CORPORATE CABS

Professionally Driven

SMALL PASSENGER SERVICES SUBMISSION

February 2016

RESPONSE FORM: *FUTURE OF SMALL PASSENGER SERVICES – CONSULTATION PAPER*

There are no questions for Sections 1, 3 and 6–10.

You do not need to fill out every section.

How we will use your submission

We will consider your responses, along with other responses from the public, the small passenger service sector, and other interested organisations, to develop recommendations for the Government's consideration.

A summary of submissions will be published on the small passenger services page on www.transport.govt.nz. This summary may include the names of the organisations or individuals that made submissions. It will not include their contact details.

Your submission may be made public

Once you make your submission, anyone can ask for it under the Official Information Act 1982.

If you don't want anything in your submission released, you should let us know what material you want withheld, and why, at the time you make your submission.

Under the Official Information Act, we decide whether to release or to withhold material and can only withhold information in accordance with the provisions set out in that Act. Further information is available at www.legislation.govt.nz.

Request to withhold material

I request that the Ministry consider withholding the release of some or all of my submission:

○ Yes

◉ No

If yes - describe the reasons why:

Your details

What is your interest in future of the small passenger services sector? Are you:

- ○ A private individual
- ◉ Part of the small passenger services sector

☐ Your name (optional): Colin Samson

☐ Your address (optional):

Your email (optional): colin@corporatecabs.co.nz

If your submission is made on behalf of an organisation, please name that organisation here: Corporate Cabs

Would you like us to email you with the results of the consultation process?

- ◉ Yes – please provide email address: colin@corporatecabs.co.nz
- ○ No

Section 2 – The need for change

Question 1 – *What are the important factors driving the need for change for the small passenger services sector?*

Tick the factors below you think are driving the need for change

- [x] Technology is changing the transport sector
- [x] The current rules are no longer fit for purpose and flexible for the future
- [x] The need for a more innovative sector that delivers improved customer service

If there are other factors you think are important, enter them below:

In the changing market current legislation is outdated, and updating that to reflect today's reality, as well as to provide regulation for the future is necessary. This should create an environment where all operators are on an even footing, while maintaining the integrity of small passenger services, and safety standards to protect both drivers and passengers.

Section 4 – Features important in the future sector

Question 2 – *What are the important features you would want to see from the small passenger services sector in the future?*

Tick the features below you think are important for the future sector

- [x] Responsive to supply and demand
- [x] The compliance burden is as low as it can be while achieving regulatory objectives
- [x] Transparent fees and charges
- [x] Effective choice so people can travel where they wish in a timely manner
- [x] Incentivises improved customer services
- [x] Mitigates safety risks for passengers and drivers

If there are other factors you think are important, enter them below:

Section 5 – Summary of options for the future

Question 3 – *Which of the five options do you think will be best for New Zealand's small passenger services sector in the future?*

The Ministry of Transport's review team concluded that option 4 would be best for New Zealand's small passenger services sector in the future. Do you agree?

- [x] Yes
- [ ] No – If you do not agree, tick the option below that you think would be best
  - [ ] Option 1 – status quo – modified
  - [ ] Option 2 – reinforce separate taxi/private hire markets and their regulatory burdens
  - [ ] Option 3 – drivers responsible under new single class system (reduced regulatory burden)
  - [ ] Option 5 – existing taxi requirements apply to all operators (higher regulatory burden in new single class system)

Why do you prefer this option over option 4?

Corporate Cabs agrees that option 4 is the best option in principle. However, we believe there is value in re-assessing elements that affect two key areas, including some minimum requirements and safety, which are inextricably linked.

Section 11 – Definitions for exemptions

Carpooling would be exempt under all options

Question 4 – *Do you agree the exemption for carpooling should apply where:*

- the people in the vehicle already know of each other (for example, they are friends, members of the same sports team or work for the same company). The driver and passenger may agree to share the responsibility of driving or the passenger will contribute money towards the driver's costs for the trip (that is, the operating costs of the vehicle such as petrol and depreciation, but not any payment for the driver's time).

☑ Yes

☐ No – if you disagree that carpooling should be exempted in the above circumstance, please explain why

Corporate Cabs agree with this in principle but here will need to be very clear guidelines to work out the contribution that each passenger will pay.

and –

Question 5 – *Do you agree the exemption for carpooling should apply where:*

- the people in the vehicle (who may not know each other) are travelling to similar destinations at similar times and use a third party to connect them. The passenger(s) will contribute money towards the driver's costs for the trip (that is, the operating costs of the vehicle such as petrol and depreciation, but not any payment for the driver's time).

