

14 June 2013

Disabilities Transport Access Secretariat
Transport Access Section
Road Safety and Transport Access Branch
Department of Infrastructure and Transport
GPO Box 594
Canberra ACT 2601
By email: DisabilitiesTransportAccessSecretariat@infrastructure.gov.au

Dear Sir / Madam,

**RE: 2012 REVIEW OF THE DISABILITY STANDARDS FOR ACCESSIBLE
PUBLIC TRANSPORT**

The Australian Taxi Industry Association (ATIA) is the national peak representative body for the taxi industry in Australia. Its membership comprises the following State/Territory taxi industry representative bodies –

- New South Wales Taxi Council;
- Victorian Taxi Association;
- Taxi Council of Queensland;
- Taxi Council of Western Australia;
- Taxi Council South Australia;
- Taxi Council of the Northern Territory; and
- Canberra Taxi Industry Association.

The ATIA and the Australian taxi industry more generally have a long history of working with the Commonwealth Government and sector stakeholders on improving transportation options for people with disability. Significantly, the ATIA participated in the working groups consulted in the drafting of the Disability Standards for Accessible Public Transport (DSAPT) and has been an ongoing and active member of the Accessible Public Transport National Advisory Committee (APTAC) since inception.

In relation to the questions for discussion in the 2012 DSAPT Review, the ATIA offers the following responses.

1. *Have you been able to meet the 2007 Transport Standards legislated targets? If not, can you elaborate on the reasons for not being able to meet those targets?*

Yes, the taxi industry met, and continues to meet, the DSAPT requirement for the fitting of raised taxi identifiers on the exterior of taxis' passenger doors.

No, the taxi industry has not been able to consistently meet the DSAPT requirement for wheelchair accessible taxi (WAT) response times to be the same as the response times for other taxis. WAT response times have been progressively improving but in many areas they still remain longer than response times for other taxis (*see also the comments in response to question 3 below*).

2. *Have you been able to meet the 2012 Transport legislated targets? If not, can you elaborate on the reasons for not being able to meet those targets?*

Yes, new WAT vehicles coming into service from 1 January 2013 comply with the 1500mm minimum height requirements for headroom and door entry.

3. *Are there requirements that have proven to be impractical or difficult to implement. If so, please specify.*

In our submission to the 2007 DSAPT Review, the ATIA advised that it was not possible for taxi networks/cooperatives to ensure equal response times for WATs and other taxis. Taxi networks/cooperatives do not exercise control over a number of important elements in the service supply chain. They are therefore in no position to assume full or sole responsibility for actual response times of either WATs or other taxis.

Taxi networks/cooperatives do not control the number or proportion of WATs affiliated with their fleet or the price(s) of taxi services. These are factors effectively under the exclusive control of State/Territory governments as the industry's regulators.

Taxi networks/cooperatives also do not have (and therefore cannot exercise) line or other directive control over taxi drivers or taxi operators. Taxi drivers and taxi operators are affiliates of taxi networks/cooperatives. They pay directly, or indirectly, for services from their respective taxi network/cooperative and therefore their relationship is akin to being customers of that network/cooperative. Accordingly, taxi networks/cooperatives have no head of power to compel a taxi driver to –

- station his/her WAT in an area proximate to where wheelchair jobs could be expected to originate (i.e. to minimise the lead or travel time to the customer); or
- not station his/her WAT in an area inconvenient to where wheelchair jobs could be expected to originate (e.g. in the remote holding and taxi feeder areas at airports); or
- accept a wheelchair job that is offered via the dispatch system (except in Queensland).

This last point is very important. Taxi drivers are in no way employees of taxi networks/cooperatives but rather are self-employed independent business owners (bailees) who hire (bail) taxis from taxi operators (bailors). They cooperate with taxi networks/cooperatives when it is convenient or in their economic interests to do so but at all times ply-for-hire autonomously.

Similarly, taxi operators are also independent business owners (or often companies) who operate their businesses in affiliation with, but not under the direction of, a taxi network/cooperative (*see also the comments regarding affiliation under Section 5 below*).

Taxi networks'/cooperatives' primary business is that of a call centre that acts as an agent for its affiliated fleet, receiving booking requests from customers using a range of technologies and then dispatching those booking requests according to an agreed set of rules and parameters. Importantly, the booking request acceptance and dispatch components of taxi services, the elements of the taxi

service supply chain that are under the control of taxi networks/cooperatives, are provided without discrimination.

