

1 July 2004

The General Manager  
Adjudication Branch  
Australian Competition & Consumer Commission  
470 Northbourne Avenue  
Dickson ACT 2602

Dear General Manager

**Review of Taxi Authorisation – Notice Proposing to Revoke Authorisation**

Please find enclosed a submission on the Commission's review of authorisation A90498 prepared by Black Cabs Combined Limited.

Please contact me if you have any queries or require any further information.

Yours faithfully



Andrew Skelton  
General Manager

RECEIVED  
AUSTRALIAN  
COMMISSION OF CONSUMER  
AFFAIRS  
17 JUL 2004



# **Black Cabs Combined Limited**

## **Submission to the Australian Competition & Consumer Commission**

### **Proposed Revocation of Authorisation A90498**

The Commission has advised Black Cabs Combined Limited that it is proposing to revoke Authorisation A90498 granted to Black Cabs and Eastern Group Taxis Co-Operative Ltd.

Black Cabs and Eastern Group Taxis Co-Operative Ltd has changed its corporate structure and is now known as Black Cabs Combined Limited (Black Cabs). Black Cabs is a taxi network based in Melbourne's south east.

This submission discusses the topics raised by the Commission in its Notice Pursuant to Section 91B (the Notice) in turn as follows:

- A. Authorised Conduct
- B. Change in Circumstances
- C. Public Benefit
- D. Public Detriment

#### **A. Authorised Conduct**

In its covering letter dated 7 May 2004, the Commission broadly described the authorised conduct 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..."*

As illustrated by the Commission in point 2.2 of its Notice Pursuant to Section 91B, the authorised conduct falls into two categories:

1. The condition that taxi drivers accept approved taxi hire account systems
2. The condition that taxi drivers display the decals of those account systems

1. Acceptance of approved taxi hire systems:

The network provides a payment system to taxi drivers to promote certainty for consumers. The network does not force either consumers or taxi drivers to use the payment system it provides. The consumer chooses the payment method. The taxi driver chooses the payment system.

The distinction between the payment method and the payment system is a key point. A consumer chooses the payment method (ie whether they want to use AMEX, cash, debit card, VISA etc) and the taxi driver chooses the payment system. The payment system chosen by the taxi driver at the conclusion of any journey can be the payment system provided by the network, an electronic payment system provider by a party such as Taxinet or Taxilink, or a paper voucher provided by a factorer such as Aerial Taxis, Alex Taxi Brokers, Cabcorp or Emjay Motors.

The network represents to the consumer that taxis booked through the network will accept certain payment methods. The network requires taxi drivers to accept those certain payment methods. The network does not require the consumer or the driver to use the payment system provided by the network. The network provides the taxi driver with a payment system to ensure that he or she is equipped to accept the payment methods the network has represented to the consumer as being available. Whether the taxi driver uses the network's payment system or another payment system remains the choice of the taxi driver.

What the network does require is that a taxi driver accepts certain payment methods when chosen by a consumer. To make this requirement reasonable the network provides a payment system to the taxi drivers. Whether the taxi driver uses the payment system provided by the network or some other system – or even a payment method other than one approved by the network – remains the choice of the taxi driver.

## 2. Decals:

The network supplies two forms of decals that relate to the approved payment system. Both of these decals are designed to inform consumers of the applicable service fee and whether or not the service fee is subject to GST. Black Cabs' understanding is that the Commission has requested that these Decals be supplied to taxi operators. A copy of each decal is set out in Attachment 1.

The presence of the decals in no way reduces the ability of a taxi driver to process the payment method chosen by a consumer using a payment system other than the payment system provided by the network.

### **B. Change in circumstances**

The Notice Pursuant to Section 91B refers to two developments that the Commission regards as having had "some impact or likely impact upon the public benefit and public detriment resulting from the authorised conduct":

1. The increase in EFTPOS, debit card and credit card transactions in Australia (paragraphs 3.4 – 3.8 of the Notice)
2. The increasing number of businesses that provide payment systems for processing taxi fares (paragraphs 3.9 – 3.10 of the Notice)

#### 1. The increase in EFTPOS, debit card and credit card transactions

Many consumers in Australia choose to pay for goods and services using a credit or debit card when available. The network provides a payment system to ensure that taxi drivers can service a consumer's choice to pay via a credit or debit card. The fact that consumer preference for credit and debit cards is increasing indicates that the authorised conduct is of more public benefit now than when the use of credit and debit cards was limited.