☑ Yes

☐ No – if you disagree that carpooling should be exempted in the above circumstance, please explain why below

Again, Corporate Cabs agree with this in principle but here will need to be very clear guidelines to work out the contribution that each passenger will pay.

Exempting companies providing communications functions only

Question 6 – *Do you agree the exemption for companies providing communications functions should apply where:*

- a company (for example, a call centre company) providing back office communication functions for a completely unrelated small passenger service company.

And would not include:

- a company providing technology or communications, but actually participates in the small passenger services market in a manner similar to other operators (this company would be required to comply with the relevant rules).

☑ Yes

☐ No – if you disagree that communications companies be defined in this way, please explain why

Applying the rules to ridesharing services

Question 7 – *Do you agree that the requirement for ridesharing services to meet the same rules as the rest of the small passenger services sector should apply where:*

- third parties (often a technology-based company using apps) connect people who are driving to a destination with other people who want to travel to a similar place. The third party that connects a driver and passenger receives revenue from the transaction, commonly by taking a percentage of the money paid by the passenger to the driver.

☑ Yes

☐ No – if you disagree that ridesharing service be defined in this way, please explain why

Section 12 – Common requirements under options 3 and 4

What are the right core passenger safety rules we need for the future small passenger services system?

Question 8 – *Do you agree that the core requirements for passenger safety can be achieved through:*

- *P endorsement* – all drivers would have to hold a 'P endorsement' issued by the NZ Transport Agency. A person applying for a P endorsement would have fewer requirements to meet than now. To obtain a P endorsement, a driver would have to pass a criminal record and driving record check, be medically fit to drive, and have held a full New Zealand driver licence for at least two years. A P endorsement identification card would have to be displayed in the vehicle.

☑ Yes

☐ No – if no, please explain why

Question 9 – *Do you agree that the core requirements for passenger and driver safety can be achieved through:*

- *work time limits* – to ensure that drivers were not fatigued, they would have to comply with work time limits that set a maximum number of work hours and require rest breaks. Drivers would need to maintain logbooks covering all of the time that they worked. All drivers could work to the existing time limits for taxis, of up to 7 hours before a rest break is required.

☑ Yes

☐ No – if no, please explain why

Corporate Cabs agree in principle with this option however have issue around managing compliance if an operator is able to work in more than one ATO or ATO equivalent. A compulsory electronic logbook with credentials aligned to the P endorsement may go some way to overcoming to risk in this area.

Question 10 – *Do you agree that the core requirements for passenger safety can be achieved through:*

- *reporting serious complaints to the NZ Transport Agency* – to ensure a P endorsement holder remains fit and proper, the person or company responsible for providing the service* would be required to notify the NZ Transport Agency of any complaints received alleging serious improper behaviour by a driver. The person or company responsible would also be required to support the NZ Transport Agency or the NZ Police in undertaking any regulatory or compliance action.
  *This would be a driver under option 3 or an approved transport operator under option 4

☑ Yes

☐ No – if no, please explain why

Corporate Cabs agrees that reporting serious complaints to the NZ Transport Agency will help achieve core requirements for passenger safety, but a definition of 'serious complaint' is needed so that all operators are aware of exactly what must be reported, and are clearly in breach of the legislation if they do not.

In addition, with the potential change to responsibilities of AT0's, which mean there could be only one driver (who may also be the ATO) in a private hire situation, the practicalities of ensuring compliance need to be addressed in more detail. For example, if a customer complains to the driver themselves in the first instance and they choose to discount it, how would NZ Transport Agency know?

What are the right core driver safety rules we need for the future small passenger services system?

Question 11 – *Do you agree that the core requirements for driver safety can be achieved through:*

- *power to refuse to accept some passengers* – this enables drivers to refuse to accept passengers if drivers consider that their personal safety could be at risk.

☑ Yes

☐ No – if no, please explain why

Corporate Cabs believes in-car cameras and panic alarms should be used in conjunction with the power to refuse to accept some passengers to ensure passenger and driver safety.

We all know of situations where things have changed once the passenger is in the car and in these cases the cameras and panic alarms are important.

Question 12 – *Do you agree that the core requirements for driver safety can be achieved through:*

- *duty to promote driver safety* – this requires drivers (under option 3) or approved transport operators (under option 4) to make business choices from the range of mechanisms available to them. Such measures would be in addition to the mandated safety requirements.

☑ Yes

☐ No – if no, please explain why

Corporate Cabs generally believes that the core requirements for driver safety can be achieved through the duty to promote driver safety to make business choices from a range of mechanisms available to them. However, more detail is needed on what those mechanisms would be, and that mandated safety requirements include cameras in cars and panic buttons.