Notwithstanding their best efforts then, taxi networks/cooperatives cannot guarantee, and therefore should not reasonably be held accountable for, WAT response times that may differ from other taxi response times. Causes for inferior WAT response times that are outside the control of taxi networks/cooperatives include –

- asynchronous peak times for the WAT fleet vis-à-vis the conventional taxi fleet (e.g. morning and afternoon WAT peaks associated with “school runs” transporting students with disability);
- traffic and road conditions en route to customers’ pickup points (i.e. WAT jobs typically have longer “run to customer” distances which increase the propensity for them to be affected by en route traffic and road conditions).
- an undersupply of WATs in the fleet vis-à-vis other taxi licences (i.e. the State/Territory government has issued insufficient WAT licences);
- an oversupply of other taxis in the fleet vis-à-vis WATs (i.e. the State/Territory government has issued too many other taxi licences); and/or
- an underutilisation of the WAT fleet doing wheelchair jobs (e.g. the State/Territory government’s regulatory enforcement program failing to ensure WATs comply with licence conditions that require consistent preference be given to wheelchair jobs over other taxi work, or the nearest available WAT driver not accepting a wheelchair job on a consistent basis).

4. *Can you provide detail on any initiatives and actions you have undertaken, not currently detailed under the Transport Standards or other legislative requirements, in relation to removing discrimination against people with disabilities?*

The taxi industry in Australia has applied considerable resources and attention to improving service delivery to people with disability. While each State and Territory has developed its own approach, the following list represents a composite of initiatives that have been implemented in Australian jurisdictions –

- Improved WAT driver training, including development of a specific national training competency;
- Improved taxi driver training in relation to providing services to people with disability, including the participation of organisations such as Guide Dogs Australia and Spinal Injuries Associations in course delivery and content development;
- Development and distribution of education material for/to taxi drivers explaining their obligations in relation to the DSAPT and providing services to people with disability;

- Introduction of Centralised Booking Services for WATs (e.g. Sydney, Adelaide and Canberra);
- Implementation of dispatching protocols that restrict WAT drivers from accessing other jobs, especially high occupancy jobs, while WAT jobs are holding;
- Implementation of affiliation rules or regulations that prevent WATs from making themselves unavailable for dispatch jobs while plying for rank/hail work;
- Implementation of wheelchair job quotas (per day/week/month) with responsibility placed on the WAT taxi operator or licence owner;
- Release of WAT licences at lower prices, and in greater number, compared to other taxi licences;
- Issue of WAT licences with owner-driver or operator-driver conditions (i.e. to improve levels of compliance with WAT licence conditions);
- Implementation of affiliation rules or regulations that establish monetary or other penalties for WAT jobs rejected (not accepted) by drivers;
- Improved Government subsidies to WAT drivers to compensate for extra embarkation/disembarkation time and “running” to the customer associated with WAT jobs;
- Implementation of low interest and interest free loans for WAT operators;
- Implementation of on-time bonuses for WAT drivers where WAT jobs are serviced within benchmark response times;
- Implementation of incentives for WAT drivers for WAT jobs that require special attention (e.g. to cover jobs with difficult or problematic pick-up locations); and
- Introduction of WAT booking request acceptance via smartphone apps.

5. *Additional comments in relation to the 2012 DSAPT Review.*

Taxi modal sub-committee

The ATIA was pleased to see the Commonwealth Government initiate a review of the WAT response time target following the 2007 DSAPT Review. The concept of establishing a “*taxi modal sub-committee ... tasked with developing a staged implementation timeframe similar to that for other modes of transport, and an appropriate performance measure, to replace the 2007 milestone for WAT compliance*” seemed well intentioned. Unfortunately, using the National Taxi Regulators Group (NTRG) as the taxi modal sub-committee has not proved successful. In the ATIA’s view, this task was always beyond the resources and capabilities of the NTRG. A better strategy would have been to include participation and involvement from the taxi industry and the disability sector. As communicated to the NTRG on 2 May 2013, and the APTNAC on 16 April 2013, the ATIA continues to stand ready and willing to participate constructively in the

development of new (replacement) targets for the DSAPT in relation to WAT service delivery. The ATIA firmly believes that new targets can be developed in cooperation with the disability sector that set practical and achievable benchmarks for non-discriminatory service delivery and performance. Importantly, those new targets can then drive improved service levels for WATs by holding each element of the supply chain responsible and accountable for their respective contributions.

