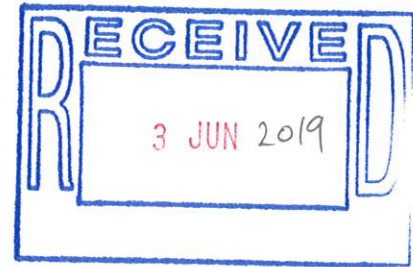


SUBMISSION TO THE INQUIRY INTO THE COMMERCIAL PASSENGER  
VEHICLE INDUSTRY ACT 2017 COMPENSATION SCHEME



by

[REDACTED]

27<sup>th</sup> May 2019

PLEASE NOTE WE ARE MOST WILLING APPEAR BEFORE THE  
COMMITTEE, BUT PREFER NOT TO HAVE OUR IDENTITIES MADE  
PUBLIC.

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I am 75 years of age. My wife is 70. I am a retired Victorian public servant of 30 years, with a keen interest in the Melbourne taxi industry since 1965. As a young person I acquired a taxi drivers' certificate to supplement my income by driving taxis at night and weekends.

Whilst I was still a full time employee, we bought and sold two licences during the 1980s.

**“OWNERSHIP” OF TAXI LICENCES**

This of course was in sync with the concept that the taxi industry was a private enterprise industry, as it had been for well over 120 years. In the early days a licence would be issued by the Melbourne City Council, later by the State Government.

Licences became available for issue strictly in accordance with the tested, perceived requirements of the community and by reference to the census, various council records and other sources.

The acknowledged individual **OWNERS** of those licences were free to on-sell them as they saw fit with full approval of the government, which processed and oversighted the sale and transfer of all licences. In 2006 the government even introduced the need for the sale to be registered by the Bendigo Stock Exchange [BSX].

As well, the seller was obliged to pay Capital Gains tax to the Australian Taxation Office which considered a taxi licence to be a capital asset – real property which was **OWNED** by the licensee.

So there was little dispute or discussion as to whether a taxi licence was **OWNED** by the entity in whose name it was recorded at the Transport Regulation Board, the Taxi Directorate and then the Taxi Services Commission as the regulator was progressively titled over the years.

And the concept was confirmed by the High Court of Australia in the case of ***Commissioner of Taxation –V- Murray [1998]*** when a dispute over ownership and goodwill involving a taxi licence went to the High Court - the highest court in Australia.

The decision stated in part that: “a taxi licence is a valuable item of **property**.....it may be sold or leased for reward to a third party”.

That and other rulings in the case relating to ownership, created new case law.

In fact when my wife and I were reviewing our finances preparatory to retirement, we transferred two licences we still then owned, from our own names to that of our Self Managed Superannuation Fund – and were forced to pay over \$65,000 Capital Gains Tax to the ATO. Notwithstanding, this was merely a change in name, not a change in title, but we were still required to pay CGT. So that our losses here are exacerbated!

There is no doubt in view of these required processes, that taxi licences are deemed to be property/assets with individual owners. However this state government has taken it upon itself - in isolation - to state that they are not assets or property?

This decree is illegal and against all precedent, including Australian *legal* precedent established by the High Court of Australia.

If the need to undergo a rigorous government supervised “transfer of title” process and then be required to pay capital gains tax to the ATO in accordance with a High court ruling, does not show “ownership”, I am at a loss to know what does.

And if it is not “ownership”, I want my CGT contribution to the ATO back!

All this remained in place until announcements by the Government of Victoria following the VTI, which included the sudden assertion that taxi licences were **NOT** an asset of the individual or entity, rather, an item assigned [leased] by the government to that individual.

Of course the “ownership” of licences was suddenly brought into question as a matter of convenience for the government’s “plan” for the taxi industry. It was suddenly convenient for the government to deem licences not to be property or an asset after all those years and thousands of sales transactions it had overseen and approved. Simply because it envisaged having to pay compensation to owners in due course and wanted to reduce its liability.

And I note that **NO OTHER STATE IN AUSTRALIA** has failed to recognise that taxi licences are deemed a capital asset or property belonging to an individual or an entity.

Other states have paid compensation to **OWNERS** of licences and allowed them to continue as such, thus being able to on-sell their asset in due course. But this government has illegally stripped proprietorship from the owners of over 5000 taxi licences in this state and that needs rectification.

Furthermore, when licences in other industries in Victoria [fishing, scallop fishing and logging] were revoked, the government of the day compensated the owners of those licences in full and paid them compensation for equipment made obsolete. Taxi industry participants received nowhere near the same consideration.

## **OUR CONTINUING INVOLVEMENT IN TAXI INDUSTRY**

I had retired in 1990 and immediately bought a licence for around \$210,000 which was paid for with a lump sum from my superannuation entitlement. I worked a large car I placed on the licence myself.

I was an inaugural member of a "telephone group" which operated separately from the main taxi depot, although we continued to work for the depot as well. We generated our own customer base and provided excellent service to those customers using our own 25 car membership which employed separate radio telephone communications in each member vehicle.

