



**Victorian Taxi Association –
application for authorisation A91428
Interim authorisation decision
19 June 2014**

Decision

1. The Australian Competition and Consumer Commission (the ACCC) has granted interim authorisation in respect of the application for authorisation lodged by the Victorian Taxi Association (VTA) on 12 May 2014.
2. Interim authorisation is granted to enable Victorian taxi operators who participate in the 19 co-operative networks listed in the **Appendix** to this decision, to make and give effect to contracts, arrangements or understandings within the same co-operative network as to the maximum fares charged for booked and contracted work.
3. Interim authorisation commences immediately and remains in place until it is revoked or the date the ACCC's final determination comes into effect.
4. The ACCC is granting interim authorisation in recognition of the urgency of the request and to provide a transitional measure to assist the industry adjust to the broader reform agenda. This decision should not be taken to indicate whether or not the ACCC will grant final authorisation.

The application for authorisation

5. The VTA seeks authorisation, on behalf of operators in multi-operator cooperative networks in Victorian regional and country zones, to make and give effect to arrangements or understandings between existing and future operators to reach agreements on the consistent maximum fare for booked and contracted work in co-operative booking networks. The VTA has sought authorisation for five years.
6. The VTA states that its application does not seek to stop individual operators or drivers from offering discounts off the maximum fare.

The authorisation process

7. Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the *Competition and Consumer Act 2010* (the Act). Broadly, the ACCC may grant authorisation if it is satisfied that the benefit to the public from the conduct outweighs any public detriment, including from a lessening of competition. The ACCC conducts a public consultation process to assist it to determine whether a proposed arrangement results in a net public benefit.

Background

Taxi industry reforms

8. The VTA has applied for authorisation in the context of the Victorian Government implementing a major program of taxi-industry reform to take effect from 30 June 2014 including:
 - Removing government regulation and the role of the Essential Services Commission (ESC) in setting taxi fares in regional and country zones. Operators in these zones will be required to set their own fares and notify their maximum fares to the Taxi Services Commission (TSC).
 - Operators will not have to notify fares to the TSC if they set prices at or below the rate set by the ESC that came into effect on 19 May 2014.¹
 - The ESC will continue to set regulated fares for metropolitan and urban zones.
 - Rationalising approximately 100 existing taxi licence zones into four broad zones (metropolitan, urban, regional and country) which will enable taxis to offer services within the same zone and enable cross-zonal work where the licence fee is of a higher value.² Previously taxis were restricted in offering services within a defined radius to which the licence was located.
 - Greater access to taxi licences, subject to a consumer interest test.
 - No longer requiring operators to affiliate with a network.
 - Requiring drivers to get 55 per cent of the fare box.

Industry characteristics

9. The VTA submits that booked and contracted work represents 90 per cent of all taxi work in regional and country areas.
10. Many Victorian towns have either independent or co-operative networks. Independent networks are characterised by one entity owning all the licences and operating all the taxis. This application relates to co-operative networks only.
11. In country and regional Victoria, there are 19 co-operative networks operating in 17 locations (see Appendix). In most cases, each operator within the co-operative operates one or two taxis. Shepparton and Warragul each host two co-operative networks (Mildura also has two networks but only one of these is a co-operative).

Interim authorisation

12. Section 91 of the Act allows the ACCC to grant interim authorisation where the ACCC considers it appropriate to allow the parties to engage in the conduct while the ACCC is considering the substantive application for authorisation.

¹ The ESC allowed Victorian taxi operators a 12.5 per cent fare increase effective from 19 May 2014.

² In relation to cross-zonal work, taxis with metropolitan licences can compete for pre-booked work in all zones except urban; urban licences can compete for pre-booked work in urban, country and regional zones; regional licences can compete for pre-booked work in regional and country zones.

13. The VTA requested interim authorisation on the basis that :

- The request is urgent due to the timing of the Victorian Government reforms that take effect from 30 June 2014.
- Without authorisation, that Victoria's regional and country co-operative taxi networks would break down as they would be unable to operate the network as co-operatives.
 - Members of the co-operative agree to share work based on the availability and proximity of cabs; and this arrangement would be compromised if customers sought services based on competing prices within the network. The VTA submits that dispatching work would be next to impossible if each individual taxi affiliated with the network was required to offer a different price or risk being perceived to be contravening competition law.

14. The VTA further submits that:

- Without authorisation, there is the potential for harm to customers in the form of longer wait times (if taxis cannot be allocated work based on proximity) and higher transactions costs in searching for prices and availability of taxis, particularly for the elderly and disabled who rely on a central point of contact for booking and reliability of service.
- There are efficiency benefits from the conduct in the form of lower transaction costs arising from a single booking system and also from the network notifying a single price to the TSC rather than multiple prices if operators were to compete on price.
- Detriments from the proposed conduct are low as there is the threat of competitive entry from other taxis resulting from the broader de-regulation reforms as well as competition from independent operator networks, hire cars and community public transport.

