



TO Essential Services Commission

Level 8, 570 Bourke Street
Melbourne Victoria 3000

By Email: transport@esc.vic.gov.au

27 JULY 2022

Dear Craig

Response to the Essential Service Commission's Consultation Paper: non-cash payment surcharge review 2022

We refer to the Essential Service Commission's (the **ESC**) Consultation Paper dated 22 June 2022.

With reference to your email correspondence with David Samuels on 21 July 2022, A2B Australia Limited (**A2B**) is grateful for the additional time in order to compile its response.

A2B appreciates the opportunity to provide its response to the questions for stakeholders contained on pages 3, 4 and 16 of the Consultation Paper.

Before doing so, A2B notes the following:

A. ESC's timeline

The Consultation Paper was released on 22 June 2022 after A2B (and presumably other stakeholders) were provided with compulsory s36 Notices to provide data and information. The ESC has also indicated that responses to the Consultation Paper are due on 22 July 2022 with a decision to be published on 7 September 2022. It is not clear whether this would be a draft or final decision.

This timeline is driven by the ESC's two-year review cycle, which if the latest amendment to the ESC's determination dated 24 March 2020 is considered to reset that two-year period, ends on 8 September 2022.

This current process reflects a truncated period of engagement and review, particularly with reference to the ESC's 2019 review which saw over 12 months pass from the initial Consultation Paper (released on 10 December 2018) to the final decision of 24 March 2020. The draft decision in that review was published over five months after release of the Consultation Paper.

Further, the ESC's unbooked taxi fare review 2022 is following a similar timetable which requires A2B (and other stakeholders) to dedicate significant resources to respond to the ESC.

A2B is of the view that the current timetable does not allow the ESC sufficient time to properly consider stakeholder feedback on its proposed approach to review. In particular, A2B considers that the issue of a compulsory s36 Notice for information presupposes the

approach that the ESC will adopt, prior to the receipt of stakeholder comments on the Consultation Paper. This falls short of the consultation standards articulated in the ESC's Charter of Consultation and Regulatory Practice (dated 27 June 2018).

A2B is concerned that holding stakeholders to unworkable time frames will result in an unsatisfactory outcome for all involved.

This concern has been raised previously with the ESC in the context of a number of its engagements with A2B and characterises, in A2B's view, a broader concern around the utility of the two-year review period.

B. The utility of the two-year review period

For the reasons referenced in paragraph A above, A2B queries the utility of the ESC's current approach and more broadly, the two-year review period.

A2B appreciates that section 124(4) of the *Commercial Passenger Vehicle Industry Act 2017* (**CPV Act**) currently dictates the two-year review cycle but A2B is of the view that a longer review period is preferable.

Further, a transparent process that enables stakeholders to engage the ESC and address the effects on their businesses (in real time) from market conditions (like surging petrol prices, drops in demand and increased cost of living) accords with the ESC's objectives. In A2B's view, when setting the maximum surcharge for in-taxi non-cash payments the ESC should account for uncertainty in forward looking demand for taxi services and the potential for taxi non-cash payment processors to recover their costs in such an uncertain operating environment.

C. Duality of objectives

The ESC has a duality of objectives.

A2B submits that in setting the maximum charges for taxi non-cash payment surcharges, the ESC must seek to adopt an approach and methodology that best meets both the ESC's objectives in section 8 of the *Essential Services Commission Act 2001* (**ESC Act**) and the objectives set out in section 122 of the CPV Act.

In other words, the ESC must:

- a. promote the long-term interests of Victorian consumers; and
- b. promote efficiency by regulating the amount that may be imposed by way of a taxi non-cash payment surcharge.

