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Trench, Rossi e Watanabe
Advogados

2 July 2015

Dr Richard Chadwick
General Manager | Adjudication
Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

Dear Dr Chadwick

Request for further information re ihail Pty Ltd application for authorisation

We refer to the Australian Competition and Consumer Commission's (**Commission**) request for further information dated 26 June 2015 in relation to the ihail Pty Ltd application for authorisation.

Please note that ihail Pty Ltd has provided this information with the view to it being used publicly for market enquiries or investigations required by the Commission.

We have provided ihail Pty Ltd's responses to the further information request by the Commission below. We have outlined the relevant request made by the Commission and then ihail Pty Ltd's direct response to that question.

1. Current price competition

Please provide a view about the current extent of any price competition between taxi companies in jurisdictions where fares set by regulation are maximum fares with individual operators being free to set their own fares at or below the regulated maximum.

It is ihail Pty Ltd's view that there is currently very little price competition in the taxi market below the regulated prices set by the relevant authorities. To the best of ihail Pty Ltd's knowledge, in all major capital cities in Australia the active taxi companies charge the maximum metered fare permitted under regulation.

ihail Pty Ltd does not believe that the ihail smartphone app will have an effect on this. The reason for this is twofold, specifically:

- (a) ihail Pty Ltd does not receive or agree pricing information with taxi companies; and
- (b) ihail Pty Ltd's share of the taxi market will be limited as the ihail app only competes for fares booked through smartphone applications (and

it is marketed toward travellers seeking a convenient method of booking a cab without knowing the cab companies in the area).

Further, ihail Pty Ltd notes that it is not intending to limit any price competition that may exist as the ihail app has been designed so that users and drivers are free to negotiate on the price of the fare, with the final price relayed to ihail Pty Ltd at the conclusion of the transaction.

2. Incentive to compete on price

Please provide a view about the extent to which the ihail app may provide an incentive, or disincentive, for taxi companies to compete on price:

- *at present in jurisdictions where taxi companies are free to set their own prices (subject to government regulated maximum prices); and*
- *in the future in jurisdictions where taxi fares may be further deregulated, for example, along the lines of the deregulation that has occurred in regional Victoria.*

As noted in its previous submissions, ihail Pty Ltd's target market for the ihail app is business or travelling consumers who are seeking the convenience of obtaining a taxi quickly to their location using the smartphone app. The target consumer is also highly likely to require a booking app that does not differentiate by taxi company (as the consumer is unlikely to know the difference between taxi companies in the area) and to require an app that works in multiple jurisdictions. These are the benefits that the ihail app has been designed to provide for consumers.

ihail Pty Ltd has ensured that the ihail app does not impact on the ability of the taxi driver and the user to negotiate fares (where negotiation is available under government regulation). ihail Pty Ltd notes, however, that users with a particular preference for one cab company over another, or users who are particularly interested in negotiating a price (possibly at the cost of the convenience or speed of the ihail app) may still do so using other booking methods, including flagging or taxis ranks (still the most popular form of taking a taxi), phone bookings, or booking through other smartphone apps (generally provided and maintained by the taxi companies themselves).

ihail Pty Ltd does not believe that the use or existence of the ihail app in such a targeted and convenience-conscious niche market will impact on the incentive for cab companies to compete on price more broadly due to the significant portion of the taxi market that will not be impacted by the existence of the ihail smartphone app.

3. Incentive to compete on service

Similarly, please provide a view about the extent to which the ihail app may provide an incentive, or disincentive, for taxi companies to compete on service levels.

ihail Pty Ltd believes that many of the same points as in paragraph 2 apply to this question.

ihail Pty Ltd notes that the Australian Taxi Industry Association states that in 2014 only an average of 32% of taxi trips were pre-booked. Further, only a percentage of trips that are booked are likely to be booked using smartphone apps. As such, ihail Pty Ltd submits that only a small percentage of taxi jobs are likely to be impacted by the operation of the ihail app, or smartphone booking apps in general.

While the ihail app will not allow customers to differentiate between taxi companies based on service offering, consumers will be able to (and statistics show, do) book cabs directly from a particular cab company in a number of areas. ihail Pty Ltd notes that taxi companies will still be required to compete on service offering and price for all hailed and rank taxi jobs (which make up the significant portion of taxi jobs), on all telephone bookings (which fall into the 32% of booked taxis) and on a number of smartphone app bookings, including any bookings made directly through the smartphone apps provided by individual taxi companies.

