



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY
STANDING COMMITTEE ON PLANNING AND URBAN SERVICES

Report No.80

August 2001

**THE NATIONAL COMPETITION POLICY REVIEW OF ACT TAXI AND
HIRE CAR LEGISLATION**

Recommendations:

Recommendation 1: that, in determining the future shape of the hire car industry in the ACT, the government give priority to providing a period of stability in which current licence holders have the opportunity to plan/consolidate their positions.

Recommendation 2: that deregulation of the hire car industry not take place and that no new licence plates be issued at this time.

Recommendation 3: that, in the event the government considers that compliance with the national Competition Principles Agreement requires deregulation of the hire car industry to take place, then the government should establish a fair and equitable transition process involving appropriate compensation to existing licence holders.

Recommendation 4: that the ACT government liaise with the federal government in an effort to replace the current practice whereby Comcar controls private hiring for Commonwealth agencies by a system which would enable private hire companies to deal directly with federal agencies.

Recommendation 5: that the three existing NSW hire car operators be permitted to operate in the ACT but that no further approvals for NSW-plated hire cars be issued.

Recommendation 6: that hire cars be permitted to rank at the Canberra Casino.

Recommendation 7: that distinctive and clearly visible hire plates be required for each category of hire vehicle and special permit holder and that all applicable licences and permits must be displayed on a hire vehicle when it is working. The committee considers that the hire plates for each category of vehicle should be a different colour so as to be easily visible. They also should carry an appropriate designation, eg 'H' for hire cars and 'RHV' for restricted hire cars.

Recommendation 8: that all advertising of hire car services must include the licence and other permit numbers held by the advertiser and relevant to the service being advertised.

THE STANDING COMMITTEE ON PLANNING AND URBAN SERVICES

The Standing Committee on Planning and Urban Services was established on 28/4/98 to inquire into and report on planning and lease management, road and transport services, infrastructure and asset management and public utilities purchasing, electricity industry and regulation, construction industry policy, parks and forests, private sector employment inspectorate, building services, environment, heritage and municipal services and any other related matter (*resolution of appointment, as amended on 25/11/99, 7/2/00 and 15/2/01*).

Committee members: Mr Harold Hird MLA (Chair), Mr Dave Rugendyke MLA (Deputy Chair), Mr Simon Corbell MLA

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Recommendation 9: that the regulation of hire car licences should include a requirement that the vehicle operator has appropriate insurance; has demonstrated a knowledge of the streets and roads of the ACT; has some elementary mechanical knowledge and possesses a first aid certificate. Hire vehicles should also provide child and infant seats and restraints on request and comply with any other government safety requirements.

Recommendation 10: that hire car operators should be required to inform clients of the cost of hire before travel commences.

Recommendation 11: that the licence plates of RHVs being used on just a few occasions a year clearly identify this usage by an appropriate designation on the plate (such as RHV-P).

Recommendation 12: that the licence plates of RHVs being used for specific types of functions or activities on an annual basis (such as school formals and weddings) clearly indicate that the vehicle is to be used solely for the particular market specified in the licence.

Recommendation 13: that the government provide sufficient resources to enable appropriate monitoring and enforcement of the hire car licensing regime.

Recommendation 14: that the restrictions on cross ownership of taxi and hire car licences, and the limits on the number of licences one person may hold, be removed.

Abbreviations used in the report

HC: hire car

MO: motor omnibus

RHV: restricted hire vehicle

RHVC: restricted hire vehicle collective

SCPV: small [hire] car private vehicle

TX: taxi

WAT: wheelchair accessible taxi

Table of contents and page number

1. Introduction.....	1
Terms of reference	1
Conduct of the inquiry	1
Layout of this report.....	3
2. The current state of the hire car industry	4
Government comment.....	4
Number of hire cars	4
Categories of hire cars	4
Varying a restricted licence	4
The value of a hire car licence	4
The difference between a taxi and a hire car:	5
Comment by submitters to the inquiry.....	5
Discretionary nature of the choice to use a hire car.....	5
Number of hire car plates.....	5
Competition in the hire car industry	5
The impact of Restricted Hire Vehicles [RHVs]	6
NSW hire cars operating in the ACT.....	7
Regulation of the hire car industry	7
Recent changes in the hire car industry	8
3. The Freehills Report.....	10
4. What the government wants to do in relation to the hire car industry.....	12
Charge for an annual hire car licence	12
Categories of hire cars	12
Restricted hire car licences	12
Impact of the proposals on existing hire car licences	12
Ownership of both hire care and taxi licences	12
5. The views of submitters about the government's proposal	13
The government's choice of one of the options identified by Freehills.....	13
Effect on the viability of the hire car industry	14
Compensation	15
Effect on standards	17
Increasing the number of hire cars for special occasions	18
5. Conclusion and recommendations	19
Appreciation.....	21

1. INTRODUCTION

This chapter provides information about the inquiry's terms of reference, the conduct of the inquiry, and the layout of this report.

Terms of reference

1.1. On 30/11/00 the Legislative Assembly passed the following resolution:

That the Standing Committee on Planning and Urban Services inquire into and report on the National Competition Policy Review of ACT Taxi and Hire Car Legislation; [and that] this Assembly directs the government not to implement any changes to the hire car industry prior to the presentation of the committee's report to the Assembly.

1.2. In view of the resolution's focus upon hire cars, the committee (in the course of the inquiry) decided to deal only with issues affecting the hire car industry.

