



Australian Competition & Consumer Commission

PO Box 1199
Dickson ACT 2602
470 Northbourne Ave
Dickson ACT 2602
Australia
Ph (02) 6243 1111
Fax (02) 6243 1199

Our Ref: C2003/1603
Contact Officer: Jason Byrne
Contact Phone: 02 6243 1279

7 May 2004

Ms Jenny Roberts
General Manager
RSL Ex-Servicemen's Cabs & Co-Operative Members Ltd
PO Box 1157
STRAWBERRY HILLS NSW 2012

Dear Ms Roberts

**Review of Taxi Authorisations – Notices Proposing to Revoke Authorisations
A90441, A90448, A90531, A90449, A90447, A90463,
A90455, A40047, A90498, A40071, A90472**

I refer to the above authorisations which were previously granted by the then Trade Practices Commission (the TPC). The TPC is now known as the Australian Competition and Consumer Commission (the Commission).

The authorisation process

By way of background, the Commission is the Commonwealth agency responsible for administering the *Trade Practices Act 1974* (the Act). The objective of the Act is to enhance the welfare of Australians by promoting competition and fair trading and providing for consumer protection.

Under the authorisation provisions of the Act the Commission may grant immunity from legal proceedings for some arrangements or conduct that might otherwise breach the anti-competitive practices provisions of the Act where it is satisfied that the public benefit flowing from such arrangements or conduct outweighs any public detriment.

One way in which parties may obtain immunity is to formally apply to the Commission for what is known as an 'authorisation'.

Revocation of an authorisation

Under section 91B of the Act, the Commission may revoke an authorisation at any time after granting an authorisation if it considers that there has been a material change of circumstances.



To initiate the revocation of authorisation the Commission is required to inform interested parties by Notice in writing that it is considering the revocation of the authorisation, indicate the basis on which the revocation is being proposed, and invite submissions in respect of the revocation.

Under section 91B of the Act, a person to whom an authorisation was granted may also apply for revocation of that authorisation. On receipt of such an application the Commission is required to inform interested parties by Notice in writing to indicate that the revocation of the authorisation has been applied for, indicate the basis on which the revocation has been applied for, and invite submissions in respect of the revocation.

After considering any submissions received from interested parties in relation to the proposed revocation, the Commission may make a determination in writing revoking the authorisation or deciding not to revoke the authorisation.

Conduct authorised

During the period of 1986 to 1994 the TPC granted authorisations to a number of companies in the taxi industry. A detailed list of these authorisations is at Attachment A. Broadly, the conduct authorised in each authorisation is identical and can be described as the provision of radio booking services on the condition that taxi drivers accept approved taxi hire account systems and display the decals of those account systems, otherwise risk suspension from the radio booking service.

Proposed revocation of authorisation A90448

The Commission considers that a material change of circumstances has occurred since granting of authorisation to RSL Ex-Servicemen's Cabs & Co-Operative Members Ltd (A90448). Accordingly, the Commission proposes to revoke this authorisation and a Notice to this effect is enclosed for your perusal. Reasons why the Commission considers that a material change of circumstances has occurred are detailed in the Notice.

Please note that the issue of a Notice proposing to revoke an authorisation is only the first step in the review process, as required by the Act to initiate consultation with interested parties. The Commission has not formed a view as to whether it will decide to revoke, or decide not to revoke, the authorisation.

Proposed revocation of other taxi authorisations

The Commission also considers that a material change of circumstances has occurred since authorisations A90441, A90531, A90449, A90447, A90463, A90455, A40047, A90498 and A40071 were granted. Accordingly, the Commission proposes to revoke each of these authorisations and Notices to this effect are enclosed for your perusal.

In a letter received by the Commission on 21 April 2004, Suburban Transport Services Pty Ltd, formerly known as Suburban Taxi Service Pty Ltd (Suburban), advised that due to considerable changes in the taxi industry since 1988, authorisation A90472 has become unnecessary and is no longer required. Accordingly, a Notice indicating that revocation of authorisation A90472 has been applied for is enclosed.

