabs have baby capsule anchor bolts installed and are able to accommodate child seats since many parents prefer to travel with their own equipment. In addition to child car seats it is a requirement that all taxis on the Canberra Cabs network have in their car a child harness. While the harness is designed ostensibly for autistic children, the harness is also suitable for small children who are unable to use the factory fitted passenger seat belt. Without legislation forcing the issue Canberra Cabs has provided a service that excels in this regard and leads any other Australian taxi service in community service requirements for parents of children under two.

## *Disability Access*

Earlier in this submission the CTPA relied on TTS Research survey results to indicate not only the adequacy of the service being provided to Canberra's but how highly regarded the service was by Canberra Cabs customers. TTS Research when conducting its survey also concentrated on wheelchair accessible taxi services and found a deficiency.

The same eight criteria used for standard taxi services were used to assess the WAT service and in seven of the eight WAT services rated above 4 (out of a possible 5), averaging 4.37. The standard of WAT service to the disabled community is unquestionably well regarded by its users in seven of the eight categories. In the under performing category, response time, the survey recorded a score of 3.33. There is no

doubt that 3.33 is lower than is desirable but it is not all bad and a position from which achieving a score of 4 or above is not out of reach.

In the past the Government has seen fit to flood the market with cheap, restricted taxi plates to improve WAT service response times and it has not worked. It has not worked because it is not the number of available WATs that is the cause of a less than acceptable response time. It is instead the ability of the driver of a WAT to earn more by servicing the standard taxi market than the WAT market.

For the six months January to June 2003 standard taxis conducted approximately 5,000 hirings per taxi while WATs conducted approximately 3,900. Of the 3,900 hirings per taxi conducted by WATs only 245 were wheelchair hirings. This demonstrates the lack of demand for WAT services and highlights the significant erosion of standard taxi plate work caused by the surplus of WAT vehicles.

Why then are such a small number of WAT hirings in total experiencing a less than benchmark response time service? Not only is it more lucrative for drivers to conduct standard hirings, it is easier. The present Government introduced on 1 July 2003 a WAT lift fee of \$7.50. This fee is meant to entice the WAT driver to attend to a WAT hiring and it is also meant to accommodate the drivers waiting and loading time. The waiting and loading time are not issues for standard taxis as the passenger is generally at the pickup point, gets into the taxi, and the meter is engaged. This is not the case for WATs. Apart from unpredictable delays in the client's readiness, loading and securing takes time. It is the time that a taxi is available for hire that enhances its chance of a fare and it is the unavailable time experienced by WATs that prevents them from attaining the same number of hirings as a standard taxi. WATs have significantly greater repair and maintenance overheads than do standard taxis and the temptation is therefore always there for the driver to do standard taxi work regardless of the fact that the restricted licence held by the WAT operator dictates that priority must be given to wheelchair passengers.

The disabled access issue was not addressed in sincerity by the government as demonstrated by its involvement in the Yellow Cabs Canberra fiasco. Here, the principals of Yellow Cabs negotiated with the then government to have total control of the twenty-six WAT vehicles to underpin the Yellow Cabs enterprise. This did not eventuate, as many of the WAT licensees were not prepared to be part of such a move; they preferred to remain as part of the Canberra Cabs fleet.

The relatively small number of WAT hirings results in the poor performance of any individual WAT having a significant impact on response time statistics. Consequently the outcome on response times can be markedly affected by any managed interference with WAT hirings where that interference is perceived to gain some long-term advantage for those doing the interfering. With a controlling influence over 10 (40%) of the WAT vehicles in the hands of one WAT operator, dispatch statistics indicate that this mini fleet could have a policy of priority response to WAT hirings by only 3 of its vehicles.

The situation is not difficult to rectify and simply requires the Department of Urban Services (DUS) to enforce the licence restrictions it imposed at the time of licence issue. A WAT taxi should not be permitted to reject a WAT hiring. A driver who does reject a hiring should have his drivers taxi endorsement removed if found to be in breach of this requirement. The operator of a WAT should have his restricted taxi licence withdrawn

for repeated incidents of this sort. DUS, as the industry regulator, has its own accreditation standards and lease terms with WAT drivers and operators. DUS also has to actively support the efforts of the taxi network in its efforts to deliver a quality taxi service to the disabled community.

The TTS Research survey clearly indicates that service to WAT clients is no different to the service being received by standard taxi passengers other than in the response time category. In that category WATs are marginally below the level of services being received by standard taxi patrons.