Conduct of the inquiry

1.3. On 9/12/00 and 12/12/00 the committee placed advertisements in the local press inviting submissions to the inquiry (to be lodged by 9/2/01). At the request of the Canberra Limousine Association, it was agreed to extend the deadline. The committee received submissions from the following persons/organisations (listed in alphabetical order):

—ACT government

—Marlene and Geoff Bonny (taxi owner/operator)

—David and Beverley Clarkson (hire car licence holder)

—E.M. and B.M. Costello (hire car licence holder)

—Howard and Margaret Garnier (hire car licence holders)

—Marie A. Gordon (*Beaumont Hire Cars*)

—Brian Hatch

—Ms Hyndes (*Idol Moments* shopping and touring service)

—Alfred J. Jones (*Queanbeyan Hire Cars*)

—Mr Leonard (taxi owner/operator)

—*Limousine Industry Association of the ACT and Queanbeyan* (Nora Stewart, Laraine Stephenson and David Clarkson)

—David Little (hire car licence holder)

—Mr Moulen (for the *Restricted Hire Vehicle Collective*: RHVC)

—Nick Pantaleo (hire car licence holder)

—Nora and Grant Stewart (*Stewart Limousines*)

—Dale Teddy (operations manager, *Canberra Hire Cars*)

—Albert J. Trenery (hire car licence holder)

—K.P. Tucker (hire car licence holder).

1.4. The committee also sought supplementary material from the Minister for Urban Services and his department. The committee thanks the Minister for providing this supplementary material.

1.5. On 22/6/01, 20/7/01 and 25/7/01 the committee held public hearings attended by the following persons/organisations:

22/6/01

—Mr MacDonald (General Manager, Road Transport, DUS)

20/7/01

—*Limousine Industry Association of the ACT and Queanbeyan*: Ms Stephenson, Mr Trenery; Mr Willetts, Mr Clarkson; Mr Garnier; Ms Stewart; and Mr Tucker

—Mrs Costello

—Mrs Stewart

—Mr Tucker

—Mr Little

25/7/01

—Ms Hyndes and Ms Budd [*Idol Moments*]

—Mr Alexander.

1.6. The committee welcomed Mr Hargreaves MLA to these public hearings and, by leave, he participated in questioning witnesses.

1.7. On 26/6/01 and 27/6/01 the committee visited Brisbane and Darwin for discussions about the taxi/hire car industry. The committee thanks the following Ministers for permission to consult their departmental officials:

- Mr Steve Bredhauer MLA (Queensland Minister for Transport and Minister for Main Roads)
- Mr Mick Palmer MLA (then Northern Territory Minister for Transport and Infrastructure Development)

1.8. The committee also thanks Dr Richard Lim MLA (then Northern Territory Minister for Local Government, Minister for Housing and Minister for Central Australia) for facilitating the committee's visit to Darwin.

Layout of this report

1.9. The committee has structured this report along the following lines:

- Chapter 2 describes the current state of the hire car industry
- Chapter 3 summarises what the Freehills Report said about the industry
- Chapter 4 summarises what the government wants to do in relation to the hire car industry
- Chapter 5 sets out the views of submitters about the government's proposal
- Chapter 6 sets out the committee's conclusion and recommendations.

1.10. The committee has extensively quoted from the evidence presented to it. As well as ensuring accuracy, this directs attention to the actual concerns of submitters as they expressed them to the committee.

2. THE CURRENT STATE OF THE HIRE CAR INDUSTRY

This chapter sets out some important aspects of the hire car industry (covering hire cars, restricted hire cars, and other vehicles for hire) as seen by government officials and submitters to the inquiry.

Government comment

Officials drew attention to the following aspects of the hire car industry in its present state: the number of licences; the categories of vehicles; the procedure to vary a restricted licence; the value of a licence; and the difference between a taxi and a hire car.

Number of hire cars

There are currently 22 standard hire car licences and around 30 restricted. That number appears to fluctuate a bit from time to time. There are also three licences from NSW that the government allows to operate in the Territory, so in total there are 25 standard hire cars operating in the Territory. There's been no additional hire car licences issued since 1980, well before self-government...¹

Categories of hire cars

[The standard] hire car licence... [is one that] people have purchased at auction or by leasing it from a licence holder... That's a perpetual licence, which can be sold.

We have a... restricted hire car licence... which allows [operators] to primarily do work in the school, wedding, and formal market but also, with the agreement of the industry, they can do what's called a variation [see below] and actually take on other work, like transfers...

[There are] specific occasions where people register their vehicle as one for weddings and school formals only.

There's also a provision in legislation for a replacement hire car, which relates back to the standard hire car. It tends not to be used...²

Varying a restricted licence

The variation process is a cumbersome one. If you own a restricted hire car and you have had inquiries about providing, say, a transfer for a dinner or some other function..., if you want to do that you can only do it with the agreement of the hire car industry, which essentially requires you to go and consult, and then to advise the department that you've duly consulted, and then for us to issue at short notice a licence for that particular event.³

The value of a hire car licence

The hire car licence is currently valued at \$120,000... They tend to be leased... and the price seems to be around the \$10,000 mark.⁴

¹ Mr MacDonald (DUS) *Transcript* 22/6/01

² Mr MacDonald (DUS) *Transcript* 22/6/01

³ Mr MacDonald (DUS) *Transcript* 22/6/01

⁴ Mr MacDonald (DUS) *Transcript* 22/6/01

The difference between a taxi and a hire car:

The essential difference between a taxi and a hire car is that a taxi can rank and hail... The hire car industry generally cannot rank [though] there is an exception... at the airport... [Hire cars] are not as available, so generally speaking, if you want a hire car, you must ring and book, and make some inquiries about the service and the price.. With taxis you can get one on the street, and that's why the regulations need to be a bit stronger for consumer protection purposes, because you can't make a reasonable inquiry at a rank about issues of price and other things relating to service...

Traditionally there has been a superior sort of vehicle available [in the case of hire cars].⁵

Comment by submitters to the inquiry

Submitters drew attention to the following aspects of the hire car industry: the discretionary nature of the decision to use a hire car; the number of plates; the nature of competition in the industry; the operation of NSW hire cars within the ACT; the nature of regulations covering the industry; and recent changes in the industry.

Discretionary nature of the choice to use a hire car

The ACT hire car industry is a boutique industry providing niche up-market, pre-booked limousine-style transportation. Unlike taxi or buses, it is not an essential transportation mode where the public is effectively captive to the industry. The use of a hire car is a discretionary decision...⁶

Number of hire car plates

The present status of the 25 hire car plates (including the three Queanbeyan registered hire cars) is:

- one plate is presently unused by the owner (due to the absence of a lessee) and is currently held by Motor Registry
- one plate is not on a vehicle and its possible lease is being negotiated
- 11 plates are being operated by their owners, and
- 12 plates are currently leased by owners and operated by the lessees...