Further, the statutory test the ESC must adopt is that it '*must ensure that persons facilitating the making of non-cash payment transaction are able to recover¹ the reasonable cost of accepting and processing such transactions.*'

In doing so, the ESC must ensure that in making a price determination, it adopts '*an approach and methodology which the [ESC] considers will best meet the objectives specified in the [ESC] Act and any relevant legislation*'² and the '*particular circumstances of the regulated industry.*'³

With this in mind, it is not clear to A2B how the ESC intends to account for any under-recovery of costs by providers of non-cash payment processing services in taxis over the last two-year period. If the maximum surcharge set by the ESC in 2020 was not sufficient to allow payment processors such as A2B to recover their reasonable costs during periods of

¹ See section 122(2) of the CPV Act.

² See section 33(2) of the ESC Act.

³ See section 33(3) of the ESC Act.

low demand following the onset of the coronavirus pandemic (the **Pandemic**), this should be taken into account when setting the maximum surcharge for the next two-year period.

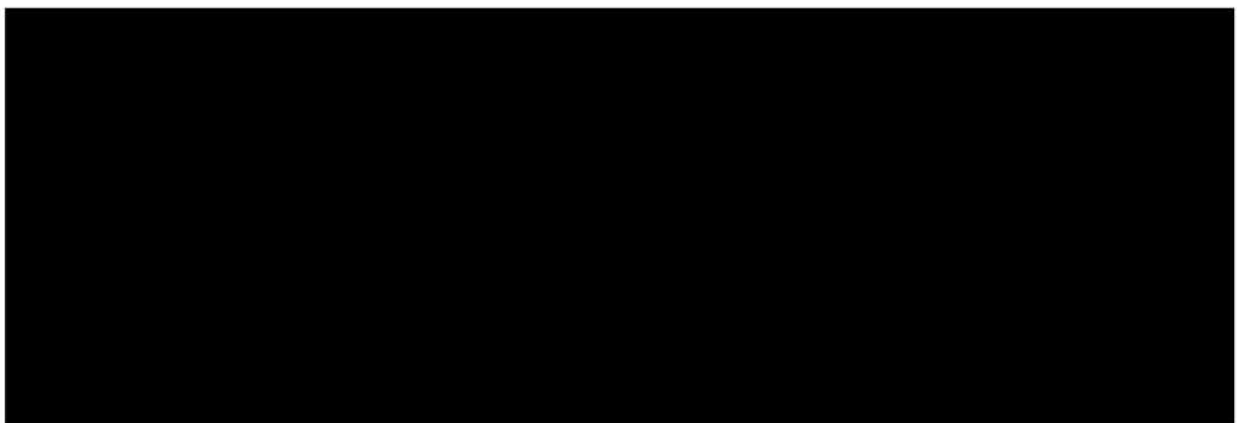
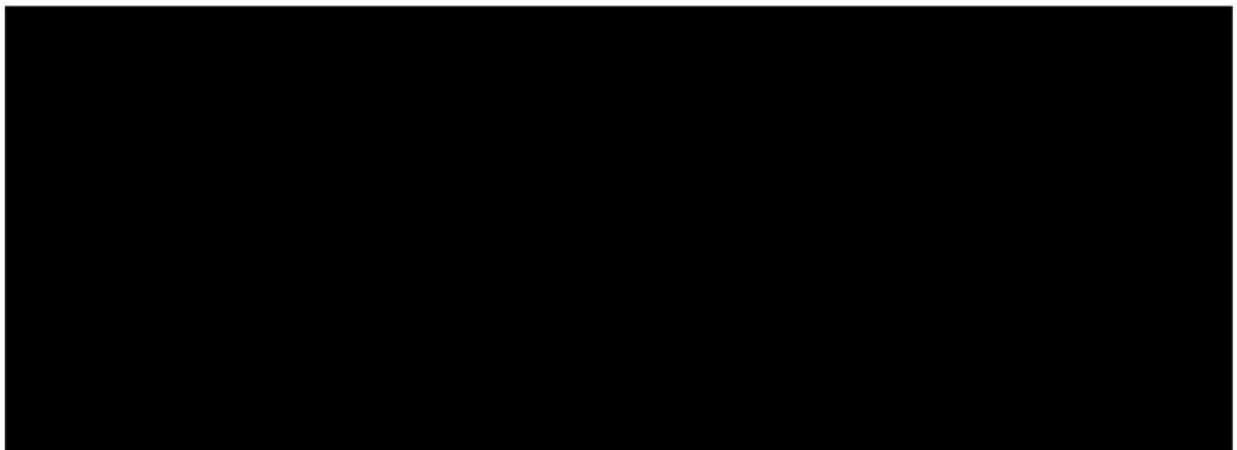
A2B's response to the questions for stakeholders are detailed below. To assist the ESC, the questions are included in **bold** before A2B's responses.

