

**SUBMISSION TO PRODUCTIVITY COMMISSION**

**PRICE REGULATION OF AIRPORTS**

**BY**

**VICTORIAN HIRE CAR ASSOCIATION**

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## 1. BASIS OF SUBMISSION BY VICTORIAN HIRE CAR ASSOCIATION

The Victorian Hire Car Association (**VHCA**) has prepared this submission for the purpose of articulating it's members' experience at Melbourne Airport and to submit it's views to the Productivity Commission as to the appropriate arrangements in relation to access and prices.

## 2. BACKGROUND TO HIRE CAR INDUSTRY IN VICTORIA

The hire car industry in Victoria is currently made up of a mix of metropolitan and country hire car licences that fall within the jurisdiction of Victorian Taxi Directorate (**VTD**). The hire car industry of Victoria is significantly smaller than the number of taxis currently in operation.

There are currently 457 Metropolitan Hire Car Licences (**MH**) in Melbourne. The number of licences has increased significantly over the past 15 years. In 1985, there were approximately 130.

There are three types of licences being Metropolitan Hire Car Licence, Special Vehicle Licence (**SV**) and Restricted Special Vehicle Licence (**RSV**).

For the purpose of this submission, only the Metropolitan Hire Car Licence is relevant. A MH entitles an operator to perform any type of booking as long as it is pre-booked. Unlike taxis, MH vehicles cannot be hailed in the street or at ranks at kerb side locations to seek custom. A MH requires an operator to run a particular type of late model sedan or stretch limousine in accordance with the VTD's vehicle

requirements. The vast majority of vehicles used are Ford LTD/Fairlane or Holden Statesman/Caprice Sedans and stretch Limousines that are less than 5 to 6 years old.

The significant increase in the number of operators into the common market has made the industry highly competitive. General hire cars are now readily available to the consumer at short notice, often at no premium as if the hirer was using a regular yellow taxi. Often, hire cars will be available at a discount to a taxi fare. For example, the Department of Veterans' Affairs contract has recently been awarded to one of the larger hire car companies at rates which are at a 50% discount to normal taxi fares. Business to and from Melbourne Airport is a highly contested segment of the market. For most MH hire car operators, airport transfers constitute AT LEAST more than 80%-90% of their gross income. There is no other comparable source of significant income for hire car operators. The influence of the Melbourne Airport market is highly significant for a large number of metropolitan operators.

An average MH vehicle generates between \$4,000 to \$10,000 revenue per calendar month, depending on the strength of the individual operator's goodwill/network, the overall efficiency of the service and their respective level of availability (an average car will carry out approximately 1,500 hirings per car per year). Conservatively, average income per operator would be \$6,600 per calendar month. In the industry generally, this equates to over \$3 million income per calendar month or \$36 million annually. An approximate average of up to 500 collections at Melbourne Airport occur daily.

## 2. STRUCTURE OF THE HIRE CAR INDUSTRY IN VICTORIA

Due to the massive growth in the number of licences in the industry over the past 15 years, a significant number of new operators have entered into market.

There are clear commercial benefits in pooling resources and organising services around a common structure. Such companies/co-operatives are referred to as "depots". No one depot is large enough to retain an absolute competitive market advantage in the Melbourne market.

The largest and longest established depot in Melbourne is Hughes. Hughes owns more than 40 MH vehicles. Other significant depots in Melbourne include: Alternative, Astra, Astins, Hallmark, Legion, Lygon and Southern Cross/VHA.

The vast majority of operators in the industry are small, independent operators that are unaligned. Typically, they are owner/drivers servicing a small client base and have one or two vehicles. Many of these operators become members of a network which distributes work via pagers. This enables them to offload excess demand onto other operators in the network at peak times and similarly take a job from a pager during slower periods. Major paging networks in Melbourne are Combined, Executive, Link, Quantum and Valet.

The industry's structure makes negotiating and dealing with larger corporate entities difficult if not impossible. The formation of the VHCA in 1989/1990 was to enable the industry to present a common voice when confronted with common issues. The

VHCA has become more effective as more members have joined. It now represents most significant operators in the industry.