During the past three years six hire car plates have been sold to new owners at a price of up to \$125,000 and three have been taken up by new lessees.

Four hire car plates are currently available and advertised for sale or lease...⁷

Competition in the hire car industry

[In relation to competition,] a competitive market already exists in the ACT hire car industry... There are two large operators, both linked to national companies, and three independent operators. Moreover, every operator has his/her own separate business and has some discretion in price and quality of service.

⁵ Mr MacDonald (DUS) *Transcript* 22/6/01

⁶ Limousine Industry Association of the ACT and Queanbeyan, submission dated 9/3/01

⁷ Albert J.Trenery, submission dated 11/2/0

Strong competition within the industry has effectively pegged prices over the last five years with operators absorbing additional costs and has led to a better service to customers as companies fight for a competitive edge.⁸

The present hire care industry market is small, but competitive, with two major companies. Our company [trading as Canberra Limousines] operates as a cooperative, Hughes Limousines operates as a franchise and the remaining five operators are independent...⁹

The [hire car] industry already has a healthy degree of competition with two networks (one more than Canberra Cabs) and some aggressive independents all competing for the very limited hire car dollar in a market without price control (unlike the taxi industry).¹⁰

The impact of Restricted Hire Vehicles [RHVs]

The RHV operators only want the cream of our work like the dinner transfers and tours, they would not go out and sit on the ranks and do small \$30 jobs from the Airport to the City...¹¹

Despite ongoing requests over many years from the hire car industry to DUS to enforce the legislation and regulations relating to hire cars generally, that has not occurred... [in relation to] RHVs operating outside the conditions of their licence and illegal operators...¹²

The only thing that needs attention is the flaunting of the rules regarding RHVs.¹³

The Restricted Hire Vehicle Collective [RHVC] is an informal collective of [25] luxury vehicle owners... [with vehicles that] include Rolls, BMW, Mercedes, Lexus, Cadillac, Lincoln, Unique hard and soft top convertibles, vintage models of various types, and superb stretch limousines to supplement the three only 'H' stretches. None of the above mentioned vehicles are available from the 'H' plated hire car industry.

RHV owners are specifically not interested in the business of offering full-time hire car services in competition with 'H' plate operators but rather are only interested in providing a choice of luxury vehicles not otherwise available as hire cars and only on a part-time and pre-booked availability basis.

We believe we inflict minimal, if any, financial impact on and do not threaten the financial viability of the 'H' plate industry...¹⁴

We are horrified by the vexatious and acrimonious claims... that RHVs "hive off", steal and in other ways denude the industry of 'hire car' work and deplore such "inventions" to publicly blame the RHV industry for their misfortunes...

The RHV owner does not perform 'hire car' work, nor does he intrude on the 'H' industry in any way. The RHV does not have, nor wish to have a "hire car", but rather he is willing to supply the discerning consumer with limited pre-booked luxury vehicle services which are not available from the 'H' plated industry, and we ask that you earnestly consider the merits of our formal

⁸ Limousine Industry Association of the ACT and Queanbeyan, submission dated 9/3/01

⁹ Dale Teddy (*Canberra Hire Cars*), submission dated 19/2/01

¹⁰ Howard and Margaret Garnier, submission dated 14/3/01

¹¹ Nora and Grant Stewart, submission dated 10/3/01

¹² Limousine Industry Association of the ACT and Queanbeyan, submission dated 9/3/01

¹³ David Little, submission dated 5/3/01

¹⁴ Denis Moulen (for RHVC), submission dated July 2001

proposal for licensing categories to clearly distinguish between the totally different supply situations in the light of the bottom line truth that RHVs are not HCs nor TXs and are not available from any other source.

The monopolistic attitudes of some [hire car operators] revealed a series of commercial misjudgments made by the then majority component of the industry, in 1994 by refusing to accept the Registrar's advice to co-opt RHV luxury vehicles, and in 1995 by failing to acknowledge the National Competition Policy principles and in 1986 when the NCP Agreement began to affect passenger volumes out of Comcar, the Assembly, and government organisations subjected to federal government efficiency dividend policies, they failed to reassess strategy to develop alternative markets.

During the same period it is noteworthy that the then minority component of the industry did take heed of the events of 1994-5-6 to develop commercial management and marketing strategies to have now become the largest industry sector... [whereas the hire car sector] has repeatedly failed to understand the commercial advantage to the hire cars of co-opting the services of RHV luxury vehicles to improve consumer choice of available vehicles, innovative products and their public image, and the take profit from the supply of vehicles not otherwise available to them.¹⁵

NSW hire cars operating in the ACT

Why [are NSW registered hire cars at] work in the ACT and the government is not collecting any revenue off them?... Also what concerns us too is that if NSW deregulates their country hire cars and another ten hire car plates get issued in Queanbeyan, does this mean that we could have extra hire cars working in ACT on top of the three Queanbeyan cars?... Their registrations are at least half ours and they do not pay \$496 licence to hire to our government either...¹⁶

Regulation of the hire car industry

[In relation to regulation, the ACT hire car industry] is strongly regulated with regard to quality, standards and safety to the overall benefit of the public. Legislation spells out the requirements and the industry effectively self-regulates to achieve high standards and safety...¹⁷

Certain restraints within the current legislation... are curtailing the legitimate expansion of small tourism businesses in the ACT.

Under the current legislation only 7-seater (and upward) vehicles can be used within businesses which operate for the purposes of taking visitors to visit Canberra's cultural, natural and aboriginal sites. I believe there is a strong case [for] smaller vehicles (ie. 5-seaters) to be used by particular operators providing "boutique" or specialist services...

In other capital cities, similar businesses [to mine] such as "Sydney in Style", Melbourne's "Friends in Town" and Adelaide's "Private Tours" all can legitimately use 5-seater vehicles to service their clients...