1. To what extent is data for the years 2019-20 and 2020-21 useful for assessing the non-cash payment surcharges, given these years were affected by the coronavirus pandemic, particularly the 'stay at home' and other restrictions that were in place in Victoria?

A2B's cost and revenue data for the years 2019-2020 and 2020-2021 is unlikely to be representative of that which could be expected in 2022 and beyond given that these years were heavily impacted by stay-at-home orders and other restrictions during the Pandemic. These orders and mandated restrictions are not expected to continue, however, A2B considers that the ESC should have regard to this data for the purpose of its current review.

Although A2B expects that demand for taxi services will increase above levels experienced over the last two financial years, it does not anticipate a complete recovery in demand in 2022 and 2023.

As illustrated in the charts below, neither the number nor the value of taxi trips processed by A2B in Victoria in FY22 have fully recovered to levels experienced in 2019.



The Pandemic has altered the way that Victorians work and interact with one another, which has influenced their propensity to travel and hence, their demand for taxi services. Future waves, such as the one we are experiencing now with the spread of Omicron BA.4 and BA.5, are likely to result in periods of lower than expected demand as Victorians adhere to health advice to work from home and avoid gathering in confined spaces.

Given that lower than expected demand for taxi services translates to lower than expected revenues for A2B and other in-taxi non-cash payment processors, the ESC must ensure that when setting the maximum non-cash payment surcharge for taxis, it allows sufficient headroom to allow payment processors to recover their costs in the event that demand is further impacted by the Pandemic.

Demand conditions over 2019-20 and 2020-21

As the ESC is aware, during this period, Victoria was placed into three extended lockdowns (30 March 2020 to 12 May 2020, 8 July 2020 to 27 October 2020 and 5 August 2021 to 21 October 2021) as well as a number of short “circuit breaker” lockdowns.

During the course of 2020-2021, Victorians were subject to a range of stringent restrictions specifically designed to curb community transmission by limiting mobility, including:

- a. Orders preventing people from leaving their home other than for prescribed reasons (i.e., to shop for essential items, to get the vaccine, to provide care to another person, etc.);
- b. A ban on people travelling more than 5kms from their home;
- c. A curfew requiring people to stay in their home between 8pm and 9am;
- d. The closure of non-essential businesses; and
- e. Requirement to work from home where possible.

The restrictions imposed by the Victorian Government were extremely successful in limiting movement and saw movement in the City of Melbourne reduced by more than 80% while ‘stay at home’ orders were in place.⁴

Given that the restrictions were specifically aimed at reducing travel, the commercial vehicle industry was disproportionately impacted through the sustained and substantial reduction in demand of passengers. As a result, taxi non-cash payment processors such as A2B generated less revenue than expected, whilst still incurring a number of fixed or semi-fixed costs.

Over this period, A2B also incurred a number of additional costs in an effort to assist taxi drivers stay on the road during the Pandemic. These include:

- a. Extensive vehicle sanitation services for drivers;
- b. New contactless payment options to eliminate contact points with customers;

c. [REDACTED]

d. [REDACTED]

e. [REDACTED]

⁴ <https://www.covid19data.com.au/victoria-mobility>.

