

Trade
Practices
Commission



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PR

COMMISSION DETERMINATION

APPLICATION FOR AUTHORIZATION

UNDER SUB-SECTION 88(8) OF THE TRADE PRACTICES ACT 1974

BY

SUBURBAN TAXI SERVICE PTY LIMITED

RELATING TO THE USE OF APPROVED
TAXI HIRING ACCOUNT SERVICES AND
CREDIT FACILITIES

REGISTRATION NO: A90472

FILE NO: CA87/19

COMMISSIONERS:

W.J. COAD, DEPUTY CHAIRMAN
A.J. ASHER
J.B. BRAITHWAITE
J.MCB. GRANT

DATE: 28 JANUARY 1988

1.4 Following the principles set by the grant of authorization to De Luxe (A30112, 25 February 1986), the Commission has authorized the practice set out in para 1.2 above by a number of other taxi companies and co-operatives in NSW and Victoria. ¹

2. THE STATUTORY TEST

2.1 In its determination on the De Luxe application, the Commission characterised conduct similar to that set out in para 1.2 above as third-line forcing within the scope of sub-section 47(6) or (7). The appropriate test for authorization therefore is that set out in sub-paragraph 90(8)(a)(iii) as follows:

- '90(8) The Commission shall not -
- (a) make a determination granting -
- . . .
- . . .
- (iii) an authorization under sub-section 88(8) in respect of proposed conduct to which sub-section 47(6) or (7) applies, unless it is satisfied in all the circumstances that the proposed provision or the proposed conduct would result, or be likely to result, in such a benefit to the public that the proposed contract or arrangement should be allowed to be made, the proposed understanding should be allowed to be arrived at, or the proposed conduct should be allowed to take place, as the case may be.'

3. SUBMISSIONS

3.1 The Commission sought and received submissions from a number of parties in relation to the De Luxe application. These submissions are on the public register

¹ It should be noted that De Luxe also sought authorization to discipline those cab-drivers who displayed decals or offered credit services other than those approved by the Co-operative. The Commission refused to authorize this particular practice.

and the points they raise were fully debated in the Commission's determination of 25 February 1986. Consequently, no further submissions have been sought in relation to this application by Suburban Taxis.

4. COMMISSION CONSIDERATION

4.1 In granting authorization to that part of the De Luxe arrangements which required its cab-drivers to display decals and offer account systems approved by the Co-operative, the Commission agreed with the applicant that consumers should not be misled as to the credit services offered by individual cabs. The Commission accepted that members of De Luxe should be required to display and offer systems which had been approved by De Luxe, and that such systems should be accepted throughout the Co-operative's network. It also accepted that reasonable requirements to secure this resulted in benefit to the public such that the conduct should be allowed to take place.

4.2 The Commission reaches the same conclusion in respect of the conduct for which Suburban Taxis presently seeks authorization.

5. DRAFT DETERMINATION

5.1 On 27 November 1987 the Commission issued a draft determination proposing to authorize the conduct of Suburban Taxis. No pre-decision conference was requested and no objections were raised to the Commission draft.

6. DETERMINATION

6.1 Accordingly, the Commission confirms its draft determination and grants authorization to the following proposed conduct by Suburban Taxis:

The penalising or suspension from the use of radio booking facilities by the Co-operative of members or drivers of the Co-operative as a result of the failure by members or drivers to display radio numbers and/or decals of taxi hiring account systems which have been approved from time to time by the directors and/or failure of those members or drivers to accept those hiring account systems in satisfaction of fares for any hirings.

6.2 This authorization is to be granted on the understanding that the penalty imposed against members/drivers for non-compliance with the relevant rule is limited to the procedure described in paragraph 1.3 above. Authorization does not extend to the penalising by the Co-operative of members or drivers who display decals of accounting systems or who offer credit services (such as Bankcard) other than those systems approved by the Co-operative.

6.3 This determination is made on 28 January 1988. If no application for a review of the determination is made to the Trade Practices Tribunal, it will come into force on 19 February 1988. If an application for review is made to the Tribunal, the determination will come into force:

- (a) where the application is not withdrawn - on the day on which the Tribunal makes a determination on the review;
- (b) where the application is withdrawn - on the day on which the application is withdrawn.