A system of interim registration of such vehicles could be introduced until appropriate legislation is passed in the Assembly.¹⁸

¹⁵ Denis Moulen, supplementary correspondence dated 23/7/01 (emphasis in original)

¹⁶ Nora and Grant Stewart, submission dated 10/3/01

¹⁷ Limousine Industry Association of the ACT and Queanbeyan, submission dated 9/3/01

¹⁸ Danielle Hyndes, submission dated 4/7/01

Recent changes in the hire car industry

Despite the growth of the ACT's population, the ACT hire car industry has been under considerable pressure over the last five years... The following are the main reasons for this situation:

- COMCAR work has decreased significantly...;
- the greatly increased use of self-drive vehicles by both federal and ACT government politicians... and senior public servants;
- genuine hire car work is increasingly being siphoned off by Restricted Hire Vehicles (licensed for weddings and school formals only) and illegal operators who do not even bother to obtain a RHV license; and
- disproportionate increases in vehicle operating costs...¹⁹

I bought my hire car [in] 1986 and work has dwindled badly since then, my work then was 100% Comcar, now we have to get work from the private market, it is not easy... We are working extremely long hours to try and make a living.²⁰

We originally purchased Acme Hire Car Service in 1988, consisting of two hire car plates and base. We operated this business for four years from home; this continually placed us under financial and personal pressure. In order to reduce these pressures we decided to lease the plates...

We commenced leasing in 1992, at that stage the financial return for the lease of our plates was greater than our current return. We did however receive periodical increases in lease fees until the Howard government came to power. As a result of Mr Howard not residing in Canberra, there has been a considerable reduction in hire car work for the current lessees, we were then placed in the position of either reducing lease fees or losing our lessees.

The result of this reduction has placed further financial pressure on us...²¹

As plate owners... we have a substantial part of our retirement investment tied up in this license which we lease... It returns us a little better than bank interest but will not make us wealthy. We bought it about two years ago and paid top of the market price at the time. Therefore we stand to lose far more than some who bought plates when they were much cheaper...

We feel, as other owners do, that we are trapped in the industry because nobody will buy into it while the situation remains as it is...²²

I am the owner of one licence plate. I paid \$150,000 for this licence plate. I lease my plate for \$12,000 pa. I'm retired and rely on my investment to live on...²³

We have owned our hire plate No.14 for 14 years. We bought our plate in 1987... [and] things progressed very well... until 1989 when we were hit with the airline strike... This certainly put us behind with our turnover dropping from \$120,000 pa to \$40,000 pa... We still have not fully recovered from this period...

¹⁹ Limousine Industry Association of the ACT and Queanbeyan, submission dated 9/3/01

²⁰ Marie Gordon, submission dated 9/3/01

²¹ E.M. and B.M. Costello, submission dated 26/2/01

²² Howard and Margaret Garnier, submission dated 14/3/01 (emphasis in original)

²³ Nick Pantaleo, submission dated 4/2/01

- tourists have never really returned, and basically if they do, they go by coaches
- parliament used to sit for 25 to 27 weeks pa, which gave us approximately 80% of our overall work, now parliament might be lucky to sit for 19 weeks pa and the work for most hire cars is approximately 10%. In our case it is none because we own a Stretch and we get no Comcar work at all, so ours is 0%. Shuttles used to be 14 hours at a time but now the standard sedans are lucky to get two hours...
- taxi used to have 127 cabs on the road but now have increased to over 240 cabs, this of course affects us particularly at the airport ranks
- we had the casino when it started off, with high rollers coming from overseas on a daily basis... Now we get no jobs from the casino, unless they are Canberra people going out for the night
- our government departments have been reduced and their budgets cut, which therefore has reflected on our industry, as these government departments were booking through Comcar which in turn came to us, but now the only government work is by individuals booking us and paying with Cabcharge dockets...
- we also have to contend with the RHVs stealing our work off us and doing it illegally...
- over the years our turnover has been reduced from \$130,000 to \$70,000, and when you minus our expenses, we are lucky to be left with approximately \$10,000 to \$20,000 profit pa.... This to us is now living under the poverty line. Our expenses have risen dramatically with GST, gas and petrol prices rising and our fare prices not increasing...
- we have been trying to sell for two years now...²⁴

²⁴ Nora and Grant Stewart, submission dated 10/3/01

3. THE FREEHILLS REPORT

3.1. The National Competition Policy Review of ACT Taxi and Hire Car Legislation (the Freehills Report) was commissioned by the ACT government because, like all Australian States and Territories, it is committed under the Competition Principles Agreement to review existing legislation to ensure that it does not restrict competition *unless* it can be demonstrated that the benefits of the restriction to the community as a whole outweigh the costs, and that the objectives of the legislation can only be achieved by restricting competition.

The National Competition Council required that all reviews be completed by December 2000. In relation to the taxi and hire car industry, an extension of time has been granted to all jurisdictions to June 2002...

[The ACT government appointed] Freehills... following a competitive process to determine who was to conduct the review. They were given terms of reference by the government. Freehills released an issues paper as part of the process and that was considered by the industry. 31 written and 15 verbal submissions were received and there were two public hearings...

The [Freehills] report was completed and presented to the government in March 2000. [The] government... announced its decisions and released a report on 15 November. The... [government's] detailed response to the review didn't happen until December [2000].²⁵

3.2. The Freehills Report estimates that the current restrictions on the number of hire car licences represents a transfer from consumers to licence holders of some \$286,000 per annum and a 'deadweight cost', or suppressed demand, equivalent to some \$55,000 per annum.²⁶

3.3. Freehills considered the various possible justifications for having a government-imposed restriction on the number of licences and, although commenting particularly on the taxi industry, could find no clear objectives that were served by quota restrictions.²⁷ Indeed, the only real justification for regulation of the market that Freehills identified was in safety and quality of services which, it concluded, was a matter for licensing, not restrictions on the number of participants in the industry.

3.4. The Freehills report put forward various options ranging from opening up the industry in the short term to relatively minor tinkering at the edges.

