



Determination

Review of Taxi Authorisations granted to

De Luxe Red & Yellow Cabs Co-operative Trading Society Ltd
Legion Cabs (Trading) Co-operative Society Limited
RSL Ex-Servicemen's Cabs & Co-operative Members Ltd
St George Cabs Co-operative Ltd
Arrow Taxi Services Ltd
Regal Combined Taxis Pty Ltd
Geelong Radio Cabs Co-operative Ltd
North Suburban Taxis Ltd
Silver Top Taxi Service Ltd
Black Cabs and Eastern Group Taxis Co-operative Ltd
West Suburban Taxis Ltd
Suburban Taxi Service Pty Ltd

Date: 11 March 2005

Authorisation Nos:

A30112, A90441, A90448, A90531, A90449,
A90447, A90463, A90455, A40047, A90498,
A40071, A90472

File Nos:

C2004/428, C2004/470, C2004/429, C2004/160,
C2004/464, C2004/462, C2004/159, C2004/427,
C2004/161, C2004/157, C2004/156, C2004/158

Commissioners:

Samuel
Martin
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Executive Summary

On 25 February 1986, Authorisation A30112 was granted to De Luxe Red & Yellow Cabs Co-operative Trading Society Ltd (De Luxe) by the Trade Practices Commission (the TPC), predecessor to the Australian Competition and Consumer Commission (the ACCC).

Broadly, the authorised conduct relates to the provision of radio booking services to taxi operators and drivers of De Luxe on the condition they accept the taxi hiring account system and display the decals of that system. The taxi hiring account system is known as the Cabcharge Account System and covers the acceptance of most major cards and vouchers.

The TPC agreed at the time that consumers should not be misled as to the availability of credit card services. Thus, the TPC accepted that members of De Luxe should be required to offer the Cabcharge system and display the decals of that system.

Following the granting of authorisation to De Luxe, 11 other taxi companies/co-operatives in New South Wales, Victoria and South Australia were granted authorisation during the period 1986 to 1994 for similar conduct to De Luxe.

On 17 December 2003, the ACCC issued a Notice indicating that it was considering the revocation of the De Luxe authorisation on the basis that a material change of circumstances had occurred since authorisation was granted.

On 7 May 2004, the ACCC issued Notices indicating that it was considering the revocation of the 11 other taxi authorisations also on the basis that a material change of circumstances had occurred since authorisation was granted, except for the Notice issued to Suburban Taxi Service in South Australia, which was issued on the basis that revocation of authorisation had been applied for.

The ACCC received written and oral submissions from applicants and interested parties in relation to the authorisations the subject of this review and has examined their claims regarding the public benefits and detriments of continuing with the authorisations.

In assessing revocation the ACCC must apply the statutory test as set out in the *Trade Practices Act 1974*. In essence, the ACCC must not revoke the authorisations if the conduct results in such a benefit to the public that the conduct should be allowed to continue to take place.

The ACCC applies the 'future with-and-without test' established by the Australian Competition Tribunal to identify and measure the public benefit and detriment generated by the arrangements the subject of authorisation.

The ACCC has formed the view that the most likely counterfactual is that card and voucher payments are likely to continue to be widely accepted in taxis, and the display of decals is likely to continue.

The ACCC found that most of the public benefits claimed by the applicants could not be considered as public benefits flowing from the authorisations. However, the ACCC considers that there is a small public benefit flowing from the authorisations in the certainty that card and voucher payments will always be accepted in taxis.

Competition concerns regarding the processing of card transactions were identified by the review. However, considering that taxi operators and drivers are likely to continue to widely accept card payments without the authorisations, these concerns did not appear to be linked to the authorisations.

The ACCC found that the authorised conduct generates negligible public detriments, noting again that taxi operators and drivers for commercial reasons are likely to continue to accept non-cash payments.

On balance, the ACCC considers that the small public benefit generated by the authorised conduct in each of the authorisations to marginally outweigh the negligible public detriments.

Accordingly, the ACCC does not revoke authorisations A30112, A90441, A90448, A90531, A90449, A90447, A90463, A90455, A40047, A90498, A40071 and A90472.

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Glossary

ABC	ABC Radio Taxis Ltd
ACA	Australian Consumers' Association
ACCC	Australian Competition and Consumer Commission
Act	<i>Trade Practices Act 1974 (Cth)</i>
Applicants	Arrow, Black Cabs, CCN, Geelong Cabs, Legion Cabs, North Suburban, TCS (Vic), RSL Cabs, Silver Top, St George Cabs, Suburban, West Suburban
Arrow	Arrow Taxi Services Ltd
Assignee	A person to whom the right to operate a taxi-cab has been assigned
Assignor	A person who holds a licence to operate a taxi-cab
Black Cabs	Black Cabs and Eastern Group Taxis Co-operative Ltd (former name); Black Cabs Combined Ltd (current name)
CCN	Combined Communications Network Ltd
Cumberland Cabs	Cumberland Cabs Company Pty Ltd
Decals	Stickers displaying which payment methods will be accepted by the taxi and the related charges
De Luxe	De Luxe Red & Yellow Cabs Co-operative Trading Society Ltd (former name); Combined Communications Network Ltd (current name)
De Luxe authorisation	Authorisation (A30112) granted by the Trade Practices Commission to De Luxe Red & Yellow Cabs Co-operative Trading Society Ltd on 25 February 1986
Depot	Depot is the term used in Victoria to designate a network. It is a synonym for network in the context of this determination
Docket	A synonym for voucher in the context of this determination
Factorer	A business who provides a service to purchase vouchers and reimburse the taxi operator or driver immediately for a small charge
Geelong Cabs	Geelong Radio Cabs Co-operative Ltd
Green Vouchers	Cabcharge green emergency dockets to be used only in the event of an EFTPOS terminal malfunction
IPART	Independent Pricing and Regulatory Tribunal of New South Wales

ISO	International Standards Organisation
Legion Cabs	Legion Cabs (Trading) Co-operative Society Ltd
MOT	NSW Ministry of Transport
MPTP	Multi-Purpose Taxi Program. A program that subsidises the cost of travel in taxis by residents of Victoria who are eligible because of a severe and permanent disability
Network	An organisation with which taxi operators are affiliated with and which provide a range of services to taxi operators and drivers including a radio booking and dispatch service
North Suburban	North Suburban Taxis Ltd (former name); 1A Bell Holdings Ltd (current name)
Notice	A written document issued by the ACCC in accordance with the requirements as set out in the <i>Trade Practice Act 1974</i> considering the revocation of authorisation
NSWTC	New South Wales Taxi Council
NSWTDA	New South Wales Taxi Drivers' Association
NSWTIA	New South Wales Taxi Industry Association
Operator	A person or business responsible for day-to-day management of the taxis they operate. Operators often have a number of taxi drivers. They can own or lease a taxi licence
Regal	Regal Combined Taxis Pty Ltd (former name); Taxis Combined Services (Victoria) Pty Ltd (current name)
RSL Cabs	RSL Ex-Servicemen's Cabs & Co-operative Members Ltd
Silver Top	Silver Top Taxi Service Ltd
Smart Card	A card issued by the Victorian state government which can be used as payment for the subsidised cost of taxi fares for those persons eligible under the MPTP
Southern District Cabs	Southern District Radio Cabs Co-operative Ltd
St George Cabs	St George Cabs Co-operative Ltd
Subsidy schemes	MPTP and TTSS
Suburban	Suburban Taxi Service Pty Ltd (former name); Suburban Transport Services Pty Ltd (current name)

Taxi authorisations	All 12 taxi authorisations the subject of this review and covered by this determination (see Table 2.1)
TCS	Taxis Combined Services Pty Ltd
TCS (Vic)	Taxis Combined Services (Victoria) Pty Ltd
TDAV	Taxi Drivers' Association of Victoria
TPC	Trade Practices Commission
TTSS	Taxi Transport Subsidy Scheme. A scheme that subsidises the cost of travel in taxis by residents of New South Wales who are unable to use public transport because of a qualifying severe and permanent disability.
Voucher	Paper based vouchers used for non-cash payment of fares in taxis
VTD	Victorian Taxi Directorate
West Suburban	West Suburban Taxis Ltd

1. Introduction

- 1.1 The Australian Competition and Consumer Commission (the ACCC) is the independent Australian government agency responsible for administering the *Trade Practices Act 1974* (the Act). A key objective of the Act is to prevent anti-competitive conduct, thereby encouraging competition and efficiency in business, resulting in a greater choice for consumers in price, quality and service.
- 1.2 The Act, however, allows the ACCC to grant immunity from legal action for anti-competitive conduct in certain circumstances. One way in which parties may obtain immunity is to apply to the ACCC for what is known as an ‘authorisation’.
- 1.3 Broadly, the ACCC may ‘authorise’ businesses to engage in anti-competitive conduct where it is satisfied that the public benefit from the conduct outweighs any public detriment.
- 1.4 The ACCC can consider revoking an authorisation at any time after granting it if it appears to the ACCC that there has been a material change of circumstances.
- 1.5 A person to whom authorisation has been granted may also apply to the ACCC for revocation of that authorisation.
- 1.6 When considering the revocation of an authorisation, or after receiving an application for revocation, the ACCC issues a Notice in writing to any persons who appear to be interested. In the Notice the ACCC details its reasons for issuing the Notice and invites submissions in respect of the proposed revocation.
- 1.7 After considering any submissions received within a specified period, the ACCC may make a determination in writing either revoking the authorisation, or deciding not to revoke the authorisation.
- 1.8 This is a determination made by the ACCC not to revoke authorisations A30112, A90441, A90448, A90531, A90449, A90447, A90463, A90455, A40047, A90498, A40071 and A90472.

2. The Review

Background to the Authorisations

- 2.1 On 25 February 1986, the Trade Practices Commission (the TPC) granted authorisation to De Luxe Red & Yellow Cabs Co-operative Trading Society Ltd (De Luxe) in respect of the following conduct:

"The penalising 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

- 2.2 In its public benefit position at the time, De Luxe claimed that the system facilitates the public to use a common booking number and be assured of using a known card system.² De Luxe claimed that all taxis providing an accounting service should display the relevant decal or door sign of that service.³ The decal or door sign signals to the travelling public that the necessary stationery, equipment and established procedures are available in that taxi and enable them to use their particular accounting facility.⁴ De Luxe claimed that confusion would arise where a member of the co-operative provides a credit facility not offered by all other members of the co-operative.⁵ In such a case the taxi hirer may be misled into the belief that the particular credit facility is offered by all members of the Co-operative.⁶
- 2.3 The TPC agreed that consumers should not be misled as to the availability of credit card services.⁷ Thus the TPC accepted that there were public benefits in requiring members of De Luxe to display and offer systems such as Cabcharge which are organised by De Luxe itself.⁸
- 2.4 Following the granting of authorisation to De Luxe, 11 other companies/co-operatives in the taxi industry applied for authorisation during the period 1986 to 1994 inclusive. Each of the applicants sought authorisation for identical or similar conduct to De Luxe.
- 2.5 In the TPC's consideration of each subsequent application, the TPC referred to its assessment of the De Luxe authorisation and reached the same

¹ TPC determination A30112, 25 February 1986, p 36.

² Ibid, p 30.

³ De Luxe Application for Authorisation, 28 February 1985, para 1.

⁴ Ibid

⁵ TPC determination A30112, 25 February 1986, p 18.

⁶ Ibid

⁷ Ibid, p 30.

⁸ Ibid

conclusion. Accordingly, the TPC granted authorisation to each application on the same grounds as the De Luxe authorisation.

- 2.6 In total the TPC granted 12 taxi authorisations in perpetuity for identical or similar conduct to De Luxe across New South Wales, Victoria and South Australia as listed below in Table 2.1.

Table 2.1: Taxi authorisations granted

Company/Co-operative	Authorisation	Date	State
De Luxe Red & Yellow Cabs Co-operative Trading Society Ltd (now Combined Communications Network Ltd)	A30112	25 February 1986	New South Wales
Legion Cabs (Trading) Co-operative Society Limited	A90441	20 October 1986	New South Wales
RSL Ex-Servicemen's Cabs & Co-operative Members Ltd	A90448	31 August 1987	New South Wales
St George Cabs Co-operative Ltd	A90531	30 November 1992	New South Wales
Arrow Taxi Services Ltd	A90449	28 November 1986	Victoria
Regal Combined Taxis Pty Ltd (now Taxis Combined Services (Victoria) Pty Ltd)	A90447	23 December 1986	Victoria
Geelong Radio Cabs Co-operative Ltd	A90463	6 October 1987	Victoria
North Suburban Taxis Ltd (now 1A Bell Holdings Ltd)	A90455	19 February 1987	Victoria
Silver Top Taxi Service Ltd	A40047	6 February 1987	Victoria
Black Cabs and Eastern Group Taxis Co-operative Ltd (now Black Cabs Combined Ltd)	A90498	1 May 1990	Victoria
West Suburban Taxis Ltd	A40071	27 April 1994	Victoria
Suburban Taxi Service Pty Ltd (now Suburban Transport Services Pty Ltd)	A90472	28 January 1988	South Australia

The Applicants to the Taxi Authorisations

- 2.7 Combined Communications Network Ltd (CCN) is Australia's largest automated taxi booking and dispatch service provider and is based in Sydney. CCN is a subsidiary company of Cabcharge Australia Ltd and is the parent company of Taxis Combined Services Pty Ltd (TCS).
- 2.8 Legion Cabs (Trading) Co-operative Society Limited (Legion Cabs) is a network operating its own call centre and dispatch service throughout the Sydney metropolitan area. It also provides a booking and dispatch service for St George Cabs and RSL Cabs.
- 2.9 RSL Ex-Servicemen's Cabs & Co-operative Members Ltd (RSL Cabs) operates throughout the Sydney metropolitan area and belongs to the Legion Cabs Bureau for the provision of booking and dispatch services.
- 2.10 St George Cabs Co-operative Ltd (St George Cabs) is a network operating throughout the Sydney metropolitan area. It has outsourced its radio booking and dispatch service to Legion Cabs under a Booking Services Agreement.⁹
- 2.11 Arrow Taxi Services Ltd (Arrow) is based in West Melbourne and has outsourced the booking process to Black Cabs under a Bureau Services Agreement.
- 2.12 Regal Combined Taxis Pty Ltd, now known as Taxis Combined Services (Victoria) Pty Ltd (TCS (Vic)), does not operate as a taxi network and is no longer involved in any taxi operations.
- 2.13 Geelong Radio Cabs Co-operative Ltd (Geelong Cabs) is a network with its own booking and dispatch service operating out of Geelong, Victoria.
- 2.14 North Suburban Taxis Ltd (now 1A Bell Holdings Ltd), no longer operates taxi services. The taxi depot business of North Suburban Taxis Ltd was acquired by Black Cabs and now operates through its subsidiary company North Suburban Taxis (Vic) Pty Ltd (North Suburban), which continues to retain its separate fleet identity.
- 2.15 Silver Top Taxi Service Ltd (Silver Top) is a network owned by the Gange Corporation operating out of metropolitan Sydney. In addition to the communication services provided to its operators, Silver Top also provides communication services to other taxi fleets in Bendigo and Sunbury.
- 2.16 Black Cabs and Eastern Group Taxis Co-operative Ltd, now known as Black Cabs Combined Ltd (Black Cabs), is a network based in Melbourne's South East and is a subsidiary company of Cabcharge.

⁹ The Booking Services Agreement requires Legion Cabs to answer telephone calls received on St George Cabs telephone numbers, in the name of St George Cabs. It also requires Legion Cabs to dispatch St George Cabs bookings only to St George taxis in the first instance. This arrangement is similar, if not the same, to other Booking or Bureau Services Agreements with other networks.

- 2.17 West Suburban Taxis Ltd (West Suburban) is a network which operates its own dispatch service out of Footscray, Victoria.
- 2.18 Suburban Taxi Service Pty Ltd, now known as Suburban Transport Services Pty Ltd (Suburban), is a network which provides booking and dispatch services operating out of Adelaide.

ACCC Notices

- 2.19 On 17 December 2003, the ACCC issued a Notice advising that it was considering revoking the De Luxe authorisation as it appeared that a material change of circumstances had occurred since authorisation was granted.
- 2.20 The ACCC noted the almost universal acceptance of credit cards and high rates of recognition and usage amongst consumers. On this basis the ACCC considered it likely that such cards will be accepted by most taxi drivers and that the normal operation of business would ensure that consumers are offered the opportunity to use their preferred method of payment. This appeared to the ACCC to affect the public benefit recognised by the TPC as flowing from the requirement that certain payment systems be offered to consumers.¹⁰
- 2.21 On 7 May 2004, the ACCC issued Notices advising that it was considering revoking 11 other taxi authorisations with similar or identical conduct to De Luxe. All Notices were issued on the basis of a material change of circumstances, except for Suburban.
- 2.22 Suburban advised the ACCC on 21 April 2004 that due to considerable changes in the taxi industry, Authorisation A90472 had become unnecessary and was no longer required. Accordingly, a Notice indicating that revocation of authorisation had been applied for was issued.
- 2.23 All 12 authorisations are the subject of this determination. The ACCC considered it appropriate to review all 12 authorisations together as many of the facts and contentions put forward in relation to the public benefits and detriments of the conduct were broader in scope than any single authorisation in isolation.

Extent of Authorisation

- 2.24 As already noted, the conduct the subject of the De Luxe authorisation is described as:

"The penalising 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

¹⁰ De Luxe Notice, 17 December 2003.

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."¹¹

- 2.25 The 11 other taxi authorisations have in effect the same or similar conduct. While the meaning of the term 'taxi hiring account system' may have been clear at the time the authorisations were granted, there has been some contention over its definition, primarily whether it covers EFTPOS.¹²
- 2.26 At a meeting on 17 February 2004 with Cabcharge, the ACCC sought clarification as to the conduct for which CCN considered it needed immunity and invited CCN to provide a submission on the conduct it was engaging in with regard to the authorisation.¹³
- 2.27 CCN submitted that:

[T]he conduct permitted by virtue of the Authorisation is a requirement that taxi operators and drivers utilising the CCN radio booking network accept those taxi hiring account systems, and display their decals, which have been approved for use by CCN, or risk suspension from CCN's radio booking network.

As the terms of the Authorisation decision make clear, the requirement can be characterised as third line forcing, being the provision of radio booking services by CCN on condition that taxi operators accept third party taxi hiring account systems which have been approved by CCN. Conversely, the Authorisation would permit a refusal by CCN to supply radio booking services to taxi operators for the reason that a taxi operator or driver had not accepted, or agreed to accept, a third party taxi hiring account system approved by CCN.¹⁴

- 2.28 Cabcharge also submitted that:

Authorisation A30112 does not relate to any ability of Deluxe (CCN) to require taxi operators belonging to its Network to install any type of EFTPOS terminal. The Authorisation simply allows CCN to require its operators to accept payment by an approved payment system which has been approved by CCN.

The Authorisation does not give CCN (or any other Taxi Networks pursuant to the other related Authorisations) the right to require its Taxi Operators to install Cabcharge EFTPOS terminals to accept these cards. Under the terms of the Authorisation Taxi Operators can choose

¹¹ TPC determination A30112, 25 February 1986, p 36.

