

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Subcommittee

Inquiry into ride sourcing services

Melbourne — 8 September 2016

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Mr Khalil Eideh — Deputy Chair

Mr Jeff Bourman

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Mr Bernie Finn

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Witnesses

Mr Aaron Lane, legal fellow,

Mr Darcy Allen, research fellow, and

Mr Chris Berg, senior fellow, Institute of Public Affairs.

The CHAIR — I reopen the Standing Committee on the Economy and Infrastructure public hearing. Welcome, gentlemen, and thank you for agreeing to come along today. Today the committee is hearing evidence in relation to our inquiry into ride sourcing. Today's evidence is being recorded. All evidence taken today is protected by parliamentary privilege; therefore you are protected for what you say in here today, but if you go outside and repeat those same things, those comments may not be protected by this privilege. Once again, thank you for agreeing to come along and provide testimony to our inquiry. I will hand over to whoever would like to kick off. If you might just state your name, your role at your organisation and then go through some introductory comments, we will follow with some questions. Over to you, Mr Lane

Mr LANE — Thank you, Chair. Aaron Lane, legal fellow at the Institute of Public Affairs.

Mr ALLEN — Darcy Allen, research fellow at the Institute of Public Affairs.

Mr BERG — Chris Berg, senior fellow at the Institute of Public Affairs.

Mr LANE — Chair, thank you for the opportunity to speak today at this public hearing. Regulatory decisions surrounding the ridesharing industry are of critical importance to the Victorian economy, because they will set a precedent for the disruption and the potential disruption of the sharing economy more broadly.

The most general principle underpinning our submission today is the idea of permissionless innovation — that is, we believe, a quality regulatory system, one that deals well with disruptive technologies and business models and one that enables innovation by default. In contrast, a permissioned system is one where unnecessary red tape is applied that stifles the potential for entrepreneurs to bring benefits to consumers. Further, we must remain wary of erecting any regulatory barriers today that will prevent the emergence of new business models tomorrow.

It should be a guiding principle that any definitions and new regulations, if they are enacted, should be broad enough so that they do not exclude new organisational and technological forms which may later emerge in the future. A second issue permeating the debates on ride sourcing are the concerns over consumer safety and protection. These legitimate concerns are best examined by asking a deeper question: why do we regulate point-to-point transport in the first place?

The main rationale for regulation of point-to-point transport is to protect and maintain the safety of the public. Government intervention to achieve this goal is largely justified on the basis of asymmetric information — problems between drivers and passengers, where riders lack information about the characteristics of the drivers. Traditional solutions to this market failure are through government regulation. However, enabled by new technologies such as the smart phone and the GPS, these are changing necessary scope of government intervention. They are developing new ways to achieve the safety and consumer protection that Victorians desire and deserve.

Self-regulation of ridesharing has proved remarkably efficient and remarkably effective. For instance, the growth of the reputational mechanisms where drivers and riders rate each other, just as an example, the use of cashless payment systems through ridesharing platforms and the removal of anonymity issues. The implication of this technological progress is that governments must reassess the extent to which imposing state-based regulation is necessary.

A further contentious issue for this committee is the matter of industry transition and the question of compensation. Licences are licences to drive and operate a taxi. They were not invented to be financial instruments. They are not government guarantees of return or guarantees of a certain level of income. The risk of regulatory changes are and should be borne by the licence-holders themselves. Disruption and change is natural. It is a natural state of a vibrant, technologically innovative market economy. Furthermore, compensation hinders the competitive and evolutionary adjustment of a market-based economy.

We at the IPA are concerned about the precedent that compensation sets for future disruption, as taxpayers and consumers might be expected to pay for barriers to economic progress that have been erected in the past. Allowing incumbent industries to seek compensation for technological change is a dangerous door that Parliament should not open.

The IPA believes that new business models which uproot traditional markets, break down industry categories and maximise the use of scarce resources should be welcomed by this committee. Overregulation, however, could suppress this potential economic revolution. Victoria must adopt a deregulatory approach to ridesharing, one that brings down existing barriers without erecting new ones. Such a permissionless innovation approach will make Victoria an attractive jurisdiction to future entrepreneurial endeavours. We thank you very much for the opportunity and welcome the committee's questions.

The CHAIR — Fabulous. Thank you very much, Mr Lane. I am particularly interested in the efficiency of any tax or levy that might be introduced as a result of the deregulation of the taxi industry. I have obviously heard and read in the past the IPA advocating for a more efficient tax system and the like. However, we are seeing, as part of the government's proposal here, a \$2 levy on each and every trip by a taxi, by an Uber and by all sorts of modes of transport that may be levied upon the Victorian people. I am just wondering if you might be able to give me an idea of the IPA's view on that.

