

SUBMISSION BY THE
AUSTRALIAN TAXI DRIVERS ASSOCIATION

to the

RESERVE BANK OF AUSTRALIA

into the

REVIEW OF CARD SURCHARGING

June 2011

For thirty years the Australian Taxi Industry has been at the forefront of unreasonable credit card surcharge practices, and consumers of taxi passenger credit services have suffered the impost of excess charges by the dominant monopolistic supplier of those services. Not even, and despite the comments in the Reserve Bank's discussion paper, did the removal of the "no-surcharge" rules in 2003 on credit cards and in 2007 on scheme debit cards make any difference to the excessive 10% plus GST charges imposed by Cabcharge on the taxi industry's passengers.

The intent that market forces would exert a downwards pressure on merchant surcharges may have worked in a competitive market place, but that was never to be the outcome for taxi surcharges. Prior to the 2003 reform, the "no-surcharge" rule had, in any event, been ignored since the inception of the Cabcharge Payments Systems in the early 1980's.

There is no reason to indicate that further reforms now mooted will make any greater difference in situations where large and dominant merchants will simply continue to do as they please, and smaller merchants will tag along. Standards which are not mandatory will have no impact on that market misbehavior. Variable costs within the schemes and as additional related, merchant costs will always blur the total cost to consumers.

The Reserve Bank notes that it has no direct influence over merchant pricing.

The action taken by Michael Jools and the Taxi Driver's Association against the Australian Competition and Consumer Commission resulted, in 2006, in the revocation of an Exemption given by the Trade Practices Commission to permit Third Line Forcing by participating Taxi Networks to enforce the use by taxi drivers of the Cabcharge Payment System. New entrants, now free to participate in the provision of *eftpos* services in taxis did not seek to challenge the industry wide practice of a 10% plus GST Surcharge on all lines of credit, as well as on straight *eftpos* cards. It was too lucrative an opportunity.

Part of the problem, so far as the taxi industry is concerned, is that the surcharge is imposed on a "regulated" fare, and one on which there is no ability for the entity (in this case , the taxi driver) to modify prices and incorporate variable costs into the total fare charges. Nor can the driver charge a higher fare in the event of a passenger choosing to pay by credit. But the Merchant providing a non-cash service can impose a surcharge. In an open and competitive market such surcharges would, as had the Reserve Bank hoped, be market reflective.

There are extra costs involved in using any 'proxy' card as the funding for the non-cash transaction, and those costs vary card by card, be they debit, credit or account cards. The taxi driver has the regulated right to demand the metered fare, and thence probably the right to seek additional payment for additional costs beyond the fare amount.

But how to assess those costs?

Bank interchange and transfer fees, retention for fraud, administrative costs and GST compliance are but some of the merchant costs additional to the scheme fees of Visa, Amex, Mastercard or Diners. Bank and non-Bank *eftpos* cards add a layer of complexity.

Account and Stored Value Cards are yet another layer.

The Third Parties now involved in supplying an electronic device, or a paper / voucher system to be used as a proxy for payment of the fares are not strictly apart of the taxi service, but are acting as payment facilitators. As such they are charging for that service with a flat 10% fee.

For those *eftpos* providers supplying taxi drivers with devices, they are accepting passenger payments as the merchant on behalf of the driver and have an agreement with the driver to pass on the payment with a commission of between 20% and 50% of the 10% surcharge levied.

Where the device is supplied to the taxi operator rather than the driver *per se* both driver and operator get a share, and the fare is available to be cashed out by the driver or to be directed to the operator as “bailment”.

For Cabcharge the device is fixed into the taxi and all funds, fares and surcharges, flow firstly to Cabcharge, then and with some deductions made, to the Taxi Network, then and with all surcharges deducted, to the Taxi Operator’s Network account. At the same time the Taxi Driver who has provided the taxi service can use the net fares paid as payment to the Operator for bailment of the cab, and with a process to adjust “under’s and overs” of the shift’s fares.

There is currently no sharing of any of the surcharge with driver or operator in the Cabcharge model. There are no variations on the 10% standard surcharge. Nor, to the best of information available to the authors of this submission, are there any written or signed agreements between taxi drivers and Cabcharge accepting this arrangement of receiving payments from passengers, on behalf some unspecified third party.

There may well be some technical impediments on preventing the blending of charges across all cards or within a particular card scheme, and current market devices may not be able to differentiate cards. In the long run it should be technically possible to so differentiate. However the confusion created for consumers will be huge, with a bewildering variation in service fees charged. Correct application of the GST depending on the “financial services” status of the scheme merchant, and the service merchant adds yet more variables.