3.5. In considering the issue of the right to compensation, the Freehills report states:

One view is that property rights attaching to the licences contain an implied condition that the licence conditions can be varied [and] ... when an individual acquires a licence, it is understood that the return they can expect covers the potential regulatory risk ... that regulatory changes may alter the value of the licence. ... Thus the return on the investment can be seen to have already provided compensation, at least in respect of longer term licence holders.²⁸

3.6. The Freehills Report recognises that, despite the merit of arguments to the effect that existing businesses are entirely responsible for making suitable adjustments to their activities

²⁵ Mr MacDonald (DUS) *Transcript* 22/6/01

²⁶ Freehills Regulatory Group, *National Competition Policy Review of ACT Taxi and Hire Car Legislation (2000)*, p.35

²⁷ *Ibid*, p.29

²⁸ Freehills Regulatory Group, *National Competition Policy Review of ACT Taxi and Hire Car Legislation*, (2000), p.37

as economic circumstances change, such arguments fail ‘to adequately address issues of equity as required by the Competition Principles Agreement’²⁹ and concludes that:

Where individuals incur substantial losses as a result of policy changes, then on grounds of equity and pragmatism, we find the case for compensation is a strong one.³⁰

²⁹ The Competition Principles Agreement (CPA) is one of the three agreements entered into by Australian Governments to give effect to the National Competition Policy.

³⁰ Freehills, *op cit*, p.37

4. WHAT THE GOVERNMENT WANTS TO DO IN RELATION TO THE HIRE CAR INDUSTRY

This chapter sets out key aspects of the government's proposed changes to the hire car industry.

Charge for an annual hire car licence

The government proposes... an annual hire car licence... at a rate consistent with what people are currently hiring it for, that is, around about \$10,000 pa, so they're going to compete on an equal cost basis.³¹

Categories of hire cars

[It is proposed to establish an additional class of hire car to be a] motor omnibus licence of vehicles with less than nine seats.³²

Restricted hire car licences

[Restricted hire car licences will] continue to be available for school, formals and wedding work only... but... these operators [will] not be allowed to have a variation. If they take out a RHV licence it is for that particular market only...

And the [government proposes] that luxury Taragos and things will have 18 months to fall within this arrangement.³³

Impact of the proposals on existing hire car licences

The consultants... [have a] preferred option of the buyback... and what the government has announced is its decision... [in favour of] a transitional approach so, over time, [there will be] a gradual releasing of additional plates... to increase competition and greater choice for customers, operators and drivers. That hopefully will mean more hire cars out there, so more employment for drivers and... greater choice [for customers]... The downside, however, is that it really won't do much to reduce fares or remove this concept of dead weight loss or transfer of wealth, it will maintain the status quo essentially...

[Hire car licences] were made available [by the governments before 1980] at very low prices and the owners of those plates have had the terrific capital gain over the time and, of course, also had a return on their investment.³⁴

Ownership of both hire care and taxi licences

Legislation currently restricts the owner of a taxi licence from owning a hire car licence... Legislation restricts a person from owning more than two taxi or hire car licences, and the government is proposing that those restrictions be removed.³⁵

³¹ Mr MacDonald (DUS) *Transcript 22/6/01*

³² Mr MacDonald (DUS) *Transcript 22/6/01*

³³ Mr MacDonald (DUS) *Transcript 22/6/01*

³⁴ Mr MacDonald (DUS) *Transcript 22/6/01* (emphasis added)

³⁵ Mr MacDonald (DUS) *Transcript 22/6/01*

5. THE VIEWS OF SUBMITTERS ABOUT THE GOVERNMENT'S PROPOSAL

This chapter sets out the views of submitters re the government's proposal, under relevant sub-headings.

The government's choice of one of the options identified by Freehills

[The government's decisions] represent a selective interpretation of the options put forward in the Freehills Report, particularly Option C. This Option calls for a removal of hire car licence quota restrictions with no reform to current taxi licensing arrangements. By adopting that option, the government has effectively decided to provide unfettered access to the hire car industry through paying an annual licence and the decision that no additional standard taxi licences will be issued. The decision leaves the perpetual taxi licensing arrangements untouched.³⁶

The Freehills Report recommendations do not unfairly target either the taxi or hire car industries. However, the ACT government's response is unjustifiably negative to the hire car industry and introduces a discriminatory approach...

The underlying philosophy of the Competition Principles Agreement is not to restrict competition. Entry and competition in the hire car industry is NOT restricted. At present eight separate organisations or individuals are in competition with each other within the industry.³⁷

The government's proposal to retain the existing perpetual licences and supplement these by issuing a number of annual leased licences is inequitable and an affront to the National Competition Policy.

- Existing perpetual licence holders purchased their licenses for an average cost of \$120,000 each. Restrictions on the type and age of vehicles which can be used as hire cars have meant that the cost of the average hire car vehicle is approximately \$50,000 to \$70,000. Thus, the average entry cost for hire car owner/operators to enter the market is approximately \$200,000.
- Many owner operators invested their life savings into the business...
- At current rates, the interest payments on the business financing entered into by existing operators are far in excess of the mooted figure of \$7,000 to \$10,000 pa. Thus, to suggest that the issue of annual leased licenses would allow RHVs to "compete with existing owners on an equivalent regulatory cost basis" is patently incorrect.
- RHVs are already competing illegally by providing services they are not licensed to provide. These breaches have not been prosecuted in the past. To offer RHVs a cheap entry into the market would enable them to continue to compete unfairly.³⁸

We support the government preference for "a transitional approach to licensing that provides greatest certainty and benefit to industry and consumers" and propose that Option B "to remove hire car restrictions and gradually increase taxi licences" is the most appropriate option for the ACT which will satisfy the criteria of the Competition Principles Agreement...

³⁶ Limousine Industry Association of the ACT and Queanbeyan, submission dated 9/3/01

³⁷ Albert J.Trenery, submission dated 11/2/01 (emphasis in original)

³⁸ K.P.Tucker, submission (undated)

We agree with the grouping of hire cars (H), restricted hire cars (RHV), and small bus/sightseeing (MO max. 9 seats) as SCPV for the pre-booked market category, and with the grouping of taxis (TX) and wheelchair access vehicles (WAT) for the SCPV for cruising, ranking, flag-fall and remaining pre-booked markets, with taxis and WATs to retain 'TX' registration plates and hire cars to retain 'H' (or maybe 'HC') rego plates, and all existing operating conditions....