Mr ALLEN — Fantastic. Okay. As Aaron mentioned in the opening comments, we do reject the principle of compensation outright, but nevertheless, if we do decide to compensate and we are looking for some compensatory regime, then we believe that this should be funded from consolidated revenue, not through a tax. There are a number of concerns that have led us to this conclusion. The first one is red tape. We are concerned, and we look forward to the government providing more information, about how this levy will be collected. Will there be onerous compliance costs and administrative costs associated with drivers having to pay a tax or a levy?

The second concern is the potential distortionary impact of a tax. A tax imposed directly on the point-to-point transport system may be distortionary because it affects the relative prices of point-to-point transport compared to other forms of transport. And third, we believe there is a genuine threat, as we have seen in the past, that this will not simply be a temporary levy but rather it will turn into a more permanent form of industry assistance. As such the compensation should be funded through consolidated revenue, in a revenue neutral way, rather than imposing a new tax, given these concerns that I have just outlined. However, if a tax is the option that goes forward, we believe there must be clear and direct boundaries and scope around the length of this tax, when it will end, how that compensation will be distributed and so on to keep the government accountable and transparent to this form of transition.

The CHAIR — Fabulous. Thank you for that response. That question about consolidated revenue or a tax is certainly one that the committee has been grappling with as well. One of the main focuses that we have really had come out of our inquiry has been the access to vehicles that is going to allow people with disabilities to be able to access transport. Obviously at the moment we have a taxi industry that is quite highly regulated and that has wheelchair-accessible vehicles and the like, but moving to a more unregulated transport industry, one of the challenges that we certainly heard from disability groups is the lack of access that people with mobility issues may face. I am just wondering if there are any comments that anybody might like to make in regard to that.

Mr BERG — It is a mistake to assume that Uber or any ridesharing form, whether it is Lyft or any of the ones that are around the world, is going to entirely displace the taxi regime. Our position in regard to this specific question would be that whatever new industries enter the Australian or Victorian market, general economic laws should apply to those industries. So to the extent that there are general rules about the need to provide disability services, they would apply to any new entrant into the system. But we have to look at those laws and we have to look at those restrictions and identify if they are actually preventing the introduction of even more efficient modes of transport and even more efficient entrepreneurial endeavours. It is also very important to note that the market is starting to provide this, and Uber does have options, and there are Uber services that are looking at ways to introduce disability support and so forth. It does not seem to us that we have a problem that needs to be solved by legislation and that certainly needs to be solved by Parliament. If in a few years Parliament decides otherwise, that is a second conversation to have. Do not regulate before you see that there is a problem to be regulated.

The CHAIR — Indeed. Thank you. With regard to the compensation, we have spoken about how it may be gathered and whether it might come from consolidated revenue. We have also had some discussions in this inquiry about where it should be best targeted. Should compensation be targeted at people who have held taxi licences for a short period of time? Should they be targeted at those whose personal financial position may be worse and affected more severely than others as a result of the deregulation of the industry? Does the IPA have

a view on if there is to be a compensatory package of some description, where it should be targeted? Should it be targeted at recent entrants to the market, those whose financial position would be severely impacted, or another measure?

Mr BERG — In our view the reason that you would compensate incumbents is political, not economic. In that sense we do not have a policy position or any principal position by which we would say, ‘Those particular licence-holders deserve more compensation than other particular licence-holders’. We do not think that you should be compensating at all. If there is to be compensation, well, that is a political decision for a government or Parliament to make.

The CHAIR — Indeed.

Mr LANE — And that is outlined in our position as well, in our submission, where on pages 4 and 5 we sort of go through what we say are the arguments — the best arguments — to put forward for compensation, and we systematically go through those and reject them and then come down on that being a political decision. So that is sort of reflected in our submission as well.

Mr EIDEH — In your submission you said an industry-specific regulatory framework needed to be avoided. Can you elaborate on that and tell us what it is that needs to be avoided from this regulatory framework?

Mr ALLEN — Yes, I can. In regard to that part of submission — the attachment to the submission — that was a submission written more generally about the sharing economy. This is an observation that we are seeing at the moment that many of these new entrepreneurial endeavours, broadly classified as the sharing economy, actually emerge on the boundaries of new industries. What they are is they are two different industries being combined in new ways. The problem with this is the more industry-specific regulation we create that defines particular categories, such as ‘What is a taxi?’ or ‘What is a hotel?’ and so on, that causes future problems in terms of disruption. That is what that is referring to in terms of industry-specific regulation. So that is why we think it is particularly important that when we are looking to put new definitions, if new legislation is erected around this particular problem, they remain broad so they can encompass the new changes in the future that no-one can foresee.

Mr BERG — This is an issue that is going to happen into the future with any proposal to place a tax on taxis or ridesharing firms, because there are going to be entrepreneurial changes in 5 years or 10 years, and then a Parliament down the track will have to decide, ‘Well, does the tax apply to this new form of transport or not?’. We are very uncomfortable in talking about ridesharing as a discrete category of business practice or a discrete industry, because that just happens to be what it looks like at the moment. The economy is an evolutionary mechanism where we see all sorts of changes and all sorts of differences that legislation cannot necessarily pick up and often can prevent.