Mobility labelling scheme

The ATIA has been disappointed in developments to date relating to the establishment of an effective and useful labelling scheme for wheelchairs and mobility scooters. Unfortunately, none of the working groups considering this matter have been prepared to seriously address the very real safety issues associated with certification and identification of safe anchorage points for restraining these devices in the passenger compartments of taxis and private motor vehicles. The working groups have deliberately limited their deliberations to the less complex issues associated with travel on buses, coaches, trains and trams. In the ATIA's view, these approaches have trivialised and/or ignored fundamental safety concerns of people travelling in wheelchairs, and anyone travelling with wheelchairs or mobility scooters in the passenger compartments of taxis and private motor vehicles. Effectively, all of the approaches to developing a labelling scheme seem intent on placing cost and simplicity considerations ahead of primary safety.

In the ATIA's view, it is imperative that the labelling scheme facilitate clear identification of certified, safe anchorage points on wheelchairs and mobility scooters. Australian Standards have been developed and implemented to certify the modifications required to vehicles transporting wheelchairs and mobility scooters. Similarly, Australian Standards have been developed and implemented to certify the restraint devices used to tie down wheelchairs and mobility scooters in those modified vehicles. However, the safety of people travelling in wheelchairs, and anyone travelling with wheelchairs or mobility scooters in the passenger compartments of taxis and private motor vehicles, is seriously and unnecessarily jeopardised by inadequate identification and certification of safe anchorage points on the mobility devices. As previously articulated by the ATIA in its representations to APTNAC, and the 2007 DSAPT Review, taxi drivers cannot reasonably be expected to determine in field conditions whether the best available anchorage points on a wheelchair/mobility scooter will be safe, or hazardous, in the event of motor vehicle crash. These are decisions properly for experts, suitably qualified in safety certification systems. The burden of responsibility placed on ordinary WAT drivers to make such decisions is completely unfair and unreasonable.

While the ATIA unequivocally wants the industry to supply transportation services for people with disability, and to do so without discrimination, we also want such services to be safe for taxi drivers and passengers. The ATIA's position is completely congruent with the Australian Road Rules, as adopted by each State and Territory. These Road Rules make safety the primary consideration and consistently place it above convenience. They impose strong penalties on anyone who wants to disregard their own safety, or the safety of those for whom they as a driver may be responsible. The rules mandating the wearing of properly constructed and appropriately fitted seat belts during travel is a case in point. The anchorage points of seats and seatbelts are integral to the integrity of the overall restraint system. In the case of people travelling in wheelchairs, and

those travelling with wheelchairs or mobility scooters in the passenger compartments of taxis and private motor vehicles, the lack of certified and readily identifiable anchorage points on these mobility devices represents a potential hazard that is otherwise controllable through an appropriate labelling scheme. For a labelling scheme to ignore the identification and certification of safe anchorage points is to completely and perilously disregard accepted safety principles established under Hazard Analysis Critical Control Point (HACCP) system approaches.

Smartphone taxi booking request apps

The ATIA has serious concerns about a recent trend amongst State and Territory taxi regulators to allow (or tolerate) the booking of taxis through some smartphone applications (apps) that simply do not comply with DSAPT requirements. Importantly, the failure of some smartphone apps to comply with DSAPT requirements is not a function of the technology. There are many apps that have been developed by the authorised networks/cooperatives that provide non-discriminatory service to people with disability. However, the ATIA is aware that some app providers, including certain high profile new entrants into the Australian taxi market, have not made provision for –

- acceptance of booking requests for WATs;
- acceptance of booking requests for WATs on the same terms as other taxis;
- collection, collation and reporting of taxi service response time data;
- satisfactory complaint handling; and
- protection of passengers with disability from being unlawfully discriminated against in schemes whereby affiliated drivers are encouraged to rate passengers and the resultant star rating positively or negatively impacting a passenger's ability to successfully request future services (i.e. passengers who may be "rated" poorly by drivers for discriminatory reasons could potentially find their future booking requests ignored or refused).

