



08 November 2011

Your Reference: C2011/815

Contact Officer: Anna Giannakos

Australian Competition & Consumer Commission
GPO Box 3131
Canberra ACT 2601

Attn: Dr Richard Chadwick

Third line forcing notification N95566 lodged by First Class Taxi Pty Ltd

Thank you for the opportunity to comment with reference to the above matter.

Company Background

Cabbieexpress International Limited (ACN 118 763 787) is an Australian Public Company established in 09 November 2009. Our vision is “helping drivers make their work, their business, their future”.

Products and Services offered

Cabbieexpress is a Mobile Transaction & Business solutions company providing Payment facilitation, Client Account processing and Job offering solutions for companies, operators, owners and drivers.

Cabbieexpress offers our merchant “Anywhere Anytime Anysize” payment solutions regardless of their transaction volume, amount size and usage frequency. Cabbieexpress charges no monthly rental, maintenance or termination penalty for our merchants. Our ability to offer operators and drivers a truly flexible solution is the result of an innovative transaction processing system that monitors all our Point of Sales (POS) operations. This has enabled Cabbieexpress to reduce misuse by both drivers and cardholders and over the past two years has dramatically lowered our transaction processing costs. Thus, we have been able to curtail fraudulent operators and reward good operators by instituting a dynamic Commission Structure as well as differential Consumer Service Fee Uplift.

Cabbieexpress’ unique approach in the Taxi Industry is to provide all drivers a “choice”, a “choice” on whether they want to build a real value and goodwill from their work, thus delivering benefits to both the taxi industry participants and the travelling public, or relying on the current industry modus operandi. Instead of locking in the driver on depending on their “associated network” call centre for jobs, drivers are rewarded for cultivating their own cliental (account customers), generate their own account invoicing with reduced Consumer

Service Fee Uplift, provision of Jobs Offload Bulletin Service to other trusted drivers as well as Internet booking with many Web Payment options.

Other innovative solutions Cabbixpress offers are Mobile & Web Payment, Internet & Intranet customisation, Account Invoicing and Job Offload which are available on PC, Mobile Internet Devices (MID) and traditional EFTPOS terminals.

Third line forcing Notification N95566 lodged by First Class Taxis Pty Ltd

Our comments with reference to First Class Third Line Forcing Notification regarding the notified conduct are as follows:

Summary

Item	Ref	N95566	Comments
1	2(b)	First Class Taxis Pty Ltd proposed to require each Bailee to use and/or acquire EFTPOS Facilities only from a supplier approved by First Class Taxis Pty Ltd ("Approved Supplier")	<p>A Bailee driver is an independent subcontractor and not an employee of First Class Taxis. Therefore, they are a small business enterprise and should be provided with the option of maximising their own income from the work they do and the risk of accepting plastic payment.</p> <p>As described in the notified conduct, the Bailee does the work, is fully responsible for all the credit card acceptance risks but in return, earns zero share of the 10% Consumer Service Fee Uplift (CSFU).</p> <p>From the current 10% Consumer Service Fee Uplift (CSFU), Cabbixpress offers all drivers who use our EFTPOS payment system the ability to earn up to 7% commission.</p> <p>The notified conduct will eliminate driver choice and therefore has a detrimental impact on their income earning ability.</p>
2		The First Class Taxi will reasonably approve suppliers that satisfies all of the following: Provide a charge account system which gives passengers a line of credit to pay for taxi fare and related charges;	<p>Cabbixpress Client Account Processing offers more flexibility which provides consumers or corporate direct line of credit either from the card schemes, operators or from individual drivers. In addition, the banks and card schemes provide no interest settlement period.</p> <p>To-date, many Cabbixpress' Client</p>

			Account Processing often incur a much lower CSFU. By specifying which charge account system the consumer and driver must use would lead to reduced consumer “choice” and eliminate any competitive pressure to reduce the Consumer Service Fee Uplift Of 10%.
3		Provide a payment system which allows the Bailee to process non-cash payment systems and other payment system as mandated by law;	Bailee as an independent contractor should be provided with the “choice” to choose the best payment processing system with the best return available on the market and not mandated by law.
4		Provide processing service which facilitate the distribution between First Class Taxis Pty Ltd and the Bailee of passenger fares received by way of EFTPOS;	With Credit Card transaction in less than 20% of total fares received, First Class Taxi reconciliation is still based on taxi meter. Therefore, there is no value added by way of EFTPOS Third Line Forcing.
5		Provide EFTPOS terminal that will be hardwired to taxi cab meters so that real time visibility and recording of all transaction by First Class Taxis Pty Ltd	<p>The real time visibility of a taxi trip is not from EFTPOS terminal as the payment process is engaged only at the completion of a trip.</p> <p>This notified conduct will restrict the driver potential income and the option for public to negotiate a reduced Consumer Service Fee Uplift (CSFU).</p> <p>Additionally, while there are multiple meter manufacturers but one supplier that has a near monopoly on supplying the Australian Taxi Industry with meters. This supplier also has its own proprietary EFTPOS terminal that is hardwired into the majority of taxi cabs in Australia.</p> <p>Allowing the notified conduct to proceed could completely lock out any third party EFTPOS terminal being used in the taxi. The Taxi Meter (measuring distance and time per journey and converting to a dollar value) is a separate process to that of accepting and processing card payment at the end of trip.</p> <p>Hardwiring the two discrete functions together will embed the 10%</p>

