

SUBMISSION TO THE

PRODUCTIVITY COMMISSION

INTO DISABILITY DISCRIMINATION ACT



Australian Taxi Industry Association

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1. INTRODUCTION

The Australian Taxi Industry Association (ATIA) is the peak Federal body representing the Australian Taxi Industry.

Our Industry comprises:

- ◆ some 15,500 taxis
- ◆ almost 500 networks operated through companies and co-operatives
- ◆ some 65,000 drivers involved in the industry, virtually all of whom operate their own small business.

As Australia's major provider of demand responsive public transport, the taxi industry has been at the forefront of providing greater accessibility to those with disabilities.

Taxi operations involve a personalised service that inherently offers many of the benefits that make travel for those with disabilities easier and therefore more feasible. These include:

- ◆ ready accessibility through telephone booking services with more advanced benefits including automatic identification of addresses from home phones and use of the Internet to make bookings
- ◆ the personalised door to door service of a vehicle with a driver who can provide assistance in entering and leaving the vehicle and with luggage
- ◆ high degree of security through driver identification and vehicle tracking through GPS reporting reinforced by increasing use of in vehicle video surveillance.

The one area where traditional taxi operations are constrained relates to the carriage of wheelchair passengers.

However, the development of specialist vehicles with ramps or lift capabilities has progressively enabled our industry to develop its ability to service this group more effectively as well.

The ATIA has been extensively involved in the development of the Disability Standards for Accessible Public Transport and anticipate that co-operation with Governments and other interest groups will continue as these Standards are progressively refined.

2. TRADITIONAL TAXI INDUSTRY OPERATIONS

The Australian taxi industry has evolved to meet the need for personalised demand responsive public transport services in a regulated environment where Governments control licence numbers, the standards of vehicles and drivers and determine the maximum fares that can be charged.

The industry has utilised the standard family car that seats a driver and up to 4 passengers as its typical workhorse. Some flexibility is provided by station wagons that can comprise up to 6 - 8% of many fleets.

With appropriate modifications these vehicles are capable of serving the vast majority of our customers. We acknowledge, however, that certain client groups, notably those who are wheelchair dependent, face considerable difficulty in using the traditional taxi vehicle.

Arrangements to meet the needs of this client group are discussed in Section 3.

For other groups with disabilities, the traditional taxi is well placed to meet their travel requirements. As noted previously, our taxi service provides:

- ◆ accessibility through telephone (and Internet) bookings that can confirm pick-up and destination locations precisely and pre-advise the driver of particular requirements. This support also extends to making arrangements for return journeys
- ◆ the personalised door to door services with the driver able to provide assistance and the provision of support for a carer or guide dog (or equivalent) as a integral part of the service
- ◆ security and accountability through the identification of all elements in the supply chain including the telephone booking service, the driver and tracking of the vehicle. This has been further reinforced by the introduction of in vehicle video surveillance in many jurisdictions.

We recognise, however, that the provision of taxi services involves charging that reflects the personalised demand responsive nature of our 'product' and that this can have a constraining impact on the mobility that can be purchased by those members of the community with disabilities.

Taxi fares are controlled through Governments in all States and Territories. Consequently to the extent that the community considers that some or all of those with disabilities should receive support to improve their mobility then appropriate Government programs can be formulated.

At present there are a range of assistance program provided to certain groups who are assessed as suitable to be eligible to participate in such programs.

Broadly these systems involve a voucher system where the passenger only pays 50% of the metered fare and the balance is paid through the Government program. Greater assistance is provided in some States with Western Australia, for example, providing a subsidy to passengers of 75% of the fare.

Such programs are subject to continue monitoring. Refinements are progressively introduced to ensure the efficiency is maximised in terms of the delivery of services to the target group.

As part of the development of the Disability Standards for Accessible Public Transport there will be further features introduced into Australia's taxi fleet. Our concern with one such initiative where ATIA considers that there are major safety concerns is discussed in Section 7.

FARES & THE COST OF DELIVERING SERVICES

At present the costs of delivering services to those with disabilities in traditional taxis is not separated from other elements of industry costs. This approach is reflected in the fare structure, which can comprise:

- ◆ a telephone booking fee
- ◆ a flagfall (where there may be multiple time sensitive levels)
- ◆ a distance component (where there may be multiple time sensitive levels)
- ◆ reimbursement of tolls
- ◆ waiting time when the vehicle is stationary or only travelling very slowly.

In certain circumstances, for example where the driver leaves the vehicle to assist the passenger, there may be an element of waiting time charged that is included in the fare for a passenger with a disability. There have been occasions where disputes have arisen about the appropriateness of including this charge.