¹² The ACCC notes that the terminology used in the Black Cabs and 1A Bell Holdings authorisation is 'hiring accounts' and in the Silver Top authorisation it is 'taxi hiring services and credit facilities'.

¹³ Cabcharge, record of meeting, 17 February 2004.

¹⁴ CCN submission, 5 March 2004, p 1.

whether they wish to install an EFTPOS terminal at all and if they do choose to install a terminal they can have the choice of any of the EFTPOS terminals currently on the market."¹⁵

2.29 CCN submitted that under the terms of the authorisation, it has approved the Cabcharge Account System which means that taxi operators and drivers who are members of the TCS network must accept payment of fares by the following methods:¹⁶

- Cabcharge Card and Blue Pre-encoded docketts
- American Express
- Visacard
- MasterCard
- Bankcard
- Diners Club International
- JCB
- International Third Party Cards and
- Transport Subsidy Scheme Docketts and chip cards as required by state and territory governments.

2.30 The ACCC notes that at the time of the De Luxe authorisation (1986), EFTPOS would not have been a consideration given there were no EFTPOS terminals in taxis. Furthermore, EFTPOS terminals did not exist in taxi-cabs at the time of granting subsequent taxi authorisations.

2.31 The ACCC accepts the view put forward by CCN and other applicants that the terms of the authorisations are limited to the acceptance of cards and vouchers only. On this basis, the 'taxi hiring account system' means cards and vouchers only. Despite the wording, the authorisations do not cover EFTPOS. Consequently, the terms of the authorisations do not extend to any requirement that, EFTPOS terminals be accepted by taxi operators and/or drivers as a condition of obtaining radio booking services.

¹⁵ Cabcharge submission, 30 April 2004, pp 1-2.

¹⁶ CCN submission, 5 March 2004, pp 4-5. The ACCC notes that the applicants have the discretion to approve which cards and vouchers will be the subject of the conduct. However, the cards and vouchers accepted under the Cabcharge Account System appear to be the same between the applicants.

3. Chronology

3.1 The following is a summary of the chronology of events as they relate to the consideration of revocation of taxi authorisations.

Table 3.1: Chronology

Date	Description
17 December 2003	Notice of consideration of revoking the De Luxe authorisation issued
17 February 2004	Meeting with Cabcharge/CCN
7 May 2004	Notices of consideration of revoking 11 other related taxi authorisations issued, including advice of the ACCC's proposal to consider the proposed revocation of taxi authorisations concurrently
29 June 2004	Meetings with the NSW Ministry of Transport, Ms Michelle Strathmore, Mr Michael Jools and Manly Cabs
16-17 August 2004	Meetings with Vermont Autogas, Victorian Taxi Directorate, Consumer Affairs Victoria, Bay City Cabs and Geelong Radio Cabs
10 August 2004	Request from CCN that Consumer Affairs Victoria and the Department of Transport and Urban Planning South Australia be provided with an opportunity to reconsider their position in light of CCN's submission
25 August 2004	ACCC letter to Consumer Affairs Victoria and Department of Transport and Urban Planning South Australia, following CCN's request of 10 August 2004
8 October 2004	Final deadline for oral and written submissions
11 March 2005	ACCC determination issued

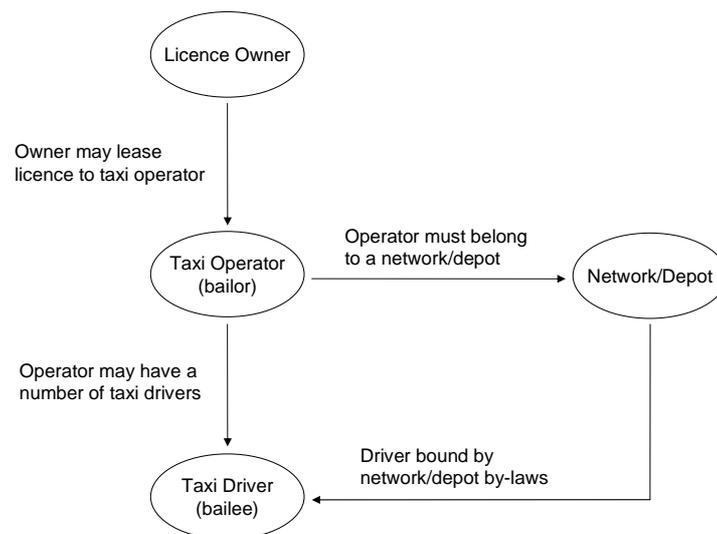
4. Overview of Taxi Industry

Structure of the Taxi Industry

Taxi Owners, Operators and Drivers

- 4.1 Taxis provide a service to passengers alongside other forms of public transport such as buses, trains and hire cars.
- 4.2 The taxi industry comprises in part of licence owners, taxi operators and taxi drivers. Taxi licences are controlled by state governments and are limited in their availability through restrictions on the number issued.
- 4.3 Vertical integration can exist at all levels, in that a licence owner can be an operator as well as a driver. However, most licence owners are investors who lease out their licence to an operator. Figure 4.1 illustrates the relationship between licence owners, operators and drivers.

Figure 4.1: Structure of the taxi industry



- 4.4 The scale of a taxi operator's business varies. Some operate only one taxi while others are larger in scale and may operate up to 60 taxis or more. In providing a taxi service to the public, the costs incurred include vehicle lease payments (if not owned), plate lease costs (if not owned), network fees, fuel, insurance, registration, repairs and maintenance and car cleaning to name a few.
- 4.5 Taxi drivers work in shifts and have the option of paying a fixed pay-in amount to the operator for the use of the taxi and return the vehicle refuelled

and pay for the necessary cleaning of the vehicle, beyond which all fare revenue is retained by the driver, or retain a 50 per cent share of fare revenue.

- 4.6 As at August 2004, in NSW there are 6,117 taxi-cabs. Of these 4,853 (79 per cent) are metropolitan, 971 (16 per cent) country, 159 (3 per cent) Newcastle/Lake Macquarie and 134 (2 per cent) Wollongong. Around 65 per cent of the 6,117 licences are leased out. There are 5,284 taxi operators and 18,967 drivers in Sydney/Newcastle/Wollongong and 3,765 drivers in country NSW.¹⁷
- 4.7 As at September 2004, there are 4,240 taxi-cab licences on issue in Victoria. Of these 3,377 (80 per cent) are in metropolitan areas with the remaining 863 (20 per cent) spread across outer-suburban, urban and country areas. There are 3,112 metropolitan taxi-cabs licences on issue that can be assigned¹⁸, 66 per cent of these are leased out and the remaining 34 per cent of licence holders operate their own taxis.¹⁹

Networks

- 4.8 Networks provide a range of services to taxi operators and drivers. An important element of the service provided by the network is the radio booking and dispatch service.
- 4.9 Some networks have outsourced their booking and dispatch services to other networks or companies under a bureau services agreement. These arrangements allow the taxi fleet to continue to maintain its separate identity. Calls are answered in the name of the fleet and work continues to be dispatched to taxis affiliated with the network. In situations where bookings are not accepted in a certain time, those bookings can be offloaded to nominated fleets of a different identity.
- 4.10 There are 8 taxi networks in Sydney. Of these, 4 provide booking services (CCN, Premier, Legion Cabs and Manly Cabs) with the remainder having outsourced their booking services to other networks. As shown in Table 4.1, Taxis Combined Services, a subsidiary company of CCN, is by far the largest network in NSW.

¹⁷ NSW MOT submission, 25 August 2004, p 4.

¹⁸ There are 265 non-assignable metropolitan taxi-cab licences on issue.

¹⁹ VTD submission, 7 September 2004, p 3.

Table 4.1: NSW Taxi Networks (Metropolitan Area) as at August 2004

Network	Affiliated Taxi Nos.	Bureau/booking service
Taxis Combined Services (owned by Cabcharge and a subsidiary company of CCN)	2,625	CCN
Premier	882	Premier
Legion	510	Legion
St George	220	Legion
Manly Cabs	172	Manly Cabs
RSL	171	Legion
ABC (owned by Cabcharge)	116	CCN
South Western Cabs	104	CCN
Total	4,800	

Note: Estimates only.

Source: NSW Ministry of Transport submission, 25 August 2004.

4.11 There are 6 taxi depots (networks) in Melbourne. Of these, 3 provide booking services (Black Cabs, Silver Top and West Suburban) with the remainder having outsourced their booking services to other networks. There are also two networks in the Geelong area, Geelong Cabs and Bay City Cabs. Silver Top and Black Cabs are by far the largest networks in Melbourne as shown in Table 4.2.

Table 4.2: Victorian Taxi Depots (Metropolitan Area) as at September 2004

Network	Affiliated Taxi Nos.	Bureau/booking service
Silver Top	1,654	Silver Top
Black Cabs	1,052	Black Cabs
North Suburban	308	Black Cabs
West Suburban	172	West Suburban
Arrow	97	Black Cabs
Embassy	94	Black Cabs
Total	3,377	

Source: VTD submission, 7 September 2004.

Hiring of a Taxi

- 4.12 The hiring of a taxi by a passenger is separated into phone bookings, hiring from a rank, or hailing a taxi from the kerbside (street).
- 4.13 The ACCC notes that in general there is a trend for a greater proportion of rank and hail hirings to occur within the metropolitan area. While in non-metropolitan areas where the same concentration of population does not exist, there is a greater reliance on phone bookings.
- 4.14 IPART noted in a recent report that in the NSW metropolitan area, hirings from ranks constitute around 26 per cent, taxis hailed in the street around 30 per cent and phone bookings 44 per cent of total hirings.²⁰
- 4.15 In Victoria it is generally accepted that the distribution of taxi trips in metropolitan Melbourne averages out at approximately 50 per cent booked through the taxi networks and the remaining 50 per cent a mix of street hire, either at ranks or by hailing a taxi, or by direct contact with the driver via a mobile phone or pager system. The method of engaging a taxi can vary considerably within different sectors and by time of day. The proportion of daytime rank and hail hirings could be as high as 80 per cent, while the method of hiring a taxi in suburbs around the metropolitan fringe could be higher than 80 per cent by telephone.²¹

Regulation of the Taxi Industry

New South Wales

- 4.16 The taxi industry in NSW has a long history of regulation dating back to the pre-1930s. The Ministry of Transport has primary responsibility for regulating the taxi industry in NSW.
- 4.17 Taxi operators are required by legislation to be affiliated with a network and the network is required to provide radio booking services and meet minimum service level standards, along with other factors as specified by legislation. An operator who carries on a taxi-cab service within NSW would be guilty of an offence if not affiliated with a taxi-cab network.²²
- 4.18 The taxi-cab network provides a facility for the delivery of taxi-cab services involving taxi-cab operators, including a taxi-cab booking service.²³ A taxi-cab network must have arrangements in place for the affiliation of accredited taxi-cab operators with the taxi-cab network.²⁴

²⁰ IPART, Review of fares for taxis, private buses and private ferries in NSW - an issues paper, April 2003, p 7.

²¹ VTD submission, 7 September 2004.

²² Section 30(1) of the *Passenger Transport Act 1990*.

²³ Section 29A of the *Passenger Transport Act 1990*.

²⁴ Section 34E of the *Passenger Transport Act 1990*.

- 4.19 The taxi-cab network may provide the booking service, or contract with a third party to provide this service for the network. But at all times the taxi-cab network is responsible for the radio service that is provided.²⁵
- 4.20 A taxi-cab operator must ensure that, at all times while a taxi-cab is being used for the purposes of the operator's taxi-cab service, arrangements are in force with a taxi-cab network for the provision of a taxi-cab booking service.²⁶
- 4.21 Exemptions to this requirement are allowed²⁷, but in practice this usually only occurs in rural areas where a radio booking service is not available because of the location, or the number of taxis could sustain the cost of technology.²⁸

Victoria

- 4.22 The Victorian taxi industry is regulated by the state government through the Victorian Taxi Directorate (VTD), a Branch within the Department of Infrastructure. The VTD is responsible for implementing the state government's policy and regulation of the taxi industry.
- 4.23 In Victoria all taxi-cabs are required, as a condition of licence, to be operated through a depot approved by the VTD for the receipt and dispatch of taxi bookings. For example, in the case of metropolitan taxi-cabs, the licence condition is that the licensed vehicle must at all times be operated under radio control from a depot approved by the VTD for the receipt and dispatch of bookings for taxis licensed to operate within the Metropolitan Taxi-cab Zone and must be fitted with fully operational Global Positioning System (GPS) equipment linked to that depot.²⁹
- 4.24 The VTD states that taxi operators are required to operate their cabs from depots authorised by the Victorian government because:³⁰
- The depots provide a centralised booking and dispatch service for customers. More than 50 per cent of taxi services are pre-booked through this system.
 - This system provides a safer work environment for drivers. The location and movement of each cab can be monitored by the depot while it is in service using a GPS.

²⁵ NSW MOT submission, 25 August 2004.

²⁶ Section 31G of the *Passenger Transport Act 1990*.

²⁷ *Ibid.*

²⁸ NSW MOT submission, 25 August 2004.

²⁹ VTD submission, 7 September 2004, p 1.

³⁰ VTD website at www.taxi.vic.gov.au

- 4.25 Each taxi operator enters into an agreement with an authorised depot and pays a fee for service. The terms and conditions of depot membership are not regulated by government. Drivers also have individual agreements with their depot for access to depot dispatch systems and services. These agreements are not regulated by government.³¹

Payment Methods

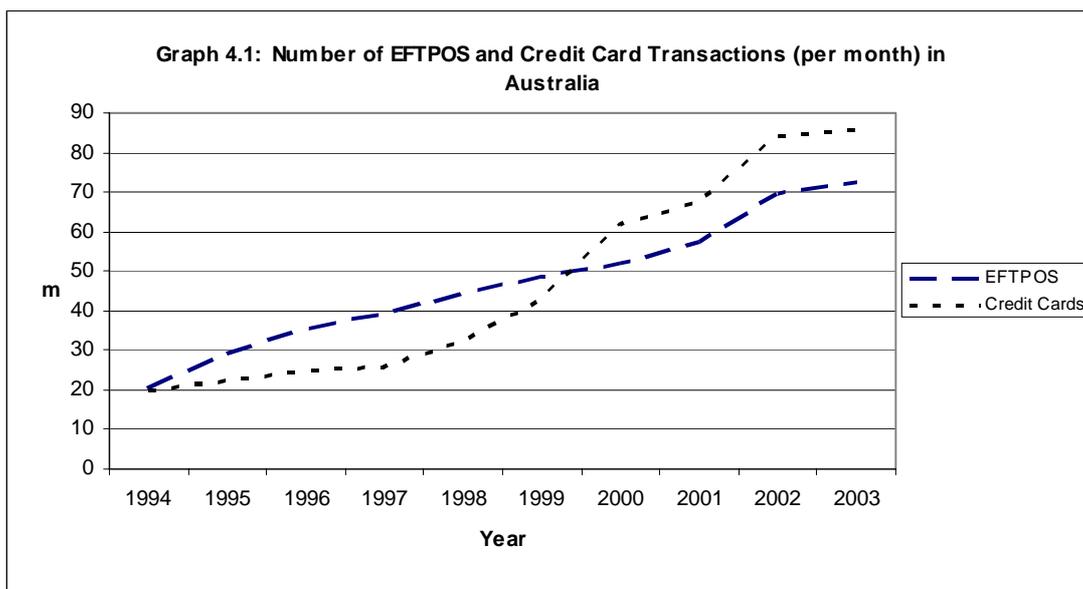
- 4.26 Payment methods available to passengers to pay for the hiring of a taxi have changed significantly over time. In 1986 when authorisation was granted to De Luxe, the offering of credit in taxis was somewhat limited and not as widely accepted as is the case nowadays.
- 4.27 In its submission CCN indicated that up until the 1970s, most taxi networks throughout Australia operated their own credit ledger because up until the introduction of credit systems in taxi-cabs, cash was the only other form of payment available. A passenger who wished to use credit as a method of payment in a taxi would first need to open an account with their local taxi company. When making a booking the driver would be advised that the passenger was an account holder and at the end of the trip the passenger would sign a docket for the amount of the fare. The passenger would later receive an itemised bill at the end of the month for settlement.³²
- 4.28 The Cabcharge service was launched in 1976 by Taxis Combined Services in Sydney in conjunction with Yellow Cabs of Australia operating in Melbourne, Brisbane and Adelaide. The service offered the customers of either company the ability to use a charge card or pre-encoded docket in any of these cities.³³
- 4.29 Electronic funds transfer at point of sale (EFTPOS) was introduced into Australia in 1984. Usage of EFTPOS was initially moderate but was spurred by acceptance at petrol retailers. In 1991, several major retailers joined the network, after which fairly rapid transaction growth ensued, as shown in Graph 4.1.³⁴

³¹ VTD website at www.taxi.vic.gov.au

³² CCN submission, 5 March 2004.

³³ Record of De Luxe pre-decision conference, 24 January 1986, p 19.

³⁴ Discussion Paper, Options for EFTPOS Interchange Fee Reform, EFTPOS Industry Working Group, July 2002, p 2.



source: Australian Payments Clearing Association, Cards Transactions - Monthly Volume, viewed 1 September 2004, available at http://www.apca.com.au/Public/apca01_live.nsf/WebPageDisplay/Stats_CardVolume

- 4.30 EFTPOS started to be introduced in taxis in the early 1990's.³⁵ The first EFTPOS terminal to be installed and become operational in a taxi-cab in Australia was in November 1994.³⁶ Most taxis in Australia now have EFTPOS facilities available to passengers providing them with the opportunity to pay for the hire of a taxi electronically.
- 4.31 According to Cabcharge, 90 per cent of taxi-cabs in Australia have a Cabcharge EFTPOS terminal.³⁷ Other providers of EFTPOS systems for taxis include Schmidt and Akyman. The ACCC is also aware of a new provider in the market Cabepay.
- 4.32 Cabcharge states that taxi companies play an important role in the promotion and support of Cabcharge. In consideration for taxi companies' support in making Cabcharge facilities available, Cabcharge makes payments to certain taxi companies based on the value of transactions they process through Cabcharge. Many of the other major taxi companies are shareholders in Cabcharge.³⁸
- 4.33 Cabcharge has in place merchant agreements with many taxi companies. The standard merchant agreement licences the taxi company to use the Cabcharge account facility, incorporating dockets and approved payment cards, under which Cabcharge provides the taxi company with Electronic Payment Terminals (mobile EFTPOS terminals) and the Cabcharge payment system.

³⁵ CCN submission, 5 March 2004, p 5.

