



8th December 2015

Attention: Mr Gavin Jones
Director, Adjudication Branch
Australian Competition & Consumer Commission
Level 35, The Tower
360 Elizabeth Street
Melbourne VIC 3000

Dear Mr Jones

ihail Pty Ltd application for authorisation A91501 – draft determination

I'm writing in response to the ACCC's request for further written submissions in relation to the ihail Pty Ltd (**ihail**) application for authorisation, and particularly the changes to the arrangements proposed by ihail in its letter of 6 November 2015 (the **proposed changes**).

Despite the proposed changes, GoCatch still has fundamental concerns about the competitive impact of the ihail app. These concerns stem from the underlying ownership structure of ihail Pty Ltd. While we recognise the proposed changes are intended to address the ACCC's issues, we do not believe they address the key issue, which is the removal of competition amongst existing major players in the Australian taxi industry and the further concentration of market share amongst those market participants.

In the ACCC's draft determination of 12 October 2015 (**draft determination**), one of the key reasons nominated for denying authorisation was that the arrangements, if authorised, "would allow the entire fleets of competing taxi networks to jointly participate in a single booking app". We believe the proposed changes are largely cosmetic and do little to address this principal conclusion from the ACCC's draft determination.

Our primary concern originates from the ownership structure of the ihail group and the proposed commercial terms under which otherwise competing networks would engage with ihail to promote the ihail platform at the expense of existing offerings.

In ihail's original application to the ACCC, dated 19 May 2015, ihail detailed that its share registry would include the following companies

- Silver Top Taxis
- Black & White Cabs Pty Ltd
- Yellow Cabs (Qld) Pty Ltd
- Suburban Taxis
- Cabcharge Australia Limited

As detailed in our submission on 27 July 2015, the fleet of vehicles managed within taxi networks controlled by these five shareholders would represent approximately **77% of taxis nationally, 82% of taxis in Sydney, 85% in Melbourne, and 70% in Brisbane and Adelaide**. One of the most concerning aspects of the ihail application is the way in which it would link together major competing taxi networks within some of Australia's largest cities. This includes Silver Top and 13Cabs in Melbourne, Yellow Cabs and Black & White cabs in Brisbane, Silver Top and Taxis Combined/Silver Service in Sydney, and Suburban Taxis and 13Cabs in Adelaide. **This would represent a major competitive advantage for ihail over all other competing booking apps.**

We note ihail's attempts to talk down the likely success of their business model and likely market share in their most recent submission as an attempt to address the ACCC's concerns regarding market concentration. Arguments made by ihail include:

- SilverTop, Cabcharge, Black & White Taxis, and Suburban Taxis will continue to promote their Whitelabel apps; and
- there is "every economic incentive for taxi companies to continue to trade and maintain independent value" so that they are able to maintain their customer base and the "reason that drivers subscribe to operate for that company".

We believe what ihail has said in their submission to the ACCC and what they are saying to their shareholders may not be consistent, with the true ambition of ihail being to secure a much more significant market share than the 1% figure nominated. It would seem clear that ihail's ambition is to obtain market dominance in a short period of time and their share structure is designed specifically with this outcome in mind. The shareholder structure of ihail is designed to secure buy in from each of the major taxi networks operating across Australia and the business model for ihail is built on these networks actively promoting the ihail app to their passengers. If ihail did not believe this to be a likely outcome then one would have to question why ihail would be pursuing the rollout of their application in the first place.

ihail's concluding remarks state: "... by (the ACCC) seeking to deny our authorisation goCatch, Ingogo and Uber are protected from competition." We believe this misses a key point which the ACCC clearly raised in the draft determination. The concern here is the impact on consumers in a number of major Australian cities, where the two largest competing taxi networks will be working collectively to promote the ihail app. This will clearly diminish competition amongst these market participants, raise barriers for third party competitors and lead to poorer outcomes for the travelling public.

We believe far from being about protecting other market participants, the ihail authorisation application must be examined from the perspective of first and foremost protecting the best interests of consumers. We do not believe there are sufficient safeguards in place for the ACCC to be able approve the ihail application without significant risk of diminished competition in the markets in which ihail would operate and we believe the ACCC must deny the ihail application in its final determination in the best interests of consumers.

Kind regards,



Ned Moorfield
CEO & Co-Founder
GoCatch