

## Economy and Infrastructure Committee Inquiry into the Commercial Passenger Vehicle Industry Act 2017 (CPVI Act)

### Government response

#### Executive Summary

The Government thanks the committee members for their report into the *Commercial Passenger Vehicle Industry Act 2017* (CPVI Act).

The Government's response was delayed due to the emergence and ongoing impact of COVID-19. COVID-19 is continuing to have a significant impact on all Victorian industries, including the commercial passenger vehicle industry. The Government has been monitoring the impact on drivers, owners, and booking services providers during the height of the impact and in this recovery period. The Government response was delayed so that the Government could provide an informed response to the Inquiry's recommendations and take into account the impact of COVID-19.

The Victorian Government has supported the taxi and commercial passenger vehicle industry, ensuring the safety of drivers and vulnerable passengers relying on these services throughout the pandemic. Based on advice from the Government Advisory Panel on Commercial Passenger Vehicles, the Government announced in July 2020 that it would invest \$22 million towards a range of initiatives, including: to subsidise the depot fees paid by vehicle owners to ensure wheelchair accessible vehicles are available for those who need them; doubling the wheelchair lifting fee paid by Government for three months; increasing the Multi Purpose Taxi Program subsidy from 50 to 70 per cent for three months; refunding the Commercial Passenger Vehicle Service Levy paid by drivers in the 2019/2020 June quarter; providing grants to support increased cleaning and sanitation of vehicles and maintain services in regional communities where public transport is limited.

The Government is also concentrating on actively regulating the commercial passenger vehicle industry so it conforms with the legislative reforms passed by the Parliament in 2017 and 2018, and meets Government and community expectations and needs.

The objectives of the CPVI Act make improving safety for drivers and passengers a clear focus of the reforms. A new, modern safety duty scheme is in place under the legislation. This mirrors the existing duties for duty holders in a workplace under the *Occupational Health and Safety Act 2004*. The safety duties for the industry require duty holders to ensure safety so far as is reasonably practicable. The new safety duties framework means that the industry needs to take action to identify risk and hazards and eliminate or reduce any risks to safety in the provision of CPV services, so far as is reasonably practicable. It is an offence for a Booking Service Provider (BSP) to provide a booking service involving unregistered vehicles. BSPs are required to ensure that drivers are accredited when providing a service. The industry regulator's updated investigation and enforcement powers also mean that Safe Transport Victoria (ST Vic) has powers to take action in the event that any service provider does not meet stringent safety standards, does not comply with the law or is not a fit and proper person to provide services in Victoria.

The Government supported CPV industry participants through the reforms to the CPVI Act by funding a financial assistance package first announced in August 2016. The reform

support package included \$332 million of transition assistance payments and a means tested Fairness Fund which paid \$56.75 million to eligible applicants.

The Commercial Passenger Vehicle Advisory Panel was reconvened in June 2021 and completed its work in late 2021. With the Panel's work now complete, it is appropriate to provide a response to the specific recommendations of the committee.

The Government's response to the specific recommendations of the committee are set out below.

## **Response to Specific Recommendations**

### **Recommendation 1**

**That the Victorian Government provide counselling services for stakeholders affected by the commercial passenger vehicle industry reforms.**

This recommendation is supported in principle.

Following the passing of the CPVI Act 2017, the Government provided a dedicated hotline that was available 24 hours a day to affected taxi licence holders and their families. The support hotline offered counselling support including in person counselling on request. The support line was available throughout the CPV reform period of 2017 and 2018 and continued to operate until the service no longer received calls, and then concluded.

### **Recommendation 2**

**That the Victorian Government consider reviewing the transitional funding package and how it was structured, in particular in relation to the difference between entities and individuals.**

This recommendation is not supported.

The Government provided financial assistance because it acknowledged the impact of the reforms on the existing industry. The Government was not legally required to provide this assistance but did so because it was the right thing to do. The Government does not agree to this recommendation because it is not consistent with the Government's desire to ensure payments were made quickly, up front when licence holders needed it most. The Government did not hold complete information about the ultimate beneficiary of licences.

### **Recommendation 3**

**That when designing future compensation payments, the Victorian Government take into consideration the taxation outcomes of proposals before they are put into place, to ensure the payments represent maximum value for Victorians. This should include seeking advice from external tax experts and proactively engaging with the Australian Tax Office.**

This recommendation is supported.

As was done for the industry assistance, the development of grants programs should include consideration of potential income tax implications for recipients. The Department of

Transport engaged with the Department of Social Security and the Australian Taxation Office throughout the process, to seek the best possible outcome under Commonwealth law.

#### **Recommendation 4**

**That the Victorian Government provide financial advice on managing debt to former licence holders who are experiencing significant financial hardship as a result of the reforms.**

This recommendation is supported in part.

The Government previously engaged the community legal provider WEstjustice to assist former licence holders through the application process for the Fairness Fund. While the assistance specific to former licence holders has concluded, the Government continues to provide financial support to publicly available debt assistance services, such as Good Money Financial Services <<https://services.dffh.vic.gov.au/good-money-financial-services>> and through funding for the National Debt Helpline <<https://ndh.org.au/>>.