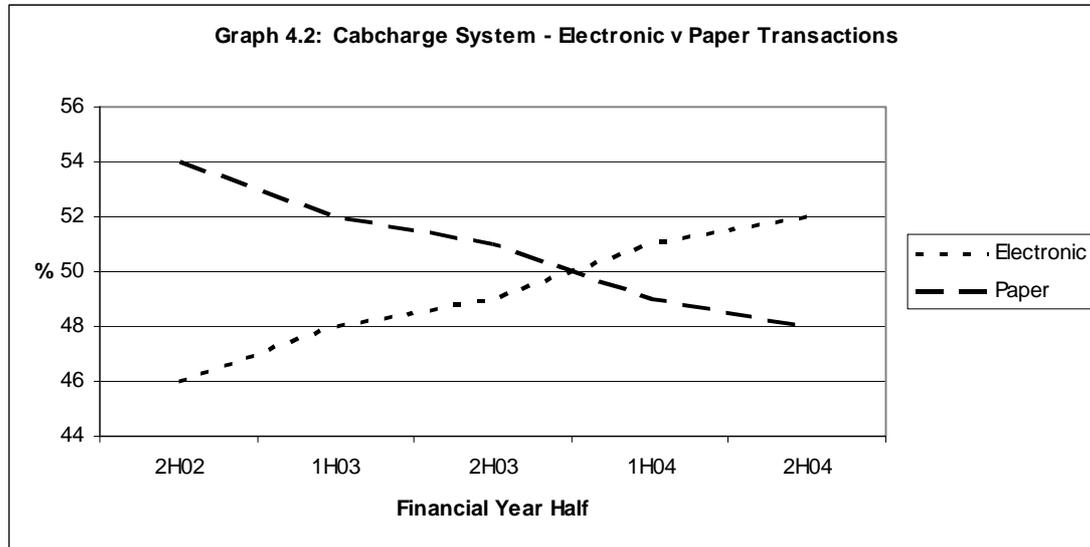
³⁶ Manly Cabs, record of meeting, 29 June 2004.

³⁷ Cabcharge website at www.cabcharge.com.au

³⁸ Ibid.

The merchant agreements detail, amongst other things, the basis of payments from Cabcharge to the taxi companies.³⁹

4.34 Graph 4.2 illustrates the rapid increase of electronic transactions over manual transactions in recent years, as reported by Cabcharge.



source: Cabcharge Australia Limited, Financial Results Presentation, Half Year Ended 31 December 2003 and Year Ended 30 June 2004.

4.35 From the passenger's perspective, an electronic transaction takes place in a taxi-cab just like it would with any other business or retailer. The card is swiped through the terminal and the pin-pad allows the passenger to choose the relevant account and enter the pin number if required. Once the transaction has been accepted a print-out is provided recording details of the transaction.⁴⁰

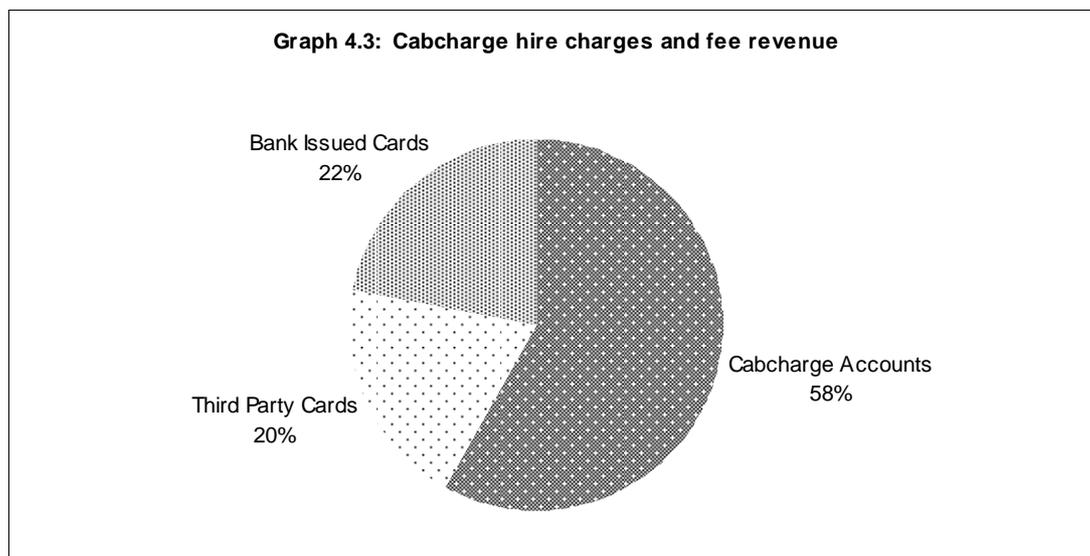
4.36 Manual transactions still take place in the taxi industry. The passenger's card can be transacted using an imprinter, commonly referred to as 'klik klak' machines. The one imprinter can be used for all cards. The driver uses the imprinter to copy details from the card onto a paper docket. The passenger signs the paper docket and retains a copy for their records with the original being retained by the driver.

4.37 A driver ordinarily will accumulate dockets and at the end of the day lodge them with the network for processing or take them to a docket station where they are bought by a factorer. A factorer is an agent who buys dockets from drivers in return for cash and retains a percentage of the processing fee.

³⁹ Cabcharge website at www.cabcharge.com.au

⁴⁰ If it is a credit transaction the passenger's signature is required for verification purposes.

- 4.38 Cabcharge applies a 10 per cent processing fee to all accepted cards and vouchers in the Cabcharge Account System, except those vouchers used as payment pursuant to the Transport Subsidy Scheme.⁴¹
- 4.39 Graph 4.3 illustrates Cabcharge hire charges and fee revenue for the year ended 30 June 2004. Of the hire charges and fee revenue, 58 per cent was from Cabcharge docketts and cards followed by 22 per cent bank issued cards and 20 per cent third party cards.



source: Cabcharge Annual Report, 2004, p 3.

Subsidised Taxi Travel

- 4.40 Both NSW and Victoria have introduced subsidy schemes to assist persons with disabilities to access taxi services.

Taxi Transport Subsidy Scheme (New South Wales)

- 4.41 The Taxi Transport Subsidy Scheme (TTSS) is a NSW government scheme introduced in 1981 to assist residents of NSW who are unable to use public transport because of a qualifying severe and permanent disability. The scheme subsidises the travel cost of TTSS participants allowing them to travel by taxis at half fare. The maximum subsidy that can be claimed is \$30 per trip.⁴²
- 4.42 The TTSS is currently docket based and a trial of an electronic card system is being undertaken with Cabcharge as the processing services provider.⁴³

⁴¹ Cabcharge submission, 1 July 2004, para 2.

⁴² NSW MOT submission, 25 August 2004.

⁴³ Ibid.

Multi Purpose Taxi Program (Victoria)

- 4.43 The Multi Purpose Taxi Program (MPTP) is a Victorian government program available to assist people with severe and permanent disabilities to access affordable taxi services in Victoria. The Program subsidises the metered fare by 50 per cent up to \$25 per trip. The program is coordinated by the VTD.⁴⁴
- 4.44 The MPTP has undergone reform which has seen the introduction of 'smart cards' to replace the use of paper subsidy vouchers. It is now a metropolitan taxi-cab licence condition that any taxi-cab must be fitted with an EFTPOS terminal approved by the VTD for the purpose of electronically processing MPTP transactions. The only terminal currently approved by the VTD for this purpose is the Cabcharge terminal, however the VTD's contract with Cabcharge is non-exclusive.⁴⁵
- 4.45 Every fare which is subject to a subsidy under the MPTP must be processed electronically unless there is a failure or malfunction of the electronic transaction processing system, including the terminal, which prevents the acceptance of the transaction, or where the MPTP member suffers a disability that prevents that member from being responsible for their membership card.⁴⁶
- 4.46 Disabled passengers who are eligible are issued with a smart card which they must produce when paying for the fare. Paper subsidy vouchers are now limited in use.⁴⁷

⁴⁴ VTD website at www.taxi.vic.gov.au

⁴⁵ VTD record of meeting, 16 August 2004.

⁴⁶ Ibid.

⁴⁷ Ibid

5. Submissions

- 5.1 Submissions were received from applicants and interested parties in two stages, the first stage being those submissions received in relation to the De Luxe Notice issued on 17 December 2003, the second stage being those submissions received in relation to the Notices issued on 7 May 2004. A summary of these submissions (oral and written) is at Annexure A.
- 5.2 The applicants and interested parties were subsequently advised that the ACCC was considering the proposed revocation of authorisations concurrently.

Applicants' Submissions

- 5.3 The following applicants provided a submission.
- Arrow Taxi Services
 - Black Cabs Combined
 - Combined Communications Network
 - Geelong Radio Cabs
 - RSL Ex-Servicemen's Cabs & Co-operative Members
 - Silver Top Taxi Service
 - Suburban Transport Services
 - St George Cabs Co-operative
 - Legion Cabs (Trading) Co-operative Society
 - West Suburban Taxis
- 5.4 Each of the applicants listed above, except for Suburban, opposed revocation of authorisation. Suburban submitted that they no longer require authorisation. Cabcharge also advised the ACCC that TCS (Vic) do not operate as a taxi network and is no longer involved in any taxi operations.

Interested Parties' Submissions

- 5.5 Submissions were received from the following interested parties.
- Anonymous
 - Australian Consumers' Association
 - Australian Taxi Industry Association

- Cabcharge Australia
- Canberra Cabs
- Canberra Taxi Proprietor's Association
- Cumberland Cabs
- David's Taxi Service
- Department of Justice - Consumer Affairs Victoria
- Diners Club
- Manly Warringah Cabs (Trading) Co-operative Society
- Mr Michael Jools
- Ms Michelle Strathmore
- North Suburban Taxis
- NSW Office of Fair Trading
- NSW Taxi Council
- NSW Taxi Industry Association
- Office of Public Transport - South Australia
- Southern District Radio Cabs Co-operative
- Taxi Drivers' Association of Victoria
- Vermont Autogas

ACCC meetings with applicants and interested parties

5.6 The ACCC also held discussions with the following parties.

- Bay City Cabs
- Cabcharge/CCN
- Department of Infrastructure - Victorian Taxi Directorate
- Department of Justice - Consumer Affairs Victoria
- Geelong Radio Cabs
- Manly Cabs

- Mr Michael Jools
- Ms Michelle Strathmore
- NSW Ministry of Transport
- Vermont Autogas

6. Statutory Basis for Assessment

The Relevant Test

- 6.1 The ACCC's assessment of the conduct is in accordance with the statutory provisions as set out in the Act. These are detailed below.
- 6.2 Applications A30112, A90441, A90448, A90531, A90449, A90447, A90463, A90455, A40047, A90498, A40071 and A90472 were lodged under subsection 88(8) of the Act for an authorisation under that subsection to engage in conduct that constitutes or may constitute the practice of exclusive dealing (third line forcing).
- 6.3 Authorisations A30112, A90441, A90448, A90531, A90449, A90447, A90463, A90455, A40047, A90498, A40071 and A90472 were granted under subsection 90(8)(a)(iii) of the Act.
- 6.4 Under subsection 91B(1) of the Act, a person to whom an authorisation was granted, or another person on behalf of such a person, may apply to the ACCC for a revocation of authorisation.
- 6.5 Under subsection 91B(2) of the Act, on receipt of such an application the ACCC must by notice in writing given to any persons who appear to the ACCC to be interested:
- 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 within a period specified by the ACCC.
- 6.6 Under subsection 91B(3) of the Act, if at any time after granting an authorisation it appears to the ACCC that there has been a material change of circumstances since the authorisation was granted, the ACCC may by notice in writing given to any persons who appear to be interested:
- inform those persons 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 within a period specified by the ACCC.
- 6.7 Under subsection 91B(5) of the Act, if an objection to the revocation is included in any submission that was invited under subsection 91B(2) or 91B(3) within the period specified by the ACCC under that subsection, the ACCC must not make a determination revoking the authorisation unless it is satisfied that it would, if the authorisation had not already been granted, be prevented under subsection 90(6), (7), (8) or (9) from making a

determination granting the authorisation in respect of which the revocation is sought.

- 6.8 Objections to revocation were included in a number of submissions.
- 6.9 Under subsection 90(8)(a)(iii) of the Act, the ACCC shall not make a determination granting an authorisation under subsection 88(8) in respect of proposed conduct to which subsection 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.

7. Market Definition

- 7.1 The first step in assessing the effect on competition and the public detriments of the conduct the subject of authorisation is to consider the relevant markets in which that conduct occurs.
- 7.2 Market definition is a tool for competition analysis, but it is not always a certain process, sometimes the outer edges of the market can blur. It is not necessary to define the market precisely when the outcome of the competition analysis would not be affected.
- 7.3 Section 4E of the Trade Practices Act states that a market for goods or services includes other goods or services that are substitutable for, or otherwise competitive with, the first goods or services. The courts have established that both demand and supply side substitution must be taken into account in determining the relevant market.⁴⁸
- 7.4 In establishing the market boundaries, the ACCC seeks to include all those sources of closely substitutable products, to which consumers would turn in the event that the firm attempted to exercise market power. The ACCC looks at both the demand and supply side of the market and defines up to four different dimensions including:
- product market;
 - geographic market;
 - functional market; and
 - temporal market.

Previously stated views on market definition

- 7.5 In the De Luxe authorisation (A30112) the TPC defined the market as follows.

Product

- 7.6 The TPC indicated that the relevant product market included the provision of credit account facilities for taxi-cab co-operatives and users and did not regard the relevant product market as extending to the market for the provision of credit account facilities generally. Nor did it regard the market as extending to the provision of credit account facilities to the transport industry or even to the public road transport industry. In the opinion of the TPC, the substantial commercial effect of the conduct was confined to the

⁴⁸ *Re Queensland Co-op Milling Association Ltd & Defiance Holdings Ltd* (1976) ATPR 40-012.

taxi-cab industry alone and this confinement came in part from the way in which the industry was organised into co-operatives.

Geography

- 7.7 The TPC indicated that the geographical market for the provision of credit account facilities to taxi-cab co-operatives and users did not necessarily coincide with the boundaries of the market for the provision of taxi-cab services due to the confining effect of cost factors for use of taxi-cabs over large distances, and licensing and registration procedures which sometimes limit taxi-cabs to specific urban areas.
- 7.8 The TPC indicated that the provision of credit account services was not confined by the same factors as taxi-cab services to single state or urban area markets. The TPC noted that Cabcharge was providing credit account services Australia wide as were other organisations. However, the TPC was of the view it could regard New South Wales as the relevant geographical market.

Functional

- 7.9 The TPC indicated that the market was functionally defined by reference to the provision of credit facilities to co-operatives, directly to owners and/or drivers of taxi-cabs and to taxi-cab hirers.

Other Relevant Markets

- 7.10 The TPC noted it was appropriate to consider another relevant market in weighing the anti-competitive detriment of the proposed restrictions, that market being the provision of radio services by co-operatives to taxi-cab owners and drivers.
- 7.11 The TPC concluded that the relevant market was the market in New South Wales for the provision of credit account facilities to taxi-cab co-operative members and users.

Other Relevant Authorisations

- 7.12 In the TPC's determination of Silver Top Taxi Service (A90496) in relation to the prohibition of installation and use of car telephones within the Silver Top network, the TPC stated:

"The relevant market is a market for taxi services in Melbourne...[t]here is little substitution with other forms of transport such as trams, buses and trains, because of the set routes taken by these forms of transport."⁴⁹

⁴⁹ *Re Silver Top Taxi Service* (1990) ATPR (Com) ¶50-103

7.13 In the TPC's determination of Deluxe Red & Yellow Cabs Co-operative Trading Society Limited and Taxis Combined Services Pty Ltd (A30152) in respect of conduct to limit the size of mobile telephone customer-sharing arrangements to no more than two cabs, the TPC stated:⁵⁰

"[T]he relevant market is the provision of taxi services in Sydney, with emphasis on personal taxi services."

"Taxis operate as a public transport medium in the Sydney metropolitan area competing with trains, buses, private hire cars, and to a small extent ferries. Their differentiation in service provision is their ability to range over the whole of the metropolitan area without regulation of routes. In this respect they compare most closely to hire car services."

"The service providers in the taxi industry are the taxi-cab owners and the drivers of those cabs...[w]hile a taxi organisation provides a telephone booking service for an initial contact with customers...it is the driver who is the final distributor of the service."

7.14 Following on from this, in the TPC's determination on Silver Top (A40073) in relation to the proposed acquisition of assets of North Suburban Taxis Ltd, the TPC stated the market to be:⁵¹

"(a) the market for the provision of booking and related services (taxi depot services) to taxi operators in the Melbourne metropolitan area;

(b) the market for the provision by taxi operators of taxi services to the public in the Melbourne metropolitan area."

7.15 In this determination the TPC stated:⁵²

"Taxi depots provide services to both taxi operators and the public. They maintain a radio network to act as a booking agent for taxi operators, and provide telephone booking services to the public on behalf of the taxi operators aligned with that depot."

"While the TPC accepts that, for a number of customers who require a taxi in a particular location, the hiring of taxis from ranks or on the street may be an alternative to pre-booking taxis, it is important not to overstate the degree to which they are viable substitutes...[i]t is readily apparent that in many situations street or rank hire will be a very inferior, or no real substitute to pre-booking a taxi."

⁵⁰ *Re De Luxe Red & Yellow Cabs Co-operative Trading Society Limited and Taxis Combined Services Pty Ltd* (1994) ATPR (Com) ¶50-143

⁵¹ *Re Silver Top Taxi Service Limited* (1995) ATPR (Com) ¶50-209

⁵² *Ibid.*

7.16 The TPC also noted that:⁵³

"While these other means of public transport [trains, buses, private hire cars and ferries] are alternative forms of transport to taxis they are not likely to be close substitutes in a competitive sense. To rephrase the QCMA test...if any of these other forms of public transport were to increase their prices, or if taxi fares increased, would there be much of a reaction from the other forms of transport?"

Submissions made by applicants on market definition

7.17 Most of the applicants considered the market definition as outlined in the De Luxe authorisation to be still appropriate.

7.18 Legion Cabs submitted that in terms of market definition the reference to co-operatives alone is not accurate, as there is now a listed public company and a substantial private company in addition to a co-operative providing network services in New South Wales.⁵⁴

7.19 Cabcharge submitted that the decision of the TPC in Silver Top Taxi Service⁵⁵ suggest that within the taxi industry the services provided by Taxi Networks are separated into two interrelated markets:

- the provision of radio booking services to taxi operators; and
- the provision of pre-booked taxi services to the public.⁵⁶

7.20 Cabcharge suggested that if the words "including the facilitation of credit account and charge facilities for taxi services" were added to the words "the provisions of pre-booked taxi services to the public" it would represent a more succinct definition.

ACCC's view on market definition

7.21 The ACCC considers the following markets to be relevant for the purpose of examining the impact of the authorised conduct.

Product Markets

Provision of taxi services to the public

7.22 Taxis provide a service to passengers alongside other forms of public transport such as buses, trains, ferries and hire cars. However, while these other means of public transport are alternative forms of transport to taxis, they are not likely to be close substitutes in a competitive sense. It could be

⁵³ *Re Silver Top Taxi Service Limited* (1995) ATPR (Com) ¶50-209

⁵⁴ Legion submission, 1 July 2004.

⁵⁵ *Re Silver Top Taxi Service Limited* (1995) ATPR (Com) ¶50-209

⁵⁶ Cabcharge submission, 1 July 2004, para 6.

contended that hire cars are a closer form of substitution to taxis over other modes of transport, although hire cars are somewhat constrained by regulation which restricts to a certain degree their ability to compete directly with taxis.