Forecast demand and supply conditions over 2021-22 and 2022-23

The Consultation, at page 14, states that “[u]ltimately our focus is on tracking costs and revenues over the longer term as the basis for setting surcharges, rather than short term aberrations in market conditions and data.”

A2B submits that market conditions experienced over 2019-20 and 2020-21 cannot be considered a 'short term aberration' - doing so ignores the fundamental and significant impact the Pandemic will have on the demand for and supply of taxi services over the coming years and the medium to long term viability of the industry.

A2B considers that when setting the maximum non-cash payment surcharge for taxis for 2022 and beyond, the ESC should have regard to the ongoing impact of the Pandemic and the ability of in-taxi payment processors to recover their costs. In particular, A2B considers that the ESC should have regard to:

- a. The likely future demand for taxi services in a post-COVID environment, which A2B submits is well short of demand experienced in 2018-19. A2B expects demand to be below FY19 levels in Victoria for the coming year due to a reduction in both demand and supply;
- b. The risk of intermittent periods of lower-than-expected demand due to future waves of COVID 19;
- c. The risk of undersupply of taxi services due to the exit of multiple taxi operators, a reduction in the number of registered taxis and an ongoing shortage of taxi drivers due to tight labour market conditions and the continued regulation of fares for unbooked taxi services, which limits the ability of taxi operators and drivers to recover their costs; and
- d. The impact that a reduction in the supply of taxi's has on the costs incurred by A2B as a provider of payment processing equipment. When Victoria was first put into lockdown at the end of March 2020, a large proportion of A2B's payment terminals became inactive due to many taxi operators ceasing to provide taxi services (i.e., A2B payment terminals were in taxis that were no longer in service, either temporarily or permanently).

[REDACTED]

[REDACTED]

[REDACTED]

Given that most of this payment equipment is not returned (it remains in the inactive taxi), A2B is unable to redeploy this equipment but continues to incur depreciation charges in respect of this equipment until such time as it is written off.

A2B elaborates on these issues in its response to question 2 below.

2. Has there been any substantive changes to the taxi non-cash payment industry since our 2019 review? If so, what were these? Are there permanent changes in costs? If so, please explain their nature and cost drivers.

Yes - the commercial vehicle industry has undergone fundamental changes since the last taxi non-cash payment review in 2019 that have reduced the long-term demand and supply for commercial vehicle services in Victoria. In particular, A2B's notes the following:

- a. **Population growth:** during the Pandemic, Victoria's population fell by almost 50,000 as people moved interstate to take up other job opportunities or to regions with less

restrictive Pandemic policies.⁵ The Victorian Government has forecast that population growth will not return to pre-Pandemic levels until at least 2024. This is likely to have significant impacts on Victoria's long-term population growth, which has underpinned the growth in demand for the commercial vehicle industry in recent years.

- b. **Tourism:** tourism is a vital part of Victoria's economy, accounting for 5.1% of Gross Regional Product for the Melbourne region in 2018-19,⁶ and is a significant source of demand for the commercial vehicle industry. However, the number of short-term overseas arrivals into Australia remains depressed and is still approximately 65% below pre-Pandemic levels.⁷ Given the uncertainty around Pandemic restrictions around the world (particularly in China), tourism is likely to remain impacted in the medium term.
- c. **Changing working patterns:** the Pandemic has caused irrevocable changes in the way people travel, particularly as more businesses adopt hybrid/flexible working arrangements. McKinsey estimates that up to 20-25% percent of the workforces will continue to work from home between three and five days a week in the future.⁸ This could lead to people moving out of large cities into suburbs and the regions, significantly reducing the demand for commercial vehicle services. Further, travel for business is below pre-Pandemic levels⁹ and may remain subdued going forward as businesses have adopted technology limiting the need for their employees to physically travel. These factors may have long term impacts on demand for commercial vehicle services. Business travel is significantly reduced and is unlikely to recover given the growth of online and video conference meetings. This trend continues today and has resulted in a slower recovery for Cabcharge instruments than bank issued and third-party instruments.
- d. **Exit of multiple taxi operators and a reduction in the number of registered taxis:** the number of registered taxis has decreased significantly between March 2020 and March 2022. The ESC's draft decision (unbooked taxi review 2022) shows a decline in taxi operators from 10,763 to 8,699 in Victoria alone. A2B is of the view that this decrease is largely associated with the Pandemic and shortages in the supply of drivers.
- e. **Supply of taxi drivers:** The commercial vehicle industry is currently experiencing an acute shortage of drivers as many drivers left during the Pandemic due to large reductions in passenger demand. Many drivers who have left the industry and sought alternative employment are not returning. The labour shortage is compounded by ongoing issues relating to the Pandemic, including mandatory isolation requirements and high levels of absenteeism caused by additional covid variants, which are causing major disruptions to the commercial vehicle industry.