In effect, the growth in EFTPOS, credit and debit card usage means that the public benefit of certainty and consistency in the availability of payment methods has not changed in nature. What the growth of such transactions has done is increase the size of the public benefit in the form of certainty.

It is of more benefit than ever that consumers know with certainty that a taxi booked through the network will accept their chosen payment method. The consumer and the network do not care which payment system the taxi driver chooses to use to process the payment method. What the network cares about is that it knows with certainty that the consumer will be able to pay using their chosen payment method. If the network was deprived of that knowledge service standards would decrease because:

- The network would need to discuss payment methods with the consumer, increasing phone delays and the time taken to process a booking
- The network would take longer to dispatch a taxi as taxi drivers and/or taxi vehicles would have to be interrogated as to whether they are capable of processing the consumer's chosen payment method
- Consumers would not be able to change their mind about their choice of payment method after booking the taxi without risking a confrontation with the taxi driver
- Taxi drivers would be able to avoid short jobs or inconvenient jobs (such as wheelchair passengers, elderly passengers with shopping and walking frames, disabled children, guide dogs etc) on the basis that they have elected not to accept – or have not arranged for the facilities to accept – the payment method chosen by a consumer.

The growth in consumer use of EFTPOS, credit cards and debit cards has encouraged a range of alternative payment system providers to enter the taxi market. Accordingly, it is difficult to see that the growth in EFTPOS results in public detriment in the form of reduced competition. Growth in EFTPOS has had the opposite effect. There are currently several businesses providing electronic payment systems and numerous businesses providing paper voucher based payment systems to taxi drivers. The growth in EFTPOS, credit cards and debit cards has increased competition in the market for the provision of payment systems rather than reduced it.

## 2. Increasing number of businesses providing payment systems

The emergence of alternative providers of payment systems is evidence that the authorised conduct does not result in public detriment in the form of a barrier to entry that reduces competition. The emergence of alternative providers is a continuing change in circumstances but not one that has a material negative effect on the public benefit or detriment that arises as a result of the authorised conduct.

### C. Public Benefit

The Commission appears to be investigating the view that the authorised conduct no longer results in public benefit on the basis that, authorised conduct aside, the "normal operation of business is likely to ensure that consumers are offered the opportunity to use their preferred method of payment" (paragraphs 3.13 – 3.18 of the Notice).

The two key flaws in that view are:

1. It fails to recognise that the authorised conduct results in public benefit beyond the scope of consumers being offered the opportunity to use their preferred method of payment
  2. It assumes that all taxi drivers are literate, responsive to consumer preferences, business minded, motivated and capable of negotiating and arranging the installation of a payment system.
- 
1. The public benefit extends beyond the scope of consumers' choice of payment method

The authorised conduct assists taxi networks that process taxi bookings on behalf of consumers to provide a timely and dependable service to the public. Revocation of the authorisation would result in a serious and lasting decrease in the timeliness and dependability of taxis booked through a network.

In the absence of the authorised conduct, the timeliness of the taxi service would suffer as a result of longer call waiting times, longer

booking times, and longer booking dispatch times. Longer call waiting and booking times would result from the need to discuss and settle on a preferred payment method with the consumer at the time of the booking. Longer dispatch times would result from the need to check the indicated payment method against a database of taxi vehicles and the taxi driver details to ensure that the taxi vehicle and taxi driver that the booking is dispatched to is willing and able to process the indicated payment method.

In the absence of the authorised conduct the dependability of the taxi service would suffer. Experience indicates beyond doubt that taxi drivers would avoid short jobs or inconvenient jobs (such as wheelchair passengers, elderly passengers with shopping and walking frames, disabled children, guide dogs etc) on the basis that they have elected not to accept – or have not arranged for the facilities to accept – the payment method chosen by a consumer.