Notwithstanding the situation described above it is important to understand that Canberra Cabs has worked hard to develop a constructive approach with the Department of Urban Services (DUS), to resolve the issues surrounding WAT services. In addition to regular consultation with DUS concerning performance issues and the reporting of individual incidents of unsatisfactory service, (Attachment K), the ACT Taxi Industry heavily subsidises the governments disability policy. Canberra Cabs provides dedicated staff to assist in the allocation of WAT hirings, computer services, data collection for statistical reporting purposes, and administrative staff time to the value of approximately \$100,000 per annum specifically for WATs. The time and cost allocated to trying to make the WAT service (12,000 trips pa) operate effectively is out of all proportion to the total taxi work in Canberra (1.2 million trips pa), i.e. 1% of the total ACT taxi work. WAT operators also subsidise the government's disability policy, notwithstanding the minimal lease fee, by \$20,000 to \$25,000 pa. The very high initial set-up cost of \$80,000 to \$100,000 for vehicle, hydraulic lift, insurance etc are considerably higher than for a standard taxi. Maintenance and general running costs are also significantly higher for the WAT vehicle and none of these issues have been addressed in the fare structure. The Independent Competition and Regulatory Commission (ICRC), ignored the detailed information provided in the CTPA fare submission (Attachment D), and in doing so ignored the level of subsidy that would need to be paid by government to make the WAT service viable.

## *Compensation*

Should the Government proceed with the auctioning of taxi plates as proposed by the Amendment Bill and Amendment Regulations, the taxi industry will seek compensation.

It can be demonstrated that the matter of compensation is a legal right. This was alluded to in the Freehills report in 2000 and again in the ICRC review of the industry in 2002. It has more recently been demonstrated to be the case in the Northern Territory Supreme Court.

The Government itself rejected the ICRC recommendation of compensation on the grounds that the \$50 million plus that compensation would cost the Government was not affordable. What the Government must realise is that the flip side to the argument is equally as unaffordable to the taxi plate owner. The owner purchased the plate from the Government at the Government auction or in the open market established by the Government and now stands to lose the capital value of the plate.

The open market was established in 1986 when licences were made transferable by the Minister for Territories. Each licence holder of a non-transferable licence (TX 81 to TX 166) could pay the Government \$37,500 to obtain transferability. All non-transferable licences were converted. The Territory Government then sold plate numbers TX 167-TX173 for \$80,000 to the first applicants. Since that time successive Territory Governments have auctioned plates and collected stamp duty and tax on the acquisition of a business on plate transfers in the open market. To transfer the licence value from existing licence holders to new licence holders is an acquisition of property.

The Committee should be in no doubt that the Government's intended actions will see taxi owners rendered destitute, mortgages closed on family homes and the taxi industry listed by banks as an unsuitable lending risk.

Compensation has been offered in the Government proposal by distributing the net proceeds of the sale at auction of taxi plates each year. Given that the Government is to set a reserve price at 90% of an estimated market value the ability to compensate is fanciful. In the first instance the Government has refused to disclose to the industry the valuation it has placed on taxi plates for the purpose of establishing the estimated market value. Notwithstanding this, to set a reserve price at 90% of an estimated market value immediately reduces the value of the plate in the market by 10%. In a hypothetical example with a market value of \$222,000, a reserve price sale of \$200,000 would immediately reduce the value of taxi plates by \$22,000. For the 217 standard taxi licence holders to each receive full compensation then the net proceeds of the auction would need to be \$4,774,000. This does not take into account income tax or any other tax that might lessen the compensation figure, nor does it take into account the proposal to reduce the sale proceeds by the payment of unquantified Government administration costs or the wheelchair lift fees. At \$200,000 per plate the Government would need to auction 23.87 plates to gross the compensation required. This would result in a complete collapse of the industry. Compensation issues relating to the ACT taxi industry were recently addressed in a paper by Nicholls<sup>7</sup>. (Attachment G)

Not only does the unwarranted introduction of additional taxi plates reduce the value of the current licence it reduces the earning capacity of the current licence holder trying to make a living in the taxi market. The back-door deregulation proposed by the Government takes a fragile market even further below the negative profit line.

Should the Government proceed then full compensation needs to be made available immediately to current taxi licence holders. This should include compensation for the damage caused to the standard fleet by 20 new WAT cabs and 16 Queanbeyan Cabs that have adversely affected the incomes and capital value of 218 standard plate owners.

When the Northern Territory Government committed to deregulation (prior to reregulating following the social and financial degradation of the industry) its plate buy-back scheme fully compensated plate owners by paying full market value for the plates. In Perth, Western Australia the Government recently proposed a voluntary buy-back of taxi licences. The figure set by the Western Australian Government did not meet the Western Australian taxi industry's expectation and the concept of buy back was rejected by the taxi industry. A feature, however, of the Western Australian buy-back which would need to be part of an ACT buy-back was the guaranteed no capital loss provision.

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<sup>7</sup> Nicholls, D (2003) Compensation Issues-The ACT Taxi Industry.

The Western Australian Government was prepared, where the estimated market value was less than a plate owner paid for the plate, to buy-back the plate at its purchase price. Nothing short of a guaranteed no capital loss provision would be acceptable in the ACT. In August 2003 the Western Australian Government announced that buy back was off the agenda and that it would meet with the industry to consider a policy/mechanism to determine Government lease rates and the issue of future plates.

In a press release on 31 August 2003, (Attachment H), the Queensland Premier and Transport Minister stated that they would rather risk a federal Government penalty rather than deregulate the taxi industry. The press release stated:

‘The Queensland Government will defy the federal Government’s National Competition Policy requirements and maintain our regulated taxi industry’.