Please note that the Commission previously issued a Notice proposing to revoke authorisation A30112 to Deluxe Red and Yellow Cabs Co-operative Trading Society Ltd, now known as the Combined Communications Network Ltd, on the basis that a material change of circumstances had occurred. This Notice was issued on 17 December 2003 and copy of the Notice, along with submissions received from interested parties on this matter, are available on the Commission's website at www.accc.gov.au

Your views are sought

The Commission invites you to make a written submission regarding the proposed revocation of these authorisations. The Commission is proposing to consider the proposed revocation of all these authorisations concurrently.

If you wish to make a submission, please address it to:

The General Manager
Adjudication Branch
Australian Competition & Consumer Commission
PO Box 1199
DICKSON ACT 2602

Alternatively, submissions may be lodged by fax on (02) 6243 1211 or via e-mail at adjudication@acc.gov.au.

The Commission requests that you lodge any submission you wish to make by **close of business Friday 11 June 2004**.

As the authorisation process is a public and transparent one, submissions will be placed on the Commission's Public Register. You may request that information you provide in a submission to the Commission be treated as confidential and not placed on the Public Register. Information excluded from the Public Register for reasons of confidentiality will still be considered by the Commission when reaching its decision. Guidelines for seeking confidentiality are enclosed for your information.

A copy of this letter, and the enclosed Notices, will be placed on the Commission's Public Register.

If you have any questions about this matter, please contact me on (02) 6243 1049 or Jason Byrne on (02) 6243 1279.

Yours sincerely



Isabelle Arnaud
Director
Adjudication Branch

Authorisations Proposed for Revocation

New South Wales

- Deluxe Red & Yellow Cabs Co-operative Trading Society Ltd (A30112) – Notice issued 17 December 2003
- Legion Cabs (Trading) Co-Operative Society Ltd (A90441)
- RSL Ex-Servicemen's Cabs and Co-Operative Members Ltd (A90448)
- St George Cabs Co-Operative Ltd (A90531)

Victoria

- Arrow Taxi Services Ltd (A90449)
- Regal Combined Taxis Pty Ltd (A90447)
- Geelong Radio Cabs Co-Operative Ltd (A90463)
- North Suburban Taxis Ltd (A90455)
- Silver Top Taxi Service (A40047)
- Black Cabs and Eastern Group Taxis Co-Operative Ltd (A90498)
- West Suburban Taxis Ltd (A40071)

South Australia

- Suburban Taxi Service Pty Ltd (A90472)

GUIDELINES FOR CONFIDENTIALITY CLAIMS

Authorisations

The process whereby the Commission assesses applications for authorisation is very public, transparent and consultative. The *Trade Practices Act 1974* (the Act) requires the Commission to maintain a public register in respect of authorisation applications.

Applicants and interested parties can request that a submission, or a part of a submission, be excluded from the public register.

The Commission is required under the Act to exclude from the public register upon request details of:

- (i) secret formulae or processes;
- (ii) the cash consideration offered for the acquisition of shares in the capital of a body corporate or assets of a person; or
- (iii) the current manufacturing, producing or marketing costs of goods or services.

The Commission also has the discretion, under s 89 of the Act, to exclude material from the public register if it is satisfied that it is desirable to do so, either by reason of the confidential nature of the material or for any other reason. The Commission expects that a party claiming confidentiality on these grounds will present a case for its treatment in this manner.

Under Regulation 24 of the *Trade Practices Regulations*, when a request for confidentiality is made to the Commission:

- (a) where the request is that a whole document be excluded, the words "**Restriction of Publication Claimed**" should appear in red writing near the top of each page; and
- (b) where the request is that part of a document be excluded, the words "**Restriction of Publication of Part Claimed**" should appear in red near the top of the first page of each document, and the part for which confidentiality is claimed should also be marked in red. A submission of more than 5 pages should also include a description of the whereabouts of the parts for which confidentiality is claimed.

However, even if a document does not meet these technical requirements, the Commission may still grant confidentiality where, in the Commission's view, it is desirable to do so.

If the Commission denies a confidentiality request, the requesting party may ask that the material be returned. As a matter of practice, the Commission will specify a period (usually 14 days) in which they can request the return of such material. Upon response, the Commission will return the original material and destroy all associated copies. The Commission will not consider this material when reaching its decision.

If the Commission does not receive a response within the specified period, the original material will be placed on the public register.

Information or documents granted confidentiality may be used by the Commission pursuant to its powers generally under the *Trade Practices Act*.