The authorised conduct reduces the costs implicit in processing taxi bookings. Over the long term, this has the effect of reducing network fees charged to taxi drivers and in turn reduces taxi fares. The revocation of the authorisation would result in an increase in the cost of operating a network. The increased costs would ultimately be passed on to taxi drivers and consumers. The increase in costs would arise from the need to determine the consumer's intended payment method payment, maintain a database of the methods of payment available in each taxi and accepted by each individual taxi driver, and undertake the process of matching the consumer's proposed intended payment method with a suitable taxi vehicle and taxi driver.

The authorised conduct enables consumers making advance bookings to choose their payment method at a later time and consumers making asap bookings to change their choice of payment method during the period between making the booking and completing the journey. Revocation of the authorisation would result in consumers being asked to nominate a preferred payment method at the time of making a taxi booking. Revocation of the authorisation would also give rise to confrontations between consumers and taxi drivers when a consumer changed his or her mind - or made a mistake - as to the preferred payment method.

2. The assumption that the normal operation of business will ensure that taxi drivers put themselves in a position to maintain or increase the number of payment options available to their passengers

This assumption ignores the reality that many taxi drivers have difficulty speaking and reading English which reduces their ability to make informed decisions as to whether to install a payment system and if so which payment system to install. This is particularly the case for new taxi drivers that are yet to become established in the industry. The authorised conduct protects new entrants to the industry because the network ensures that new taxi drivers are trained in and have the ability to accept the payment methods supported by the network's payment system. This ensures that new taxi drivers are on a level playing field with experienced taxi drivers in terms of the types of bookings that can and will be offered to them based on a consumer's preferred method of payment.

The above assumption ignores the fact that many taxi drivers are transient or enter the industry on a part time or occasional basis. These drivers are less likely to spend time and effort investigating and availing themselves of a payment system that enables them to compete with established drivers on a level playing field. The payment system made available by the network as part of the authorised conduct assists drivers in this category.

The network undertakes the role of promoting and advertising taxi booking services. The network requires certainty as to the taxi services it is promoting. It is not appropriate for a network to rely on "the normal operation of business" when making representations to the public as to the methods of payment available when taxis are booked through the network. For the reasons outlined above, a network would be likely to mislead consumers if it relied on "the normal operation of business" to ensure that consumers are offered the opportunity to use their preferred method of payment at the completion of their journey.

The authorised conduct promotes competition in the credit card market. It does this by ensuring that small players such as Bankcard, JCB and Motorpass can offer their cardholders the same access to service in the taxi market as AMEX and VISA. The "normal operation of business" is not likely to motivate taxi drivers to ensure that they can process payment using these minor credit cards. The authorised



conduct ensures that Bankcard, JCB and Motorpass are supported by taxi drivers.

#### **D. Public Detriment**

The Commission makes two points with respect to the effect that changes in payment systems may have on public detriment:

1. Public detriment would be limited if taxi drivers are able to accept unapproved systems in addition to approved systems (paragraph 3.19 of the Notice)
2. The potential for greater competition in electronic payment systems is restricted by the authorised conduct (paragraphs 3.20 – 3.23 of the Notice)

1. Acceptance of unapproved systems in addition to approved systems

The consumer and the network do not care which payment system the taxi driver chooses to process the payment method chosen by the consumer. There is no restriction or disincentive for a taxi driver to use a payment system other than the one provided by the network. The use of alternative payment systems is widespread and continues to grow.

Evidence of taxi drivers' discretion in terms of their choice of payment system is set out in Attachment 2. That table indicates the spread of usage of the electronic payment system provided by the network. The table illustrates that some taxi drivers choose not to use the electronic payment system provided by the taxi network at all, whilst other taxi drivers use it extensively.

2. The potential for greater competition in electronic payment systems

The Commission has stated that "the emergence of new electronic payment systems ... demonstrates that there is scope for greater competition in this area" (paragraph 3.20 of the Notice). The Commission's concern appears to be whether the authorised conduct raises the barriers to entry for alternative electronic payment system

providers. The emergence of alternative providers, as identified by the Commission, flies in the face of an argument that there are barriers to entry in this market.