Three only SCPV licence categories would adequately regulate all segments of the small commercial passenger vehicle market with easily identified registration for minimum cost administration and regulation enforcement:

- TX – taxi and wheelchair vehicles: All existing services permitted
- HC – hire cars: All existing services permitted
- SV – special (ex RHV) and small bus (max.9 seat): restricted to pre-booked services which cannot be supplied by TX and HC licenses due to unavailability of vehicle required.

The National Competition Council has emphatically stated that licence restrictions represent unreasonable restraint on trade that only delivers windfall gains to a small group of investors and owner-drivers... and that such gains come at a high cost to passengers and employees as licence restrictions reduce availability for consumers, inhibit choice and service innovation, and provide no benefit to the community...

The removal of licensing restrictions in other Australian states and in New Zealand has not diminished the commercial viability of hire cars but rather the number of hire car operators has increased to generate a substantially increased demand, albeit with minimal decrease in charges but with greatly improved services and innovation in those communities.

We believe that to eliminate restrictions on 'H' and 'RHV' licences in the ACT and to re-establish commercially viable regimes for both will benefit both operators and the consumer.³⁹

Effect on the viability of the hire car industry

Following the release of the Freehills Report and the government's proposed approach, the hire car industry learnt that the government was about to release new hire car licences on an annual fee for the first time. The industry understands that four additional hire car licences were to be released at an annual licence fee of \$10,000 pa, which is less than the current market rate as reported by Freehills.⁴⁰

If the government intends to release four extra plates, I can see no future within the industry. All the current operators work on a very small profit margin.⁴¹

The ACT hire car market is shrinking... Each additional licence effectively needs a turnover of approximately \$80,000 pa to be viable. For a fixed pie, additional hire car licences would reduce the size of each slice with adverse effects on viability.

For a capital investment of \$170,000 (\$120,000 for a licence and \$50,000 for a premium vehicle) an operator can now expect a net return after expenses of less than average weekly earnings....

³⁹ Denis Moulen (for RHVC), submission dated July 2001

⁴⁰ Limousine Industry Association of the ACT and Queanbeyan, submission dated 9/3/01

⁴¹ David Little, submission dated 5/3/01

Yet operators stay in the industry because they like the independence of operating their own small business... Moreover, for the last 18 months since the government announced the review, they have not been able to sell their licences as there is effectively no market for them, primarily because of the fear and uncertainty in the industry regarding government changes.

The hire car industry does not want any changes to the current viable, albeit struggling, competitive and well-regulated industry.⁴²

Allowing more operators into this already small market will reduce the takings of the current operators possibly forcing a number of them out of business.⁴³

Compensation

If the government persists with its announced intention, then the industry will be seeking compensation for existing perpetual licence holders.

The Freehills Report strongly puts the case for compensation....

[And the] government's own report strongly puts the case for compensation and suggests that compensation be \$120,000 per perpetual licence. The only other jurisdiction in Australia (the Northern Territory) to deregulate its taxi/hire car industry paid full compensation.⁴⁴

The government [should] buy back existing [hire car] plates then release them on a short-term basis ie. 12 months, in the same formula as NSW which is 14% of the sum the last plate was sold for, which was \$120,000. This would be \$16,800 pa and would not undermine current leasing values for owners not wishing to sell their plates.⁴⁵

The argument in favour of compensation in respect of the hire car industry... is far more compelling because the losses it incurs will be levied on a very discrete section of the community. We believe that a Court would take a particularly firm view on this, given that the government seems for whatever reason to be unwilling to take any significant steps towards deregulation of the much stronger and larger taxi industry...

In our view, the government response flies in the face of the Freehills arguments in favour of compensation...⁴⁶

We bought the [hire car] licence in 1991 and Beverley operated a hire car for three years... [then] we decided to lease the plate. We envisaged the lease of the plate would be a major part of our superannuation strategy for our retirement. We are most concerned that this strategy is under threat because of the government's proposed deregulation of the hire car industry...

Our reading of the Freehills report suggests there is a strong case for compensation because the government approach has wiped out the value of our investment almost overnight.⁴⁷

If these proposed changes (deregulation) take place, my investment will lose its earning capacity... I have worked hard all my life and wish to provide for my

⁴² Limousine Industry Association of the ACT and Queanbeyan, submission dated 9/3/01

⁴³ E.M. and B.M. Costello, submission dated 26/2/01

⁴⁴ Limousine Industry Association of the ACT and Queanbeyan, submission dated 9/3/01

⁴⁵ Alfred J.Jones, submission dated 26/2/01

⁴⁶ Alfred J.Jones, attachment to submission dated 26/2/01; the attachment was prepared by Baker Deane & Nutt (lawyers), dated 14/2/01

⁴⁷ David and Beverley Clarkson, submission dated 7/3/01

own retirement... I am more than willing to sell my plate for \$150,000 I paid for it – to the ACT government. Then I can invest the money to provide me with a pension... [rather than become] a welfare recipient.⁴⁸

We do not accept the Freehills arguments about the benefits of deregulating the hire car industry in the ACT; however, we do accept that their recommendations are put forward as a package which requires implementation in full with fair and reasonable compensation being paid to existing stakeholders before any of the so-called benefits could hope to be achieved...

Freehills recommended annual licences as a replacement for perpetual licences on the basis of a government buy-back with full compensation. However, the government seized on the recommendation proposing annual licenses as an extension of RHV licences as an expedient means and argued that RHVs should have greater access to the industry...

The government announcement of its intentions has created more not less uncertainty for hire car operators and plate owners, and people in the industry now fear for their futures and feel their livelihoods are threatened...

The only reason for a “transitional approach” is an attempt by the government to avoid paying compensation.⁴⁹

The ACT hire car industry would demand compensation from the ACT government if the industry were deregulated. The compensation would be the current market value (based on recent sale prices of ACT hire car plates) or the 1977 government sale price of \$60,000 adjusted for CPI, whichever is the greater...

