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MIN-4017 Meeting with Taxi Federation/Small Passenger Service Association

28 November 2022

Provide information to support your meeting with § 9(2)(a) from the Taxi Federation/Small Passenger Service Association, 30 November 2022.

Small Passenger Improvements Draft Report

Current status

With regard to the various issues identified in the Small Passenger Improvements Draft Report, Waka Kotahi NZ Transport Agency will develop an action plan in collaboration with industry and road safety partners to address the concerns raised in the workshops by industry. It currently has a harm reduction plan under development. Waka Kotahi envisages this will be a multi-year programme of work.

Investment Logic Map (ILM)

- The ILM workshops were undertaken to give the major participants, including regulators, an opportunity to participate in a discussion and put forward their opinions about the issues they believe the Small Passenger Services (SPS) industry is currently facing. The intention was to collate their concerns as a number of recommendations that could be worked on together to improve safety in the sector.

Taxi Workshop problems [page 7]

- The taxi industry has concerns that rideshare and independent taxi operators are not regulated to the same extent they are, and as a result, they believe those sectors are the main perpetrators of harm to customers. The industry has expressed that there should be cameras installed in vehicles that are used in these other parts of the industry, and that they should also be identifiable by way of signage, coloured registration plates etc.
- Additionally, because branded taxis are more visible, they are able to be targeted when roadside compliance checks are undertaken, whereas other operators, specifically rideshare vehicles, are not. These factors lead to uneven targeting of taxis operators when undertaking roadside operations with the New Zealand Police (Police). This is not able to be rectified unless some form of identifier is required on rideshare vehicles.
- Further, taxi companies consider that not all complaints that should be lodged with Waka Kotahi are being lodged. The example which the industry provides is that independent taxi companies, consisting of one or two drivers, have no vested interest in reporting complaints made against themselves, and that the regulator is only aware of the complaint if they receive it direct from the complainant. Where Waka Kotahi is made aware of a serious complaint not being recorded and reported, it will follow this



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up with the company involved. The complainant has the ability to raise their concerns directly with Waka Kotahi or with Police, and as such we consider it is unlikely serious complaints are not reported.

- Taxi companies requested complaints data prior to 2016. This data is not available as there was no national complaints database at that time. However, Waka Kotahi does hold data from 2017 onward which has been provided to the Taxis Federation. We are in process of recovering data from 2015 but at this stage, it is still being verified.
- Further, the changes to legislation have made it easier for a person to obtain a Passenger endorsement (required to carry passengers) with the only requirements being a Police vetting check. The taxi industry considers this has resulted in a large number of persons undertaking this service part time and that unsuitable individuals have been entering the industry. All persons who hold a Passenger endorsement have to renew this within five years and are re-vetted by police at that time. Known offending history will therefore prevent them from entering or continuing in the industry.
- In addition, industry believes App based companies s 9(2)(b)(ii) have less oversight of their drivers, resulting in more frequent occurrences of professional misconduct. However, these companies can easily stop a driver having access to the App (and therefore continuing to work for them) in instances where they become aware of a driver acting inappropriately.

Rideshare Workshop problems [page 7]

- The taxi sector considers that rideshare drivers are more likely to work longer hours, either because they work other jobs or because they can shift between rideshare platforms, resulting in the potential for fatigue related crashes. However, this can occur within any driving sector and as SPS drivers are unlikely to be driving continuously (like freight transporters), they are able to rest between fares. The App based companies have good oversight of the hours worked while accessing their App and it is turned off when they reach the maximum number of driving hours.
- There is no self-reporting in cases where drivers are banned from a rideshare company due to inappropriate behaviour, therefore, drivers are able to move between companies. This could only be rectified if there was a requirement for a company to report this, so that, if investigated and confirmed, Waka Kotahi could then revoke the driver's Passenger endorsement.
- Different companies have different policies with regard to how they operate. For example, some companies do not allow unaccompanied minors while some companies will not allow more than one person to use a personal account. Taxi companies would like some standards agreed on, so passengers know what they can expect.
- Waka Kotahi considers a code of conduct for companies to sign up to would be a good way to achieve this. While Waka Kotahi could act as facilitator, it considers that industry should also work together on any new code. This is a component of the harm reduction plan that Waka Kotahi is going to start facilitating early next year.



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Government problems [page 8]

- Worktime hours are interpreted as equating to driver fatigue however, they are different i.e., a driver may have a young baby at home resulting in fatigue, even though they are working within the legislative limits. Both taxi and rideshare companies manage App access to ensure worktime hours are not breached. However, the ability of a driver to work for more than one company means worktime hours are able to be breached without an employer knowing, as driver information is not shared between companies. This issue is common across the commercial driving sector and is being worked on across industry to resolve.
- As these drivers are managed through Apps, there is limited oversight regarding their behaviours, with a reliance on complaints to highlight problems. Companies use education to induct new drivers and highlight behaviours that are inappropriate. A combination of having to regularly renew a Passenger endorsement with Police vetting and company education are tools to reduce the likelihood of drivers behaving inappropriately.
- Data collection on complaints is reliant on either a passenger being willing to share information, or a company keeping a record of serious complaints and providing this information to the regulator as required. App based companies make it easy for passengers to raise concerns which is likely to be a major reason why Waka Kotahi receives a higher number of complaints regarding their services.
- Waka Kotahi is unable to comment on the Health and Safety at Work Act issue as this is outside of its jurisdiction.