- 7.23 On the supply side, the regulation of the various forms of public transport by state governments means that any increase in taxi fares, or alternatively in the price of other forms of public transport, is unlikely to lead to rapid adjustments in the supply of the other forms of transport.
- 7.24 On the demand side, consumer preferences and needs determine in part the level of substitution with other forms of transport. These preferences may include the desire for door-to-door service, convenience of availability of service at the required time and the ability to travel to the destination by the passenger's preferred route. In addition, the fare charged to the passenger for taxi travel compared to other forms of public transport would likely to be a consideration when choosing the method of travel. A price adjustment would appear to be unlikely to narrow the gap difference in price to such an extent that substitution would become a viable proposition.
- 7.25 Considering the magnitude of the price difference between taxis and other forms of transport, consumers would generally choose a taxi over other forms of public transport because of their needs or preference for the specific services taxis provide such as door-to-door services, the availability of services at any time 24 hours a day and the rapidity of the services. It should be noted that business customers would generally use taxis because of their need for immediate availability, timeliness, flexibility and door-to-door services. Public transport options based on set routes and fixed times may not conveniently meet the need of these customers.
- 7.26 It should also be noted that a significant proportion of taxi users are business customers who do not pay themselves for their fares and are therefore less price sensitive.
- 7.27 Overall, the ACCC does not consider that other forms of public transport based on set routes and fixed times are likely to be suitable substitutes for taxi services. However, hire cars could be a closer form of substitution over other public transport options, although there are regulatory constraints which limit their ability to compete directly with taxis.
- 7.28 On the statistics before the ACCC, it is clear that the proportion of hirings from rank and hail compared to phone bookings is higher in metropolitan areas compared to non-metropolitan areas.
- 7.29 The ACCC considers that pre-bookings could be substitutes for the hiring of taxis from rank or hail, but this is largely confined to metropolitan areas where there are more ranks and the opportunity to hail a taxi is more prevalent. Even where this is the case, the immediate availability of a taxi from rank or hail cannot be assured and therefore could only be considered to be a limited substitute for phone bookings.

- 7.30 This is even more so in regional and country areas where the opportunity to hire a taxi from a rank or hail is not as prevalent. Some of the desirable elements of taxi services such as immediate availability and door-to-door services are not readily met by rank and hail. The statistics indicate that in non-metropolitan areas there is far greater reliance on phone bookings. As noted in *Silver Top*⁵⁷ it is readily apparent that in many situations street or rank hire will be a very inferior, or no real substitute to pre-booking a taxi.
- 7.31 On the supply side, however, there appears to be substitution between the various forms of taxi hiring which can be supplied all taxi operators and drivers.
- 7.32 The ACCC is of the view that for the purpose of this determination, the provision of taxi services to the public is a relevant area to consider.

Provision of radio booking services to taxi operators and drivers

- 7.33 While taxi operators and drivers are the suppliers of services to the public when engaged in the carriage of passengers, they are also purchasers of services provided by networks, in particular radio booking services.
- 7.34 Radio booking services supplied by the networks enable operators and drivers to supply taxi services to consumers wishing to pre-book a taxi.
- 7.35 The ACCC notes that radio booking services may be supplied to operators and drivers directly by the network they are affiliated with or by another network through bureau arrangements.

Provision of non-cash payment methods for use in taxis

- 7.36 In the De Luxe determination the TPC expressed the view that the relevant product market included the market for the provision of credit account facilities to taxi-cab co-operatives and users.
- 7.37 The ACCC notes that the taxi hiring account system now includes a range of card and voucher payment methods and is not just limited to credit. In this regard the ACCC is of the view that *credit account facilities* would be more accurately reflected by the provision of *non-cash payment methods* to more accurately reflect credit and debit transactions. For the purpose of this determination non-cash payment methods include card (credit, charge, debit, smart cards) and voucher payments in taxis.
- 7.38 While the provision of non-cash payment methods could be thought of more broadly as applying for use in the entire economy, the ACCC consideration has been limited to non-cash payment methods for use in the taxi industry. The ACCC notes that certain non-cash payment methods such as Cabcharge cards and vouchers are limited in their present use to the taxi industry only.

⁵⁷ *Re Silver Top Taxi Service Limited* (1995) ATPR (Com) ¶150-209

Processing of non-cash payments of taxi fares

- 7.39 The ACCC has accepted, as discussed in section 2 of this determination, that the processing of non-cash transactions is not covered by the taxi authorisations the subject of this review. However, this does not mean that the processing of non-cash transactions is irrelevant to the review. Indeed, conduct for which authorisation is sought or whose authorisation is under review may occur in one particular market but have flow-on effects in a number of other markets. When assessing an application for authorisation or a proposed revocation of authorisation, the ACCC must examine these flow-on effects, beyond the market(s) in which the authorised conduct occurs.
- 7.40 When payments are made by non-cash methods, the payments by their nature must be processed before they can be paid to operators and drivers.⁵⁸ The ACCC notes that a number of interested parties have expressed concern that the authorisations impact on the processing of card transactions (see section 10). Considering these views and the necessary link between non-cash transactions and the processing of those transactions, the ACCC is of the view that the processing of non-cash payments is a relevant consideration to this determination. The ACCC notes again the specific arrangements in the taxi industry where non-cash transactions are processed by providers involved in that industry only, the main one being Cabcharge. Therefore, the ACCC has limited its consideration of the processing of non-cash payments to the taxi industry.

Conclusion

- 7.41 For the purpose of this determination, the ACCC will examine the particular effects of the authorised conduct in the following areas:
- Provision of taxi services to the public.
 - Provision of radio booking services to taxi operators and drivers.
 - Provision of non-cash payment methods for use in taxis.
 - Processing of non-cash payments of taxi fares.

Geographic Markets

Provision of taxi services to the public

- 7.42 The networks to whom authorisation was granted are operating out of New South Wales, Victoria and South Australia. The provision of taxi services is regulated at the state level in each of these states. Therefore, the market for taxi services to the public is likely to be at least state based. However, it is

⁵⁸ The ACCC understands that Cabcharge vouchers are very close to cash, for example, they are used by taxi drivers to pay for fuel at some service stations.

not necessary to define the market precisely when the outcome of the competition analysis would not be affected.

- 7.43 State regulation places certain restrictions on where taxi operators are able to operate their taxi-cabs. In addition, taxi operators and drivers tend to acquire specialised knowledge of a distinct area, close to where the operators are located, and generally operate within that area. Therefore, the markets may be better defined as being narrower than state level, to specific areas within each state.

Provision of radio booking services to taxi operators and drivers

- 7.44 Taxi networks are also regulated to some extent by each of the states of NSW, Victoria and South Australia. The ACCC considers that the geographical dimension of the market for the provision of radio booking services by networks to taxi operators and drivers to be at least the state level.
- 7.45 Networks established in certain areas develop their own distinct geographical area of operation. While the communication services provided by a network may not necessarily need to be provided from a set location, ie technology may allow communication services to be provided from a remote site, the geographic 'footprint' served by the network confines it a certain area.
- 7.46 A further constraint is that operators generally choose to affiliate themselves with a network which is in reasonable distance from where they reside or expect to work. They have knowledge of the area in which they reside which benefits them in their work.
- 7.47 The ACCC considers that the most appropriate market definition is narrower than state level. Considering the areas of operation of the networks the subject of this review, the relevant markets are the metropolitan areas in each of the states considered and the Geelong area in Victoria.

Provision of non-cash payment methods for use in taxis

- 7.48 The ACCC notes that major card issuers operate nationally. Cabcharge also provides cards and vouchers to clients nationally. The ACCC considers therefore that the provision of non-cash payment methods in taxis operates in a national context.

Processing of non-cash payments of taxi fares

- 7.49 The ACCC notes that the processing of EFTPOS transactions does not need to be localised as transactions can be transmitted electronically on a national basis. However, some of the states regulate the processing of certain

transactions.⁵⁹ In addition, the processing of manual transactions is sometimes localised involving drivers cashing docket in-person with factorers at specific locations within the metropolitan area of the state.

7.50 Overall, the ACCC is of the view that for the purpose of this determination it is appropriate consider the processing of non-cash payments of taxi fares at the state level (New South Wales, Victoria and South Australia).

⁵⁹ For example TTSS and MPTP transactions regulated by the NSW and Victorian state government respectively.

8. The Counterfactual

- 8.1 The ACCC's evaluation is in accordance with the statutory test outlined in section 6 of this determination. In doing so, the ACCC applies the 'future with-and-without test' established by the Australian Competition Tribunal to identify and measure the public benefit and detriment generated by the arrangements the subject of authorisation.⁶⁰
- 8.2 This involves identifying a counterfactual; that is, making a prediction in this case as to what will happen if the authorisations are revoked. The ACCC makes a judgement as to what, on the information and evidence before it, is the most likely situation without the authorisations, as in some cases there may be some debate about which of a number of different alternative scenarios is the most likely outcome if the authorisations are revoked.

Applicants' Views

- 8.3 CCN submitted that revocation of the authorisation will mean that consumers no longer have the right to use their preferred method of payment in taxis.⁶¹ CCN submitted that consumers rely on the fact that when they pre-book or hail a taxi the driver of the vehicle will accept their preferred method of payment.⁶²
- 8.4 CCN claimed as erroneous in the ACCC's Notice, the assertion that high rates of recognition afforded to some credit card systems such as Mastercard and Visa means that operators are likely to accept such cards in order to meet customer demand.⁶³
- 8.5 CCN submitted that there are many taxi drivers who would no doubt continue to accept payment of fares by all cards currently accepted, however, there are a number of taxi drivers who would not accept payment by any means other than cash if that became their right because of the paper trail created by transactions.⁶⁴
- 8.6 CCN submitted that if the authorisation was revoked taxi drivers could pick and choose the taxi hiring account system.⁶⁵
- 8.7 Legion Cabs indicated that without authorisation it will not be able to ensure that each and every taxi-cab belonging to its network accepts the approved cards.⁶⁶

⁶⁰ See, for example, *Re Australasian Performing Rights Association* (1999) ATPR 41-701.

⁶¹ CCN submission, 5 March 2004.

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ Legion submission, 1 July 2004.

- 8.8 Geelong Cabs submitted that cards and vouchers would continue to be accepted without authorisation, but if an operator or driver refused to accept these then there would be little the network could do about it. Geelong Cabs was not aware of any operator or driver refusing to accept a card or voucher, unless the card or voucher was fraudulent. Geelong Cabs indicated that drivers would accept any method of payment as long as they know the fare will be paid.⁶⁷
- 8.9 Suburban submitted that drivers accept cards and vouchers on their own accord to meet the demand created by passengers. Suburban submitted that when authorisation was granted to it in 1988 there was considerable reluctance from drivers to accept anything other than cash for the payment of fares. Since then the industry has changed considerably. Debit and credit cards are now widely accepted and are an integral part of business.⁶⁸

Interested parties' views

- 8.10 North Suburban submitted that it is reasonable to suggest that, over time and in the absence of authorised conduct, many taxi drivers are likely to ensure they have the facilities to accept credit and debit cards that have high rates of recognition and usage. However, North Suburban submitted that it is unrealistic to assume that drivers will take additional steps to ensure the full range of payment methods currently available would be maintained. North Suburban submitted that drivers when presented with a choice prefer to accept cash and some drivers are likely to influence the passenger to pay cash, even if it involves driving the passenger to an ATM.⁶⁹
- 8.11 Southern District Cabs submitted that without authorisation it is highly unlikely that natural market forces and the general growth of non-cash payments in the community will be sufficient to achieve the outcomes that the public deserve.⁷⁰
- 8.12 Manly Cabs submitted that without authorisation many drivers will simply consider involvement with card facilities too difficult and cite concerns about infrastructure or record keeping. However, Manly Cabs was also of the view that it would be uneconomical for a taxi driver to refuse a fare.⁷¹
- 8.13 Bay City Cabs and Canberra Cabs did not submit views on what would be the most likely situation without authorisation, but reported on their experience in operating without authorisation. Bay City Cabs was of the view that the method of payment makes little difference to taxi drivers as long as they know they will be paid. Bay City Cabs commented that nowadays more and more people pay by card. In Bay City Cabs' experience,

⁶⁷ Geelong Cabs, record of meeting, 17 August 2004.

⁶⁸ Suburban record of discussion, 11 August 2004.

⁶⁹ North Suburban submission, 1 July 2004, pp 4-5.

⁷⁰ Southern District Cabs submission, 2 June 2004.

⁷¹ Manly Cabs submission, 10 June 2004, p 2.

drivers like card payments because with a long trip they know the passenger will be able to pay, whereas with cash there is a risk the passenger will not have enough money to pay for the fare at the end of the journey. Bay City Cabs could only recall one situation over five years ago where a driver refused to accept a card payment.⁷²

- 8.14 Canberra Cabs indicated that it would be commercially unviable for drivers not to accept cards and vouchers. In Canberra Cabs' experience the vast majority of drivers accept card and voucher payments as it is in the drivers' commercial interest to do so. Canberra Cabs could not see a need for authorisation.⁷³
- 8.15 The New South Wales Taxi Council submitted that without authorisation a customer will not have the knowledge or be able to be given the knowledge that when a taxi arrives at least one payment option will be available other than cash.⁷⁴
- 8.16 Ms Michelle Strathmore, an operator and driver in NSW, indicated that with the introduction of EFTPOS the use of major credit and charge cards in taxis has increased significantly. Ms Strathmore submitted that day time business relies heavily (around 80 per cent) on payments by cards and vouchers by professionals travelling to meet work commitments, while night time business tends more towards cash payments by people attending social events. Ms Strathmore submitted that without authorisation she would continue to accept all major credit and charge cards, including Cabcharge cards and vouchers, as she would not want to impede her business by not accepting these. Ms Strathmore was also of the view that a very small minority of drivers may insist on cash payment.⁷⁵
- 8.17 Vermont Autogas submitted that without authorisation drivers would still continue to accept cards and vouchers and continue to display the decals of the payment methods accepted. Vermont Autogas indicated that non-cash transactions are currently around 50 per cent and are growing. Vermont Autogas submitted that drivers want the non-cash business because they do not want to lose these passengers to other taxis. Vermont Autogas commented that it is the passenger who decides how the fare is going to be paid, not the driver.⁷⁶
- 8.18 Mr Michael Jools submitted that without authorisation taxi operators and drivers would continue to accept cards from passengers.⁷⁷

⁷² Bay City Cabs submission, record of meeting, 17 August 2004.

⁷³ Canberra Cabs, record of meeting, 1 July 2004.

⁷⁴ NSWTC submission, 20 February 2004.

⁷⁵ Ms Michelle Strathmore, record of meeting, 29 June 2004.

⁷⁶ Vermont Autogas, record of meeting, 16 August 2004.

⁷⁷ Mr Michael Jools, record of meeting, 29 June 2004.

- 8.19 An anonymous taxi driver and operator submitted that without authorisation they had no intentions of rejecting Cabcharge account work as this would only serve to impede their business.⁷⁸
- 8.20 The VTD expressed the view that the arguments opposing revocation as they relate to non-acceptance of cards and vouchers did not appear to be strong.⁷⁹
- 8.21 The Office of Public Transport, Department of Transport and Urban Planning, South Australia, submitted that the authorisations were no longer necessary to encourage drivers to accept credit and other card or voucher payments.
- 8.22 Consumer Affairs Victoria (CAV) submitted that without authorisation the acceptance of cards and vouchers and the display of decals of those payment methods would continue. CAV could not see drivers refusing to accept non-cash payments because they are such a large part of drivers' income. CAV believed that demand for non-cash payments was a market which would not be ignored by operators and drivers. CAV submitted that the increasing demand for electronic payment systems places pressure on the taxi industry to accept various popular payment options to ensure their business remains viable and appropriate for the contemporary consumer. CAV was of the view that decals will continue to be displayed in the absence of authorisation. CAV noted that other businesses these days accept most cards and display the acceptance of those cards.

ACCC assessment

- 8.23 The ACCC has difficulty accepting the proposition that without authorisation cards and vouchers would not be accepted and that operators would no longer display the decals of the payment methods on offer.
- 8.24 The ACCC notes that there are numerous networks across the states and territories who do not force drivers to accept payment methods and do not have authorisation. The circumstances of those networks provide an insight into the likely situation without authorisation.
- 8.25 Canberra Cabs is an example of a network without authorisation. The ACCC notes that while Canberra Cabs does not force operators or drivers to accept card and voucher payments, in practice taxi operators and drivers accept such payment methods as it is in their commercial interest to do so.
- 8.26 Two networks in Victoria, Geelong Cabs and Bay City Cabs, could also be considered a useful example, as they are similar in their operations and both operate out of Geelong in close proximity to each other. However, Geelong Cabs has authorisation while Bay City Cabs does not.

⁷⁸ Anonymous submission, 14 May 2004.

⁷⁹ VTD, record of meeting, 16 August 2004.

- 8.27 The experience of Bay City Cabs is not different from that of Geelong Cabs. Despite the network not having authorisation, Bay City Cabs' drivers and operators accept cards and vouchers, and are quite indifferent to the method of payment so long as they are paid. Bay City Cabs could only recall one situation of a driver refusing to accept a card payment over five years ago.⁸⁰
- 8.28 Of the applicants, the ACCC notes that Suburban, a network operating out of Adelaide in South Australia, no longer requires authorisation due to the considerable changes in the taxi industry since authorisation was granted. In particular, Suburban submitted that drivers accept cards and vouchers on their own accord to meet consumer demand and therefore authorisation is no longer required.⁸¹
- 8.29 The ACCC notes that in addition to Suburban, there are two other networks which operate in metropolitan Adelaide, Adelaide Independent Taxis and Yellow Corporation. While these networks operate without authorisation, drivers and operators affiliated to these networks accept card and voucher payments.⁸²
- 8.30 The ACCC is of the view that the market circumstances in existence at the time of the authorisations are very different to the market circumstances in existence now. The applicants in their submissions indicated that there was reluctance by operators and drivers to accept any form of payment other than cash at the time the authorisations were granted.
- 8.31 Nowadays, however, the ACCC is of the view that the significant growth in the demand for card payments is a rather compelling argument for operators and drivers to continue to widely accept non-cash payments in the absence of the authorisations, as these are more important than ever to the viability of their business.
- 8.32 In order to lower costs and maximise revenue, taxi operators and drivers seek to maximise their paid kilometres relative to unpaid kilometres. With an already significant and increasing number of card payments, an operator or driver who does not accept such payments is likely to be affected financially through higher costs and lost revenue. There is a strong incentive for operators and drivers to make available most major payment methods.
- 8.33 With drivers in Victoria earning around \$7.50-\$8.00 per hour,⁸³ and averaging \$10 per hour in NSW,⁸⁴ drivers would be unlikely to seriously compromise their earnings by refusing to accept non-cash transactions.

⁸⁰ Bay City Cabs, record of meeting, 17 August 2004.

⁸¹ Suburban, record of meeting, 11 August 2004.

⁸² SA Office of Public Transport submission, 6 September 2004.