The government also needs to first determine [if going down the compensation and lease path] what action it should take in respect of the three Queanbeyan registered hire cars currently operating in the ACT on an equal footing with the ACT hire cars.⁵⁰

The RHVC believe that the government should cancel all existing hire car ‘H’ plates and negotiate settlements... to create an even playing field for existing and new participants in the industry...

We will support annual renewable licenses to provide accessibility and flexibility for TX, HC and SV licenses...

Plate owners would need to understand that compensation settlements for plates purchased prior to the National Competition Principles Agreement [NCPA] 1995 would differ from settlements for plates purchased after NCPA 1995, and that compensation for owner-investors may differ from that offered to owner-drivers...

Based on the Motor Traffic Act 1936 legislated payment of \$60,000 for hire car licenses, the total cost of apportioned compensation payments to establish a new level playing field for the ongoing industry should be considerably less than \$1.2m, a small portion of the expected \$11.60m NCPA payment to the ACT for 2000-02 and \$49.30m by end 2005-06.

It should be noted that more than half of the perpetual ‘H’ plates are at present leased to driver-operators at average \$900/month, representing returns to investors of 9% on four plates purchased for \$120,000 each post-NCPA 1995,

⁴⁸ Nick Pantaleo, submission dated 4/2/01

⁴⁹ Howard and Margaret Garnier, submission dated 14/3/01 (emphasis in original)

⁵⁰ Albert J. Trenery, submission dated 11/2/01

and 18% on 12 plates purchased for \$60,000 each pre-NCPA 1995. It is no wonder that the hire car lobby is resisting change!⁵¹

Effect on standards

Perpetual plate owners commit their own resources long term. Annual “licences” would see fly-by-night operators, without resources by way of communication systems, financial planning or reservation capability...⁵²

New entrants under an annual licence would be out for a quick buck and not have the industry at heart...⁵³

Any proposals for legislative reform should be considered against the need to maintain the high industry standard...

I consider that service levels would drop significantly in an unregulated market. Legislative requirements relating to operator accreditation, vehicle standards and driver authorisation are essential to the maintenance of service and customer safety levels in the private hire vehicle industry. It must be re-emphasised that under current regulation the industry has successfully met market needs such as convenience, safety, comfort, speed, variety and value for money, the valued components of any exclusive public transport service...

An unstable industry with substantially relaxed entry controls could undermine public confidence in private hire vehicle operators and could also increase enforcement costs to regulators. I believe that anyone who wishes to enter into the hire car industry in any way should come under the strictest rules and regulations [and] that includes weddings, school formals, dinner transfers or any type of public transport.⁵⁴

The compliance program directed at unlicensed operators should be enhanced... In my opinion, industry compliance costs pertain primarily to the operation of wedding cars. In recognition of this fact, I propose that the wedding car industry should be opened up to all vehicles providing that they meet Department of Transport standards for those operators. And are fully insured...

In my opinion, it is imperative that the industry retains its exclusive nature and that only quality vehicles convey passengers. This goal is best achieved by restricting vehicles on the basis of value (which would obviate the need for constant updating the Act with new vehicle models) and age (vehicles that are in excess of ten years old are generally past their best and in need of replacement)...

We are governed by Comcar that our cars cannot be over six years of age, and as most of our work is geared to the Commonwealth maybe this should be the limit on sedans. Maybe ten-year limit on all stretch limousines...

I believe that a special plate should be issued to all stretch limousines and small MO plated vehicles. My reasons are as follows:

- (1) the cost of a plate on a small MO ie. a Tarago, is approximately \$145 on a one-off basis. The yearly licence to operate a stretch limousine is \$490 pa and yet the MO can do potentially the same work for a much lower rate and the vehicle cost difference of the two is vast, ie. Tarago average cost is \$35,000 against \$100,000 for a stretch. I do not believe that a Tarago

⁵¹ Denis Moulen (for RHVC), submission dated July 2001

⁵² Dale Teddy, submission dated 19/2/01

⁵³ Howard and Margaret Garnier, submission dated 14/3/01

⁵⁴ Alfred J Jones, submission dated 26/2/01

should be able to work the airport rank as hire cars including stretches do. Maybe the licence to operate a stretch should remain the same, but Tarago or similar vehicles should pay \$150 pa. I believe the current situation to be totally unjust.

- (2) this would immediately release four hire car plates currently on stretch limousines back into the market for sedans.
- (3) This would give us potentially eight not four stretch limousines in Canberra including the four currently registered as RHV thus relieving the burden
- (4) Also by continuing the current arrangement of allowing the three Queanbeyan hire cars to continue to work in the same manner as the ACT cars... this gives Canberra/Queanbeyan region a total number of 29 sedans and eight stretch limousines, a fair percentage increase.⁵⁵

Increasing the number of hire cars for special occasions

Presumably one of the government's objectives in deregulating the hire car industry is to increase supply. Yet lack of demand rather than lack of supply is the principal feature of the industry in most cases [though] there are some special occasions or events in the ACT when there may be a need to have a greater supply of hire cars... [for example] a visit of a Head of State... or a major conference...

In these circumstances, supply could be increased for the duration of the occasion by a system of accreditation of vehicles as hire cars. Key features of the system would be:

- only perpetual licence holders or their delegates (to accommodate lessees) could apply to the Registrar of Motor Vehicles for a particular vehicle to be accredited... on the basis of one accredited vehicle per perpetual licence holder...
- the vehicles would have to satisfy the quality standards applying to hire cars generally; and
- the drivers would have to be licensed as hire car drivers...

[This approach] would also allow a close business relationship to develop between the hire car industry and the RHV industry, which would be the most likely source of accredited vehicles.⁵⁶

⁵⁵ Alfred J Jones, submission dated 26/2/01

⁵⁶ Limousine Industry Association of the ACT and Queanbeyan, submission dated 9/3/01

5. CONCLUSION AND RECOMMENDATIONS

5.1. The committee agrees that:

It is in the public interest to have a viable, competitive hire car industry that is well regulated with regard to quality, standards and safety.⁵⁷

5.2. The hire car industry has met this objective in the past and is continuing to do so. However, it is facing serious financial pressure and a period of considerable uncertainty, reflecting the influence of factors such as the changes to Comcar and the operation of NSW-plated vehicles in the ACT. It is essential that governments recognise this in preparing proposals for change to the industry. For the immediate future, the committee considers that some stability is needed.