In this press release it was also reported that the Queensland Government would also work more closely with industry and was involved in examining more flexible and demand-responsive community transport options such as maxi-taxis in small communities where a standard bus service is not viable. This approach is currently being trialled in Mt. Tamborine where the bus service ceased last year due to lack of patronage.

## *Conclusion*

The concept of public interest and the sustainable provision of a taxi service are inextricably linked to any sustainable transport policy. This Amendment Bill attempts to regulate the introduction of deregulation. It sets down the steps to add taxi licences to the market each year without cause, thereby reducing taxi plate values. It does so in defiance of empirical evidence and international research that demonstrates the uniqueness of the taxi industry model. It is a model that, when public benefit is considered, necessitates price regulation. This in turn necessitates entry regulation if the market is to be sustainable.

It is the sustainability of the market that is an inherent building block for a sustainable transport policy.

Failure to maintain this fundamental principle by deregulating the ACT taxi industry, either en masse or over time as the government is proposing not only endangers the viability of the industry but also could lead to the collapse of the Aerial Co-operative. While some government advisers might see this as a desirable outcome it would in fact be a disaster for consumers. The Co-operative is in fact a positive, benevolent and helpful agent in managing the industry. It sets the standards of service quality, fleet and driver presentation, driver behaviour, discipline and it maintains order within the industry. It provides an essential day-to-day industry management service that the regulator, or any bureaucracy that is remote from the fleet and the passengers, will never be able to fill. And it performs this role without any cost to the Government.

The Co-operative has helped governments in the past to create public transport legislation that is cutting edge within Australia. It can continue to do so now. But short sighted, economically rationalist, and financially opportunistic philosophy within some elements of the Government and their senior policy advisors is destructive to the industry. Clearly,

a sensible, co-operative partnership between the Government, its agencies and the industry is better for all parties and manifestly in the public interest.

## *Recommendations*

1. The Government establish a Taxi Advisory Council made up of the following:
  - a. The taxi industry;
  - b. Regulators;
  - c. Consumer groups;
  - d. Disability advocates;
  - e. Unions.
2. That the Taxi Advisory Council advise the Minister each year on the number of taxi plates to be released at auction.
3. That the Taxi Advisory Council determines the number of taxi plates to be released at auction by assessing the number of taxis per head of employed population against an agreed benchmark. Any resulting increase or decrease in the number of plates is to be guided by consideration against agreed benchmarks of the average number of hirings per taxi per month over the previous twelve months and benchmark response times.
4. That the Taxi Advisory Council advise the Minister on recommended fare adjustments annually and no later than May in each year. Fare adjustments are to be in place by 1 July each year.
5. That revenue from plate sales continues to be used for the public benefit.

In proposing the recommendation relating to fare adjustments, the industry notes:

- This approach has been adopted by the Northern Territory Government who created a Commercial Passenger Vehicle Board to manage the industry and make recommendations to the Minister, including those relating to fare increases.
- The Queensland Government has rejected deregulation (Premier's media release on 31 August 2003) and is to work with the industry to look at initiatives to improve service and waiting times.
- The ICRC Commissioner has on a number of occasions stated to the Audit Committee of Canberra Cabs and the Canberra Taxi Proprietors Association Limited that he would prefer that the ICRC was not involved in the setting of taxi fares.

## APPENDIX

### List of Attachments

- A. National Competition Policy Review of the ACT Taxi and Hire Car Industries – Submission by Canberra Taxi Proprietors Association and Aerial Taxi Cabs Co-operative Society Limited: October 1999;
- B. ICRC Issues Paper: Determination of Prices for Taxi Services – Submission by Canberra Taxi Proprietors Association and Canberra Cabs: - January 2001;
- C. ICRC Draft Report – Determination of Prices for Taxi Services – Submission by Canberra Taxi Proprietors Association and Canberra Cabs - May 2001;
- D. ICRC Issues Paper – Determination of Prices for Taxi Services November 2001 – Submission by Canberra Taxi Proprietors Association and Canberra Cabs – February 2002;
- E. Review of the Future Direction of the ACT Taxi and Hire Car Industry February 2002 – Submission by Canberra Taxi Proprietors Association and Canberra Cabs – March 2002;
- F. ICRC Draft Report of the Future Direction of the ACT Taxi and Hire Car Industry and Determination of Prices for Taxi Services April 2002 – Submission by Canberra Taxi Proprietors Association and Canberra Cabs – May 2002
- G. Compensation Issues – The ACT Taxi Industry, Professor Des Nicholls School of Finance and Applied Statistics, Faculty of Economics and Commerce, Australian National University ACT – July 2003.
- H. Ministerial Media Statement – Premier of Queensland, The Hon. Peter Beattie MP – 31 August 2003.
- I. The Role of the Public Interest in the Application of the National Competition Policy to the Australian Taxi industry, Research Report for the Australian Taxi industry Association – September 2003.
- J. The Impact of Deregulation on the Northern Territory Commercial Passenger Vehicle Industry, Research Report for the Australian Taxi industry Association – February 2003.
- K. Examples of Correspondence in regard to WAT performance.