

Released under FOI

Voller, Samuel

From: Voller, Samuel
Sent: Thursday, 14 December 2017 2:48 PM
To: 'Andrew Dunshea'
Cc: 'Adams, Shane'; 'Hudson, Marc'
Subject: Albury Taxis - proposed fee structure [SEC=UNCLASSIFIED]
Attachments: Letter to Albury Taxis - 14 December 2017.pdf

Dear Andrew,

Please refer to the *attached* correspondence.

Kind regards,

Samuel Voller

Investigator | Enforcement NSW & ACT
Australian Competition & Consumer Commission
Level 20 | 175 Pitt Street Sydney 2000
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www.accc.gov.au

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

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Our ref: CS1045711
Your ref: AD:MH:178998
Contact officer: Samuel Voller
Contact phone: (02) 9230 9171

Level 20, 175 Pitt Street
Sydney NSW 2000
GPO Box 3648
Sydney NSW 2001
tel: (02) 9230 9133
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14 December 2017

Mr Andrew Dunshea
Partner
Steele + Co
253 Horwick Street
BATHURST NSW 2795

By email: andrew@steeleandco.com.au

Dear Mr Dunshea

Re: Albury Taxis - Alleged anti-competitive conduct

We refer to your letter dated 29 November 2017.

We note that Albury Radio Taxis Co-operative Society Limited (**Albury Taxis**) has completed its compliance training pursuant to our letters dated 24 October 2017 and 22 November 2017.

We have also reviewed the fees structure proposed the Networks Access Pricing Review attached to your letter dated 29 November 2017.

We are concerned that the proposed monthly access fee of \$2,500 is set at a level that is likely to generate dividends for Albury Taxis' members such that it would constitute an effective subsidy of those members' access fees.

We refer in particular to the case of Neil Connell, a non-member, who the ACCC understands has operated his taxi on Albury Taxis' network for a monthly fee of \$1,250 for several years. We understand that as Mr Connell was not a member of Albury Taxis, his monthly access fee would have been set at a level that was profitable for Albury Taxis and would not have been subsidised by Albury Taxis' other operations (which the ACCC understands to predominantly be the operation of six wheelchair-accessible taxis).

As we have previously underscored, we do not dispute Albury Taxis' right either to make a profit or to make its own decision as to the prices it will charge, within the parameters of compliance with the *Competition and Consumer Act 2010* (Cth).

We do not, however, agree that 'profit margin' and 're-invested profits benefit' should properly be treated as separate items, and the forecast 28.7% net profit margin for the booking and dispatch component of Albury Taxis' business is likely to be returned to members by way of a dividend which would, at that level, constitute an effective subsidy for members operating vehicles on the network. We are concerned that this level of dividend would not comply with the agreement outlined in our letter dated 22 November 2017 that

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Albury Taxis introduce a new fees structure 'that does not discriminate between members and non-members, including by the application of any subsidy or rebate'.

Please outline for us the dividend that is forecast to be paid per share (or minimum shareholding), and either:

- propose a fees structure that does not allow for a dividend that effectively subsidises members' network access fees; or
- explain why, in light of the previous non-member fee being profitably set at \$1,250 per month (with members paying \$900 per month), the new proposed fee of \$2,500 would not generate a dividend that would constitute a subsidy or rebate that would effectively discriminate between members and non-members as to the fees paid to access Albury Taxis' booking and dispatch services.

Please provide your response to this letter by **COB Monday 8 January 2017**.

If you have any further queries or concerns about this matter please don't hesitate to contact Samuel Voller on (02) 9230 9171, or by email at samuel.voller@acc.gov.au.

Yours sincerely



Shane Adams
Director
Enforcement NSW & ACT