Quite often it comes down to 'I said – he said' of individual circumstances. ATIA encourages its members to exercise discretion and reasonableness in such circumstances.

The indicative cost structure of a traditional taxi operation travelling some 150,000km per annum would be:

TABLE 2: INDICATIVE COST STRUCTURE FOR TRADITIONAL TAXI OPERATIONS

COST COMPONENT	PERCENTAGE OF COSTS
Vehicle	10 - 16
Insurance	12 - 20
Network Fees	6 - 10
Maintenance & Cleaning	20 - 25
Fuel	16 - 20
Uniforms & Entitlements	5 - 7
Others*	20 - 25

** Included in 'Others' is the returns to the drivers and the vehicle operators*

3. WHEELCHAIR ACCESSIBLE TAXIS (WAT)

The taxi industry, Governments and interest groups have long recognised the difficulty for the traditional taxi fleet in providing travel to those who are wheelchair dependent.

Accordingly, there has been a concerted move to introduce vehicles into taxi fleets that will service the travel requirements of wheelchair dependent customers.

To achieve this objective, different vehicles have been used, ranging from stretched standard vehicles with ramp access to the larger people movers with hoists to lift the wheelchair passenger into the vehicle.

These vehicles are substantially more expensive to acquire and to operate than traditional taxis. Taking the cost base of a traditional taxi as described in Section 2, the equivalent indicative costs for a WAT are:

TABLE 3.1: INDICATIVE COST STRUCTURE FOR WAT OPERATIONS

COST COMPONENT	PERCENTAGE OF INDICATIVE TRADITIONAL TAXI COSTS
Vehicle	20 - 32
Insurance	12 - 20
Network Fees	6 - 10
Maintenance & Cleaning	28 - 35
Fuel	30 - 40
Uniforms & Entitlements	5 - 7
Others*	15 - 20

*** Included in 'Others' is the returns to the drivers and the vehicle operators**

As indicated by Table 3.1, the cost structure for WAT can be around one third greater than that of a traditional taxi.

Furthermore WAT face consumer resistance as there are a range of customers who are reluctant to travel in these vehicles and instead seek to travel in a traditional taxi if that option is available. This consumer resistance further erodes the returns for the drivers and operators of WAT compared with the returns generated by traditional taxis.

Therefore, all the other factors being equal, there would be strong resistance by taxi operators to provide WAT.

However, through co-operation between the industry, Government and other stakeholders, programs have been developed to ensure WAT are available in taxi fleets under arrangements where they must give priority to bookings by wheelchair dependent passengers. (This priority-booking requirement also acts to reduce returns to WAT drivers and operators.)

Generally this assistance has been delivered by Governments making WAT licences available at rates that are substantially lower than the 'at arms length' price of a traditional taxi licence. These assistance programs can include:

- ◆ requiring that all new taxi licences to be issued must operate WAT for a minimum period
- ◆ Governments undertaking separate marketing of WAT from traditional taxi licences so that those who 'bid' for WAT licences will structure their offers to reflect the inherent competitive disadvantages of WAT
- ◆ Government making WAT licences free of charge.

All such arrangements have the effect of the general community providing a subsidy (through Government revenue forgone) to ensure that an appropriate proportion of the taxi fleet is WAT.

Through these approaches the industry, Governments and stakeholders have worked together to increase the proportions of taxi fleets that are wheelchair accessible. In some major centres the number of WAT vehicles has grown to the level of 10% of the taxi fleet.

Given the proportion of the general community that is wheelchair dependent, there are some views that appropriate services could be delivered with a much lower proportion of the total fleet. ATIA considers that this is an issue that should be continually monitored to ensure that the appropriate balance is achieved.

4. SERVICE DELIVERY

There are, of course, a range of critical issues that are combined to ensure that the support provided by the taxi industry to those with disabilities is commensurate with that provided to the general community.

For those with disabilities who are able to use traditional taxis, this broadly happens as a matter of course. Through telephone bookings, hail and rank services the taxi industry will normally respond to demand giving equal treatment to everyone in the community.

However, for those who are wheelchair dependent, as discussed in Section 3, special arrangements have been made to introduce WAT which are disproportionately over represented in taxi fleets. As WAT head towards 10% of most taxi fleets, this represents a much higher proportion than is the target market as a proportion of the general community.

With Government requirements that WAT give priority to bookings for wheelchair dependent clients, it would be expected that the target market would be extremely well served by the taxi industry.