			surcharge, eliminate any competitive pressure to reduce the 10% Consumer Service Fee Surcharge imposed on the general public.
6		Provide a payment system which does not permit payment of any monies into an account other than accounts designated by First Class Taxi Pty Ltd	<p>Why is this important? Currently nearly 80% of fare payments are cash based. Payment is made directly to the driver who then at the end of their shift settles with the relevant party (whether it is the operator/owner/taxi company).</p> <p>There is no benefit to the public or the driver to predetermine which account monies are paid into.</p>
7	4(a)	<p>Arguments in support of notification</p> <p>TRANSPARENCY AND ACCOUNTABILITY</p> <p>This recording and the ensuring transparency cannot be achieved with an EFTPOS terminal not hardwired to the taxi cab meter</p>	<p>NOT TRUE.</p> <p>Bailees and taxi companies using the Cabbixpress system enjoy full transparency and accountability, without the need to be hardwired or even connected to the taxi cab meter.</p> <p>Cabbixpress offers real time transaction updates and fully customizable reporting functions. Our system can also pay in monies to nominated banks (either as determined by the bases, operators and the driver). Our ability to detect transaction misuse is done in real time and has enabled Cabbixpress to have arguably the lowest chargeback rate in the industry, thus lowering the cost of doing business to all industry participants such as drivers, taxi owners and the travelling public. All this is achieved with a world class transaction processing platform not connected to the taxi cab meter.</p>
8		<p>QUALITY CONTROL</p> <p>Ensure compatibility of the EFTPOS transaction recording with the software and IT resources used by First Class Taxis Pty Ltd and Bailee pay-in system. This will enhance system compatibility, efficient installation and integration.</p> <p>Ensure EFTPOS information and data in a form acceptable to First Class Taxis Pty Ltd is</p>	<p>Quality control as defined in the conduct notification does not require the very restrictive practices so described.</p> <p>All this is currently achieved by the Cabbixpress System. As our EFTPOS terminal is banking standard approved it has a much higher compliance standard than that of the incumbents near monopoly hardwired terminals. The result is lower</p>

		<p>automatically provided to First Class Taxis Pty Ltd without disruptions caused by terminal and system malfunctions. This will allow First Class Taxis Pty Ltd to reduce the costs in the short and long term monitoring. This will result in a reduction in the costs associated with enforcing its financial reporting requirements. These financial reports include ATO PAYG and GST. These financial reporting requirements are also required at audits conducted yearly by Queensland Transport. Back of house efficiencies and savings are an essential and integral part of the success of First Class Taxis Pty Ltd as a business.</p>	<p>disruptions and disputes.</p> <p>Cabbiexpress offers as standard, reports and the exporting of data to comply with external agencies reporting requirements as standard. The notion that this can only be achieved by the use of the notified conduct is not true.</p>
9		<p>The Bailees will benefit from the quality control benefits described above because those benefits will help maintain business efficiency. The Bailees' earnings are directly proportionate to the takings that they receive from each shift, and since business efficiency will ensure that the Bailees have more time to focus on providing high quality service to the travelling public, the benefits will ultimately flow to the Bailees.</p>	<p>While it is true is that “the Bailee’s earnings are directly proportionate to the takings they receive from each shift”, it is utterly not true to suggest that business efficiency and hence Bailees will have more time to focus on their work as such.</p> <p>A day in a driver life is how to find work to pay for the day’s expenses.</p>
10	6(a)	<p>Customers (Taxi Passengers) Taxi Passengers are charged a surcharge for using the mobile EFTPOS facility in a taxi. Currently all terminal providers charge a flat 10%. This surcharge has remained the same even as more entrants have come into the market. Therefore the level of competition in the relevant market will most likely not have a financial impact on taxi passengers. Any financial benefit comes from the ability of First Class Taxi Pty Ltd to negotiate more favourable trading terms and supply conditions.</p>	<p>Cabbiexpress absolutely refutes this statement. Cabbiexpress EFTPOS is equipped and fully committed to reducing Consumer Service Fee Uplift (surcharge) which stays at a high 10%. We provide the option for drivers to set their own Consumer Service Fee Uplift.</p> <p>Many drivers that utilize our Client Account Processing have the option and often charge their account customers a variable Service Fee uplift far below that of the so called industry norm of 10%.</p> <p>It is worth noting the Mobbexpress, the sister company of Cabbiexpress provides a nominal 2% Consumer Service Fee Uplift.</p>