It is unclear how these factors will ultimately affect the demand for and supply of taxi services in Victoria. However, A2B expects these pressures will not be resolved during the current or next regulatory review cycle and that the industry will not fully recover to pre-Pandemic levels of demand and supply given the fundamental nature of the changes.

⁵ <https://www.smh.com.au/national/a-mass-migration-victorians-leave-the-state-at-record-rate-in-pandemic-20220710-p5b0fk.html>.

⁶ https://www.parliament.vic.gov.au/images/stories/committees/SCEI/COVID-19_Tourism/Submissions/S144_Department_of_Jobs_Precincts_and_Regions_Redacted.pdf.

⁷ <https://www.abs.gov.au/statistics/industry/tourism-and-transport/overseas-arrivals-and-departures-australia/may-2022>.

⁸ <https://www.mckinsey.com/featured-insights/future-of-work/the-future-of-work-after-covid-19>.

⁹ <https://www.abc.net.au/news/2022-06-26/australians-changing-travel-habits-after-lockdowns/101124824>.

Further, A2B expects that future waves from the spread of new variants of COVID-19, such as the wave we are entering now with the emergence of BA.4 and BA.5 will result in significant periodic reductions in the demand for and supply of taxi services. The number and duration of these waves cannot be predicted with any degree of certainty but will have an impact on the ability of taxi non-cash payment processors to generate sufficient revenue to cover their costs.

The impact of the Omicron variant was clearly visible as it spread across the country late 2021 and early 2022. Whilst there is a seasonality effect in these months, the month on month movement in January and February deteriorated compared to the FY19 year. In Victoria, this impact was slightly worse compared to national the trend.

Further, despite there being no recent legislated lock down, passengers are 'self-regulating' their travel and business movements which impacts the number of fares being processed. The impact of this behaviour adds to the uncertainty.

A2B is of the view that it would be wholly inappropriate for the ESC to assume that demand for taxi services is likely to return to pre-Pandemic levels in the short or medium term for the purpose of setting the maximum non-cash payment surcharge for taxis. It would also be inappropriate for the ESC to ignore the changes in market conditions which have impacted A2B's cost base.



3. The 2019 review assessed costs and revenues on the basis of two payment terminals per taxi. Are two terminals still necessary? Is this assumption still reasonable and valid? Would a single payment terminal approach now be more or less representative of the industry in 2022?

A2B submits that, in 2022, a single payment terminal is less representative.

As technology has improved and large Australian and international tech and payments business enter the market, the number of payment option has increased. For example, Split and Square are marketing technology that effectively turns every mobile phone into a payment terminal.