The industry recognises, however, that this issue is not that simple. WAT operators and drivers must undertake traditional taxi work to have viable commercial operations. Clearly it is impractical to expect that WAT drivers must somehow curtail their current service for a client to immediately to a booking made by wheelchair dependent clients.

Similarly as WAT must service the relevant region there can be extra travel (and therefore time) before a taxi arrives at the pick up location.

Even taking these factors into consideration, the industry's objective is to achieve booking respond times that are equivalent to that achieved for the general community.

Obviously it is more efficient and generally easier on all concerned if bookings can be made comfortably in advance. This consideration applies to any taxi booking, not just those requiring a WAT.

Where bookings are made for 'as soon as possible' then there may be some delay before a taxi arrives. Factors influencing response times include:

- ◆ pick up location (how far away from routes/ranks where taxis are normally vacant)
- ◆ time – is it peak traffic periods so it will take longer to reach the pick up location

- ◆ demand – how busy are taxis at that time
- ◆ weather conditions – the pressure on taxi services is much greater when it is raining.

These factors influence response times for both traditional taxis and for WAT.

MANAGEMENT OF SERVICES

There are various arrangements that have been adopted to govern the service delivery of WAT.

In some locations, WAT operators have the same flexibility as other operators to choose the radio network that they will utilise for telephone bookings. In other locations, WAT operators are directed by Government to be part of a radio network that may be a dedicated wheelchair taxi service or may be integrated in with other taxi services.

In the first case, there is pressure on the radio network to attract sufficient WAT operators in order to provide a viable service to wheelchair dependent clients. In the second type of environment, Governments can be pursuing multiple objectives in determining the arrangements that will apply and these may not necessarily be in the best interests of the wheelchair dependent clients.

An example was provided by the previous ACT Government which announced its intention to underpin the establishment of a second network in the ACT by requiring that all WAT be transferred to the new network. This policy has not been pursued with an important consideration being the widespread opposition of many WAT operators.

Management of the delivery of taxi services is becoming increasingly sophisticated as more accurate and detailed information is generated by the booking systems. This data is used to monitor performance.

However, networks are dependent on driver performance in order to achieve appropriate WAT service levels.

Where bailee drivers (who are independent businesses themselves) are involved response times may become an issue. Bailee drivers may not provide the required priority for wheelchair dependent passengers if they consider that they are not compensated sufficiently by lift fees or waiting time payments as compared with their returns from other passengers. As they are not directly responsible for the obligations that the vehicle owner may have accepted when the WAT licence was issued, there is a need to continue to monitor performance in this area as well.

The other notable management tool is the monitoring of complaints.

Generally the trends are for reduced response times and lower levels of complaints indicating that overall service levels continue to improve.

At this stage, the industry is approaching a situation where the objective of delivery of equivalent levels of service to wheelchair dependent customers is becoming near to achievement.

5. UNJUSTIFIABLE HARDSHIP

ATIA considers that there must be an ongoing recognition that there are circumstances where it is unreasonable and often counterproductive to require service providers to achieve equilibrium in delivery of services to those with disabilities and to the general community.

Under current arrangements this recognition is embodied in the term 'unjustifiable hardship' incorporating acknowledge that compliance with the DDA requirements would impose a level of hardship (not restricted to financial costs) that is unreasonable for the benefits returned.

The unjustifiable hardship provision is vital to the taxi industry.

Without such a provision, arguments could be advanced that, in order to provide non-discriminatory access to taxis, every vehicle must be a WAT. Only then, it could be argued, would non-discriminatory services be delivered at taxi ranks and when taxis are hailed.

However, even then such an approach could have other undesirable consequences. For example it may discriminate against other people with disabilities who find it virtually impossible to climb into and out of a WAT van.

As described previously, introduction of WAT has been made possible by co-operative arrangements developed by Governments, the industry and stakeholders.

To be sustainable it is essential that the distinctions between the viability of traditional taxi operators and those of WAT operations be maintained. This is vital in order that there is the flexibility for Governments to structure licensing arrangements to deliver sufficient incentives for so that there will be people willing to provide WAT services.

Similarly in regional and rural Australia many taxi services are under extreme financial pressure. There are cases in rural NSW; for example, where taxi licences have been surrendered and the service has been lost as no one else is prepared to take on a taxi business.

Clearly where existing traditional taxi businesses are, at best, of marginal viability any move to require operators to introduce or expand WAT services could present the taxi operator with no option but to close down the business.

The application of the 'unjustifiable hardship' test in such circumstances is therefore vital if the position is not to be resolved by everybody being equally disadvantaged, as there is no longer any taxi service at all.

6. ROLE OF HREOC

ATIA would emphasise that, as at the current time there has been no issues of concern in regard to HREOC's activities as they affect our industry.