### **3. HISTORICAL BACKGROUND TO THE OPERATION OF HIRE CARS AT MELBOURNE AIRPORT**

Prior to January 1992, hire cars had the benefit of two separate feeder ranks/parking areas to service clients. One was opposite the Ansett Domestic Terminal and the other one opposite the Qantas Domestic Terminal. Hire cars also had the use of two or three parking bays at each valet entrance of each domestic terminal and kerbside parking at the Ansett Domestic Terminal. These kerbside positions were immediately behind the four kerbside parking positions that were reserved for taxis. The arrangements were significant as a particular level of access is required to properly service hire car clients.

In January 1992, as a result of the need for 'flow through' access for taxis along the kerb from the new holding area, hire car parking arrangements were streamlined into the area opposite the three main passenger terminals. The valet and kerbside parking positions were substituted by the new arrangement. Further, the horseshoe parking arrangements for hire cars and Comcar were replaced and the new area handed over for higher leverage activity, being the multi-storey public carpark and the new Hilton Hotel. The hire car industry had no say in the process but was provided with the area as a substitute for kerbside parking that had been in previous use. This suited the Airport's commercial objectives. With these physical changes came changes in terminology describing the land use from "Prebooked Hire Car Park" to "Premium Car Park". In effect, the Hire Car 'operators' portion has moved from

kerbside to a specified car park without consultation or choice. This is significant in terms of the relationship between operators and Melbourne Airport as it demonstrates Melbourne Airport's ability to effectively control the nature of the hire car operators' physical access.

In 1998, Melbourne Airport imposed an annual Vehicle and Driver Authority. This costs \$55.00 per vehicle and \$55.00 per driver. The object of issuing such Authorities was to control access and ensure only appropriate operators had access to the airport, rather than as a levy to pay for services. Taxi drivers were not subject to any charge. Both are currently ongoing in addition to carpark charges.

In 1999, Melbourne Airport first introduced the concept of charging for hire car parking areas at Melbourne Airport. The issue was raised by way of the Ground Operations meetings attended by VHCA representatives which have been held bimonthly at Melbourne Airport. The only indication given to the VHCA through the period leading up to November 2000 was that the charges would be along the same lines as those which apply at privatised airports in other states.

The experience of the VHCA in negotiating with Melbourne Airport is instructive as it demonstrates the concerns of the hire car operators. Initially, the charges were announced by Press Release as being as a result of "industry consultation". This had not occurred and the VHCA was forced to invite itself to discussions. Negotiations took approximately six months, with up to 20 meetings and were extremely difficult for the industry to deal with. Each time a meeting took place, a different position would be proffered by the Airport and on numerous occasions an arrangement was nearly entered into which would only collapse. In the absence of

any Association, negotiations would be impossible for individual operators. Given past experience, VHCA's members do not expect to be consulted in the future regarding access or prices.

In relation to the current charges, Melbourne Airport's original proposal for the pre-booked parking was \$3.50 per 30 minutes. As most pick ups at Melbourne Airport involve an average of 40 minutes waiting, this represented an average \$7.00 surcharge on every pick up at Melbourne Airport. The proposal has been modified to \$1.00 for the first 30 minutes, \$0.60 for the subsequent 10 minutes and \$1.00 for every 10 minutes thereafter. This compares with a flat \$0.66 charge imposed on taxis. Also Perth, Brisbane and Canberra Airports all have fixed price arrangements for access at their airports for hire cars. An agreement involving the taxi industry does not include hire cars. There is no agreement to consult at the review of charges in July 2002.

Melbourne Airport's parking charges are a further imposition on the Hire Car Industry which will reduce competition. They represent an additional cost that the hire car operators must absorb or pass on to consumers. It is estimated that average costs to access the carpark are upwards of \$2.60. In one instance an operator had a \$9.60 charge for an International arrival on the first day. Given taxis are charged a fixed \$0.66 fee, this is a cost that diminishes the Hire Car operator's competitive position and further increases that occur will lead to a restriction in services provided to the consumer as they look to alternatives. The average cost represents an average of 10%-33% of the profit margin currently being made by operators.