Numerous providers of payment systems have emerged since the commencement of the authorised conduct. The majority of alternative providers use paper voucher systems whilst some alternative providers, such as Taxilink and Taxinet, offer an electronic payment system. These alternative providers are well known throughout the industry. Evidence of this is provided in Attachment 3 which sets out advertisements for some alternative providers that regularly appear in the industry magazine 'Taxi Talk'.

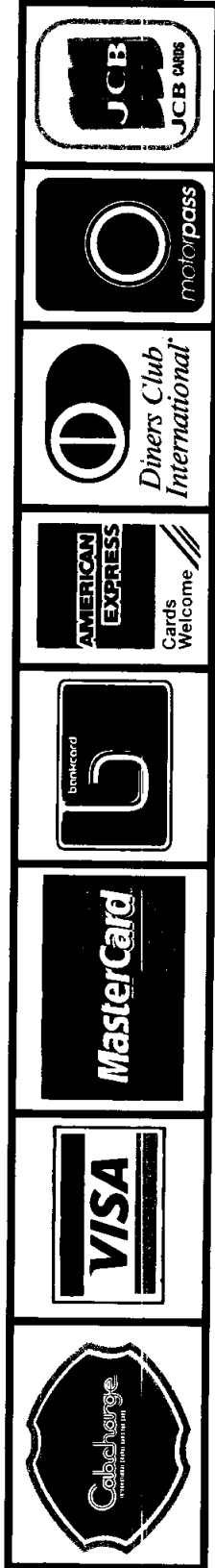
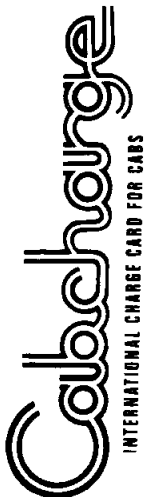
In addition to advertising and promotional activities, Schmidt Electronics – the provider of Taxinet – supplies 85% of the taxi meters in Melbourne. The dominance of Schmidt taxi meters in Melbourne gives Taxinet contact with the vast majority of Melbourne taxi operators for the purposes of promoting its payment system.

The use of alternative payment systems is widespread. The reason why most successful alternative payment systems are based on paper vouchers is not a result of the authorised conduct. The preference of taxi drivers towards paper voucher based systems is a result of the perception amongst drivers that electronic payment systems are a ready source of data for tax officials and immigration officials. Revoking the authorised conduct would be unlikely to result in taxi drivers seeking out an alternative payment system that is electronic rather than paper based. This is because paper voucher based payment systems are readily available from numerous providers, and are perceived as offering taxi drivers better protection from tax, welfare and immigration inquiries, and in most cases, faster access to cash.

# ATTACHMENT 1 – PAYMENT SYSTEM DECALS

## THESE MAJOR CREDIT CARDS ACCEPTED AND

Attract a 10% service fee on adjusted taxi fare.  
**Cabcharge cards are not subject to GST on the service fee.**  
 All other cards are subject to GST on the service fee.  
 Acceptance is subject to conditions.