Ms DUNN — Thank you, gentlemen, for your submission today. I just want to go back to access for people with a disability, and I take your point that you do not think that taxis are going to be completely displaced in the market. I believe you might have said that it is not a problem currently, but I guess I want to get your views in relation to the principle that all transport providers should be fully accessible to anyone who wants to use that service in the marketplace.

Mr BERG — That is a principle that does not hold at the moment insofar as that there are lots of modes of transport that not everybody can access. Not everybody can access bike lanes, for example. There are lots of different areas in which that does not hold true. But again, just to refer to my original point, unless it has been demonstrated to be a current problem, I do not think Parliament should be jumping in to solve that problem.

Ms DUNN — So just to extend on that — and I guess no-one operates bike lanes as a transport service, although maybe local governments might argue that they have a fair stake in the matter — there are obligations under the Equal Opportunity Act, I guess, if you are a provider of goods and services, so would you see that those obligations should be fulfilled by all those service providers in the transport space?

Mr BERG — I would not make exceptions to general law for any new entrants. It is often at the new existence of a new entrant that government is required to reassess whether it makes sense to apply that general

law and to reassess perhaps the general law in first principles. Now, I am not going to presume to speak on any great behalf on disability law as it stands, so I do not want to claim that.

Ms DUNN — Fair enough.

Mr BERG — I am not sure my colleagues would either. But as a general rule, of course new entrants should abide by existing rules, but to the extent that they are not currently required to, I would not be proposing extending them.

Ms DUNN — Okay. I am just wondering if you have formed any views in relation to the government's announcement that they want to introduce legislation in two tranches and whether you have looked at that in terms of the effect on the transport market at all.

Mr LANE — Has that legislation been released?

Ms DUNN — No, we have got a media release.

The CHAIR — We are working on the basis of the media release at this point, unfortunately.

Ms DUNN — We do have a media release. My understanding is that it is two tranches. But no, I have got no words. I have got no bill.

Mr LANE — No, we have not had the benefit of seeing that legislation. We have had the benefit of a brief review of the bill introduced by Ms Patten into the Council, and we have made some comments about that bill in our submission, but I think it would be safe to assume that that bill will not be adopted and that there will be another one introduced. Until we see that, we cannot really make any comment.

Ms DUNN — That is fair comment.

The CHAIR — So, just to elaborate perhaps on that, basically there are two tranches of legislation the government has proposed in their media release, which we have not seen. We are working on the basis of a media release, unfortunately, until we get a briefing from the government on this. But basically the first tranche was to effectively allow ridesharing, or ride sourcing, to be legal as opposed to the space that it is working in now. The second trench was to provide for the compensatory segments of what is going to be part of the deregulation. So effectively there are two sections there, and there has been some concerns raised that if you have the two different pieces of legislation, there is opportunity for one to be successful and the other not to be, and what state does that leave the transport industry in? Without having that certainty about the surety with that first part happening, how is the second part actually going to work?

Mr BERG — As a general rule — as a general policy process rule — if this is a coherent policy and those two tranches are connected in some conceptual manner, it would be good to see them together. And you are right, it does raise the risk of surprises or regime uncertainty or regulatory uncertainty. But without seeing both of those bills, we could not comment on that.

The CHAIR — Yes, and we look forward — all of us — to seeing them, I can assure you.

Mr LANE — The other thing that I would just note on that is that, from my understanding, the government wants to bring a bill that would essentially create one passenger transport licensing arrangement over all industries. I think what we would say about is that you can legalise ridesharing without regulating it. If the need is 'We want to legalise ridesharing in Victoria' — if that is the aim — there is no need to bring in a specific regulatory regime that would cut across, as the government is trying to do. You could simply provide for that in another way. There is no need to impose more red tape on ridesharing now in order to legalise it.

Mr EIDEH — In your submission you said overregulation could destroy an economic revolution. Can you tell us more about that? What do you mean by that?

Mr ALLEN — The title of that report, as I mentioned before, relates generally to the sharing economy, which can all largely be grouped together as these emergent models and business practices that take excess capacity in the economy, use new technologies and provide better markets so that we can more efficiently use our resources. The title of that report refers to the fact that many of these mechanisms, as we have demonstrated,

are largely self-regulating mechanisms, and we think that governments must reassess their role when these traditional industries are disrupted by this new wave of sharing economy platforms.

The CHAIR — Fabulous. Thank you very much, gentlemen, for your testimony here this afternoon. In the coming days you will receive a transcript of today's evidence for proofreading and that will ultimately go onto the committee's website. Once again, thank you very much for your attendance here this afternoon.

Committee adjourned.