Melbourne Airport's unwillingness to commit to any form of annual indexation (not even CPI related), highlights their belief that they can simply impose the terms due to their market position. The Chief Executive Officer of Melbourne Airport, Mr Chris Barlow, has been quoted as saying *"if you do not like it (the proposal) we will bulldoze the carpark, build a public carpark and you can all go to blazes"* (Meeting at Minister of Transport's Office – 12 January, 2001). It is worth noting here that during 2000 the cost of hire for luggage trolleys unilaterally increased by 50%.

In reality, to be effective, Hire Car operators require particular access to provide their service. The threat of closure or the denial of access to the Premium Car Park is always present. While Hire Car operators reluctantly concede that they have to make the current payment, they are concerned that if future increases in charges are not subject to control they will be vulnerable to the unilateral decision making of Melbourne Airport to set charges that restrict access and diminish competition.

#### **4. FINANCIAL CONSIDERATIONS FOR HIRE CAR OPERATORS**

Due to the intense nature of competition in the hire car industry in Victoria, most operators are working on small margins. In this particular niche market, airport to city/city to airport transfers, cost the consumer approximately \$50.00 (inclusive of GST and Citylink tolls). This represents a very small 10% to 25% premium on the average taxi fare which would vary between \$40.00 and \$45.00 depending on the level of traffic.

Over longer distances, such as Melbourne Airport to Dandenong, the premium is reduced to the point where in many instances it is more expensive to travel by taxi



than by hire car, particularly in peak hour traffic. This is particularly so in circumstances where bulk contracts such as that ordered by the Department of Veterans' Affairs is at a significant discount to taxi fares.

Compliance and administrative costs on hire car operators who are, in effect, small businesses is significant. The implementation of Citylink, introduction of GST and continual increases in input prices have slashed margins for most operators as the costs have generally been absorbed.

The significance of the additional costs imposed in the industry is that the service is becoming increasingly more expensive for the consumer to access simply because the additional add on costs are passed on to Citylink, the Australian Taxation Office, fuel and access to the airport. In the face of higher competition, these costs have been partly or largely absorbed by the operators, therefore squeezing the margins to even further uneconomic rates. Hire Car operators are therefore sensitive to minor cost charges.

Hire car operators exist in a competitive industry. Operators compete with the following:

- Long term carparks
- Short term carparks
- Valet carparking

- Commercial long term carparks
  
- Potential rail links
  
- Airport shuttles
  
- Taxis
  
- Rent-a-Car operators

A number of the competitors are preferable to the airport operator as their rental paid is dependent on turnover. Melbourne Airport can use cost increases to hire car operators to force consumers to alter their choice of use of service.

In the experience of the VHCA, it's members' clients are extremely price sensitive. The hire car operators are not in the position of being able to pass on all increases in charges unilaterally and have been placed in the position of absorbing charge increases suffering reduced margins in order to remain competitive against other sources of transport to the airport. However, as margins drop, their ability to do so diminishes. The VHCA points to the fact that a traveller's trip commences from the time of their transport to the airport, the plane trip and subsequently transport at their destination. The imposition of further charges and restriction of access by Melbourne Airport can lead to VHCA members being uncompetitive against other services that it's customers may use to access airport facilities.

## 5. REGULATORY REGIME AND IT'S EFFECT ON HIRE CAR OPERATORS

Under s.27A(1)(a) of the *Prices Surveillance Act 1983* (Commonwealth), the Minister for Financial Services and Regulation has directed the ACCC to monitor the prices, costs and profits related to the supply of “*aeronautical related services*” (see Joe Hockey, Minister for Financial Services and Regulation, *Prices Surveillance Act 1983*; Direction No. 21 (October 2000); see Peter Costello, Treasurer, *Prices Surveillance At 1983*; Direction No. 14 (22 May 1998).