The ATIA considers that all providers of smartphone apps facilitating booking requests for taxis should be subject to exactly the same requirements as those reasonably applicable for taxi networks/cooperatives under the DSAPT. The ATIA recommends that any replacement for the WAT response times target currently in the DSAPT should be outcome focussed and written in terms that make it equally and unequivocally applicable to any technology used to accept (and dispatch) booking requests for taxi services.

Non-mandatory affiliation of taxis

In virtually all jurisdictions, taxis (and/or taxi licence holders, taxi operators and taxi drivers) are required to affiliate with an authorised taxi network/cooperative. By way of exception, the taxi regulations in Tasmania do not require taxis to affiliate with a network/cooperative, in the Northern Territory (NT) they do not strictly require affiliation, and in the Australian Capital Territory (ACT) provision can be made to exempt a taxi from affiliation.

Of Australia's 20,000+ taxis, the number not affiliated with a network/cooperative is currently inconsequentially small (approximately 35 in Tasmania, 1 in the ACT, and nil in all other jurisdictions including NT). However, of concern to the ATIA, the Victorian Government recently declared support for a recommendation of the Victorian Taxi Industry Inquiry (VTII) advocating removal of regulatory requirements for taxis to affiliate with a network/cooperative in that State¹. Accordingly, it is possible that the number of taxis not affiliated with a network/cooperative may grow significantly in the future.

If this occurred it would potentially have significant implications for the effectiveness of the DSAPT to protect and advance the provision of taxi services to people with disability. The DSAPT were framed in a context of taxi services being provided within a defined area, with mandatory affiliation of taxis to a discrete number of networks/cooperatives, and networks'/cooperatives' affiliated fleets comprising a mix of WATs and other taxi vehicles. Removal of mandatory affiliation has the potential to fundamentally alter the fabric and structure of the industry, reduce important economies of scale pivotal to efficient dispatching of on-demand services in large urban areas, and further limit the influence exercisable by networks/cooperatives in respect of affiliates. In such circumstances, it would seriously exacerbate difficulties associated with the current WAT response time target in the DSAPT (and may have similar consequences for any replacement target).

The ATIA recommends that the Commonwealth Government take an active interest in monitoring and intervening in respect of proposals for regulatory change by State and Territory Governments that may have foreseeable and deleterious impact on the effectiveness of the DSAPT's protection and advancement of taxi services to any person with disability.

WAT minimum dimensions

The ATIA supports the upgraded allocated space requirements for WATs that came into effect on 1 January 2013 under the DSAPT.

Consistent with that position, the ATIA would support the introduction of purpose-built accessible taxi vehicles where they fully comply with DSAPT requirements and were commercially viable. In that regard, the ATIA is strongly opposed to commentary by the VTII² that non-compliant accessible taxis should be allowed to enter the market and operate as WATs. In the ATIA's view, the VTII's approach represents a naïve misunderstanding of service delivery issues associated with WATs and/or capture by, or pandering to, vested interests

¹ The Victorian Government's and the VTII's positions supporting the removal of mandatory affiliation for taxis with networks/cooperatives are incongruent with their support for the establishment of a new Central Booking Service (CBS) for WATs in Melbourne. Under the VTII's proposal as endorsed by the Victorian Government, it would be mandatory for WATs to affiliate with the new CBS. Evidently, both the Victorian Government and the VTII recognise and appreciate the essential advantages for taxi service delivery associated with mandatory affiliation - but only for people with disability who need or elect to travel by WAT. In that respect, it is a policy position that presents in substance and effect as being discriminatory against the very many people with disability who do not require travel by WAT (i.e. people whose disability does not require them to travel with non-collapsible wheelchairs or mobility scooters).

² Victorian Taxi Industry Inquiry's Final Report, "Customers First: Safety, Service, Choice" (September 2012) Section 10.3.3, p 161

outside the taxi industry. Similar to the VTII's recommendations in relation to non-mandatory affiliation of taxis with networks/cooperatives, encouraging the introduction of non-compliant WAT vehicles has the potential to seriously exacerbate difficulties associated with the current WAT response time target in the DSAPT (and may have similar consequences for any replacement target).

The ATIA recommends no diminution to the DSAPT requirements applicable to WATs.

Finally, should you require any further information or clarification in regard to any matter raised in this letter, I can be contacted directly on (07) 3339 3196.

Yours sincerely

Blair Davies
Chief Executive Officer