### IMPORTANT MESSAGE TO PASSENGERS Service Fee, Transaction Type and GST Notice

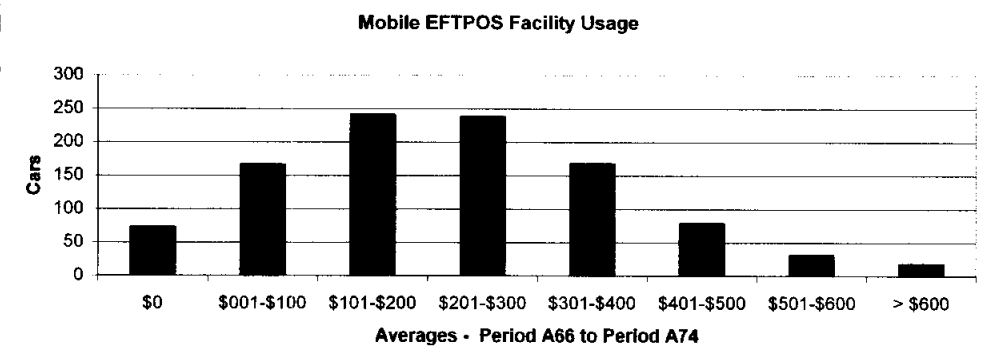
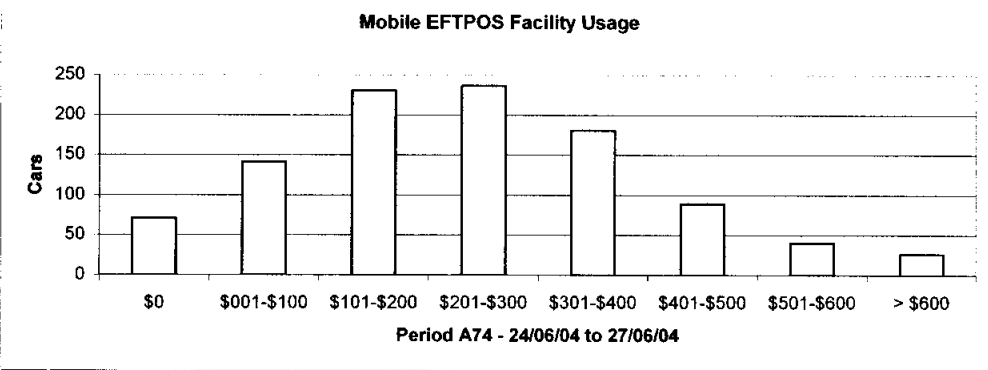
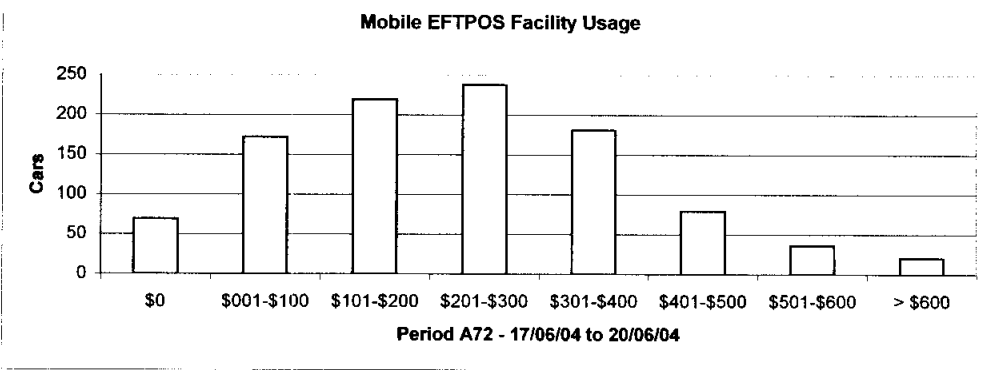
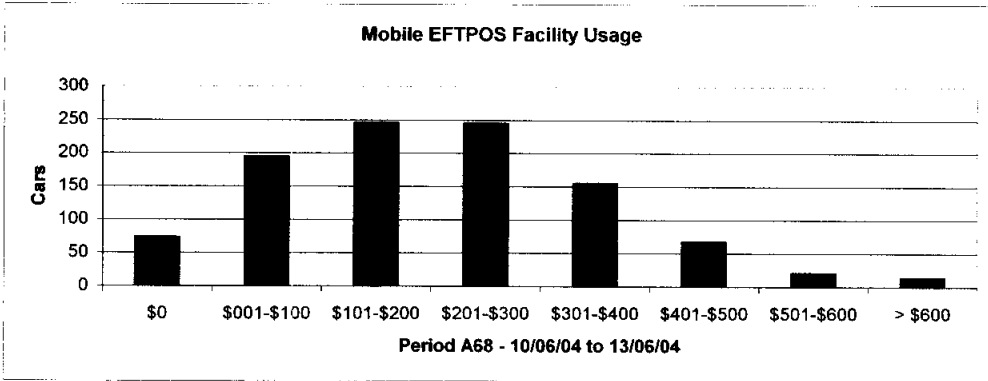
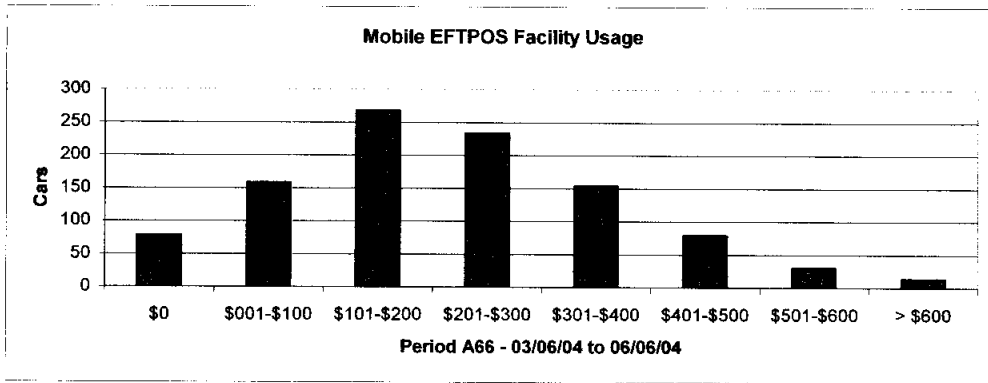
All approved cards are subject to a 10% service fee on adjusted taxi fare applicable on statements of account.  
 Some approved cards are subject to GST on the service fee in accordance with the following schedule:

Approved Cards	GST on Service Fee	Authorised Transaction Type
Cabcharge	Nil	Electronic/Manual
American Express	Yes	Electronic Only
Diners Club	Yes	Electronic Only
Mastercard	Yes	Electronic Only
Visa	Yes	Electronic Only
Bankcard	Yes	Electronic Only
Motorpass	Yes	Electronic Only
JCB	Yes	Electronic Only
<b>All authorised debit cards</b>	Yes	Electronic Only

**NOTE:** All valid approved cards are accepted by the Cabcharge terminal but where electronic transmission is not possible:

- **“Electronic/Manual”** - means Cabcharge **may accept** Cabcharge cards by imprinting a paper docket but **only** where electronic transmission is not possible.
- **“Electronic Only”** - means Cabcharge **cannot accept** these cards by imprinting a paper docket and an alternate payment method must be found.

**ATTACHMENT 2- ILLUSTRATION OF DISCRETIONARY USE OF ELECTRONIC PAYMENT SYSTEM**



ATTACHMENT 3 – ADVERTISEMENTS FOR ALTERNATIVE PAYMENT SYSTEMS

[admin@victaxi.com.au](mailto:admin@victaxi.com.au)

*\*Please Note - Dates are subject to change. For further information on the TITV Course in Taxicare - Taxi Operator, contact TITV on 9676 2635 or via email [admin@victaxi.com.au](mailto:admin@victaxi.com.au)*

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**NEW DEVELOPMENTS**

Developments such as the one below provide the potential of a new market of taxi customers. It's best to get to know the area and promote to potential customers that your services are readily available.

This is a new feature of *Taxi Talk* and is aimed at informing you of new initiatives and developments presently taking place in Victoria. This edition features Mirvac's Yarra's Edge at Docklands, Melbourne.

**Yarra's Edge**

Yarra's Edge is Docklands' north-facing riverfront jewel and the natural extension of the Southbank river promenade. This \$1.3 billion, 14.5-hectare development by Mirvac includes around 2000 apartments with views over the Yarra River to the city. Mirvac has released 756 apartments in five towers, which are now under construction. With

over 5000m<sup>2</sup> of integrated mixed-use development, the precinct integrates residential towers and public promenades with commercial spaces that include cafes, restaurants, offices, a three-level REKDEK health complex, 25-metre pool and a gymnasium. Berthing for water taxis and ferries will be provided later in the year, alongside a proposed 200-berth marina.

The residents of Yarra's Edge will enjoy the 500-metre, first stage of a planned one-kilometre landscaped riverfront public promenade that will include Marina Piazza and the Webb Bridge, a pedestrian and cycle link to Harbour Esplanade, Telstra Dome and the CBD. Four public parks, at key locations between Yarra Marina and Bolte Bridge, are also planned for the enjoyment of residents, commercial tenants and visitors. ❖

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