#### **Recommendation 5**

**That the Victorian Government develop a policy position on the commercial passenger vehicle industry that clarifies its stance on:**

- **long-term employment conditions**
- **driver standards**
- **supply of vehicles**
- **fares and pricing**

This recommendation is supported in part.

The Government set out a clear policy position on the commercial passenger vehicle industry enacted through the industry reforms of 2017 and 2018. The purpose of the reforms was to improve safety and choice for passengers. A central tenet to the post-reform regulatory approach has been to strengthen oversight and compliance with safety standards while facilitating new services and business models.

Drivers of commercial passenger vehicles were not employees prior to the reforms and the reforms have not changed this. Drivers now have the ability to move freely between booking services or run their own business. Barriers to entry and exit from the industry have been lowered and costs significantly reduced. Prior to the reforms many drivers could not afford a taxi licence and instead paid significant 'assignment' fees to licence holders and had to recoup all of these fees before they made any income for themselves.

Removing fare regulation for booked services allowed the traditional taxi industry to be able to compete on a level footing with the emerging services booked almost instantly through 'apps'.

However, as circumstances change, and the industry and passengers face new challenges, the Government will continue to review and update its policy framework, and the effectiveness and appropriateness of the existing regulations.

The Victorian Government's Inquiry into the Victorian On-Demand Workforce published its final report in July 2020. The report made 20 recommendations. The Victorian Government has announced its response to the Inquiry on 13 May 2021 and supported all 20 recommendations either in full or in principle. The Victorian Budget 2021-22 included \$5 million in funding support to start work on implementing the Government's response to these recommendations. Initiatives that the Victorian Government will now work towards include: working with industry and unions to develop principles based conduct and accountability standards to provide fairer conditions for on-demand workers; and looking into options for government support to give platform workers and businesses alike easy access to clear advice around work status, rights and entitlements, while also helping to resolve disputes.

It is also important to note that the new Commonwealth Government has announced it will legislate to give the Fair Work Commission new powers to set minimum standards for gig workers.

## **Recommendation 6**

**That the Victorian Government require booking service providers to disclose their trip data and provide live data on the number of vehicles logged into their systems. This information would be used by the Department of Transport in understanding congestion problems in central Melbourne.**

This recommendation is supported in part.

ST Vic as the industry regulator, has an existing power to request trip data from booking service providers. This data is used to inform its monitoring, compliance and enforcement activities. Aggregated trip volumes can inform planning activities.

The Department of Transport is in regular communication with the Melbourne City Council and neighbouring Councils on transport issues such as congestion. The Government is keen to use technological solutions and intelligent transport systems to manage emerging transport issues, and investment in such technologies must be effective and provide value for money.

The Government's Smarter Roads program is transforming collection and analysis of travel and journey information to ensure the most accurate live picture of what is happening on roads in Melbourne. This includes gathering more data from new technology on the road network like travel time sensors and traffic monitoring cameras.

The provision of live data from CPV booking service providers may impose a significant burden and communication technology investment from some booking service providers. The Department of Transport and ST Vic will continue to work with the CPV industry on opportunities for improved data provision. At this time, the Department does not require live data about vehicles logged into commercial passenger vehicle services booking systems to manage congestion.

## **Recommendation 7**

**That the Victorian Government amend the Commercial Passenger Vehicle Industry Act 2017 to reintroduce an offence for touting across Victoria.**

This recommendation is supported.

The Government has acted on stakeholder concerns that touting had re-emerged as an issue following the reforms and has subsequently amended the Act to reintroduce an offence for touting. This activity has been illegal in Victoria since 2019.

ST Vic has subsequently conducted crackdowns on touting, including at Melbourne Airport and major events. ST Vic's enforcement is ongoing. Anyone who approaches potential customers directly, or holds up a sign offering services, is breaking the law and can face fines of up to \$11,000.

### **Recommendation 8**

**That the Victorian Government review the \$1 commercial passenger vehicle industry levy to clarify its position on:**

- **considerations for rebates or removal of the levy in regional centres**
- **the levy's finishing date**
- **consideration of alternative funding models.**

This recommendation is not supported at this time.

The Government provided relief for the industry in 2020 by refunding the Commercial Passenger Vehicle Service Levy paid by drivers in the 2019/2020 June quarter, putting money back into the pockets of drivers experiencing hardship due to the impacts of Covid-19.

The Government will continue to monitor the impacts of fares and implement rebates in regional areas if evidence emerges that the impacts of the reforms result in a material increase in fares for short trips in regional and country Victoria.

The levy may be reviewed after the costs of the assistance package have been recovered, which is expected to occur by 2026. The Government's response to a previous EIC Inquiry into the CPV reform legislation agreed that once the amount of revenue received from the levy reaches the amount expended then a review will be undertaken. The previous Government response also noted that it is possible that once the levy has recouped the funding allocated to financial assistance, the levy could be used to subsidise services for people with a mobility impairment, who can't use other forms of transport. Alternatively, the levy can be reduced to zero under section 238(2) of the CPVI Act.