⁸³ VTD website at www.taxi.vic.gov.au

⁸⁴ Interim Report of the Ministerial Inquiry into the NSW Taxi Industry, 2004, available at www.transport.nsw.gov.au The report noted at p 42 that it is extremely difficult to determine the

- 8.34 The ACCC notes that in many cases the proportion of non-cash payments towards drivers' income is significant. For example, Vermont Autogas indicated that over 50 per cent of transactions are now non-cash and still growing.⁸⁵ In Suburban's experience around 60 per cent of transactions are non-cash.⁸⁶ Ms Strathmore indicated that day time business relies heavily on payment by cards and vouchers (around 80 per cent) by professionals.⁸⁷
- 8.35 The ACCC considers that drivers would generally not forego non-cash payments and further diminish their earnings when they are already relatively low income earners.
- 8.36 Adding further weight to the likely situation without authorisation is the fact that 90 per cent of taxis in Australia have a Cabcharge EFTPOS terminal.⁸⁸ When competitor EFTPOS terminals are added to this the figure the number would be closer to 100 per cent of taxis having EFTPOS terminals. The ACCC finds it difficult to accept that with such a high penetration of EFTPOS terminals in taxis, taxi operators and drivers would generally not continue to use them.
- 8.37 In addition, the speed in which card transactions can be processed is relatively quick. Drivers can get their cash directly deposited into their bank account or cash in docketts with factorers or networks for certain transactions.
- 8.38 The ACCC notes that Diners Club International has no concern about the proposed revocation, adding further weight to the view that cards are likely to continue to be widely accepted in taxis absent the authorisations.⁸⁹
- 8.39 In relation to the acceptance of subsidy scheme vouchers and smart cards for disabled people, there is no reason to suggest that drivers would refuse to accept these in the absence of the authorisations.
- 8.40 The ACCC notes that wheelchair accessible taxis (WAT) are designed specifically to cater for disabled people. The ACCC considers it unlikely that drivers would refuse subsidy scheme vouchers or smart cards when the intention is to rely on them in part for income derived from providing WAT services.
- 8.41 In addition, given that the subsidised portion of the fare is paid by the government, the payment is virtually guaranteed to the driver, which provides a strong incentive for drivers to accept such payment method. The

average earnings of a taxi driver, the inquiry had been quoted earnings of less than \$5 per hour by some drivers. Earnings of \$10 per hour were considered to be a fair estimated average hourly income.

⁸⁵ Vermont Autogas, record of meeting, 16 August 2004.

⁸⁶ Suburban, record of meeting, 11 August 2004.

⁸⁷ Ms Michelle Strathmore, record of meeting, 29 June 2004.

⁸⁸ Cabcharge website at www.cabcharge.com.au

⁸⁹ Diners Club International submission, 9 January 2004.

ACCC notes that the NSW Ministry of Transport has not received any complaints in recent years concerning the refusal of a TTSS docket.

- 8.42 With regard to the display of decals, the ACCC considers that there is no reason to suggest that the applicants would not continue to provide the decals to their operators and for the operators not to display them absent the authorisations.
- 8.43 The decals display which cards will be accepted by the taxi and any relevant charges the consumer is to be liable for, such as the 10 per cent processing fee. The decals for the Cabcharge Account System are shown at Annexure B.
- 8.44 The ACCC notes that networks which do not have authorisation such as Canberra Cabs and Bay City Cabs supply decals to operators and these are displayed by operators.
- 8.45 In addition, the ACCC notes that without authorisation, all participants in the taxi industry will continue to be subject to their obligations under the consumer protection provisions of the Act and fair trading legislation not to mislead consumers as to the payment methods available in taxis and the charges associated with those payment methods.
- 8.46 This said, the ACCC accepts that there could a minority number of drivers who may choose not to accept non-cash payments. The ACCC notes in this regard the submissions from operators and drivers, that accepting cards and vouchers is a commercial necessity.
- 8.47 In summary, the ACCC is of the view that the most likely counterfactual is that card and voucher payments are likely to continue to be widely accepted in taxis, and the display of decals is likely to continue. Normal market forces are likely to ensure that consumers are offered the opportunity to use their preferred method of payment. However, without the authorisations it cannot be guaranteed that all operators and drivers of the authorised networks will continue to do so.

9. Public Benefits

- 9.1 The ACCC must not revoke the authorisations if the conduct results in such a benefit to the public that the conduct should be allowed to continue to take place, that is, the benefits to the public outweigh the detriments.
- 9.2 Consistent with the “future with-and-without test” outlined in section 8 of this determination, the ACCC compares the public benefit and detriment generated by the authorised conduct in the future with those likely to be generated if the authorisations are revoked. Public benefits which would accrue in the future irrespective of whether the authorisations remain would not be accorded any weight.
- 9.3 The ACCC has examined the public benefits recognised at the time of granting authorisation and new benefits claimed by the applicants. These are outlined in turn below.

Public benefits at the time of granting authorisation

- 9.4 De Luxe in its 1985 application for authorisation claimed that because of the nature of the industry it was necessary that taxis providing a particular service are uniformly and clearly identified to the taxi travelling public. De Luxe claimed that all taxis providing an accounting service should display the relevant decal or door sign of that service. The decal or door sign signals to the travelling public that the necessary stationery, equipment and established procedures are available in that taxi and enable them to use their particular accounting facility. De Luxe believed that taxi hiring account systems available in the taxi-cabs operating within its radio network should be, as far as may be possible, standard and uniform. De Luxe indicated that confusion arises where a member of the co-operative provides a credit facility not offered by all other members of the co-operative.⁹⁰
- 9.5 In the De Luxe determination the TPC agreed that consumers should not be misled as to the availability of credit card services. Thus, the TPC accepted that members of De Luxe should be required to display and offer systems such as Cabcharge which are organised by De Luxe itself. The TPC accepted that the Cabcharge system should be accepted throughout the co-operative's network and that reasonable requirements to secure this resulted in a benefit to the public.⁹¹

ACCC's assessment

- 9.6 The ACCC continues to accept that there is a benefit to the public in the availability and acceptance of non-cash payment methods in a network. However, as discussed in the counterfactual, non-cash payment methods and

⁹⁰ De Luxe application for authorisation, 29 March 1985.

⁹¹ TPC determination A30112, 25 February 1986, p 30.

display of decals are likely to continue to be widely accepted without the authorisations.

- 9.7 Therefore, the public benefits previously accepted by the TPC no longer carry the same weight. That is, the significance of the original public benefits no longer flows from the authorisations, but instead largely results from consumer demand and the commercial reality of the market as discussed in section 8.

Other new public benefits

- 9.8 In addition to the public benefits already mentioned, the applicants have expressed views on the likely public detriments if the authorisations were to be revoked. Conversely, these can be considered as additional public benefits of maintaining authorisation. The ACCC has considered these below.

Consumers' Choice and Certainty of Payment Method

Applicants' views

- 9.9 CCN claimed that the authorised conduct ensures that customers hiring a cab which belongs to the CCN radio booking network are offered the opportunity to use their preferred method of payment when hiring a cab through the CCN network.⁹²
- 9.10 West Suburban submitted that the public benefits flow from the simplicity and certainty of passengers knowing that they can reasonably expect to get into any vehicle of West Suburban and know that their form of payment will be accepted. The outcome of revocation will be delays and confusion because unless credit and charge arrangements are 100 per cent certain, they may as well not be certain at all.⁹³
- 9.11 West Suburban submitted that the public benefits from the simplicity and certainty of passengers knowing that they can reasonably expect to be able to get into any vehicle of West Suburban's and know that the way they paid yesterday will be the same today.⁹⁴
- 9.12 Legion Cabs submitted that passengers all over Australia have an expectation that when they travel in a taxi-cab they are able to pay for the taxi fare by any major credit card. If the authorisation is revoked Legion will not be able to ensure that each and every taxi-cab belonging to its Network will accept card payments.⁹⁵

⁹² CCN submission, 5 March 2004.

⁹³ West Suburban submission, 11 June 2004.

⁹⁴ Ibid.

⁹⁵ Legion submission, 8 June 2004.

- 9.13 RSL submitted that passengers expect all taxi cabs to accept major credit cards.⁹⁶
- 9.14 Geelong Cabs submitted that taxi passengers have an expectation that they can pay a fare by a variety of methods other than cash and believe it would create an inconvenience for passengers to have to check whether a taxi on a rank, or one which is hailed from the street, would accept their preferred method of payment.⁹⁷
- 9.15 Black Cabs submitted that it is more of a 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 that payment method. What the network cares about is that it knows with certainty that the consumers will be able to pay using their chosen payment method.⁹⁸
- 9.16 Arrow submitted that the authorised conduct results in consistency of most payment methods across all taxis in Melbourne. This has enabled smaller networks to offload the bookings that they are not able to cover to another fleet. Without the offload Arrow would not be able to provide the same level of service to its customers, particularly during busy periods.⁹⁹

Interested Parties' Views

- 9.17 The Australian Taxi Industry Association submitted that authorisation A30112 provides a guaranteed payment option to the consumer.¹⁰⁰
- 9.18 The New South Wales Taxi Council submitted that as the taxi driver is the small business person who delivers that taxi service, like any other small business person, they have the right to accept whatever method of payment they choose. The difficulty in the taxi industry is that without the right of a network to ensure at least one method of payment is a constant throughout its fleet of small business persons, the customer who books through a network is not able to know until the taxi arrives what payment options are available.¹⁰¹
- 9.19 Cumberland Cabs submitted that the effect of the authorisation is to give CCN the certainty that any customers using a CCN taxi can expect that Cabcharge will be accepted by the taxi driver as a valid payment method. Over time it has been the consumers who have built an expectation that taxis should accept certain payment methods and CCN has merely sought to

⁹⁶ RSL submission, 2 July 2004.

⁹⁷ Geelong Cabs submission, 9 July 2004.

⁹⁸ Black Cabs submission, 1 July 2004.

⁹⁹ Arrow submission, 1 July 2004.

¹⁰⁰ ATIA submission, 20 February 2004.

¹⁰¹ NSWTC submission, 20 February 2004.

institute that expectation within its fleet of taxis so that consumers are not confused or inconvenienced.¹⁰²

- 9.20 Manly Cabs submitted that taxis provide an all-important service to many groups in our community and therefore taxis' acceptance of cards is essential. The documented growth in card use, coupled with known driver and passenger behaviour is a reason to continue with the authorisations in place.¹⁰³
- 9.21 North Suburban submitted that the uniform payment methods continues to provide significant public benefits as a passenger can book or hail a taxi without having to enquire as to the availability of payment methods and a passenger who books a taxi will get better service if all taxis affiliated with the network chosen by the passenger have a uniform set of specified payment options.¹⁰⁴
- 9.22 The ACA submitted that when Authorisation A30112 was first granted in 1986, most consumers would have been in the practice of paying for taxi fares by cash and the various charge cards used for taxi payments would have been mainly used by business travellers.¹⁰⁵
- 9.23 The ACA submitted that the spread of the Cabcharge system with its recognisable logo and associated credit card logos has certainly made it easier for consumers to be aware of the ready availability of non-cash payments for taxi travel. This of course has been a public benefit.¹⁰⁶

ACCC's assessment

- 9.24 The ACCC accepts that there is a public benefit to consumers from being able to pay for a taxi fare by their preferred method of payment. Having regard to the counterfactual, namely that cards and vouchers are likely to continue to be widely accepted in taxis without the authorisations, the weight attached to this benefit by the ACCC is marginal.
- 9.25 The ACCC notes, however, that the authorisations provide certainty to the network that cards and vouchers will always be accepted. In turn, this allows the network to provide the same certainty to the public. With revocation there may be some uncertainty that on occasion cards and vouchers may not be accepted, although the ACCC is of the view that in practice cards and vouchers are likely to continue to be widely accepted.
- 9.26 Overall, the ACCC accepts that there is a small public benefit flowing from the certainty that cards and vouchers will always be accepted in taxis.

¹⁰² Cumberland Cabs submission, 19 February 2004.

¹⁰³ Manly Cabs submission, 10 June 2004.

¹⁰⁴ North Suburban submission, 1 July 2004.

¹⁰⁵ ACA submission, 17 February 2004.

¹⁰⁶ Ibid.

Applicants' views

- 9.27 Arrow submitted that if authorisation was revoked it would probably become more expensive to process taxi bookings as any increase in costs from checking payment methods is ultimately to be passed on. The cost of processing and dispatching bookings is already high and any further increases would make it more difficult for Arrow to revert back to running its own call centre operation.¹⁰⁷
- 9.28 CCN submitted that revocation of authorisation would result in increased call centre costs and an increase in taxi fares because of the extra information a call centre would have to take on the passengers' preferred payment method.¹⁰⁸
- 9.29 CCN submitted that a number of networks are already under severe financial pressure and if the costs of their call centres increased they would have little choice but to consider closing their operations.¹⁰⁹
- 9.30 CCN also submitted that waiting times for passengers would increase significantly as a taxi would have to be found which could accept the passengers' payment method and the network's accreditation could be placed in jeopardy if they are no longer able to meet service requirements as laid out in legislation.¹¹⁰
- 9.31 Legion Cabs submitted that call centres are technologically advanced and extremely costly to operate. To keep costs low it is essential that call times are kept to a minimum. Legion Cabs indicated that if information on the type of payment had to be obtained from a passenger at the time of a call, this would escalate call centre costs and result in increased fees to operators. It stands to reason that if network fees were increased taxi fares may also increase.¹¹¹
- 9.32 Legion Cabs submitted that taxi service standards would also be compromised as it would take longer to dispatch a booking.¹¹²
- 9.33 Legion Cabs further submitted that under its network accreditation, it has an obligation to meet certain time limits in relation to accepting jobs. If the authorisation was revoked this may place Legion Cabs in a position of not being able to meet the accreditation standards.¹¹³

¹⁰⁷ Arrow submission, 1 July 2004.

¹⁰⁸ CCN submission, 5 March 2004.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Legion Cabs submission, 4 June 2004.

¹¹² Ibid.

¹¹³ Legion Cabs submission, 4 June 2004.

- 9.34 Black Cabs submitted that the public benefit extends beyond the scope of consumers' payment method. The authorised conduct assists networks to provide a timely and dependable service to the public and reduces the costs implicit in processing taxi bookings. If the network was deprived of knowledge of payment methods, 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 authorised conduct reduces the costs implicit in processing taxi bookings and over the long term this has the effect of reducing network fees charged to operators and in turn reduces taxi fares. The authorised conduct enables consumer making advance bookings to choose their payment method at a later time.¹¹⁴
- 9.35 Geelong Cabs submitted that it would create an inconvenience for taxi passengers to have to check a selection of taxi on a rank or when hailed off the street to ascertain whether the driver was prepared to accept their preferred method of payment. Geelong Cabs submitted that to interrogate each passenger as to their preferred payment method would slow the call taking process and greatly inhibit the ability to allocate the nearest suitable vehicle available for prompt service.¹¹⁵

Interested parties' views

- 9.36 North Suburban submitted that with authorisation the network is able to provide a faster service to passengers when processing their bookings without having to refer to the passengers proposed payment method and telephone waiting time is reduced.¹¹⁶
- 9.37 Suburban submitted that when credit cards were first introduced it was the practice of telephone operators to ask the person making the booking if payment would be made by card to ensure that the taxi allocated to the job was able to accept this form of payment. However, Suburban indicated that this procedure no longer applies as electronic payments are accepted in all taxis in the Suburban fleet.¹¹⁷
- 9.38 Reporting on its own experience, Bay City Cabs indicated that when taking a booking, the only passenger detail taken is the pick up address, and in the case of an advance booking, the time at which the passenger requires the taxi.¹¹⁸

¹¹⁴ Black Cabs submission, 1 July 2004.

¹¹⁵ Geelong Cabs submission, 9 July 2004.

¹¹⁶ North Suburban submission, 1 July 2004.

¹¹⁷ Suburban, record of meeting, 11 August 2004.

¹¹⁸ Bay City Cabs, record of meeting, 17 August 2004.

ACCC's assessment

- 9.39 As indicated in section 8 of this determination, cards and vouchers are likely to continue to be widely accepted in taxis in the absence of the authorisations. It is therefore difficult to see how waiting times, network service standards, call centre costs and taxi fares could be dependent on the authorisations.
- 9.40 There is no evidence before the ACCC to indicate that networks with authorisation take any different information in their call centres from networks without authorisation. Information asked for by networks is kept to a minimum to constrain costs. As indicated by the networks, call centres are costly to operate and in order to keep labour costs in check it is essential that call times are kept to a minimum.
- 9.41 The ACCC finds it difficult to accept that networks would seek to incur additional costs by taking extra details on payment methods when unnecessary. This would only serve to put networks at a competitive disadvantage with other networks in the fees they charge to operators. The ACCC therefore considers it most unlikely that call centre costs would increase as a result of revocation.
- 9.42 Having regard to the counterfactual, namely that cards and vouchers are likely to continue to be widely accepted in taxis without the authorisations, no weight is attached by the ACCC to the claimed benefit of lower network costs with the authorisations.
- 9.43 With regard to taxi fares, the ACCC notes that the setting of fares is regulated in each state and therefore the networks do not have the ability to increase taxi fares as they wish. The ACCC notes that in NSW the Independent Pricing and Regulatory Tribunal (IPART) is responsible for reviewing and recommending changes to taxi fares to the Director-General of the Ministry of Transport.¹¹⁹ The Director-General makes the final decision on fare changes and may determine fares (including maximum fares) or approve other arrangements for remuneration in connection with taxi-cab services.
- 9.44 The ACCC notes that one of the key factors that IPART considers when setting taxi fares, is how the costs of providing taxi services have changed since the last review.¹²⁰ In its 'Review of Fares for Taxis in NSW in 2004', IPART was not able to satisfy itself that actual network costs are efficient, or

¹¹⁹ In November 2002, the then Minister for Transport requested IPART investigate and report annually on recommended maximum fares for taxis regulated under the Passenger Transport Act 1990, the request applies to each year up to and including 2007/08.

¹²⁰ IPART, Review of fares for taxis in NSW - issue paper, February 2004, p 3.

that the services that networks are required to provide are meeting the needs of their clients (taxi operators and drivers).¹²¹

- 9.45 As mentioned above, the ACCC finds it most unlikely that networks would seek to incur additional costs when unnecessary. In addition, the ACCC is of the view that, should networks choose to incur unnecessary costs and pass these on to operators in the form of higher network fees, such an inefficient practice would be scrutinised and taken into account by the relevant jurisdictional bodies when deciding on whether taxi fares should be increased.
- 9.46 Considering the counterfactual, namely that cards and vouchers are likely to continue to be widely accepted in taxis without the authorisations, no weight is attached by the ACCC to the claimed public benefit of lower taxi fares with the authorisations.
- 9.47 In relation to network service level standards, the ACCC notes that these are regulated in each state. Networks are required to meet service standards irrespective of the authorisations. Having regard to the counterfactual, namely that cards and vouchers are likely to continue to be widely accepted in taxis without the authorisations, there is no reason to believe that network service standards would be any different if the authorisations continued or were revoked. Therefore, no weight is attached by the ACCC to the claimed public benefit of enabling the networks to meet service standards.
- 9.48 Finally, there is no evidence before the ACCC to suggest that waiting times for taxis would be affected by revocation due to the claimed need of having to check the passenger's payment method and finding a suitable taxi which would accept the chosen method. This is supported by the experience of networks without authorisation who do not check payment methods. Having regard to the counterfactual, namely that cards and vouchers are likely to continue to be widely accepted in taxis without the authorisations, no weight is attached by the ACCC to the claimed public benefit of lower waiting times with the authorisations.

Taxi Transport Subsidy Scheme (NSW) and the Multi Purpose Taxi Program (Victoria)

Applicants' views

- 9.49 CCN submitted that if authorisation was revoked the Taxi Transport Subsidy Scheme would fail resulting in further disadvantage to the disabled.¹²²
- 9.50 Legion Cabs submitted that subsidy scheme dockets form part of the Legion approved payments system and unless the authorisation continues, Legion will have no way of requiring its taxi operators and drivers to accept these

¹²¹ Review of Fares for Taxis in NSW in 2004, IPART, June 2004.