5.3. ***Recommendation 1: that, in determining the future shape of the hire car industry in the ACT, the government give priority to providing a period of stability in which current licence holders have the opportunity to plan/consolidate their positions.***

5.4. ***Recommendation 2: that deregulation of the hire car industry not take place and that no new licence plates be issued at this time.***

5.5. ***Recommendation 3: that, in the event the government considers that compliance with the national Competition Principles Agreement requires deregulation of the hire car industry to take place, then the government should establish a fair and equitable transition process involving appropriate compensation to existing licence holders.***

5.6. In relation to the Comcar situation, the committee considers that the use of Comcar as a central booking agency for federal agencies is unduly restrictive.

5.7. ***Recommendation 4: that the ACT government liaise with the federal government in an effort to replace the current practice whereby Comcar controls private hiring for Commonwealth agencies by a system which would enable private hire companies to deal directly with federal agencies.***

5.8. In relation to the operation of NSW-plated hire cars in the Canberra market, the committee accepts that the three existing operators should be permitted to continue but there should be no new approvals for NSW-plated vehicles.

5.9. ***Recommendation 5: that the three existing NSW hire car operators be permitted to operate in the ACT but that no further approvals for NSW-plated hire cars be issued.***

5.10. A further factor which may improve the viability of some hire car operators would be if they were permitted to rank at Canberra Casino. The committee accepts that such a concession needs to be seen as a special exception to the conditions governing hire cars and should not form a precedent for similar concessions at other venues.

5.11. ***Recommendation 6: that hire cars be permitted to rank at the Canberra Casino.***

5.12. The preceding chapters of this report reveal the divergent views of hire car and RHV operators about the impact of the latter upon the former (see especially chapters 2 and 5). The committee does not 'take sides' in this debate. But a key factor emerging from it is the importance of all hire car operators clearly displaying their licence plate and any permit number at all times that the vehicle is operating as a hire car.

⁵⁷ Limousine Industry Association of the ACT and Queanbeyan, submission dated 9/3/01

5.13. *Recommendation 7: that distinctive and clearly visible hire plates be required for each category of hire vehicle and special permit holder and that all applicable licences and permits must be displayed on a hire vehicle when it is working. The committee considers that the hire plates for each category of vehicle should be a different colour so as to be easily visible. They also should carry an appropriate designation, eg 'H' for hire cars and 'RHV' for restricted hire cars.*

5.14. Just as the licence details should be displayed on the vehicle, it is important also that they appear in all advertisements by operators.

5.15. *Recommendation 8: that all advertising of hire car services must include the licence and other permit numbers held by the advertiser and relevant to the service being advertised.*

5.16. Further, in order to preserve the existing high standards of the industry, it is essential that licence conditions stipulate the necessary safety and training standards. These should be set by the government rather than by the hire car industry.

5.17. *Recommendation 9: that the regulation of hire car licences should include a requirement that the vehicle operator has appropriate insurance; has demonstrated a knowledge of the streets and roads of the ACT; has some elementary mechanical knowledge and possesses a first aid certificate. Hire vehicles should also provide child and infant seats and restraints on request and comply with any other government safety requirements.*

5.18. The committee considers that there should be no exception to the above standards, which should apply (for example) to all horse and buggy operations.

5.19. The committee also considers that hire car operators should be required to inform clients of the cost of hire before travel commences. This ensures that the client has the relevant knowledge to make a decision about whether to hire a vehicle or not. The committee understands that other Australian states have such a stipulation.

5.20. *Recommendation 10: that hire car operators should be required to inform clients of the cost of hire before travel commences.*

5.21. The committee is disturbed by the cumbersome 'variation' process whereby a RHV can seek approval for 'traditional' hire car work. The process appears to be a source of frustration for those in the industry as well as for government officials.

5.22. The committee notes the government's intention to remove the 'variation' process altogether by stipulating that a RHV licence is to be used solely for the particular market specified in the licence (see chapter 4). The committee considers this would be an improvement over the existing situation.

5.23. However, it will not deal with those RHVs which seek a permit to operate as a hire car on just three occasions a year (eg the owners of certain vintage or special cars which might be requested at weddings). In these cases, the licence plate should clearly show that the vehicle is an RHV being used under appropriate permit conditions—a suitable designation on the plate might be 'RHV-P'.

5.24. *Recommendation 11: that the licence plates of RHVs being used on just a few occasions a year clearly identify this usage by an appropriate designation on the plate (such as RHV-P).*

5.25. In the case of RHVs seeking an annual licence for specific types of functions or activities (such as school formals and weddings), the 'RHV' licence should indicate that the vehicle is to be used solely for the particular market specified in the licence.

5.26. Recommendation 12: that the licence plates of RHVs being used for specific types of functions or activities on an annual basis (such as school formals and weddings) clearly indicate that the vehicle is to be used solely for the particular market specified in the licence.

5.27. In order for the industry and the public to have confidence in the licensing regime, it is essential that official have sufficient resources to monitor and enforce the above conditions.

5.28. Recommendation 13: that the government provide sufficient resources to enable appropriate monitoring and enforcement of the hire car licensing regime.

5.29. The Committee notes the current limits on cross-ownership of taxi and hire-car licences and also the limit of two hire car licences able to be held by one person. These restrictions no longer appear relevant to either the taxi or hire car industries.

5.30. Recommendation 14: that the restrictions on cross ownership of taxi and hire car licences, and the limits on the number of licences one person may hold, be removed.

Appreciation

5.31. The committee thanks all those who participated in the inquiry and especially the operators of hire cars and RHVs who took time from their work to prepare written material and to address the committee at public hearings.

Harold Hird MLA
Chair

29 August 2001