

COMMISSION DETERMINATION

APPLICATION FOR AUTHORIZATION

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

BY

NORTH SUBURBAN TAXIS LIMITED

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

REGISTRATION NO: A90455

FILE NO: CA86/27

COMMISSIONERS:

W R McComas (Chairman)
W J Coad (Deputy Chairman)
J Braithwaite
D Round

DATE: 19 February 1987

1. The Application

1.1 Application A90455 was lodged on 30 October 1986 by North Suburban Taxis Limited of Victoria under sub-section 88(8) of the Trade Practices Act 1974.

1.2 North Suburban seeks authorization for the same practice as was initially authorized by the TPC in the case of De Luxe Red & Yellow Cabs Co-operative Trading Society Limited, namely:

'the disciplining of members who do not display radio numbers and/or approved decals of hiring accounts and/or failure of members and drivers to accept those hiring accounts.'

The TPC is informed that a driver/member who fails to comply with the Company rule in this respect is likely to be deprived of the benefits and privileges of the depot. In practice, this would mean an initial reprimand followed by the depot's refusal to allocate radio jobs to that particular driver, unless or until he/she complied with the rule. North Suburban has said that it contemplates no other form of penalty.

1.3 Following the precedent set by the grant of authorization to De Luxe (A30112, 25 February 1986), the TPC has authorized the same practice 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 TPC 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 was therefore 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 TPC sought and received submissions from a number of parties in relation to the De Luxe application. These

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 TPC refused to authorize this particular practice.

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

4. TPC 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 TPC agreed with the applicant that consumers should not be misled as to the credit services offered by individual cabs. The TPC 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 TPC reaches the same conclusion in respect of the conduct for which North Suburban Taxis presently seeks authorization.

5. Draft Determination

5.1 On 6 January 1987 the TPC issued a draft determination proposing to authorize the conduct by North Suburban Taxis Limited. No pre-decision conference was requested and no objections were raised to the TPC draft.

6. Determination

6.1 Accordingly, the TPC confirms its draft and grants authorization to the conduct by North Suburban Taxis Limited as set out in para 1.2 above.

6.2 This authorization does not extend to permit the penalizing by the Company 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 Company.