What are the right core in-vehicle security camera rules we need for the future small passenger services system?

Question 13 – *Do you agree that the core requirements for in-vehicle security cameras can be achieved through:*

- *in-vehicle security cameras* – all passenger service (all taxi, private hire, shuttle, dial-a-driver, and rideshare) vehicles would have to meet the existing rules for in-vehicle security cameras that currently apply to taxis.

☑ Yes

☐ No – if no, please explain why

Corporate Cabs believes in-vehicle security cameras are essential for all. In addition, the suggestion in Option 4 that they are replaced by a requirement for a photo, email address and phone number collected from all passengers is fraught with logistical and privacy issues. Corporate Cabs does not believe this would achieve the outcome intended as it is impractical and not stringent enough. For example, there would be no way to verify that photograph supplied was in fact that of the passenger, unless a fail proof verification process was in place.

Question 14 – *Do you agree that the core requirements for in-vehicle security cameras can be achieved through:*

- *exemption from camera requirement* – the NZ Transport Agency would exempt a vehicle from the camera requirement where a driver (under option 3) or an approved transport operator (under option 4) met all of the following criteria:
    - *providing services to registered passengers only* – the service is only provided where the passenger is registered with company or driver
    - *collection of driver and passenger information* – when registering with the company or driver, a passenger and driver must provide their name, photo, address, and phone number
    - *availability of driver and passenger information* – before each trip starts, the company or driver makes the name and photo of the passenger and driver available to each other
    - *retaining a record of each trip* – the company or driver keeps a record of each trip, including the start and end points.

☐ Yes

☑ No – if no, please explain why

Corporate Cabs does not believe there should be any exemptions to having in-vehicle cameras. In particular, collecting passenger information would not achieve the outcome intended as it is impractical and not stringent enough. For example, there would be no way to verify that photograph supplied was in fact that of the passenger, unless a fail proof verification process was in place.

What are the right fatigue management rules we need for the future small passenger services system?

Question 15 – *Do you agree that the core requirements to mitigate driver fatigue can be achieved through:*

- *work time and log books* – current requirements permit taxi drivers to drive for up to 7 hours before taking a break, and the rest of the sector up to 5.5 hours before a break. The review proposes applying the work time requirements for taxi services to the whole sector under the single class approach.

☑ Yes

☐ No – if no, please explain why

Corporate Cabs agree in principle with this option however have issue around managing compliance if an operator is able to work in more than one ATO or ATO equivalent. A compulsory electronic logbook with credentials aligned to the P endorsement may go some way to overcoming to risk in this area.

What are the right vehicle safety rules we need for the future small passenger services system?

Question 16 – *Do you agree that the core requirements for vehicle safety can be achieved through:*

- *Certificate of Fitness* – this is a general safety check. It is more robust than a Warrant of Fitness for private cars and is required every six months.

☑ Yes

☐ No – if no, please explain why

What are the right consumer protection rules we need for the future small passenger services system?

Question 17 – *Do you agree that the core requirements for consumer protection can be achieved through:*

- *agree the basis of the fare* – drivers would have to agree the basis of the fare with the passenger before the trip starts. This could be a set fare or a per km rate. The fare could also be agreed between the passenger and the company at the time of booking.

☑ Yes

☐ No – if no, please explain why

Corporate Cabs generally agrees that core requirements for consumer protection can be achieved through the agreeing the basis of the fare. However, where the car displays its fares, for example on the door or glove box, if the passenger agrees to be carried, this should also be deemed acceptance of the fare conditions. In the case of an 'agreed fare' there would need to be safe guards in place to avoid the possible scenario of a passenger agreeing to a fare prior to commencement for it to then be changed by the driver due to traffic conditions or other such issues. In addition, this would avoid the possibility of passengers attempting to change fares after the commencement of the trip.

Question 18 – *Do you agree that the core requirements for consumer protection can be achieved through:*

- *driver to take most advantageous route* – this would require the driver to take the route that is most advantageous to the passenger (unless agreed otherwise for example where multiple passengers are going to different locations within the same trip).

☑ Yes

☐ No – if no, please explain why

Corporate Cabs generally agrees that the core requirements of consumer protection can be achieved through the driver taking the most advantageous route. However, even with advances in technology some local knowledge would help achieve this, and we believe there should be a minimum local knowledge requirement.

Question 19 – *Do you agree that the core requirements for consumer protection can be achieved through:*

- *Driver to accept first hire offered* – this imposes a duty on the driver to accept the first hire offered (subject to exceptions for driver safety) so a driver could not refuse to take passengers only travelling short distances.

