

Trade
Practices
Commission



85
PR

COMMISSION DETERMINATION

APPLICATION FOR AUTHORIZATION

UNDER S88(8) OF THE TRADE PRACTICES ACT 1974

BY

LEGION CABS (TRADING) CO-OPERATIVE SOCIETY LIMITED

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

REGISTRATION NO: A90441

FILE NO: A86/7

COMMISSIONERS

W R McComas (Chairman)

W J Coad

J McB Grant

R S French

DATE: 20 October 1986

1. The Application

1.1 Application A90441 was lodged by Legion Cabs (Trading) Co-operative Society Limited on 22 May 1986 under sub-section 88(8) of the Trade Practices Act 1974 ('the Act'). Legion Cabs seeks authorization for the following practice:

'The penalizing or suspension from the use of radio booking facilities by the Co-operative of its members or drivers as a result of the failure by members or drivers to display radio numbers and/or decals of taxi hiring account or other credit 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 or other credit systems in satisfaction of fares for any hirings.'

1.2 In an earlier letter to the TPC (dated 27 March 1986), Legion Cabs observed that the TPC had granted authorization to a similar practice by De Luxe Red and Yellow Cabs Co-operative Trading Society Limited (A30112 - 25 February 1986).¹ Legion Cabs explained that it was a shareholder in Cabcharge Australia Pty Limited and that its position was identical to that of De Luxe. It now sought similar authorization.

2. The Statutory Test

2.1 In its determination on the De Luxe application, the TPC characterised the conduct set out in para 1.1 above as third line forcing within the scope of sub-section 47(6) or (7) of the Act. 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 -
 . . .
 . . .

¹ It should be noted that De Luxe at the same time 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 grant authorization to this particular practice.

- (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 submissions are on the public register, and the points they raise were fully debated in the TPC's determination of 25 February 1986 (see para 1.2). Consequently, no further submissions were sought in relation to this application by Legion Cabs.

4. TPC Consideration

4.1 In granting authorization to that part of the De Luxe arrangements which required its cabdrivers to display decals and offer credit services 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 such as Cabcharge, 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 Legion Cabs presently seeks authorization.

5. Draft Determination

5.1 On 26 August 1986, the TPC issued a draft determination proposing to grant authorization to the conduct (as set out in para 1.1). No pre-decision conference was requested, and no objections were raised to the TPC draft.

6. Determination

6.1 Accordingly, the TPC grants authorization to the following practice by Legion Cabs:

'The penalizing or suspension from the use of radio booking facilities by the Co-operative of its members or drivers as a result of the failure by members or drivers to display radio numbers and/or decals of taxi hiring account or other credit 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 or other credit systems in satisfaction of fares for any hirings.'

6.2 This authorization does not extend to the penalizing and/or suspension from the use of radio booking facilities by the Co-operative of members/drivers who display decals of accounting systems or offer credit services other than those systems approved by the Directors.