11		<p>Bailees Subject to legal requirements, the Bailees can still decide which supplier they want to use, provided that the supplier they choose is one of the Approved Suppliers.</p>	<p>As we commented in item 5, our concern is that with a near monopoly meter supplier that also has a near monopoly on proprietary Charge Account Scheme and EFTPOS terminals hardwired into nearly all taxis in Australia is that the practical reality of independent third party EFTPOS suppliers becoming an Approved Supplier is unlikely occur.</p> <p>The current majority installed taxi meter and hardwired EFTPOS terminals are proprietary closed loop systems. While Cabbiexpress EFTPOS complies to banking standards that may allegedly be incompatible with the proprietary closed loop proposed in the notified conduct. Very importantly, the very notion of an Approved Supplier restricts the Bailees right to choose a better deal or bonuses that are available to other non First Class Bailees thus putting First Class Bailees at a distinct economic disadvantage.</p> <p>The word Approved Suppliers restricts Bailees (independent contractors) from the option to choose how they want to service their customers (passengers) without the “Company’s Business Rules”</p>
12		<p>If the Bailees wish to use a supplier that is not one of the Approved Suppliers, they can also approach First Class Taxis Pty Ltd for that supplier to be added to the Approved Supplier list, provided that the Criteria are met.</p>	<p>Bailees (as independent contractors) should have their own independent decision making process that suits them most, their business and their future. By linking “Approved Supplier”, it is an indirect way to a set of restrictive parameters, reduce competition, stifle innovation and offer no public benefit except First Class Taxis.</p>

In Conclusion:

In our opinion in regard to First Class Taxi notification, there is no value added service to general public or driver. With regards to First Class Taxi’s arrangement between customer, driver, payment facilitator and financial supplier, the linkages already exists within the taxi industry “choice” framework in the overall process. This “choice” already provides benefits to

the general public in terms of reduced Consumer Service Fee Uplift (CSFU), better income for bailees, better deals from financial institution due to market forces and owner/operator in terms of running his own small business they way they wanted it.

We fail to see any real benefits created by First Class Taxi proposed arrangement except for the “Virtual Authority” to penalise general public, consumer, driver, financial facilitators and competition for not compiling with First Class Taxi’s terms and conditions.

Currently, Cabbixpress provides “choice” benefits to the general public through flexibility of negotiation and market forces. We do not envisage the linking of meter can offer any financial benefits or service level to any general public except to monopolise control of the lucrative 10% Service Fee Uplift.

The linking of meter to financial facility device and to radio does not improve the service level to the general public. At worst, it would impede provision of a quality service at the expense of the driver (doing the real work and personal risk of accepting credit card transaction) who would receive zero or at best a nominal minimal commission from involvement in the proposed First Class Taxi process. The hard wired scheme is a prerequisite of exclusivity, which effectively discourages any competition with un-necessary installation, compliance and approval cost which ultimately will have to be passed back to the consumer or slow down the implementation of a more realistic Consumer Service Fee Uplift.

In conclusion, First Class would be the only group to gain without service improvement or innovation in their proposed arrangement. They would gain through:

- Tighter financial and operational control over their drivers
- No improved service level for the general public and having an absolute control over the Consumer Service Fee Uplift with their internally defined “Authorised Supplier”
- Accelerate the decay of trust that drivers have towards the network

Cabbixpress strongly objects to First Class Taxis proposed arrangement and conduct. It will undermine the competition for financial transaction processing payments in the taxi business and offers no real economic benefit to the driver or the passenger. In fact, such a restrictive practice serves to further consolidate existing incumbent relationships and create an environment that artificially locks out competition to reduce consumer transaction costs.

The statement made by First Class Taxis that only through a hardwiring of the taxi meter and EFTPOS terminal can result in business efficiency with alleged benefits of transparency and accountability is groundless. Business efficiency with full transparency and accountability can and is being achieved by Cabbixpress for our clients by maintaining a separation of the taxi meter and the processing of the financial transaction.

Should you have any questions please do not hesitate to contact Cabbixpress directly.
Thank you.

Yours truly,
Jace Lai
Cabbixpress International Limited