☑ Yes

☐ No – if no, please explain why

What rules are no longer needed to control specific outcomes, leaving companies to their own business decisions?

Question 20 – *Do you agree that the following is no longer required?*

- *registered fares* – the Ministry of Transport's review proposes removing the rules governing pricing that require taxis to register their fares with the NZ Transport Agency and charge using a meter. Instead, the Ministry of Transport's review proposes that all small passenger service drivers should have a duty to agree the basis of pricing with the passenger prior to the commencement of the trip or when the booking is made. This would mean the NZ Transport Agency would no longer have a role to intervene in fare disputes between passengers and drivers, and existing consumer protection law (Consumer Guarantees Act 1993 and the Fair Trading Act 1986) would be relied on.

☑ Yes

☐ No – if no, please explain why

Corporate Cabs generally agrees that registered fares are no longer required, but with regard to drivers having a duty to agree the basis of pricing with a passenger prior to commencement of the trip, 'basis' needs to be better defined.

We reiterate that where the car displays its fares, for example on the door or glove box, the passenger's agreement to be carried should also be deemed acceptance of the fare conditions. In addition once a fare has been accepted it cannot be changed.

Question 21 – *Do you agree that the following is no longer required?*

- *regulated signage (including Braille)* – the current rules set out specific signage requirements for taxi services that relate to the operator's brand, taxi roof sign, contact details, and fares. We propose removing these requirements. Operators would be able to make a choice about what signage they used and the information provided in it. The current rules require information in Braille: the name of the taxi organisation, its contact telephone number and the vehicle's fleet number. The Ministry of Transport's review proposes removing this requirement. Blind passengers can use alternative ways to obtain the information currently provided in Braille, such as enquiring at the time of booking, and using smartphone apps that provide a record of the trip.

☐ Yes

☑ No – if no, please explain why

Corporate Cabs does not agree that regulated signage (including Braille) is no longer required. We believe this is a safety issue. With no signage passengers do not know if they are choosing a trusted brand. There would be nothing to prevent a rogue driver that has not been qualified as fit and proper sitting at a cab rank or being hailed by unsuspecting passengers.

Question 22 – *Do you agree that the following is no longer required?*

- *area knowledge* – taxi drivers in urban areas are required to have passed an area knowledge test. The purpose of the requirement is to ensure that drivers are able to take passengers on a direct route to their destination. The Ministry of Transport's review proposes removing the area knowledge requirement and leaving companies to make their own decisions. Technology, such as GPS systems, provides alternative means to achieve the objective. Passengers are also able to use this type of technology to track the route that the driver is using.

☑ Yes

☐ No – if no, please explain why

Corporate Cabs generally agrees that area knowledge in the current form is no longer required. However, we believe that there should still be a minimum requirement, as it is and relevant to other parts of the Option 4, including that drivers take the most advantageous route.

Question 23 – *Do you agree that the following is no longer required?*

- *English language* – taxi drivers are required to have a sufficient knowledge of the English language. The Ministry of Transport's review proposes removing the English language requirement and leaving companies to make their own decisions about the language competency of their drivers. The NZ Transport Agency considers that few drivers are currently tested.

☐ Yes

☑ No – if no, please explain why

Corporate Cabs does not believe that sufficient knowledge of the English language is no longer required, and that rather it is a safety issue for both drivers and passengers. In particular, drivers need to be able to communicate with passengers and road users in case of emergency. A minimum standard of English would also prevent conflict and misunderstanding between drivers and passengers.

Question 24 – *Do you agree that the following is no longer required?*

- *panic alarms* – currently, taxis are required to have in-vehicle panic alarms. There are no mandated driver safety requirements for private hire vehicle drivers. The Ministry of Transport's review proposes removing the mandatory requirement for panic alarms. Drivers should be able to refuse to accept a passenger where they consider their personal safety could be compromised and passenger service operators should have a duty to promote driver safety. Passenger service operators should make their own business decisions on how they promote driver safety (which could include the use of panic alarms or other technologies).

☐ Yes

☑ No – if no, please explain why

Corporate Cabs does not agree that panic alarms are no longer required. We want to keep our drivers safe, and even though the ability to refuse to accept a passenger if they think their personal safety is at risk, it is not always clear at the outset of a trip that there is going to be a problem. Therefore the best option is to make panic alarms mandatory, not part of a business decision by operators on how to promote driver safety.

The cost of such a system is minimal.

