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Thursday, 18 June 2015

The Hon Craig Foss
Associate Minister for Transport
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Associate Minister for Transport
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Re. Small Passenger Services Review Options

Dear Minister,

Uber is pleased to provide a response to the options paper prepared by the Small Passenger Services Review (SPSR).

Uber believes that it is important for Government to first decide the outcomes it requires of regulation and to then consider what regulatory process can be implemented to achieve that outcome.

Further, as outlined in our primary submission to the review, administrative considerations such as the time it takes to attain licences and the costs associated with those licences have as much of an impact as the requirement to attain the licence itself. Uber believes that the Government needs to consider the regulatory and administrative process issues that affect the licensing regime and that create barriers to market entry.

The review team have made it clear that Government wants to work with industry to test the assumptions made in the options, receive feedback and understand the viability of the options. To this, in the attached, Uber proposes that the Ministry of

Transport (MOT) and the New Zealand Transport Agency (NZTA) partner with Uber on a trial to implement one of the options.

Please accept the comments attached. We look forward to working with the Government to progress the review

Yours sincerely,



Brad Kitschke

Director of Public Policy

Uber

Responses to the Options

Options 1 and 2

With respect to Options 1 and 2 Uber does not believe that these options are viable as maintaining the status quo does not deal with a changing marketplace, the changing demands of consumers and the delivery of different service models and use cases. Options 1 and 2 also do not recognise the inherent anticompetitive and unnecessary barriers to entry that are created by some existing requirements that fail to meet the policy objectives that they intend to.

Option 3 and 4

Different use cases and delivery models, while competing against each other, deserve different regulatory treatment. Simply treating all use cases and delivery models the same is not “a level competitive playing field” as some would like to believe. Just because one service competes with another, that does not require them to be regulated in the same way. Different use cases and models should be afforded the regulatory treatment most appropriate to the way they operate and the needs of consumers rather than have a one-size fits all approach.

Option 5

Option 5 is preferred by Uber because it removes unnecessary regulatory burden, whilst maintaining safety and consumer protection. Option 5 however does not address the time and cost barriers that are imposed by the P Endorsement. For Option 5 to be successful, there would need to be a clear definition of the policy objective the Government wanted to achieve followed by the design of the P Endorsement requirements based on this objective.

For example, if the requirement was simply based on consumer safety then a background check and registration with Driver Check would achieve this outcome and there may not be a need for all of the current requirements of the P Endorsement.

As outlined in our primary submission our experience is that the P Endorsement not only contains redundant tests (area knowledge) but creates a barrier to entry by the time taken to complete certain requirements, such as the police vetting process which can take up to 40 days in some cases. These vetting processes can be run separately and completed in under 10 days, and so we would recommend a 10 day

turnaround to be the target timeframe for a primary licence required for transport. The cost of a P Endorsement plus additional licences can be prohibitive for drivers, and should also be reduced. Permitting companies to pay for express processing fees and several alternative payment options have been outlined in the Model Regulations part of Uber's primary submission.

As stated in our primary submission to the review, the time and the cost associated with attaining the P Endorsement creates a significant barrier to entry that stifles economic opportunity and the growth of the market. Other options must be considered to reduce the time and costs associated with attaining the P Endorsement as well as a reconsideration of the outcomes the Government hopes to achieve by having it as a prerequisite for providing point-to-point transport services.

We note that this option also allows for both private hire and rideshare to perform street hails, and do not believe this should be a feature of those types of transport.

Option 6

Simply regulating all market participants as a taxi is not viable. Similar to Options 3 and 4, requiring all market participants to adhere to the same requirements does not deal with the fundamental differences in service delivery models and use cases. The law already provides for a different regulatory treatment of private hire vehicles to taxi services in recognition that taxi services enjoy advantages that private hire does not, such as the ability to rank and hail.

Ridesharing is neither private hire, nor a taxi service but a different use case all together.

Ridesharing does not use a taxi-meter, does not accept cash, does not accept rank or hail work, and cannot 'tout' through the display of signage.

