

P2P Workplace Arrangements Inquiry

Organisation: NSW Hire Car Association
ACN: 605 968 590 - ABN: 12 605 968 590

Topic: P2P Workplace Arrangements Inquiry

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INTRODUCTION

The NSW Hire Car Association (NSWHCA) welcomes the opportunity to be part of the inquiry and dialog on workplace arrangements in the point to point (P2P) industry. The *terms of reference* laid out in the invitation are critical questions facing our industry and which have far reaching implications.

Given the recent reforms currently underway in NSW, the new Passenger Transport Bill and the pending Regulations, we feel there needs to be more time taken to understand the full implications of the new Bill and the related Regulations before being able to make a submission based on a fully informed position.

In addition, it appears that almost every aspect of passenger transport operations is currently under review (such as CTP insurance, Payroll tax applicability and effective life of vehicles). It will be some time before industry participants are able to understand the full implications of all these changes – all of which have material bearing on the *terms of reference* laid out and beyond to the overall sustainability and economic productivity of the sector as a whole.

What we have outlined below is a **high level preliminary view** on the various *terms of reference*. These views would need to be further expanded and qualified as indicated above over the next 12-18 months.

Ritta Khoury



Director, Government Relations & Strategic Planning
NSW Hire Car Association
ritta.khoury@nswhca.org m: 0421 339 959

INDUSTRIAL RELATIONS ACT IMPACT

1. the operation and impact on the point to point transport industry of the relevant provisions of Chapter 6 of the *Industrial Relations Act 1996*, as well as the operation of any other state or federal laws that may affect driver remuneration and conditions, including the *Fair Work Act*, the *Independent Contractors Act 2006* and the general law of contract;

The NSW HCA does not currently have the resource available to conduct a deep review of the Industrial Relations Act 1996 as a whole or in part (namely Chapter 6) for the purposes of providing an informed view of the operation or impact of this Act on P2P transport.

At this time we are unable to provide comment on this item and therefore make no submission on this Term of Reference.

EFFECTIVENESS OF EXISTING ARRANGEMENTS

2. the effectiveness of the existing arrangements including the impact on:
 - a. driver remuneration and conditions;
 - b. competitiveness across the industry;
 - c. customer service (including fares); and
 - d. safety for passengers and drivers;

Bearing in mind that we are not making direct reference to the detailed arrangements as outlined in the Industrial Relations Act, the NSW HCA would like to make the following **broad comments** on the effectiveness of the existing arrangements.

Driver Remuneration and Conditions

There is currently considerable lack of consistency across the P2P sector as it relates to driver remunerations and condition.

The past 4 years have seen a rapid transformation of the industry due to emerging mobile technology and collaborative consumption commerce models more commonly (although inaccurately) known as *ridesharing*. These changes have created a huge downward pressure on fare prices and consequently have had a huge impact on drivers' ability to earn a fair wage.

Industry operators who continue to resist participating in the "pricing wars" are face with serious considerations for long term sustainability.

At the very core of these issues is whether or not to uphold the long held Australian tradition of providing minimum viable wages in order to avoid the massive implications and social burdens faced if communities fall below the poverty line.

Competitiveness Across the Industry

The changing landscape and introduction of new services in P2P has increased the competitiveness across the sector. Traditional operators are under enormous pressure to drop prices in order to compete with new entrants. The NSW HCA recognises and supports the move towards a more open marketplace. The concerns we have is that local operators cannot compete fairly in an environment where global operators are funded by large scale venture capital funding in the order of billions and are actively using that funding to buy and in some cases create market share.

Ultimately the market place will normalise but the reality is the early stages of the disruption will skew the outcome in favour of heavily funded global players. The likely outcome is that small and medium sized operators in NSW will find it increasingly challenging to maintain sustainable businesses.

Customer Service Including Fares

As indicated above there has been significant downwards pressure on fares in recent times. The positive aspect of this manifestation is lower fares for consumers. What remains to be seen is the impact on the disposable income for drivers who are at the end of the service food chain. The NSW HCA feels that there should be careful consideration and investigation of the entire food chain for both traditional and emerging P2P service providers with a view to providing a clear understanding of the disposable income that is practicably achievable by various stakeholders across the entire service food chain. There are some myths propagated by dubious media campaigns that have painted the wrong picture of 'who takes home what' in the traditional P2P transport sector. Drivers and their families are already suffering the consequences of not being able to generate enough income to sustain basic living needs.