Pursuant to s.192(4A) of the *Airports Act 1996* (Commonwealth), the ACCC has declared “*the provision of land side roads and the associated vehicle facilities for dropping off and picking passengers at Melbourne Airport*” (including the “*special purpose parking area connected for the arrivals drive and designated meeting point connected to airport drive by the carpark roadway*”) to be an airport service “*for the purposes of s.192 of the Act*” – ACCC, Determinatoin pursuant to s.192 of the *Airports Act 1996*). It has not been considered whether this definition covers the premium parking space. Arguably, the effect of the ACCC’s determination under s.192(4A) *Airports Act 1996*, is that the operators have the right to negotiate over the company over terms and conditions of access to the premium parking space under the regime set up by Part 3A of the *Trade Practices Act 1974*. If the hire car operators and the company cannot agree on mutually acceptable access terms, the ACCC can be called upon to arbitrate. To date, the VHCA has only experienced direct negotiations. The current regime of monitoring does not prevent imposition of excessive charges.

## **6. ISSUES IN RELATION TO ACCESSING FACILITIES AT MELBOURNE AIRPORT**

VHCA submits, and the Melbourne Airport has conceded (see Productivity Commission Draft Report dated August 2001), that the airport exercises market power in the provision of vehicle facilities.

In the experience of the VHCA, Melbourne Airport has demonstrated in the past that:

1. it has, over time, changed and reduced the physical access to vehicle facilities which has had the effect of restricting access to suitable facilities to service hire car clients; and
2. it has imposed charges as a result of the physical changes for the services provided which may not be subject to suitable regulation and have the effect of lessening hire car operators' competitiveness.

The VHCA considers that in the absence of any regulatory protection it's members will not be able to guarantee access or cost of access into the future. Further, there is a strong incentive for Melbourne Airport, in the absence of restraints, to increase charges and promote more revenue positive suppliers to service this market.

VHCA notes that as a significant number of the hire car operators are dependent upon services and access at the Melbourne Airport, and this has not been previously appreciated, it has not been party to discussions regarding changes to practices and charges. For example, it was not consulted at the imposition of the taxi levy and hire

cars were treated as being part of this industry whereas they are completely separate. For the further review of the current charges for the Premium Car Park in July 2002, there is no process in place for industry consultation and the airport can unilaterally impose charges which will place significant commercial pressure on hire car operators and potentially make them uncompetitive against other services which may be preferable for the airport to support i.e. car parks, hire cars.

The historical background to the development of the use of services by hire car operators and the problems of the current legislation designed to protect services being used, place the hire car industry in a difficult situation. VHCA submits that it is appropriate in the future to put in place arrangements that achieve the following:

1. Ensuring access to services is maintained at a satisfactory level to enable the operators to service their customers in a competitive manner.
2. To put in place regulatory protection, particularly price caps, for any future price increases so that the significant market power acknowledged by Melbourne Airport is exercised in a way which does not prejudice hire car operators commercially.
3. VHCA submits that the above should be achieved by ensuring that the services used by hire car operators are included in any definition of aeronautical services as distinct from the past where they may have been excluded and, therefore, obtained no real protection.

4. That the regime allows an independent third party to supervise the processes and any industry agreement in a cost effective and commercial way. VHCA notes that it's members are not in a position to expend large sums of money mounting legal challenges to events that have occurred and would be dependent upon the operation of an independent third party to ensure that any regime is fairly implemented and is not subject to the concerns that are raised in these submissions. It's experience in commercial negotiations to date has not led to the conclusion that the market position of the airport will prevent arbitrary imposition of charges into the future.

The VHCA was able, through a lengthy and complicated process, to reach agreement in relation the imposition of charges with Melbourne Airport. It's experience arising out of that process was that it was cumbersome and one sided. It has no confidence that such a process produces satisfactory outcome for all hire car operators. Certainly, in the absence of the VHCA, individual operators would not be in a position to pursue their rights as described in Part 4 of this submission and VHCA submits that in the consideration of any new regime, clear and precise definitions of what services are and are not included as aeronautical services must be made to ensure that all services which require protection are adequately defined and that all services requiring protection from the effects of the airport's market power have access to a regulatory regime which is fair, reasonable and cost effective.