Conversely, however, ihail Pty Ltd believes that the ihail smartphone app may also introduce some level of service offering competition. With the ihail app's driver rating function, consumers are able to directly rate the service provided by drivers. Drivers with unexplained low service ratings (provided directly by consumers) will be removed from the app (there are various penalties or restrictions where a driver is unable to explain low service ratings from consumers), although ihail Pty Ltd notes that this does not impact the driver's standing with its own taxi company. ihail Pty Ltd believes that this may increase the conscious effort provided to delivery good consumer service as a driver or taxi company's work may be impacted by the service rating.

4. Extent of ihail app operation

Please advise in which areas, metropolitan and regional, in each state and territory, it is proposed that the ihail app will operate.

At this stage, ihail Pty Ltd only has partners in Australia in the following locations:

- (a) Sydney;
- (b) Melbourne;
- (c) Brisbane;
- (d) Adelaide;
- (e) Perth;
- (f) Newcastle;
- (g) Toowoomba;

- (h) Yeppoon;
- (i) Warwick; and
- (j) Maryborough.

ihail Holdings Limited would be keen to ensure that there are further partners for ihail Pty Ltd in Australia in the future, however, the current expansion strategy is focused on developing overseas markets.

5. Incentivising priority pickup

Please provide a public submission describing [the tipping] aspect of the proposed arrangements. This submission should also address the potential impact this aspect of the arrangements may have on access to taxis in peak times for those sections of the community noted above [specifically, persons with disabilities, older persons or those with limited mobility].

The ihail app has been designed to include a function where passenger users of the app will be able to offer drivers a "tip" in order to incentivise priority pickup. This tip is entirely optional for passengers and will only be available to the app user before a job is accepted.

ihail Pty Ltd notes that bookings for the specific customers noted by the Commission in its request for information can be made through a number of other booking functions, including telephone dispatch or individual taxi companies' dispatch apps. For larger bookings (or recurring bookings, which are not uncommon for the consumer groups noted by the Commission), ihail Pty Ltd notes that there is also a possibility for specialised bookings to be negotiated directly with the taxi company itself.

ihail Pty Ltd notes that similar "supply and demand" mechanisms are already being used by some of the ihail app's competitors: Ingogo and GoCatch pioneered this tipping function, Uber US has a direct tipping function, and Uber Australia uses surge pricing at busy times (which is a similar form of price discrimination to the tip functionality).

Because of these factors, ihail Pty Ltd does not believe that the tipping mechanism in the ihail app is likely to impact traditional taxi users (who will most likely book their taxis using the numerous other dispatch means), or disadvantage consumers any differently to the existing systems used by other smartphone apps.

Further, ihail Pty Ltd has a working relationship with the various state governments regulating the taxi industry in jurisdictions that it intends to operate in and ihail Pty Ltd is committed to removing tipping in markets where the relevant state government requests it to do so. To date, ihail Pty Ltd has removed the tipping function in the app in the Queensland market due to the Queensland Government's request.

6. Use of the term "operator"

ihail Pty Ltd notes the following uses of the phrase "operator" in its previous application documents:

- (a) in section 2(a) of the Form B application, "operator" refers to shareholder companies of ihail Holdings Limited that are not taxi companies;
- (b) in the Licence and Services Agreement, "Operator" refers to a company providing taxi services under that Licence and Services Agreement; and
- (c) in the supporting submission to ihail Pty Ltd's Form B application, "operator" is used to refer to a company providing taxi services.

ihail Pty Ltd hopes that this addresses any confusion caused previously and will assist if this issue arises again.

7. Parties to the Licence and Services Agreement

The party to any Licence and Services Agreement will be the taxi network providing the taxi services. A co-operative taxi network will be required to sign the same standard Licence and Services Agreement as all other corporate taxi networks.

ihail Pty Ltd notes that the same standard Licence and Services Agreement is also required of any ihail Holdings Limited shareholders that are providing taxi services through the ihail app, as these shareholders will also be considered "Operators" under a Licence and Services Agreement.

8. Companies are not required to become shareholders

The Licence and Services Agreement is drafted with the specific intention of permitting non-shareholder companies to participate in the operation of the ihail app without requiring that entity to become a shareholder. This is why shareholders are also required to entire a standard form Licence and Services Agreement so that all "Operators" have the same rights to use the ihail app. In order for ihail Pty Ltd to grow the ihail brand in the market it is important to have access to as broad a network of taxi operators as possible: this means ensuring that non-shareholders are entitled to use of the app.

To date, ihail Pty Ltd has also approached Gold Cost Cabs, Aerial Group (Canberra) and AIT in Adelaide, and none of these companies are currently shareholders. Only AIT has expressed a current desire to join the ihail app.

Should you have any further questions in relation to the ihail Pty Ltd application for authorisation, or should you require further information, please do not hesitate to contact us on the details below.

Kind regards



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