To regulate all models in the same way would be to stifle the benefits and individuality of those different models, and force companies that wish to specialise to accept the lowest common denominator costs and compliance of the most expensive and rigid model. This is not an approach that leads to innovation in the market and promotes investment by new participants.

The argument that a "level competitive playing field" is created by regulating taxis, and private hire and ridesharing in the same way is a false and misleading one. All services do compete for some of the same share of the market, however they all have distinct differences, with the taxi industry enjoying advantages that permit it

access to a larger share of the point-to-point market, such as the ability to rank, hail, accept anonymous rides, and cash payments. These elements are not elements that are part of the ridesharing use case, and so should not be imposed on that industry through a regulatory model.

Private hire services already compete with taxi services but there are valid reasons why those services have different regulatory treatments. Similarly while some ridesharing services may compete with taxi and private hire, they also should have a regulatory treatment that is appropriate to the use case, rather than a generic framework.

Further Considerations

On Ridesharing

We note that during the consultation session about the options there appeared to be a lack of a clear definition about what constituted ridesharing.

We would like to provide clarification and seek confirmation that the review will consider removing the not for profit requirements in the current exemption.

It is restrictive to place a price-based requirement on ridesharing, as it will result in stifling innovative business models. The driver's ability to earn income is one of the primary reasons for offering to share a ride, and regulations that prohibit a driver from doing so above an arbitrary and grey number does not protect the consumer, but rather criminalises a behaviour that the review is focused on encouraging in a safe way.

On the Private Hire Service Registration

We note that there was no discussion of any changes to the PHSR in any of the options. We would like to understand the Ministry's position on the need for this licence in the context of lowering barriers to entry for potential drivers. The licence has no cost and no requirements that are not covered by other licences, and so would appear unnecessary and, in fact, a processing burden for the NZTA. We would like to suggest that the licence be removed, and if there are any necessary parts of that licence, that they be rolled into the P-Endorsement.

On TNC regulation

We note that Option 5 discussed TNC regulation being included in the legislation, but there was no discussion of the structure of that regulation, what the aims would be, or an explanation of the potential implications for businesses under that structure. As there are multiple examples from around the world of where TNC

regulation has been adopted, we would like to understand the Government's position on how this could be applied in New Zealand.

A Trial

Uber provided a detailed submission to the review calling for the reduction of the barriers to entry whilst ensuring passenger safety and consumer protection remains the focus of any regulation and would like to reiterate the contents of that primary submission. Much of this is reflected in proposed option 5.

This would permit partners to deliver a ridesharing service without compromising the safety of passengers and increase competition and choice to the market.

The model ensures that appropriate background checks, vehicle inspections and licensing occurs, without over-regulation creating a barrier to entry to the marketplace.

Uber would like to propose that the New Zealand Government work with Uber to launch a pilot of this model in Christchurch in late July 2015, lasting three months, and seek approval from the New Zealand Transport Agency (NZTA) and the Ministry of Transport (MOT) to this end.

The review team has made it clear that it wants to test assumptions, receive feedback and understand the viability of the options. We believe the best way to do this is to work on a real-time trial with Uber and other platforms.

This would allow the MOT and the NZTA to see a live example of the model in action, review how it operated in New Zealand and study the effect on the existing market models. Uber's experience in other markets indicates that when ridesharing is permitted it creates new business growing the total market and services previously unserved communities. It would be beneficial to study this in a live trial.

A trial could also assess whether alternative regulatory processes were capable of delivering the required regulatory outcomes. A trial would also allow the Government to audit and review the safety aspects of the model and consider whether safe outcomes could be achieved through different delivery and regulatory models.

Uber has proposed in its primary submission that it be permitted to outsource to a private provider the background checks for its partners with the process audited by the NZTA for probity. We would like to include this as a key part of the trial so that the NTZA can consider how this might work in a larger scale.

Uber is keen to launch a trial as soon as possible and would like to work in partnership with the Government. We believe that an ongoing and collaborative partnership with Government is the most responsible way to pursue reform.

Much has been said of the rideshare model but regulators and policy makers have not had a chance to review it in a New Zealand context, in live operation. We think this is the logical next step in the review process and would provide valuable insight into ridesharing in action and look forward to hearing the Government's response to this proposal.