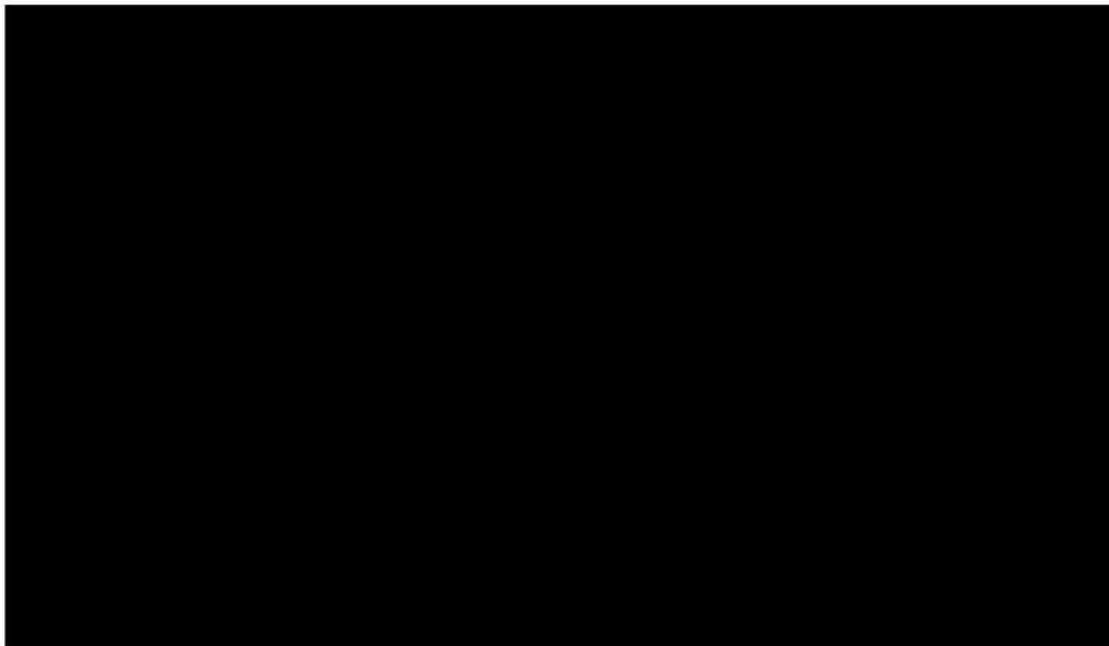
Further, Live Payments has partnered with Visa to launch Tap to Phone product for small and micro businesses and taxi operators to accept digital payments.¹⁰

4. How many taxi payments in 2019-20 and 2020-21 were made by non-cash means compared to earlier financial years?

Please see below tables showing fares processed by half in FY20-21 compared to FY19 for both national and Victoria.

Victoria is well below national levels driven by the extensive lockdowns during these periods.

¹⁰ <https://australianfintech.com.au/live-payments-partners-with-visa-to-launch-tap-to-phone-product-for-smes>.



Confidentiality

A2B's response (the **Confidential Information**) contains information that is confidential and commercially sensitive to A2B and A2B would suffer a detriment if the ESC were to release the Confidential Information.

A2B is of the view that the Confidential Information contains commercially and competitively sensitive information which discloses, amongst other things, A2B's business operations, cost model and financial position. The Confidential Information is not in the public domain and is presented at a level of granularity that is not available publicly.

Disclosure of the Confidential Information would provide A2B's competitors and key customers access to information they would not otherwise have and allow them to adjust their own competitive position in a way they would ordinarily be unable to do. In addition to causing detriment to A2B's competitive position, this will likely have the undesirable effect of dampening competition.

Further, A2B is a publicly listed company and disclosure of the Confidential Information may have a detrimental effect on A2B's share price.

In accordance with section 61 of the ESC Act and consistent with the ESC's submissions policy, A2B asks the ESC to treat as confidential the Confidential Information.

Should the ESC decide to disclose any part of the Confidential Information, A2B requests the ESC provide it with adequate opportunity (and not less than 10 business days) before disclosing any part of the Confidential Information to provide reasons why A2B considers the information is of a confidential or commercially sensitive nature and why the public benefit in disclosing the information does not outweigh the detriment caused to A2B.

If the ESC have any questions on the above, it is welcome to reach out to A2B.

Yours sincerely

A large black rectangular redaction box covering the signature of the General Counsel & Company Secretary.

General Counsel & Company Secretary