We generated great trust and rapport with our customers to the extent we would often be invited to business and private functions by them.

It was a great concept and served both our customers' needs and our income streams very well.

This enterprising group ensured that cars were maintained in pristine - clean and roadworthy- condition. Drivers who failed in this respect were suspended or expelled from the group.

## **OUR LICENCE PURCHASE RATIONALE**

The main reason we bought our licence was to acquire an asset to include in our SMSF and rid ourselves of the need later in life to rely on a government hand-out in the form of the Age Pension. We now find ourselves stripped of both the asset and source of income from the licence assignment fees. Such fees amounted to \$30,000 per annum.

Three years later we bought a second licence for more than the first one. We operated a car on that licence using drivers for three years, before assigning it out with the car attached.

After about six years we sold the second licence for a profit and used the proceeds to supplement the income from the licence we still owned. And I reiterate that our main motivation for doing this was in order that we would not have to rely on the federal government Age Pension in later years.

I continued working the remaining car myself until around 2008 when I assigned the licence and sold the car to an individual operator. We were receiving amounts up to approximately \$2500 a month for this assignment and continued to do so until the announcement of the Victorian Taxi Inquiry by the then Liberal government.

Such announcement was not long before a state election and several identifiable Labor candidates assured the taxi industry generally that they would "not abandon" them, [this is evidenced in parliamentary Hansard records], but that is exactly what they did when the Labor Party was elected, and the CPV Reform Bill 2017 legislation which deregulated the taxi industry was subsequently proclaimed.

In the week prior to the announcement of the VTI, purely coincidentally, we decided to divest ourselves of the remaining licence and placed it with a broker for sale. By this time, I was just on 70 and we were tired of business dealings and complicated account keeping.

The very day the VTI was announced, the broker called to say he had a buyer for an agreed price of \$515,000 and could we attend at his office the next day to sign the contract. That night on TV the government announced the VTI. Of course the "buyer" withdrew and we do not blame him.....

But of course, as we well know, as a result of that announcement, taxi licence prices and assignment income therefrom plummeted and all hope of recovering even the amount we had paid for the licence evaporated. The government had achieved its objective, forcing prices down so that any anticipated "compensation" would be less.

I need to reinforce at this juncture that despite our financial disadvantage brought upon us by this situation - the loss of an almost half million dollar asset, and the \$30,000 per annum income generated by it - we are not nearly as disadvantaged as many others in the industry. We have indeed been robbed and as well, the Self Managed Superannuation Fund [SMSF] we created during these years is now wound up and we live out of our savings. We will soon need to apply for the Age Pension. That which we were trying to avoid.....!

We did not qualify and did not apply for the means-tested fairness fund grant introduced by the government in the lead up to this deregulation.

Our hearts bleed for families who have devoted their lives to their taxi businesses only to have a rogue government come and steal it all away. I can only wonder at the effect this action by the government has had on the owners of multiple licences beyond five. Someone with [say] 23 licences – and I know of one family in that exact situation – would have lost just over **\$11 million dollars!**

And we are incredulous that any clear thinking people – politicians or others - consider it acceptable to do that to those they have been elected to be responsible for.

We are particularly confused and angry concerning several of what we perceive as illegal actions foisted on us by this government:

[a] **Breach of Federal Competitive Neutrality Legislation** - We conclude that the Government of Victoria being the owner [via its agent the Taxi Services Commission] of numerous [more than anyone in the industry] taxi licences - those it assigned out before the VTI, and then being the regulator of the taxi industry, has breached Federal Consumer Law [Competitive Neutrality Legislation] because it was a competitor in an industry it was regulating.

Additionally, all Australian states [including Victoria], in 2005, entered into a Competition Principles Agreement under the Council of Australian Governments [COAG] which was partially aimed at excluding governments from participating as competitors in private enterprise, thereby gaining unfair advantage.

Obviously the Victorian government “forgot” about that agreement when it, with the stroke of a pen, created numerous additional taxi licences for assignment into the Melbourne taxi fleet. And benefited from income it collected from each of over 1500 licences.

When the industry was first threatened by the government, I had a conversation with a Competitive Neutrality Lawyer, a specialist lecturer at an Australian University who agreed that the Government of Victoria was in breach of its COAG agreement and was committing a federal offence as outlined above – being an owner of licences, competing in an industry it controlled. She informed me that Federal Law supersedes State Law but said however that any action against a government was convoluted, difficult, costly and lengthy and that it would take years to obtain a result. And I assume that is why the Labor government “steamrolled” ahead with its decision.

[b] **Failure to Enforce the Victorian Transport Act** – in that it consistently ignored the activities of the illegal taxi service Uber for a period of over three years. It was seen to encourage the activities of Uber by overlooking the enforcement of the Transport Act and permitting the establishment of dedicated pick up points at the Melbourne Cup, F1, Rod Laver Arena and at Melbourne Airport. These facilities all still remain in place during events.