Taxi issues [page 15]

- Waka Kotahi takes a risk-based approach to enforcement and considers all complaints that it receives. All complaints are triaged, assigned a priority, and are then allocated to a staff member to investigate. Complaints which are acted on as a priority are those where there is potential for death or serious injury to occur. Lower priority complaints will be followed up as resources allow.
- Taxi industry vehicles are able to be identified due to signage and come under more scrutiny on the road. The legislative change in 2017 removed the requirement to be an Approved Taxi Organisation, which in turn removed the requirement for organisations to manage compliance. The new legislation introduced more self-regulation by requiring an operator to hold a Transport Service Licence. Waka Kotahi, in conjunction with Police, undertake roadside monitoring (usually in a city) four times per year (on average), although this can be higher in a particular region when required.
- All drivers are required to undergo the same vetting process to obtain and renew their Passenger endorsement. Therefore, entry to, and the ability to remain in, the industry is the same across the sector.



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Rideshare issues [page 16]

- The visibility of hours a driver works is only held by the company they work for. Companies do not share this information across the industry. Therefore, drivers can exceed worktime hours by moving between App based companies on the same day.
- Taxi operators contend that as there is no sharing of information between companies, a driver whose employment is terminated by one rideshare company can move to another company and continue to work. No company divulges that their drivers have had their employment terminated. This creates a risk as a driver who has been terminated for professional misconduct can move to another company and continue the same behaviour. This risk is shared by all companies in the sector. Where Waka Kotahi is made aware of this, and if investigated and confirmed, then we are able to revoke their Passenger endorsement so they cannot work in the sector.

Government issues [page 17]

- Driver fatigue is currently managed through limiting the number of worktime hours a driver can undertake per day. There is difficulty in managing this when a driver moves between companies. Further, worktime hours are only a proxy for fatigue and many other factors impact on a person's fatigue.

Recommendations [page 14]

- The following four next steps which were identified from the work undertaken in the workshops has been signed up to by Waka Kotahi and will be commenced this financial year:
 1. Work towards the development of an industry body with Waka Kotahi support. Workshop participants agreed to investigate how a working structure could be set up between industry participants and government to develop an industry body for the small passenger service sector as a whole. This would be a shared responsibility, with Waka Kotahi providing support in terms of structure and access to wider government agencies.
 2. Form an agency/industry liaison group to ensure all participants have access to a shared set of data. Developing a working group between government and industry to look at how data could better be shared among all participants was seen as a critical improvement. All attendees were aware that access to data and evidence would allow for better decision making and an improved view of what is and isn't working across the sector.
 3. Set up a pilot process to start looking at the issue of fatigue. Participants were largely supportive of a WorkSafe suggested initiative that would specifically look at the issue of fatigue. This would include how systems could be improved to better manage fatigue, an investigation into existing and emerging technologies and a better understanding of how fatigue is managed across a range of sector participants.



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4. Develop an action plan with small incremental steps that works towards a three-to-five-year horizon (including legislative support). This piece of work was seen as important by both industry and government participants. It would flow on from the above actions and take a longer-term view around actions that could be taken over the next three to five years. It would include an assessment of whether legislative change was required, based on continued access to data and collaboration between industry and government.

Context for 'OIA-10675 Response'

- Although Waka Kotahi regulates certain components of the industry, overall responsibility of this sector is shared amongst various government agencies. As such, the response provided to s 9(2)(a) [OIA-10675 refers] focusses on the areas which Waka Kotahi is responsible for regulating.
- With regard to the question raised about dedicated resourcing for the small passenger service (SPS) industry, until 2012, Waka Kotahi received funding to operate a Tax Enforcement Unit consisting of 11 staff members. The Waka Kotahi operating model does not allocate resources based on industry type; as such, Waka Kotahi has no dedicated resources that focus only on the SPS sector. However, we do prioritise complaints relating to inappropriate behaviour.
- Waka Kotahi prioritises its compliance work and allocates its resources to investigate a complaint based on the level of risk to the public, with the main focus in the small passenger sector being complaints about professional misconduct. The Police also handle complaints in this area that are of a criminal nature, such as sexual assault.

Engagement between Waka Kotahi and the Taxi Federation

- The Waka Kotahi Portfolio Manager (South Island) meets on a monthly basis with the Taxi Federation. However, during the week beginning 21 November 2022, Out of Scope met with the Federation twice. One meeting was held as a regular catchup and the other was to discuss their concerns around overcharging.
- Waka Kotahi also runs a forum each month to discuss issues the sector is facing. Rideshare, taxi, bus and other government agencies are invited.

Local government: Accessing the amount of funding for conversion of vehicles to be wheelchair capable

- Approved Organisations (AOs, i.e., regional councils) contract operators to deliver the Total Mobility scheme in their respective region. AOs may subsidise their contracted Total Mobility provider to invest in wheelchair accessible vehicles. AOs determine their own rules and processes to consider and grant these subsidies.
- Under the National Land Transport Fund (NLTF) Public Transport Activity Class, the work category 519 has \$1,164,829 allocated for investment in wheelchair accessible vehicles for the remaining 2021-24 NLTF period.



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- If an AO chooses to subsidise wheelchair accessible vehicles, it will receive NLTF funding assistance at a rate of 60 percent of the subsidised amount. The AO is responsible for the remaining 40 percent. The balance of the costs associated with the purchase of the vehicle must be met by the transport operator.

Additional matters that may be raised by the Taxi Federation

- The Taxi Federation are likely to raise the matter of overcharging by SPS operators. This is a current issue which Waka Kotahi has received multiple complaints about. The complaints relate to a concert in Napier where drivers charged customers more than their usual fares. The legislative requirement is that a fare is either metered or agreed prior to departure. In the complaints received, the contention was that one of the drivers quoted a fixed price, but then charged a higher price.
- These particular complaints are unable to be resolved as it is a case of one person's word against another, with no actual evidence to support the complainants' allegations. It is important to note that the issue here is not about the amount of the fare, but whether the fee charged was the amount agreed on.

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