¹²² CCN submission, 5 March 2004.

dockets. Legion indicated that this would mean that some disabled persons may no longer have the option of travelling in a taxi without experiencing delays.¹²³

Interested parties' views

- 9.51 The NSW Ministry of Transport submitted that at this stage the TTSS would not be affected by any amendment to the authorisations.¹²⁴
- 9.52 The VTD indicated that perhaps a more likely reason for networks wanting authorisation was that without authorisation taxi operators and drivers may feel more empowered to challenge the monopoly position of Cabcharge.¹²⁵

ACCC's assessment

- 9.53 The ACCC does not accept the argument that the TTSS operating in New South Wales and the MPTP operating in Victoria would fail if the authorisations were revoked. Having regard to the counterfactual, namely that cards and vouchers are likely to continue to be widely accepted in taxis without the authorisations, no weight is attached by the ACCC to this claimed public benefit. Therefore, the ACCC does not accept that preventing the failure of these subsidy schemes can constitute a public benefit flowing from the authorisations.

Conclusion on Public Benefits

- 9.54 Overall, the ACCC considers that there is a small public benefit flowing from the authorisations, namely the certainty that cards and vouchers will always be accepted in taxis. The ACCC cannot attach any weight to the remainder of public benefits claimed by the applicants, as these benefits are likely continue to be realised absent the authorisations.

¹²³ Legion Cabs submission, 4 June 2004.

¹²⁴ MOT submission, 25 August 2004.

¹²⁵ VTD, record of meeting, 16 August 2004.

10. Public Detriments

ACCC approach to public detriment assessment

- 10.1 It is the task of the ACCC, for the purpose of assessing the proposed revocation, to assess the extent to which the authorised conduct results or is likely to result in detriment to the public, including detriment resulting from a lessening of competition, in each of the relevant markets.
- 10.2 The applicants who opposed revocation have submitted that that the authorisations give rise to little or no detriments to the public.

Radio booking services to taxi operators/drivers and taxi services to the public

- 10.3 As indicated earlier, radio booking services supplied by the networks enable operators and drivers to supply taxi services to consumers wishing to pre-book a taxi.
- 10.4 Therefore, the impact of the authorised conduct in these two markets is linked. That is, restriction in the supply of radio booking services through the authorised conduct may generate public detriment in that market, but would be realised in the market for the supply of taxi services to the public. The impact of the authorised conduct on these two markets is examined below.

Interested parties' views

- 10.5 Vermont Autogas submitted that the authorisations are harsh in that if an operator or driver is suspended from the radio booking service, it would not be economically viable for them to operate. The radio booking service is significant to drivers' income by providing around 50 per cent of their work, and in some cases 80 per cent.¹²⁶

ACCC's assessment

- 10.6 The ACCC notes that radio booking services are important as a source of income to operators and drivers. With drivers in Victoria earning \$7.50 - \$8.00 per hour¹²⁷ and drivers in NSW estimated to be averaging \$10 per hour,¹²⁸ all segments of the market - rank, hail and booking services are important to them. As indicated by Vermont Autogas, suspension from radio

¹²⁶ Vermont Autogas, record of meeting, 16 August 2004.

¹²⁷ VTD website at www.taxi.vic.gov.au

¹²⁸ Interim Report of the Ministerial Inquiry into the NSW Taxi Industry, 2004, available at www.transport.nsw.gov.au The report noted at p 42 that it is extremely difficult to determine the average earnings of a taxi driver, the inquiry had been quoted earnings of less than \$5 per hour by some drivers. Earnings of \$10 per hour were considered to be a fair estimated average hourly income.

booking services would have the effect of putting operators out of business.¹²⁹

- 10.7 As discussed in section 4 of this determination (Regulation of the Taxi Industry), state laws place certain requirements on taxi operators and drivers in relation to network affiliation and the acquisition of radio booking services. The suspension of taxi operators from radio booking services would have the effect of preventing operators from complying with relevant state legislation and/or regulation.
- 10.8 The ACCC notes that in metropolitan Sydney, 4 out of 8 networks have authorisation representing approximately 73 per cent of taxis in that area. In particular, CCN the largest network in Sydney having 55 per cent of that market. Of the remaining networks without authorisation, ABC and South Western Cabs obtain their radio booking services from CCN.
- 10.9 The ACCC further notes that in metropolitan Melbourne, 5 out of the 7 networks have authorisation representing approximately 88 per cent of taxis in that area. Of the remaining networks without authorisation, Embassy and North Suburban obtain their radio booking services from Black Cabs.
- 10.10 As a result, should an operator not accept the condition imposed by the network, the opportunity to switch to another network in Sydney or Melbourne would appear to be limited.
- 10.11 In addition, the amount of radio bookings received from the network and the geographic location in which it serves are important factors which impact on an operator's decision when choosing which network to affiliate with. Depending on where the operator is located, not all networks in the metropolitan area will be a valid option.
- 10.12 In the Geelong area, the ACCC is of the view that there may be less detriment to the public in that operators have a choice, if they don't like the condition imposed by Geelong Cabs they can switch to Bay City Cabs.
- 10.13 However, the amount of booking services taken by a network to some extent determines the number of operators to which the network is able to sustain. Operators when deciding which network to affiliate with, would in part, assess the amount of booking services they are likely to receive.
- 10.14 The ACCC is of the view that the sanctions of the authorisations have the potential to effectively put operators out of business as they may no longer be able to legally provide a taxi service to the public and would be unlikely to survive financially without access to pre-booked customers.
- 10.15 However, in light of the counterfactual that cards and vouchers are likely to continue to be widely accepted without the authorisations, the sanctions may

¹²⁹ Vermont Autogas, record of meeting, 16 August 2004.

be largely inconsequential in practice and therefore be of negligible public detriment.

- 10.16 Overall, for the reasons outlined above, the ACCC considers that the authorised conduct results in a negligible public detriment in the market for the provision of taxis services to the public.

Non-cash payment methods for use in taxis

Applicants' view

- 10.17 Black Cabs submitted that the acceptance of a payment method other than one approved by the network, remains the choice of the taxi driver.¹³⁰

ACCC's assessment

- 10.18 The ACCC notes that the range of cards accepted under the Cabcharge Account System has expanded over time. This suggests that the Cabcharge Account System is likely to continue to expand in the future to include any card which gains general acceptance with the public.
- 10.19 In addition, the ACCC notes that the authorisations are non-exclusive. That is, any card issuer is able to make their cards available to the taxi industry, irrespective of whether they are part of the Cabcharge Account System.
- 10.20 The ACCC is of the view that there is no public detriment resulting from the authorised conduct in the market(s) associated with the provision of non-cash payment methods in taxis.

Processing of non-cash payments of taxi fares

- 10.21 As discussed in section 2 of this determination, the ACCC accepted that the authorised conduct do not occur in the market(s) associated with cover the processing of non-cash payments of taxi fares, including electronic processing of those fares through EFTPOS terminals. Each authorisation provides legal immunity for the acceptance of cards and vouchers only.
- 10.22 This does not mean that consideration of the impact, if any, of the authorised conduct in these market(s) is to be excluded. On the contrary, as discussed in section 7 of this determination, the requirement for card transactions to be processed before being paid to taxi operators and drivers means that the market for the processing of non-cash transactions, including electronic transactions through EFTPOS terminals, is relevant to the assessment of the authorised conduct. The ACCC will examine below the extent to which public detriment, if any, arises from the authorised conduct in the market(s) associated with the processing of non-cash transactions.

¹³⁰ Black Cabs submission, 1 July 2004.

Competition for card processing services

Applicants' views

- 10.23 CCN indicated that authorisation does not prevent taxi operators from having other payment systems of their choice, that they are free to have other systems should it be commercially advantageous for them to do so.¹³¹
- 10.24 CCN and Black Cabs indicated that if a transaction is processed manually, the driver is free to cash dockets directly with a docket cashing agency (factorer) of their choice.¹³²
- 10.25 Black Cabs submitted that its network does not force either consumers or taxi drivers to use the payment system it provides. The payment system chosen by the driver at the end of the journey can be the payment system provided by the network, an electronic payment system provided by a party such as Taxinet or Taxilink, or a paper voucher provided by a factorer.¹³³
- 10.26 Geelong Cabs submitted that taxi operators and drivers can and some do use alternative processing of non-cash transactions.¹³⁴

Interested parties' views

- 10.27 Bay City Cabs indicated that in its experience nearly all non-cash transactions are electronic transactions. Using EFTPOS has helped reducing fraud and allows drivers to get their money faster. Paper vouchers are very slow to process and if not filled out correctly are returned which further delays payment to the driver. Bay City Cabs' taxis are all fitted with Cabcharge EFTPOS terminals to allow electronic transactions.¹³⁵
- 10.28 In Canberra Cabs' experience, taxi operators could elect not to have an EFTPOS terminal but have not done so due to the advantages of electronic payment facilities. Manual transactions still occur when there is no radio signal, but have a greater risk of fraud, the cost of which would be borne by the driver.¹³⁶
- 10.29 Ms Michelle Strathmore submitted that authorisation is restricting competition in the market by indirectly forcing taxi operators to have a Cabcharge EFTPOS terminal, by virtue of the fact that electronic transactions with Cabcharge cards have to go through a Cabcharge terminal.¹³⁷

¹³¹ CCN submission, 5 March 2004.

¹³² Ibid; Black Cabs submission, 1 July 2004.

¹³³ Black Cabs submission, 1 July 2004.

¹³⁴ Geelong Cabs submission, 9 July 2004.

¹³⁵ Bay City Cabs, record of meeting, 17 August 2004.

¹³⁶ Canberra Cabs, record of meeting, 1 July 2004.

¹³⁷ Ms Michelle Strathmore, record of meeting, 29 June 2004.

- 10.30 Vermont Autogas submitted that when Cabcharge cards are processed electronically, this can only be done through a Cabcharge terminal. The Cabcharge card can be transacted manually only in the event of a system failure or malfunction and Cabcharge supplies green emergency vouchers for this purpose. However, if drivers continue to use manual processing when the EFTPOS system is operating, then the transactions will not be honoured by Cabcharge.¹³⁸
- 10.31 Vermont Autogas was of the view that with more competition and choice in the market it would be able to choose the terminal which better suits its needs and those of the travelling public.¹³⁹
- 10.32 Vermont Autogas also submitted that the incentive schemes offered by the networks were being used to make the use of terminals other than Cabcharge terminals non-viable.¹⁴⁰
- 10.33 The NSW Taxi Drivers' Association indicated that there are issues with drivers cashing docketts at a Docket Exchange - no on-line verification of the validity of the card and Cabcharge emergency vouchers to be used only in the event of Cabcharge terminal malfunction.¹⁴¹
- 10.34 The NSW Taxi Drivers' Association submitted that it is a specious argument to propose that the hiring account system does not now incorporate the use of EFTPOS devices.¹⁴²
- 10.35 The NSW Taxi Drivers' Association indicated that at the time authorisation was granted, transactions were paper-based. At its inception, a service fee of 10 per cent was probably a reasonable reflection of the costs of operating the system. However, in 2004 the majority of transactions are processed through Cabcharge EFTPOS terminals. The NSW Taxi Drivers' Association was of the view that although there is a capital cost and on-line connection expenses associated with EFTPOS, the overall cost of processing is vastly reduced if not minimal. The NSW Taxi Drivers' Association considered the 10 per cent surcharge to be exorbitant and no longer justified.¹⁴³
- 10.36 Mr Michael Jools indicated that EFTPOS terminals are ISO compliant so any terminal can read any card, but transactions using Cabcharge cards are only processed by Cabcharge and can only be done so using a Cabcharge terminal.¹⁴⁴

¹³⁸ Vermont Autogas, record of meeting, 16 August 2004.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ NSW TDA submission, 15 September 2004.

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ Mr Michael Jools, record of meeting, 29 June 2004.

- 10.37 Mr Jools submitted that other providers could charge less than 10 percent processing fee (as charged by Cabcharge), however there is an inequity of power because the authorisation prevents competition from getting a solid foothold in the market. Mr Jools was strongly of the view that authorisation is restricting competition and that the cost reductions in having efficient technology able to process large number of credit transactions are not being passed through to consumers. Mr Jools was of the view that without authorisation market forces would over time bring more competition.¹⁴⁵
- 10.38 The Australian Consumers' Association (ACA) submitted that the spread of the Cabcharge system has produced a major consumer problem, the effective monopoly of the Cabcharge system used by most taxis in Australia allows for a 10 per cent surcharge. ACA further submitted that the taxi industry, and the Cabcharge business in particular, has been overcharging consumers and businesses through this mechanism, certainly ever since the introduction of mobile electronic payment systems. The ACA considered that with such a margin available, had there been a free market for these payment services, it would have been expected to see competitors enter this market long ago as consumer usage of non-cash payments increased.¹⁴⁶
- 10.39 The Victorian Taxi Directorate (VTD) submitted that in-taxi implementation of diverse and disparate technology from different suppliers was not in the public interest. The ability to provide business functionality that required well-integrated technology solutions would be almost unachievable due to the cost and the impracticalities of implementation. In particular, the VTD suggested that having more than two alternative providers of EFTPOS terminals in the market would not be in the public interest.¹⁴⁷
- 10.40 The VTD was of the view that it is in the public interest for a network to require taxi operators that are affiliated with that network to offer a specific payment system to passengers. This provides the network with the ability to offer a consistent payment service to its customers. This would allow competition between networks at the payment system level, whilst reducing the prospect of a large number of disparate systems being installed.¹⁴⁸
- 10.41 The VTD suggested that the reason for networks wanting the authorisations to continue was more likely to be that without authorisation taxi operators and drivers may feel more empowered to challenge the monopoly position of Cabcharge and seek to install EFTPOS terminals other than Cabcharge terminals.¹⁴⁹

¹⁴⁵ Mr Michael Jools, record of meeting, 29 June 2004.

¹⁴⁶ ACA submission, 17 February 2004.

¹⁴⁷ VTD record of meeting, 16 August 2004.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

ACCC's assessment

- 10.42 Based on the evidence available to the ACCC, it is clear that under current commercial arrangements electronic transactions with a Cabcharge card can only take place using Cabcharge EFTPOS terminals. While other EFTPOS terminals may technically be able to read a Cabcharge card, there are no alternative processing arrangements in place other than those provided by Cabcharge. The ACCC notes that this is unlike other cards which are able to be processed through Cabcharge and competitor terminals.
- 10.43 Some of the applicants have suggested that card transactions, including Cabcharge cards, can be processed manually as an alternative to EFTPOS processing. The ACCC has difficulty accepting this argument.
- 10.44 Information provided by interested parties clearly indicate that EFTPOS represents a superior means of processing card transactions over manual processing, by providing for a reduction in fraud through on-line verification, increased efficiency and faster payments.
- 10.45 The ACCC also notes the practice of Cabcharge to limit the use of paper dockets for cards under the Cabcharge Account System. In that regard, the Cabcharge decals (Annexure B) indicate that approved cards are to be transacted by electronic means. The only exception being where electronic transmission is not possible due to malfunction of the terminal. In such circumstances Cabcharge may accept Cabcharge cards by imprinting a paper docket.
- 10.46 Furthermore, in a news statement on the acceptance of VISA cards through the Cabcharge EFTPOS system, customers were advised that for security reasons they should insist on drivers using the EFTPOS system for all card transactions, and report any incidents of non-acceptance by drivers to their regulatory authority's complaints hotline.¹⁵⁰
- 10.47 The ACCC further notes that in Victoria, taxi operators are required to have a Cabcharge EFTPOS terminal to process MPTP transactions. New South Wales is currently undertaking a trial of an electronic card system for its subsidy scheme with Cabcharge as the processing services provider.
- 10.48 Finally, the ACCC notes that the merchant agreement between Cabcharge and CCN provides that CCN requests its operators to use their best endeavours to ensure that every operator installs the Cabcharge EFTPOS system. Although CCN indicated that it understands it cannot require taxi operators to install Cabcharge terminals.¹⁵¹

¹⁵⁰ News Statement, Cabcharge to accept Visa cards, 5 February 2002.

¹⁵¹ CCN submission, 5 March 2004, p 5.

- 10.49 Overall, the ACCC is of the view that under the current arrangements there are virtually no alternatives for the processing of Cabcharge cards other than through Cabcharge EFTPOS terminals.
- 10.50 Given the commercial importance of Cabcharge payments, operators can only consider other EFTPOS terminals and processing service providers in addition to Cabcharge, but not in place of Cabcharge. The ACCC is of the view that this acts as a disincentive for operators to choose terminals other than Cabcharge terminals and alternative processing service providers, thus, making it harder for competitors to gain a solid foothold in the market. The ACCC notes in that regard that 90 per cent of taxi-cabs in Australia have a Cabcharge EFTPOS terminal.¹⁵²
- 10.51 Cards processed through a Cabcharge terminal effectively 'locks in' the 10 per cent processing fee charged to consumers. The fee is the same as it was in 1986 despite the advent of electronic processing. The lack of downward pressure on the processing fee since the granting of authorisations points to a lack of participants in the market.
- 10.52 However, as indicated in section 8 of this determination, the ACCC is of the view that in the absence of authorisation, cards including Cabcharge cards are likely to continue to be widely accepted in taxis by operators and drivers. In these circumstances, the practical requirement for operators to use a Cabcharge terminal for processing Cabcharge card transactions is likely to remain irrespective of the authorisations. Therefore, the reduction in competition this requirement creates does not appear to be a public detriment from the authorisations.
- 10.53 In addition, the ACCC notes that most, if not all, of the networks who have authorisation, have put in place incentive schemes to encourage operators to process card transactions through Cabcharge in preference to other providers. However, the schemes do not appear to be dependent on the authorisations and therefore any impact they may have on competition is not likely to be a public detriment flowing from the authorisations as there does not appear to be a link to the authorised conduct.
- 10.54 In summary, while the ACCC is concerned over competition issues for the processing of non-cash payments in taxis, these do not appear to be linked to the authorisations.