The Australian Taxi Drivers Association has long been actively involved in developing a competitive taxi industry. It took on the ACCC in 2003 in the Australian Competition Tribunal over the Trade Practices Exemption through which Cabcharge was empowered to create a monopolistic empire which charged significantly for its services. At the start, those services were all paper-based transactions, and the sundry participating Taxi Networks obtained a share of the fees. In 2011, with a primarily electronic processing of transactions, the fees are excessive and abhorrent.

In order not merely to complain, but to offer a better alternative, several taxi driver members of the ATDA have become commercially involved in an enterprise designed as the alternative. It is cost free to drivers and reduces the surcharge on passengers whilst offering both a better system. As of June 2011 there is an emerging market player in the supply of taxi job offer and payment systems to drivers and passengers whose presence may well be the intervening market force so relied upon by the Reserve Bank.

www.taxis.net.au

TAXIS is a new enterprise developed by taxi drivers to provide a more efficient and productive taxi job offer system connecting intending passengers with available drivers over the internet. It also provides an integrated payment system to create a direct payment link between the passenger and the driver providing the service. The technology involved permits variable surcharges to be calculated on every different card type and for that rate to be displayed and recorded on trip specific records. The whole of the transaction is capable of being conducted on the passengers own internet enabled mobile phone, and e-mail receipts are provided.

Initially the TAXIS marketing approach is to present only two merchant surcharge formats :

8.49% Surcharge , inclusive of GST on Visa, Amex, Mastercard and Diners Club credit cards

5% Surcharge, inclusive of GST, on Stored Value Accounts.

As soon as a transaction history can be ascertained and all related costs fully analyzed, TAXIS proposes to differentiate rates between Bank Scheme Debit Cards, Credit Cards from Visa / Mastercard and Credit Account Cards from Amex / Diners Club.

Rates for Stored Value Accounts will also be reviewed.

Having four different rates for non-cash payments in a taxi cab is probably sufficient. Comparing any of those four against the 10% before GST of the current systems should provide a market impetus for reasonable charging to consumers. More would be possible but confusing.

Within those reduced charges a twenty percent amount is reserved as a direct share for the driver, together with other benefits. TAXIS is mindful that such an effective commission is necessary to gain driver participation, even at a marginal cost burden to the passenger. It is moreover appropriate that part of the direct time costs of a taxi driver in accepting non-cash payments be recognized as an additional expense.

In its start up phase, TAXIS is also burdened with a rate from some scheme merchants of an industry specific rating higher than the average merchant fees. This is due to a taxi industry specific history of fraud and charge-backs which can be apportioned more to deficiencies of the processing systems than to deliberate actions by either drivers or passengers. The TAXIS system hopes to develop a fraud-free history with improved technological applications.

The conclusion we would put to the Reserve Bank is that, in default of coercive powers to regulate Card Surcharges, it must rely on market place forces to create a competitive environment. That was the original objective.

For at least the Taxi Industry, both the Reserve Bank and the ACCC should be doing all that they can to foster and develop such a competitive market place.

As comment on the Issues noted :

i) Unless they are mandatory, modifying the Standards to allow limits to Surcharges will be as ineffective as it has always been in the taxi industry.

ii) A competitive marketplace will be the best arbiter of reasonable charges. A reserve Bank Standard, assisted by proactive intervention from the ACCC would be most effective.

iii) The tolerance exists in any event without mandatory regulation. For Cabcharge, Standards have long been ignored, and as in the dispute over acceptance of Visa card at the time of the Sydney Olympics, the interests of consumers are subjugated well below any non-mandatory standards.

iv) The merchant service fee is not of itself a good measure of the cost of card acceptance, especially in an industry where that fee is already excessive.

v) It would be very confusing for consumers to be presented with different surcharges within a card scheme, and only marginally less so for different rates for each card, and beyond the Reserve Banks' issues, for other non-cash cards.

vi) The array of costs of acceptance by the acquirer is provided, but effective application is excessively complex. Such a supply of commercially sensitive information of end merchant service fees may be reasonably rejected.

vii) Unless, at least for taxis, disclosure of all card costs also applied to Account Cards (ie: Cabcharge's own account card), the information would be insufficient. Again this may be beyond the Reserve Bank powers.

Michael Jools

President ATDA

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