As far as customer service goes there are significant differences in consumer's views around quality and reliability of service across the sector. Very generally speaking, taxi providers historically have had challenges in this space. Hire car operators by contrast have primarily built their business on the back of differentiated and improved customer service across all areas of the service delivery – better vehicles, professional tenured drivers, premium customer servicing and early adoption of technology. New entrants in the marketplace, namely ride share service providers, appear to be perceived as providing better customer service than traditional taxis (very generally speaking) but only time will tell how this perception plays out.

Safety for Passengers and Drivers

The NSW HCA has maintained the view that safety should be at the very core of P2P transport services. We are awaiting release of the Regulations related to the new Bill in order to understand the full implications of the new requirements on passenger and driver safety. Telematics will no doubt play an important role in the future of safety

considerations but only time will tell if the new rules and Regulations provide adequate measures for ensuring the equal safety of both passengers and drivers.

UNEVEN APPLICATION ACROSS P2P SECTOR

3. the uneven application of workplace arrangements across the point to point transport sector and nationally;

The NSW HCA feels strongly that there is significant uneven application of workplace arrangements across the P2P transport sector.

One example is the significant lack of consistency regarding "employment" and "relevant contract" determinations by various government agencies – namely Office of State Revenue, ATO and Fair Work.

Another example is the seemingly uneven application of rules by various government agencies to groups within the sector who practically operate in the exact same way under "contract of bailment". For example the application of payroll tax to operators in the hire car industry who operate exactly the same way as taxi operators do.

It is critically important that workplace arrangements be reviewed and evenly applied across all industry participants across the entire sector by all government agencies.

EVOLUTION OF THE INDUSTRY

4. the evolution of the industry, which includes national and multinational service providers;

The P2P industry is rapidly evolving due to the adoption of emerging mobile technology and massive changes in consumer expectations. These new frameworks have enabled and driven operators to quickly become national, and in some cases multinational, service providers.

These changes in the P2P transport sector are part of a wider change in social and workplace dynamics. These changing dynamics are being accelerated by rapidly changing technology, unprecedented data aggregation and consumer spending analytics, changes in urban demographics, behavioural changes leaning towards instant access products, services and benefits and finally but very importantly increasing demand for flexible work options.

Given all these changes it is imperative that state and federal laws governing all aspects of workplace arrangements be reviewed to ensure they remain fair, equitable and above all relevant to the current conditions.

IMPACT OF TECHNOLOGY

5. the impact of technology and customer demand on how drivers participate in the industry;

Technology is the main driver of change in P2P transport and in particular emerging and rapidly transforming mobile technology which has given rise to the collaborative consumption commerce models more commonly (although inaccurately) known as *ridesharing*.

On the positive side drivers are easily able to download an application on their mobile device which allows them to accept work from any booking agent. On the flip side this approach is making drivers increasingly anonymous to operators as they bypass the usual vetting processes traditionally used to select and groom drivers.

While changing consumer expectations are making instant access products and services a must for all future suppliers it is imperative that safety and security measures be built into the new framework and a clear outline of responsibility be included.

SUSTAINABILITY AND ECONOMIC PRODUCTIVITY

6. the sustainability of commercial passenger transport and economic productivity;

This question is very closely related to *point 2 EFFECTIVENESS OF EXISTING ARRANGEMENTS*. Please refer to that section, in particular 2a for an outline of our high level views of the impact on sustainability and economic productivity of operators in the current landscape.

REGULATORY BURDEN

7. the intent of the Government's reforms to minimise the regulatory burden on the point to point industry; and

The rhetoric throughout this entire process of P2P change in NSW has been about reducing the regulatory burden for operators across the sector. In actual fact as the new Bill demonstrates and as per our preliminary discussions with regulators indicates the regulatory burden on operators in NSW will be the highest and most complicated it has ever been.

The burden of safety and security has been shifted from government based authorities and moved to the operators themselves. Hire car operators are awaiting for the release of the

Regulations related to the new Transport Bill in order to have a full understanding of the implications of these changes.

OTHER

There is no other comment at this stage. We look forward to being part of the ongoing dialog on all issues that affect the P2P industry and the future of all operators and drivers in our industry.

AUTHORISATION & CONTACT

All queries related to this document should be directed to Ritta Khoury, NSW HCA Director Government Relations & Strategic Planning on 0421 339 959 or ritta.khoury@nswhca.org .

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