Bargaining position of operators

Interested parties' views

- 10.55 Mr Michael Jools submitted that the Cabcharge EFTPOS system is relatively secure and operates to reduce the amount of cash carried by drivers. However, it is also cumbersome and unreliable, with frequent drop-outs and

¹⁵² Cabcharge website at www.cabcharge.com.au

inappropriate rejections. Mr Jools submitted that Cabcharge reserves the right of rejection of “approved” dockets on which a later query emerges.¹⁵³

- 10.56 Mr Jools further submitted that without authorisation, taxi operators and drivers would continue to accept credit from passengers, but would be able to have more negotiating power to try to eliminate some of the heavy handed tactics being imposed by the networks.¹⁵⁴
- 10.57 Ms Strathmore submitted that the authorisation prevents her from negotiating the terms and conditions of arrangements in relation to transactions using EFTPOS terminals which affect her as a small business. Ms Strathmore submitted that sometimes the terms and conditions imposed on her as a taxi operator are onerous with no course of redress. In that regard, Ms Strathmore indicated that she was forced to bear the financial cost of fraudulent transactions resulting from faulty Cabcharge EFTPOS terminals. Transactions had been approved through the Cabcharge EFTPOS terminal when in fact the transactions were fraudulent. Cabcharge returned these fraudulent transactions and debited her account.¹⁵⁵
- 10.58 Vermont Autogas submitted that the removal of authorisation has the potential of giving taxi operators more negotiating strength as small business people. Vermont Autogas submitted that at the moment operators are at the whim of the networks who look to advance their own interests, not those of consumers. Vermont Autogas considers that this would not be the case if there were more competitors in the market.¹⁵⁶
- 10.59 Vermont Autogas reported it had experienced problems with transactions processed through Cabcharge terminals for which they had not been paid, although the customers’ accounts had been debited. These were a result of a faulty system which took some time to be fixed, but subsequently Vermont Autogas had still not been paid.¹⁵⁷

ACCC’s assessment

- 10.60 As indicated in section 7 of this determination, the provision of processing services by Cabcharge to taxi operators is done via the networks with which the operators are affiliated. Therefore, operators deal with their network with regard to processing issues, rather than Cabcharge directly. This differs from other providers of EFTPOS terminals and processing services who deal directly with taxi operators.
- 10.61 The ACCC notes that merchant agreements are between the networks and Cabcharge for use of the Cabcharge Account System, not directly with

¹⁵³ Mr Michael Jools submission, 20 February 2004.

¹⁵⁴ Mr Michael Jools, record of meeting, 29 June 2004.

¹⁵⁵ Ms Michelle Strathmore, record of meeting, 29 June 2004.

¹⁵⁶ Vermont Autogas, record of meeting, 16 August 2004.

¹⁵⁷ Ibid.

operators. The standard merchant agreement licences the taxi company to use the Cabcharge account facility, incorporating dockets and approved payment cards, under which Cabcharge provides the taxi company with Electronic Payment Terminals (mobile EFTPOS terminals) and the Cabcharge payment system. The merchant agreements detail, amongst other things, the basis of payments from Cabcharge to the taxi companies.¹⁵⁸

- 10.62 A number of operators and drivers have reported to the ACCC examples of problems they have encountered with Cabcharge processing services (via their networks) where they claimed to have been forced to bear the financial cost of disallowed transactions that had previously been approved.
- 10.63 As indicated in section 8 of this determination, the ACCC is of the view that operators and drivers are likely to continue to widely accept cards and vouchers as it would not be economically viable to do otherwise. In these circumstances, the ACCC considers that revocation of the authorisations would be unlikely to improve operators and drivers bargaining position on issues relating to processing. Therefore, the ACCC is of the view that the authorisations generate negligible public detriment.

Conclusion on Public Detriments

- 10.64 While the ACCC has concerns over issues raised by interested parties regarding the processing of non-cash payments, these appear to be outside the authorisations. Overall, the ACCC considers that the authorisations generate negligible public detriments in the processing of non-cash payments of taxi fares.

¹⁵⁸ Cabcharge website at www.cabcharge.com.au

11. Balance of Public Benefits & Detriments

Public benefits

- 11.1 The ACCC accepts that the public benefits generated to consumers when the authorisations were first granted were of significance and helped to establish the availability and acceptance of non-cash payment methods in the taxi industry.
- 11.2 Authorisation in this respect proved to be very effective. Taxi drivers were required to accept card and voucher payments and as a result it could be argued that the introduction and spread of card services in taxis occurred much sooner than would have been the case otherwise.
- 11.3 However, given the considerable changes in the taxi industry since the granting of authorisations, the ACCC considers that the public benefits once secured by authorisation are now largely diminished.
- 11.4 Based on the evidence available to it, the ACCC is of the view that the most likely counterfactual would be a situation where cards and vouchers continue to be widely accepted by taxi operators and drivers, and the display of decals is likely to continue, as they are today.
- 11.5 The ACCC considers that most of the public benefits claimed by the applicants could not be considered as benefits flowing from the authorisations, as these public benefits are likely to continue to be realised without the authorisations.
- 11.6 Overall, the ACCC considers that there is a small public benefit flowing from the authorisations in the certainty that card and voucher payments will always be accepted in taxis.

Public detriments

- 11.7 Following its assessment of the public detriments flowing from the authorisations, the ACCC concludes that the authorised conduct generates negligible public detriments in:
- the sanctions imposed by the authorised conduct are likely to be inconsequential in practice;
 - the requirement for operators and drivers to use Cabcharge to process card transactions is likely remain irrespective of the authorisations; and
 - the bargaining position of operators and drivers is unlikely to be affected by revocation.

Balance of public benefits and detriment

- 11.8 On balance, the ACCC considers that the small public benefit generated by the authorised conduct to marginally outweigh the negligible public detriments.

12. Determination

Applications

- 12.1 The applications for authorisations were made under subsection 88(8) of the Act.

Statutory Test

- 12.2 Under subsection 91B(5) of the Act, if an objection to the revocation is included in any submission:

- a) that was invited under subsection 91B(2) or 91B(3); and
- b) that is received within the period specified by the ACCC under that subsection;

the ACCC must not make a determination revoking the authorisation unless the ACCC is satisfied that it would, if the authorisation had not already been granted, be prevented under subsection 90(8) from making a determination granting the authorisation in respect of which the revocation is sought.

- 12.3 Under subsection 90(8)(a)(iii) of the Act the ACCC shall not make a determination granting an authorisation under subsection 88(8) in respect of proposed conduct to which subsection 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.
- 12.4 The ACCC is not satisfied that it would, if the authorisations had not already been granted, be prevented under subsection 90(8) from making determinations granting the authorisations in respect of which the revocations are sought.
- 12.5 Accordingly, the ACCC does not revoke authorisations A30112, A90441, A90448, A90531, A90449, A90447, A90463, A90455, A40047, A90498, A40071 and A90472.

Effective date of Determination

- 12.6 This determination is made on 11 March 2005 and is subject to any application to the Australian Competition Tribunal (Tribunal) for review. An application to the Tribunal for review may be lodged within 21 days of the date of this determination.

Minor Variation to A30112

- 12.7 CCN has requested a minor variation of authorisation A30112 to take account of the name change from De Luxe to CCN, and for the authorisation to be given in favour of TCS. This determination varies Authorisation A30112 in accordance with CCN's request for a minor variation.

Annexure A - Summary of Submissions

Arrow Taxi Services Ltd

- 13.1 Arrow Taxi Services Ltd (Arrow) submitted that it is a shareholder in Cabcharge. It has about 90 cars and runs its own booking network and dispatch service, but outsources the booking process to Black Cabs under a Bureau Services Agreement. Arrow made a commercial decision 5 years ago to cease operating a radio room and call centre as a result of increased cost pressure on labour and technology. As a smaller network, Arrow relies on the knowledge that all of its taxis will process specified payment methods when promoting its services to clients.
- 13.2 Arrow submitted that the authorised conduct results in consistency of most payment methods across all taxis in Melbourne. If the authorisation was revoked it would probably become more expensive to process taxi bookings. Arrow has outsourced the booking process but would expect any increase in costs resulting from checking for payment methods with passengers and drivers to ultimately be passed on.

Anonymous

- 13.3 Anonymous submitted that under the current authorisation they are required to accept Cabcharge transactions without question. Approximately two years they were forced to wear bad debt as a result of Cabcharge faulty or inadequate system/equipment.
- 13.4 Anonymous submitted that as a taxi operator and driver they have no intentions of rejecting Cabcharge account work if the authorisation is revoked. That would only serve to restrict and impede their business. They do however wish to have the means to enter into a formal agreement with Cabcharge, to accept or reject the terms of this agreement as is suitable to their business. As a small business they feel they have the right to protect themselves and their business, by way of a formal agreement.
- 13.5 Anonymous submitted that they believe revocation would by virtue compel Cabcharge to enter into formal and binding agreements, such as other financial service providers are required to do.

Australian Consumers' Association

- 13.6 The Australian Consumers' Association (ACA) submitted that when authorisation was first granted in 1986, most consumers would have been in the practice of paying for taxi fares by cash and the various charge cards would have been mainly used by business travellers.
- 13.7 The ACA submitted that the spread of the Cabcharge system with its recognisable logo and associated credit card logos has certainly made it easier for consumers to be aware of the ready availability of non-cash payments for taxi travel. This of course has been a public benefit. However, this has produced a major consumer problem. The effective

monopoly of the Cabcharge system used by most taxis in Australia allows for a 10 per cent surcharge on top of the metered fare where non-cash payments are made.

- 13.8 The ACA submitted the taxi industry and the Cabcharge business in particular, has been overcharging consumers and businesses through this mechanism, certainly ever since the introduction of mobile electronic payment systems. With a margin like this available, had there been a free market for these payment services, we would have expected to see competitors enter this market long ago as consumer usage of non-cash payments increased.
- 13.9 The ACA submitted, therefore, that maintaining any restrictions on access by taxi owners and drivers to alternative payment systems is not in the public interest.

Australian Taxi Industry Association

- 13.10 The Australian Taxi Industry Association (ATIA) indicated that the proposed revocation is of great concern to them and expressed the view that authorisation:
- gives stability to the taxi industry;
 - guarantees a minimum payment service to the customer;
 - is not ant-competitive or restrictive;
 - is more than just a NSW issue;
 - enables a fragmented industry to offer a universal customer service standard in the payment of fares; and
 - is essential to the overall financial viability of the Australian Taxi Industry.

Bay City Cabs

- 13.11 Bay City Cabs submitted that when they take a booking, generally, the only passenger details taken is the pick up address and if it is a booking in advance, the time at which the passenger requires the taxi. The booking is then dispatched to a driver who has logged into the zone. If there are a number of drivers in the zone, the booking will be dispatched to the driver at the top of the queue who has a number of seconds to accept the job. If the driver declines the job, it goes to the driver next in the queue.
- 13.12 Bay City Cabs submitted that nowadays more and more people pay by card. In Bay City Cabs' experience, drivers like card payments because with a long trip they know the passenger will be able to pay, whereas with cash there is a risk they won't have enough money to cover the cost of the fare.

The method of payment makes little difference to drivers as long as they get paid.

- 13.13 Bay City Cabs could only recall one situation where a driver refused to accept a card payment, however, noted it was a very rare occurrence and the last time it happened was over 5 years ago.
- 13.14 Bay City Cabs submitted that nearly all non-cash transactions are now electronic transactions. Bay City Cabs submitted that drivers prefer EFTPOS because it is an efficient way of making a transaction, it helps to reduce fraud and allows drivers to get their money faster. Paper vouchers are very slow to process and if not filled out correctly are returned further delaying payment to the driver.

Black Cabs Combined Ltd

- 13.15 Black Cabs Combined Ltd (Black Cabs) submitted that 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.
- 13.16 Black Cabs submitted that if the network was deprived of the knowledge of which payment methods are accepted by drivers, service standards would decrease because:
- the network would need to discuss payment methods with the consumer;
 - the network would take longer to find and dispatch a taxi capable of processing the consumer's method of payment;
 - consumers would not be able to change their mind about their choice of payment method; and
 - taxi drivers would be able to avoid short or inconvenient jobs on that basis that they cannot accept the payment method chosen by a consumer.
- 13.17 Black Cabs submitted that the public benefit extends beyond the scope of consumers' choice of payment method because:
- the authorised conduct assists networks to provide a timely and dependable service to the public;
 - the authorised conduct reduces the costs implicit in processing taxi bookings;

- the authorised conduct enables consumers making bookings to choose their payment method at a later time; and
- the authorised conduct promotes competition in the credit card market.

13.18 Black Cabs submitted that 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.

Cabcharge

- 13.19 Cabcharge submitted that Regal Combined Taxis Pty Ltd, now Taxi Combined Services (Victoria) Pty Ltd, does not operate as an authorised taxi network and is not involved in any taxi operations and therefore authorisation A90447 is no longer required.
- 13.20 Cabcharge submitted that ABC Radio Taxis Ltd (ABC) is a fully owned subsidiary of Cabcharge and accordingly the views expressed in the submission made on behalf of CCN apply equally to ABC.

Canberra Cabs

- 13.21 Canberra Cabs submitted that there are 241 taxi licences issued in the ACT. Around 150 of these are held by investors, around 80 are licence owners and operators, and the remainder are operators who employ bailee drivers. There are around 1,400 registered drivers and around 800 of these work on a regular basis.
- 13.22 Canberra Cabs submitted that there was nothing requiring taxi operators or drivers to accept credit, they do not have to accept credit if they do not want to. But in practice the vast majority of taxi operators and drivers accept credit as it is in their commercial interest to do so.
- 13.23 Canberra Cabs submitted that taxi operators and drivers could not survive commercially if they did not accept credit. If a significant number of passengers choose to pay by credit, it is in the interest of the taxi driver to accept the payment offered.
- 13.24 Canberra Cabs submitted no objection to the removal of the authorisations.

Canberra Taxi Proprietor's Association Ltd

- 13.25 Canberra Taxi Proprietor's Association Ltd submitted no objection to the removal of the authorisations.

Combined Communications Network

- 13.26 CCN, formerly De Luxe Red & Yellow Cabs Co-operative Trading Society Ltd, is a wholly owned subsidiary of Cabcharge

- 13.27 Combined Communications Network (CCN) submitted that the conduct permitted by virtue of the authorisation is a requirement that taxi operators and drivers utilising the CCN radio booking network accept those taxi hiring account systems, and display their decals, which have been approved for use by CCN, or risk suspension from CCN's radio booking network.
- 13.28 CCN has approved the following Cabcharge account system. Taxi operators and drivers who are members of the TCS network must accept payment of fares from almost all known card issuers such as:
- Cabcharge Card and Blue Pre-encoded Dockets;
 - American Express;
 - VisaCard;
 - MasterCard;
 - BankCard;
 - Diners Club International;
 - JCB;
 - International Third Party Cards; and
 - Transport Subsidy Scheme Dockets and Chip Cards.
- 13.29 CCN submitted that the ACCC should not revoke the authorisation for the following public benefit reasons:
- the authorised conduct ensures that customers hiring a taxi which belongs to the CCN radio booking network are offered the opportunity to use their preferred method of payment when hiring a taxi through the CCN network;
 - the authorised conduct ensures that customers hiring a taxi which belongs to the CCN radio booking network are able to determine which account payment system is available to them before entering a taxi; and
 - the authorisation does not prevent the acceptance of other account payment systems by taxi operators or drivers.
- 13.30 In terms of public detriment, CCN submitted that if the authorisation was revoked, taxi operators and drivers could 'pick and choose' the taxi hiring account system and this would result in:
- increased call waiting times when making a booking as the operator would require information on the customer's payment method;

- increased waiting time for acceptance of bookings as the operator would need to find a taxi which accepts the customer's payment method;
- a likely increase in the costs of running a call centre and potentially taxis fares, due to the increased time and information required;
- less choice of payment methods for customers hailing taxis from the kerbside and increased frustration for them as drivers will be able to insist on particular form of payment method; and
- likely reduction in the number of taxi operators willing to service disabled persons who currently use the Taxi Transport Subsidy Scheme as operators decline to accept fares involving greater administration.

13.31 CCN submitted that:

- there is little anti-competitive detriment arising from the conduct;
- there are substantial public benefits arising from the conduct; and
- there would be significant likely detriments arising from revocation of the authorisation.

Cumberland Cabs Company

- 13.32 The Cumberland Cabs Company (CCC) submitted that in 1986, Cabcharge was a facility commonly used by company and government employees to pay for their taxi journey, either by way of encoded docket or Cabcharge credit card.
- 13.33 CCC argued that due to increased usage of the Cabcharge facility by consumers fuelled by the growth of the local corporate sector and the importance of Cabcharge based transactions to the earnings of drivers, the percentage of taxis willing to offer to take Cabcharge related transaction in 2004 is close to 100 per cent. The effect of the authorisation to CCN gives that network some certainty that any customers using a CCN taxi can expect that Cabcharge will be accepted by the CCN taxi driver as a valid payment method.
- 13.34 CCC noted that the introduction of EFTPOS in taxis has given passengers the opportunity to pay through an electronic terminal. Taxi drivers benefit as this processing facility means that the transaction will be verified instantaneously by the card issuer at the time of processing. It also reduces the amount of cash being carried by drivers.
- 13.35 CCC submitted that the Cabcharge payment system also provides significant benefits for TTSS users. With Cabcharge offering a processing service for dockets related to this scheme, CCN is able to promote the scheme to a section of the community who are restricted generally in terms

of the vehicle of transportation. Without authorisation CCN would not be in a position to insist that drivers of its network accept TTSS docketts.

- 13.36 As such, the CCC supports the authorisation as consumers have an expectation that taxis should accept certain payment methods and argued that the expectations of the travelling public are greater in 2004 than in 1986.

David's Taxi Service

- 13.37 David's Taxi Service submitted that the monopolising of credit services in the taxi industry should not be allowed, drivers and operators do not see any of the 10 per cent surcharge imposed by Cabcharge unlike other taxi credit providers, the authorisation should therefore be revoked.

Department of Infrastructure - Victorian Taxi Directorate

- 13.38 The Department of Infrastructure - Victorian Taxi Directorate (VTD) submitted that it is responsible for administering the Multi Purpose Taxi Program (MPTP). The MPTP is a scheme which subsidises the cost of travel for disabled people who are eligible to participate in any Victorian taxi. The metered fare is subsidised by 50 per cent up to \$25 per trip.
- 13.39 The VTD submitted that it is now a metropolitan taxi-cab licence condition that any taxi-cab must be fitted with an EFTPOS terminal approved by the VTD for the purpose of electronically processing MPTP transactions. The only terminal currently approved by the VTD for this purpose is the Cabcharge terminal. The VTD's contract with Cabcharge is non-exclusive.
- 13.40 The VTD submitted that the taxi-cab must also be fitted with an interface, approved by the VTD, between the taxi-meter and the terminal to provide meter connectivity with the terminal and maintain a continuous electronic connection between them. In this way passengers can rest assured that the amount displayed on the meter is the fare they are paying through the terminal.
- 13.41 The VTD submitted that every fare which is subject to a subsidy under the MPTP must be processed electronically unless there is a failure or malfunction of the electronic transaction processing system, including the terminal, which prevents the acceptance of the transaction, or where the MPTP member suffers a disability that prevents that member from being responsible for their membership card.
- 13.42 The VTD submitted that disabled passengers who are eligible for the scheme are issued with a smart card which they must produce when paying for the fare. Paper subsidy vouchers are now limited in use. These measures are aimed at reducing fraud under the MPTP which in the past has been a significant issue. The VTD commented that it took some 5 years to develop and implement the MPTP system to get it to where it is now. The VTD indicated that the current arrangements with Cabcharge are cost effective and highly competitive.