Consultation

15. The ACCC sought submissions from 43 interested parties including institutional customers such as care providers, Victorian co-operative and non-co-operative taxi networks, taxi 'app' providers and Victorian regulators. Submissions in support of interim authorisation were received from the TSC, Australian Government Department of Veterans' Affairs (DVA), the Victorian Department of Transport, Planning and Local Infrastructure (VDTPLI) and Wellington Taxis. The Australian Taxi Drivers' Association opposed interim authorisation. The views expressed in these submissions are noted below.

16. The TSC supports the urgency of the VTA's request for authorisation and notes the potential for harm to customers in the form of customer confusion and service disruption should interim authorisation not be granted.

17. The DVA submits that without authorisation, the complexity of its contracting arrangements would increase as it would need to contract separately with individual operators rather than networks. The DVA also supports the VTA's claims in regard to the potential for harm to customers, particularly the elderly and disabled,

18. The VDTPLI notes that without authorisation, the inability to offer uniform pricing would undermine network operations and compromise service efficiency and quality. VDTPLI also notes that with authorisation, price competition could be retained through inter-network competition and the removal of regulatory barriers that would facilitate new entry by taxis and hire-cars.

19. Wellington Taxis submits that customers rely on the features of network taxi systems and that customer confusion regarding services and prices, particularly for elderly customers, the disabled and disadvantaged groups would increase without authorisation.
20. The Australian Taxi Drivers' Association did not support the request for interim and notes that country fares should remain regulated and that competition might create confusion for customers.
21. Further information in relation to the application for authorisation, including the public submissions received by the ACCC as this matter progresses, may be obtained from the ACCC's website www.accc.gov.au/authorisationsregister

Reasons for decision

22. The ACCC considers that the proposed taxi reforms are significant and acknowledges that they seek to promote competition in the industry through a range of mechanisms and that these changes will particularly impact on co-operative taxi networks in country and regional Victoria. The ACCC notes that the industry has had limited time to consider these reforms as the relevant legislation passed on 6 May 2014. The ACCC considers that granting interim authorisation at this time will provide the co-operative networks with certainty, and assist co-operative networks adjust to the imminent changes to the taxi industry which take effect from 30 June 2014.
23. In their current form, co-operative networks allocate work based on geographic proximity and common pricing. Customers would typically call a single number to book these services. Implementing price reform within co-operative networks would require significant changes to the existing business model as retaining the existing approach would risk non-compliance with the Act. The ACCC accepts that co-operatives would be unable to make these changes by 30 June 2014, putting to one side whether price-competition within the network can and should be achieved in the longer term.
24. The ACCC considers that in the short term, without interim authorisation, there may be the potential for confusion as neither operators, consumers nor service providers that contract with taxi networks would have time to adjust to the new reforms. It is unclear that these risks would continue in the longer term as the reforms may create opportunities for enhanced services and choices for consumers. For example, rather than the network allocating customers to the nearest available taxi, customers who call the network could potentially be offered a range of services with different prices, service quality and waiting times. The ACCC will be considering this issue in assessing the substantive application.
25. The ACCC considers that the risk of consumers facing higher prices resulting from the conduct will be low in the short term given the recent increases to regulated fares and the transaction costs incurred by operators from changes to metering equipment and notifying customers in response to any changes in fares (except for networks that are located close to the New South Wales border as fares in NSW are regulated at a higher rate than Victorian fares). Although the broader changes to the taxi industry such as the removal of zoning restrictions may provide a competitive constraint on higher taxi fares in the future, the ACCC is not persuaded that this will flow through in the short term.
26. The ACCC considers that interim authorisation is appropriate as a transitional measure while the Victorian regional and country taxi industry adapts to the wider regulatory reform. However, the ACCC has not yet formed a view on whether final authorisation should be granted and, if so, the period for any such authorisation. In this regard, the ACCC welcomes submissions from interested parties on whether authorisation should

be granted for five years as requested or for a shorter transitional period only and if so what an appropriate transition period might be.

Reconsideration of interim authorisation

27. The ACCC may review the interim authorisation at any time.

Appendix

1	Bairnsdale	Bairnsdale Taxis
2	Echuca	Echuca Moama Taxi Group Pty Ltd
3	Emerald	13CABS (Emerald Taxi Service)
4	Maryborough	Maryborough Taxi Service
5	Mildura	Mildura Taxis Associated
6	Moe	Moe Taxis
7	Morwell	Morwell Taxis Pty Ltd
8	Pakenham	Pakenham Taxis
9	Portland	Taxis of Portland Pty Ltd
10	Sale	Sale/Maffra Taxis
11	Shepparton	Greater Shepparton Taxis
12	Shepparton	Shepparton Taxis Pty Ltd
13	Wangaratta	Taxis Wangaratta
14	Warragul	South Gippsland Regional Taxis
15	Warrnambool	Warrnambool Radio Taxis Pty Ltd
16	Warrnambool	Yellow Cabs Victoria Pty Ltd (Warrnambool)
17	Wodonga	Amalgamated Taxis Wodonga Co-op Ltd
18	Wy Yung	Tambo Valley Cabs
19	Yarra Valley	13CABS (Yarra Valley)