[c] **An ASSET stolen from us** - The Victorian government has defied the High Court of Australia which decreed that a taxi licence was an ASSET. Based on which the Australian Tax Office has since demanded the payment of Capital Gains tax upon the sale of any taxi licence; something we are personally able to vouch for.

Our retirement strategy was to have a monthly income of at least \$2500 per month generated from the taxi licence assignment or interest derived from cash in the bank upon its sale. We have had this option removed by the actions of the government and are have been forced to wind up our Self Managed Superannuation Fund.

[d] **Inordinate increase in vehicles plying for hire** - Since the revocation of all taxi previously owned licences, the number of taxis in Melbourne has tripled, with virtually anyone permitted to apply for an assigned licence directly from the government at a cost of \$52.92 per annum. As well, Uber vehicle numbers have increased dramatically, so that Melbourne now has close to 62,000 vehicles plying for hire. 12000 taxis and 50,000 hire cars. Prior to deregulation there were 4000 taxis plus hire cars.

The number of vehicles plying for hire well exceeds the need. Supply exceeds demand, a fatal combination in any business environment. Drivers are earning a pittance and provide a service commensurate with those earnings.

And of course these 62,000 additional vehicles are helping to clog our roads adding dramatically to congestion in the Melbourne CBD and metropolitan area.

As well, Uber drivers are allowed to “tout” for business anywhere they choose, even in the streets, without interference from enforcement officers – I suggest by direction of the government.

The ability of these touters to approach people in this manner is a grave **SECURITY RISK** for the accepting passengers and indeed in some cases, the drivers themselves.

### **THE AFTERMATH**

As I have said we are amongst a few more fortunate as a result of this disgusting episode. Up until now, we have managed to provide for ourselves, despite our almost half million dollar capital loss on our asset and the loss of the monthly income from the assignment.

But we feel deeply for others in the industry. I cringe when I think of the years of work by other owners who have had been back stabbed by this government and who now have to turn to another government to receive a taxpayer funded means to exist – if that even helps them.

Then there are those who shortly before this criminal act, bought a licence and committed to repay a huge loan. Their asset has been removed but they are still required to repay the loan. Many have lost their homes as a result.

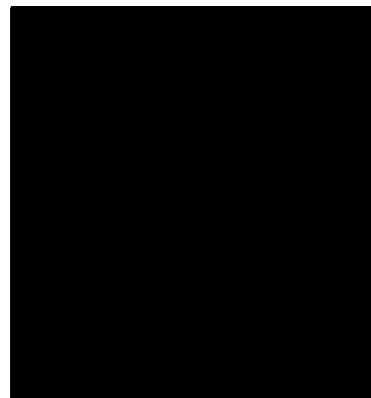
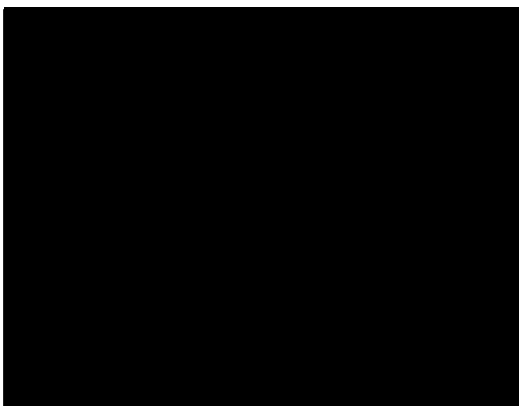
And seven souls to my knowledge, who could not cope, have taken their own lives to escape the carnage.....!!

I cannot help wonder what the individual perpetrators of this debacle would think, say and do if they had their parliamentary pensions ripped off them under some ill founded pretext, “for the good of the community” and to create a “level playing field” for the Commercial Passenger Vehicle industry. It is far from good for the community and is far from a level playing field.....!

Last but not least, I find it necessary to draw attention to a person I think of as a “professional conductor of enquiries”. His motives are suspect as well as his role in the Victorian Taxi Inquiry. It is now well known that that person is a major shareholder in Uber and many suspect, was at the time of the VTI.

Any credible, trustworthy individual in similar circumstances would have declined the role.

His credibility and integrity are non existent.



### SUBMISSIONS

1. That the current Labor government immediately ceases issuing the nominally priced taxi and hire car licences in order that the Commercial Passenger Vehicle Industry returns to a viable operation whereby the number of licensed vehicles is reduced and participants in that industry are able to earn a viable living and provide a valid, efficient service to the public;
2. That the current Labor government which was instrumental in creating this debacle, urgently remits to entities nominated as owners of each and every taxi licence and hire car licence when its "compensation" package was initiated, amounts equal to the value of such licences at the time the VTI was announced.
3. That the current Labor government outlaws all Uber activities in the state of Victoria as has occurred in many other parts of the world. This organisation was permitted to run rampant for three plus years when government enforcement officers were instructed by the government to ignore their illegal activities.