- 13.43 The VTD submitted that in-taxi implementation of diverse and disparate technology from different suppliers was not in the public interest. The ability to provide business functionality that required well-integrated technology solutions would be almost unachievable due to the cost and the impracticalities of implementation. Clear examples of this are the implementation of the MPTP smart card system, the meter interface, and Citylink tolling – all of which would be unlikely to be implemented with more EFTPOS payment systems than currently exists.
- 13.44 The VTD was of the view that the industry could only realistically support two suppliers of EFTPOS terminals in the market to achieve this benefit to the public. The VTD suggested that having more than two alternative providers of EFTPOS terminals in the market is not in the public interest and would add significant costs to the MPTP and severely limit delivery of effective technology-related services to the public.
- 13.45 In relation to the view of some of the applicants that if the authorisations were revoked drivers would no longer accept cards/vouchers and therefore passengers would no longer be able to pay by their preferred method, the VTD expressed the view that these arguments did not appear to be strong. The VTD suggested that perhaps a more likely reason for the networks wanting the authorisations to continue was that without authorisation taxi operators and drivers may feel more empowered to challenge the monopoly position of Cabcharge and seek to install EFTPOS terminals other than Cabcharge terminals.
- 13.46 The VTD believed that it is in the public interest for a network to require taxi operators that are affiliated with that network to offer a specific payment system to passengers. This provides the network with the ability to offer a consistent payment service to its customers and allows competition between networks at the payment system level. It would encourage some degree of competition that can be reasonably supported by the taxi industry, whilst reducing the prospect of a large number of disparate systems being installed. The VTD suggested it would be unrealistic to exclude the evolution of the payment system and the diversity of accepted cards from the current impact of the authorisation.

Department of Justice - Consumer Affairs Victoria

- 13.47 Department of Justice - Consumer Affairs Victoria (CAV) submitted that with huge changes in the taxi industry since the authorisations were granted, the authorisations were no longer protecting consumers, but instead were protecting the interests of the networks. The development of electronic payment system technology, significant improvement in the availability and affordability of this technology and considerable growth in the volume of consumer payments using electronic systems, have changed the nature of the taxi industry.
- 13.48 CAV was of the view that without authorisation the acceptance of cards and vouchers would continue. CAV could not see drivers refusing to accept non-cash payments because they are such a large part of drivers' income.

CAV believed that demand for non-cash payments was a market which would not be ignored by taxi operators and drivers. The increasing demand for electronic payment systems places pressure on the taxi industry to accept various popular payment options to ensure their business remains viable and appropriate for the contemporary consumer.

- 13.49 In relation to the display of decals, CAV submitted that businesses now accept most cards and display the acceptance of those cards. CAV was of the view that without the authorisation, taxi operators and drivers would continue to display the decals of the payment methods on offer.

Diners Club International

- 13.50 Diners Club International had no objection to the proposed revocation.

Legion Cabs (Trading) Co-operative Society Limited

- 13.51 Legion Cabs (Trading) Co-operative Society Limited (Legion Cabs) submitted that it has a fleet of 526 taxi-cabs operating throughout the Sydney metropolitan area. Legion Cabs operates its own booking network and dispatch service to Legion taxi-cab operators. And also provides a booking and dispatch service to St George Cabs and RSL Cabs. Legion Cabs is a shareholder in Cabcharge.
- 13.52 Legion Cabs submitted that passengers have an expectation that when they travel in a taxi-cab their payment method will be accepted. If authorisation is revoked, Legion Cabs will not be able to ensure that each taxi-cab belonging to its network will accept the approved payment methods.
- 13.53 Legion Cabs submitted that call centres are technologically advanced and extremely costly to operate. To keep costs low it is essential that call times are kept to a minimum. If information on the type of payment had to be obtained from a passenger at the time of a call, this would escalate call centre costs and result in increased fees to operators. It stands to reason that if network fees were increased taxi fares may also increase. There is a direct correlation between network fees and taxi fares.
- 13.54 Legion Cabs submitted that under its network accreditation, it has an obligation to meet certain time limits in relation to accepting jobs. If the authorisation was revoked this may place Legion Cabs in a position of not being able to meet the accreditation standards.
- 13.55 Legion Cabs submitted that TTSS dockets form part of the Legion Cabs approved payment system and without authorisation they have no way of requiring taxi operators and drivers to accept these dockets.
- 13.56 Legion Cabs submitted that the benefits to the public far outweigh any detriment, the most important reason is that the public have an expectation that when they hail or pre-book a taxi-cab they can pay by major credit card.

Manly Warringah Cabs (Trading) Co-operative Society Ltd

- 13.57 Manly Warringah Cabs (Trading) Co-operative Society Ltd (Manly Cabs) submitted that it is a co-operative owned by its members with around 168 cars, 85 taxi operators and 584 drivers. Manly Cabs set up its own radio network on 29 June 2003 operating on the Northern beaches of Sydney and has around 28 staff employed. Previously the radio network function was outsourced to Combined Communications Network. Manly Cabs submitted that that it was the first in the world to have a mobile EFTPOS system installed in a taxi-cab which became operational on 30 November 1994.
- 13.58 Manly Cabs indicated that since the authorisations were granted, almost all taxis in cities have accepted credit cards resulting in benefits to the public. Manly Cabs disputed the view of the ACCC that the growth in the volume of card payments will mean that drivers will accept credit cards without the authorisation. Manly Cabs submitted that some drivers will insist on cash due to concerns about infrastructure or record keeping.
- 13.59 Manly Cabs was of the view that it would be uneconomical for a taxi driver to refuse a fare. Many Cabs does not and would not take any punitive action against a driver if they refused to accept payment by card, except if the car displayed decals indicating that charge/credit cards would be accepted by the driver.
- 13.60 Manly Cabs submitted that if authorisation was revoked they would want to know that taxi-cabs would still accept cards and would not want to see a proliferation of different types of EFTPOS terminals. Customer radio hirings would entail network knowledge of the cards accepted by each of the fleet vehicles. Uniformity of card acceptance within the fleet is vital to ensure that a customer is not left stranded or embarrassed when the customer tenders a card for payment of the fare. Manly Cabs submitted that the documented growth in card use, coupled with known driver and passenger behaviour, is a reason to continue with the authorisations.

Mr Michael Jools

- 13.61 Mr Michael Jools, a taxi driver and member of the Transport Worker's Union (NSW Branch), submitted that the authorisations granted to assist taxi co-operatives has been utilized to turn the fledgling Cabcharge into a massive corporation that now owns its original owners as well as other taxi companies around Australia. This power and wealth flows from the TPC exemption, and has been developed at the expense of consumers and workers.
- 13.62 Mr Jools submitted that the specifics of the exemption were to permit taxi co-operatives to make rules and enforce financial and regulatory penalties in default of taxi drivers refusing to accept nominated credit cards and dockets in payment of fares, and to oblige the display of decals and signage on cabs. The effect modified over the years has been the development of an authorisation regime that inappropriately affects the financial and personal affairs of taxi owners, operators and drivers.

- 13.63 Mr Jools made reference to the surcharge of 10 per cent and considered it to be exorbitant. Mr Jools indicated that there is a complete neglect of the prospect of taxis of being able to process Cabcharge cards through their non-Cabcharge EFTPOS device.
- 13.64 Mr Jools submitted that the development of EFTPOS is of significance because of the huge reduction in processing charges by comparison with paper dockets and by the reduction in fraud, the cost savings of which have yet to be passed on to consumers.

Ms Michelle Strathmore

- 13.65 Ms Strathmore submitted that she is a taxi operator and driver with one taxi which is on the road almost 24 hours a day. She has 4 drivers covering different shifts throughout the week to cover the periods when she is unable to drive.
- 13.66 Ms Strathmore submitted that the authorisations were restricting competition in the market by indirectly forcing taxi operators to have a Cabcharge EFTPOS terminal, by virtue of the fact that for electronic transactions with a Cabcharge card, the card has to go through a Cabcharge terminal.
- 13.67 Ms Strathmore submitted that she should be able to negotiate the terms and conditions of arrangements in relation to transactions using EFTPOS terminals which affect her as a small business, the authorisation prevents her from doing this. Sometimes the terms and conditions imposed on her as a taxi operator are onerous with no course of redress.
- 13.68 Ms Strathmore submitted that without authorisation she would continue to accept all major credit and charge cards, including the Cabcharge card and vouchers. She would not want to impede her business by not accepting these. But without authorisation she would have more of an opportunity to negotiate the terms and conditions of the arrangements impacting on her small business. Ms Strathmore submitted that there will be some drivers, in the minority, who would insist on cash as a means of payment and would pressure passengers to pay by this method.

New South Wales Office of Fair Trading

- 13.69 The NSW Office of Fair Trading did not consider it appropriate to make any comment on the proposed revocation.

New South Wales Taxi Council

- 13.70 The New South Wales Taxi Council (NSWTC) submitted that the authorisations have enabled the industry to supply the travelling public with a consistent and guaranteed level of fare payment service with access to EFTPOS and communication technology worldwide.

- 13.71 Furthermore, the ability of a network to offer a consistent method of payment allowing the consumer to know what payment options will be available has brought stability, growth and a high level of service. This stability has allowed high levels of investment into technology and without this, will severely reduce the investment required if the taxi industry is to continue with the necessary expansion needed to keep pace with passenger service expectations.
- 13.72 It is the opinion of the NSWTC that the authorisations do not offer in any form, restricted or uncompetitive practices. Without the authorisations a customer will not have the knowledge that at least one specific payment option other than cash will be available.

New South Wales Taxi Drivers' Association

- 13.73 The New South Wales Taxi Drivers' Association (NSWTDA) submitted that seeking to differentiate the acceptance of a card or voucher and the processing of the card through an EFTPOS device has three issues. Firstly, without on-line verification of the validity of the card the driver takes on the risk of a fraudulent transaction. Secondly, the cover sheet for the blank vouchers supplied by Cabcharge specifically state that the vouchers are for emergency use only. Thirdly, the green vouchers are not acceptable for debit cards or bankcards.
- 13.74 The NSWTDA indicated that the 10 per cent surcharge on transactions was exploiting consumers and could no longer be justified. At its inception a service fee of 10 per cent was a reasonable reflection of the costs of operating the system. In 2004, there is a capital cost and on-line connection expenses, but the overall cost of processing is vastly reduced if not minimal.
- 13.75 The NSWTDA indicated that any hiring account system should be able to accept any credit or debit card generally available in the public interest and urged the ACCC to rescind the authorisation.

New South Wales Taxi Industry Association

- 13.76 The New South Wales Taxi Industry Association (NSWTIA) submitted that although the structure of De Luxe has changed from a co-operative to a company, the public benefit has not in any way been disadvantaged or downgraded.
- 13.77 The NSWTIA submitted that the influence of Cabcharge on the industry has resulted in improved services and allowed the industry to prosper. Most taxi-companies/co-operatives throughout Australia are shareholders in the Cabcharge system and as well many thousands of owner/operators also hold shares in the company.
- 13.78 The NSWTIA submitted that revocation of the authorisation would be a retrograde move.

North Suburban Taxis (Vic) Pty Ltd

- 13.79 North Suburban Taxis (Vic) Pty Ltd (North Suburban) submitted that their intention is to be able to offer certainty, consistency and reliability to the public with reference to a minimum number of payment methods its affiliated taxis will accept.
- 13.80 North Suburban submitted that the uniform payment methods continue to provide significant public benefits including:
- a passenger can book or hail a taxi without having to enquire as to the availability of payment methods;
 - drivers can move freely between different operators without having to be trained in the use of different payment systems;
 - the process of booking a taxi is not extended as a result of the need to nominate a passenger's payment method;
 - a taxi can be booked on behalf of the passenger without the need to discuss the intended payment method;
 - the network can provide a faster service to passengers when booking without having to refer to the payment method, reducing telephone waiting time;
 - a passenger can change their mind about which payment method they intend to use before terminating the hiring; and
 - a passenger who books a taxi will get better service if all taxis affiliated with the network chosen by the passenger have a uniform set of specified payment options.
- 13.81 North Suburban submitted that it is difficult to support an argument that the authorised conduct has created a barrier to entry for providers of electronic payment systems. There are several providers of paper based and electronic payment systems in Melbourne. It is appropriate to note that alternative providers can rely on manual paper based payment systems to compete with electronic payment systems.
- 13.82 North Suburban submitted that it is reasonable to suggest that over time and in the absence of the authorised conduct, many taxi operators and drivers are likely to ensure they have the facilities to accept the credit and debit cards that have high rates of recognition and usage. However, it is unrealistic to assume that taxi drivers will take additional steps to ensure that the full range of payment methods currently available will be maintained. The vast majority of taxi drivers when presented with a choice prefer to accept cash. Accordingly, it is incorrect to say that there is no longer any public benefit in requiring operators and drivers to accept the payment methods approved by the network they have chosen to affiliate with. The public benefits delivered by the uniform approved payment

system would be significantly diminished in the absence of the authorised conduct.

RSL Ex-Servicemen's Cabs & Co-operative Members Ltd

- 13.83 RSL Ex-Servicemen's Cabs & Co-operative Members Ltd (RSL Cabs) has a fleet size of 182 vehicles and belongs to the Legion Cabs Bureau. It is a shareholder of Cabcharge.
- 13.84 RSL Cabs submitted that taxi operators and drivers can install any EFTPOS terminal, the operator and driver are only concerned that they are paid in full for the fare.
- 13.85 RSL Cabs indicated that customers prefer drivers to use electronic payment systems as the fare cannot be altered and drivers also prefer to use electronic systems in the knowledge that a fraudulent card has not been accepted.

Silver Top Taxi Service Ltd

- 13.86 Silver Top Taxi Service Ltd (Silver Top) submitted that it has 1,730 taxis. Silver Top submitted that in November 2003 it ceased to be a major shareholder in Cabcharge when it was acquired by the Gange Corporation. Silver Top operates its own network and also provides communication services to other taxi fleets in Bendigo and Sunbury.

Southern District Radio Cabs Co-operative Ltd

- 13.87 Southern District Radio Cabs Co-operative Ltd (Southern District Cabs) submitted that it is important for a network to be able to present certainty to passengers in knowing how they will be able to pay for the taxi fare. There is a public benefit in having all drivers offer credit acceptance. Without these authorisations they feel it is unlikely that natural market forces and the general growth of non-cash payments in the community will be sufficient to achieve the outcomes that the public deserve.
- 13.88 Southern District Cabs submitted that, in purely practical terms, networks need to be able to standardise signage, call taking (which has to be kept as simple and as cheap as possible) and marketing. The ACCC should allow the authorisations to continue. If the authorisations do not continue the result will be:
- delays when booking due to the need to resolve payment methods;
 - drivers' time being wasted when sent to jobs they cannot carry out;
 - problems for disabled people; and
 - less disclosure of payment terms to the public.

St George Cabs Co-operative Ltd

- 13.89 St George Cabs Co-operative Ltd (St George Cabs) submitted that it has a fleet of 220 taxis and has its own radio booking and dispatch network. The service is operated for St George Cabs by Legion Cabs under a 'booking services agreement'. St George Cabs is a shareholder of Cabcharge.
- 13.90 St George Cabs submitted that it requires its members and operators to display the decals of payments systems to advise customers of the forms of payment accepted. Accepted forms of payment are Cabcharge, Visa, Mastercard, American Express, Diners Club, JCB and Bankcard. Debit cards are also accepted but only through the EFTPOS terminal. If a customer chooses to pay for the hiring by one of these cards, drivers are required to accept the card as a form of payment. EFTPOS terminals have been made available to all St George Cabs by Cabcharge.
- 13.91 St George submitted that payment by cards attracts a surcharge of 10 per cent plus GST on the surcharge if applicable. Taxis are required to display a decal in both the front and rear seats of the taxi advising of this surcharge.
- 13.92 St George strongly opposes the revocation of authorisation and believes it would not be in the interests of St George, Cabcharge and most importantly customers who use the Cabcharge system.

Suburban Transport Services Pty Ltd

- 13.93 Suburban Transport Services Pty Ltd (Suburban) submitted that it is an agent for Cabcharge which provides radio booking and dispatch services to taxi operators and drivers. There are around 260 taxi cabs affiliated with Suburban operating in Adelaide.
- 13.94 Suburban submitted that when authorisation was granted to it in 1988 there was considerable reluctance from drivers to accept anything other than cash for the payment of fares. Since then the industry has changed considerably. Debit/credit cards and EFTPOS are now widely accepted and are an integral part of business. Drivers accept cards and vouchers on their own accord to meet the demand created by passengers. Drivers also have electronic facilities available to accept card payments. All of the 260 cabs have a Cabcharge EFTPOS terminal. Other types of terminals are not used because under the current processing arrangements, the Cabcharge card can only be processed using a Cabcharge terminal.
- 13.95 Suburban was of the view that payments processed electronically have a significant advantage over paper dockets as payment acceptance is immediate and the driver knows payment has been approved. This has reduced the number of fraudulent transactions and therefore reduced the losses previously borne by the taxi operator.
- 13.96 Suburban submitted that when credit cards were first introduced it was the practice for the telephonist to ask the person making the booking if payment was on Bankcard/Visa. This was to ensure the taxi allocated for that job

was able to accept that form of payment. This procedure no longer applies as electronic payments are accepted by all taxis in the Suburban fleet.

- 13.97 Suburban submitted that around 60 per cent of transactions were non-cash, meaning if a driver did not accept these payments they would lose about 60 per cent of their income. Suburban was of the view that drivers could not survive financially if they did not accept cards and vouchers. They would lose too much of their income. Suburban expects the shift from cash to non-cash payments to continue in the future.

Taxi Drivers' Association of Victoria

- 13.98 The Taxi Drivers' Association of Victoria (TDAV) did not consider it necessary to submit information in relation to the NSW proposed revocation of authorisation. However, it requested total revocation of the authorisation in Victoria for reasons or grounds that should be quite obvious to the ACCC.

West Suburban Taxis Ltd

- 13.99 West Suburban Taxis Ltd (West Suburban) has 171 taxis and operates its own dispatch services. West Suburban submitted there is no relationship with Cabcharge Australia Ltd other than the use of the Cabcharge Account System.
- 13.100 West Suburban submitted that that the public benefits achieved by authorisation still exist. Those public benefits are the simplicity and certainty of passengers knowing that when they get into a West Suburban taxi they can pay by their preferred method.
- 13.101 West Suburban submitted that passengers like to use cards in taxis because the exact fare is not known until the end of the trip, it is hard for a passenger to know exactly how much cash to carry.
- 13.102 West Suburban submitted that the outcome of any revocation will be delays and confusion unless credit and charge arrangements are 100 per cent certain.

Vermont Autogas Pty Ltd

- 13.103 Vermont Autogas Pty Ltd (Vermont) has 50 taxis (5 of these are multi-purpose taxis for the disabled) and owns, leases and/or manages the licences. The taxis are affiliated with the Black Cabs network for booking and dispatch services, except for 3 which are affiliated with the Silver Top network. These were already with Silver Top before Vermont took over the management of the vehicles.
- 13.104 Vermont submitted that although the authorisations cover the acceptance of cards and vouchers, they are also impacting on other areas of the market and helping Cabcharge to further strengthen their already dominant position in the market.

- 13.105 Vermont submitted that the removal of authorisations has the potential to give taxi operators more negotiating strength as small business people. At the moment they are at the whim of the networks who look to advance their own interests, not those of consumers. This would not happen if there were more competitors in the market. It is Cabcharge's strength in the market given in part as a result of the authorisations which allows the networks to treat operators and drivers in an unfair manner.
- 13.106 Vermont submitted that without authorisation drivers would still continue to accept cards and vouchers and continue to display the decals of the payment methods accepted. The arguments made by the applicants that revoking the authorisations would result in detriments to the public were not commercially sound.

Annexure B - Cabcharge Decals



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
All authorised debit cards	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.

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Annexure B - Cabcharge Decals (continued)

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.