Question 25 – *Do you agree that the following is no longer required?*

- *passenger service licence (PSL)* – regulatory compliance is currently managed through a range of mechanisms including approved taxi organisations, passenger service licence and driver obligations. The Ministry of Transport's review proposes requiring all passenger service operators to be an approved transport operator. A key responsibility of approved transport operators would be making sure all of their drivers had a P endorsement, worked within work time limits, and drove vehicles with a valid Certificate of Fitness.

☐ Yes

☑ No – if no, please explain why

Corporate Cabs does not agree that the passenger service licence (PSL) should no longer be required, as we see this is a safety issue. Even though it is proposed that rather it become the responsibility of an ATO to ensure all drivers have a P endorsement, work within work time limited and drive vehicles with a value Certificate of Fitness, we do not believe this is enough. In addition to having knowledge of how to run a business, the PSL training requirement is more focused on safety and we believe this is appropriate.

Question 26 – *Do you agree that the following requirement is no longer required?*

- *24/7 service* – taxis are currently required to provide services 24/7 in large cities. There is no similar requirement for private hire operators (or carpooling or ridesharing). The Ministry of Transport's review proposes removing the regulatory requirement for taxis to provide a 24/7 service, and leaves operators to provide levels of service in response to their understanding of demand.

☑ Yes

☐ No – if no, please explain why

Corporate Cabs agree that the requirement for a 24/7 service not be mandatory. However there needs to be a requirement that where an ATO or equivalent is operating 24/7 they must have a call centre or contact person available to be contacted 24/7.

Question 27– *Do you agree that the following is no longer required?*

- *restrictions on private hire services connecting with customers* – currently, private hire services can only take pre-booked customers. Taxis can take pre-booked or hailed customers. Shuttles can only take passengers travelling between specific destinations. The Ministry of Transport's review proposes removing the restrictions on how passenger service operators can connect with customers. This will promote enhanced competition and improved customer service.

☑ Yes

☐ No – if no, please explain why

Corporate Cabs agrees in general that restrictions on private hire services connecting to customers is no longer required, although it is suggested the requirement to have livery on cars doing rank and hail work remains to prevent rogue operators who are not qualified including not being fit and proper masquerading as taxi or private hire operators.

Question 28 – *Do you agree that the following is no longer required?*

- *driver passed driving test in last five years* – all P endorsement holders have to have passed a full licence test in the five years preceding their applying for their P endorsement. The Ministry of Transport's review proposes removing this requirement. A fully licensed New Zealand driver is deemed competent to be on the road without having to sit ongoing tests (certain circumstances excluded). The existing provision of having passed a test in the last five years imposes a cost on the driver, with little benefit.

☑ Yes

☐ No – if no, please explain why

Question 29 – *General comments on the proposals in the Future of small passenger services — consultation paper*

Please add any general comments here:

Corporate Cabs thanks the Ministry for its careful consideration of the future of small passenger services. Given the changing market and outdated legislation, its review provides the opportunity to create an environment where all operators are on an equal footing, and clarifies what constitutes a taxi service rather than ridesharing.

It agrees that Option 4 is the best option in principle, and the one that would achieve the above. However, we believe there is value in re-assessing elements that affect two key areas, including some minimum requirements and safety, which are inextricably linked. Having provided 25 years of best practice taxi service, Corporate Cabs offers the following for consideration.

We accept that what is proposed sets out minimum standards, but Corporate Cabs believes it would be necessary to exceed these in a number of specific areas, including:

- P endorsement – we believe the current regulations set the right level for the safety of passengers and drivers
- In vehicle cameras – again, the current regulations require these and we believe that is appropriate, again for the safety of both passengers and drivers
- Local area knowledge – technology is certainly moving apace, but there is a need for a base level of local knowledge in the areas a service operates in
- English language – as above, we believe there is a base level of English required, in order for drivers to be able to communicate effectively in potentially difficult situations
- Panic alarms – Corporate Cabs believes these are essential for safety

With regard to cameras in cars in particular, and the suggestion in Option 4 that they are replaced by a requirement for a photo, email address and phone number collected from all passengers is fraught with logistical and privacy issues. Corporate Cabs does not believe this would achieve the outcome intended as it is impractical and not stringent enough. For example, there would be no way to verify that photograph supplied was in fact that of the passenger, unless a fail proof verification process was in place.

Again, Corporate Cabs understands these are minimum standards, but asks the Ministry to consider raising them in line with current regulations. If the above proposed minimum standards are accepted, Corporate Cabs would continue to meet the current regulations in order to provide a level of service and security that its passengers and drivers have come to expect.

We thank the Ministry for the opportunity to comment on the Small Passenger Service Review, and ask it to consider this submission in conjunction with that of the Taxi Federation, of which Corporate Cabs is a member.