### **Recommendation 9**

**That the Victorian Government review the maximum fares set by the Essential Services Commission and introduce fare pricing indexation in line with the Consumer Price Index.**

This recommendation is supported in part and the Government introduced an amendment in 2021 to the CPVI Act to give the ESC the option to determine maximum fares by reference to the Fair Work Commission's annual wage review under section 285 of the Commonwealth Fair Work Act 2009. The Government also supported an additional amendment to allow for the ESC to consider the commercial viability of operating a taxi service when making its maximum fare price determination.

Following those amendments, the ESC released its latest decision on maximum fares for unbooked taxi trips on 6 September 2022. The ESC's final decision was to increase the maximum fares for unbooked taxi trips by 11.2 per cent, and includes a fare adjustment mechanism to allow maximum fares automatically increase or decrease for changes in fuel and labour costs between fare reviews. Under the CPVI Act, the ESC must complete its next fare review within two years. The Government will give further consideration to whether the maximum fare regulation regime should be changed for the longer term. Any changes may require legislative amendment.

### **Recommendation 10**

**That the Victorian Government consider introducing fare pricing for booked commercial passenger vehicle services.**

This recommendation is not supported because it is contrary to the change to fare regulation in the 2017 reforms to remove fare regulation for booked services provided by taxis in metropolitan and large urban zones.

Prior to the most recent reforms, fares were not regulated for taxis in regional and country zones, and fares were not regulated for registered hire cars. This was not a level playing field. Removing fare regulation for booked services allowed the traditional taxi industry to be able to compete on a level footing with the emerging services booked almost instantly through 'apps'.

### **Recommendation 11**

**That the Victorian Government review the disparity in fares and driver incomes across the commercial passenger vehicle industry with a view to ensuring the sector is a level playing field for all participants.**

This recommendation is supported in part.

As noted in the response to recommendation 9, the Government introduced an amendment in 2021 to the CPVI Act to give the ESC the ability to determine maximum fares by reference to the Fair Work Commission's annual wage review under section 285 of the Commonwealth Fair Work Act 2009. The ESC has reviewed maximum unbooked taxi fares and taken this into account in making its final price determination on 6 September 2022.

Following the Government's reforms, drivers now have the ability to move freely between booking services or run their own business. Prior to the reforms many drivers could not afford a taxi licence and instead paid significant 'assignment' fees to licence holders and had to recoup all of these fees before they made any wages for themselves. The Government also reduced TAC charges for taxis to be level with private vehicles.

The Victorian On-Demand Workforce Inquiry noted that:

- rideshare services have created new transport options for consumers and businesses;
- rideshare platforms are providing new choices for flexible, entry level work opportunities for low-skilled workers;

- rideshare services do not employ drivers and by and large do not compete against businesses using employment modes of engagement (taxi drivers are also not employees but work under ‘bailment’ arrangements); and
- rideshare platform work is among the most closely managed platform work (page 93).

As part of the Victorian Government’s response to the Victorian On-Demand Workforce Inquiry, the Government will work with industry and unions to develop principles based - conduct and accountability standards to provide fairer conditions for on-demand workers. The Government will also look into options for government support to give platform workers and businesses alike easy access to clear advice around work status, rights and entitlements, while also helping to resolve disputes. In addition, the new Commonwealth Government has announced it will legislate to give the Fair Work Commission new powers to set minimum standards for gig workers.

## **Recommendation 12**

**That the Victorian Government consider requiring CCTV cameras to be installed in all commercial passenger vehicles.**

This recommendation is not supported.

There is no prohibition on the installation of security cameras in booked only vehicles. The Commercial Passenger Vehicles Industry Act introduced a comprehensive safety duties regime that places obligations on all industry participants, including booking service providers, vehicle owners and drivers. Providers of both booked and unbooked services have duties to ensure the safety of services and will need to respond accordingly to safety risks as they change over time. Providers have the option to use CCTV as part of the approach to providing safe services, or alternatively use other technologies and business models tailored which may be tailored to the needs and preference of passengers. Many service providers also provide the ability to share journey tracking through an ‘app’ with friends or family, and a capacity to contact emergency services directly through the mobile booking ‘app’.

## **Recommendation 13**

**That the Victorian Government review current signage and identification requirements for commercial passenger vehicles to ensure they protect public safety without being unnecessarily onerous on the industry.**

This recommendation is supported in principle.

Displaying commercial passenger vehicle identification is a legal requirement. Failure to do so may result in a penalty or fine. The current signage requirements support high standards of safety, while also recognising that some people use a private vehicle partially for personal use and partially for commercial passenger services.

The industry is innovative and dynamic, and ST Vic and the Department of Transport will regularly monitor and consider whether all aspects of the regulatory framework, including the signage and identification requirements, are appropriate and consider areas for improvement to protect public safety without being unnecessarily onerous on industry.