That said, there remains fundamental reservations about the appropriateness of HREOC undertaking both an advocacy role for the disability interest groups and also to act as the arbitrator/assessor on complaints that are made under the DDA.

We recognise that this is not an easy issue to resolve and our understanding is that HREOC has generally handled its conflict of interests with some sensitivity.

The taxi industry would be the last to encourage an expansion in the number of agencies involved in disability issues. However, it may be that consideration should be given to the separation of these functions with HREOC assuming the single task of assessing issues submitted to it and another agency assuming the advocacy role.

Certainly as the arrangements currently operate many in industry feel that in dealing with HREOC it is akin to appealing to your mother-in-law about your wife's behaviour.

How and which other agency could assume the advocacy role is beyond our competency to comment. That does not, however, diminish our view that such a reputation could:

- ◆ ease tensions within industries that deal with the disabled community and HREOC
- ◆ bring greater transparency and accountability to the operation of DDA administration.

7. NEED FOR BALANCE IN DISABILITY STANDARDS

The development of the Disability Discrimination Standards for Transport has been a protracted endeavour in which the ATIA has been an active and positive contributor. This reflects our industry's position as clearly being the leader in providing accessible public transport for those with disabilities.

We share the concerns of Governments and stakeholders on the desirability of ensuring the standards can facilitate the delivery of practical arrangements that can be effectively applied by all parties.

To achieve this for our industry, there is one critical proposal where extremely important safety issues arise. This relates to Clause 17.7 of the standards which requires there to be tactile identification (taxi numbers) provided on the passenger doors of taxis, forward of the handle.

As the arguments have been advanced, the basis of including tactile identification on the taxi's exterior is to enable those who are visually impaired to have some means of identifying a taxi where the driver refuses to take that fare and drives off.

While this reasoning may be basically sound, in reality where a driver does not wish to carry a visually impaired person, the driver is more likely to drive away as the passenger approaches.

The Taxi Industry is gravely concerned at the possible dangers that might arise if the intending passenger then seeks to 'identify' the taxi through the external tactile identifier on the vehicle.

If the visually impaired community is advised that the first step towards pursuing any 'perceived discrimination' is to identify the taxi through the external tactile identifier, a very grave risk is created of that person stepping out across the kerb from the footpath into the road and coming into contact with a moving vehicle (whether a taxi or another vehicle).

Whilst we recognise that discrimination by a minority of taxi drivers can occur, it is the opinion of the Taxi Industry that the potential risk and dangers to the visually impaired passenger far outweigh any advantage that may be offered by external tactile numbers as described in Clause 17.7.

The Industry also has concerns that, in circumstances where a vehicle is pulling away from the rank, there could be sufficient doubt surrounding the accurate reading of the tactile numbers to present difficulties in establishing a positive identification of the taxi involved in the incident.

The Industry would suggest that a more practical solution would be the education of other taxi users and taxi drivers to offer assistance to a visually impaired person who has been discriminated against in this manner to identify the particular taxi.

To assist a visually impaired taxi passenger minimise the possibility of discrimination during a taxi journey; the Taxi Industry would strongly recommend investigation of alternate placement of tactile numbers within the interior of the vehicle.

We therefore urge that there should be practical considerations applies to assess such risks as compared with perceived benefits and remove the requirement for the tactile external identifier on taxis from the Disability Discrimination Standards.

8. CONCLUSION

Overall the progress that has been made by Governments, the taxi industry and stakeholders has contributed to the delivery of personalised public transport services to those with disabilities.

To achieve the progress that we have, has involved some degree of compromise by all parties. Industry and Governments have worked together to achieving arrangements to support an expanding fleet of WAT despite their inherently higher operating costs as compared with traditional taxis.

All parties have co-operated to develop targets under the Transport Disability Standards that are reasonable.

ATIA considers that this co-operative approach will continue to be the most effective means of delivering improvements in the services we provide to those members of the community with disabilities.

To maintain this co-operative environment, it is essential that provisions such as 'unjustifiable hardship' must be recognised and maintained with the DDA. To do otherwise would remove a pillar on which the co-operation has been structured and in too many cases could lead to circumstances where non-discrimination taxi services would become no taxi services at all.

In our submission we have also highlighted concerns about the potential conflict of interests in the various roles HREOC is required to undertake and the desirability of giving greater emphasis to safety concerns rather than 'in principle' access entitlements in the determination of standards.

Clearly the value in maintaining a sensible practical balance in these matters cannot be overestimated.

We look forward to discussing our submission with the Productivity Commission.

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