

Submission

By

Bus and Coach Association (New Zealand) Incorporated

To

Ministry of Transport

FUTURE OF SMALL PASSENGER SERVICES – CONSULTATION PAPER 2015

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1. Introduction

1.1. The Bus and Coach Association (BCA) is a membership organisation that represents the interests of the bus and coach industry. Our members include the majority of New Zealand's bus and coach operators and domestic and international bus manufacturers.

1.2. The bus and coach industry is a significant contributor to New Zealand's economy. In 2014 the industry contributed almost \$1.2 billion to gross domestic product, and employed over 9,800 people. In the same year tourists spent an estimated \$2.3 billion on passenger transport, excluding air travel.

1.3. The BCA welcomes the opportunity to provide industry feedback to the Ministry of Transport (MoT) on the Future of small passenger services (the Review).

1.4. The BCA recognises the motivations for reviewing the regulation of small passenger service vehicles (PSVs), however we are disappointed by the limited scope of the Review. We are also concerned that due to significant oversights some of the proposals contained within the Review – including the MoT's preferred option (Option 4) – are either inappropriate or will create significant costs for the bus and coach industry.

1.5. The remainder of the submission focusses on the issues with the Review's scope, a brief analysis of the options, and a more detailed response to individual proposals that are relevant to the bus and coach industry.

2. The scope of the Review is too narrow

2.1. The consultation paper indicates the Review was commissioned in response to emerging technologies and service types in the small PSV industry. As a result the scope of the Review was too narrow, and has failed to consider the full spectrum of service operators in the small PSV sector.

2.2. As defined in the Transport Act: “small passenger service vehicle means any passenger service vehicle that is designed or adapted to carry 12 or fewer persons (including the driver)”. The bus and coach industry operates approximately 860 small PSVs, and this number is expected to increase to approximately 1000 by April 2016. A large and growing proportion of these vehicles are used for services not considered within the scope of the Review.

2.3. The Review appears to be primarily focused on one-off and short-term service types such as taxis, shuttles, ride sharing, and private hire vehicles. However, it does not consider small passenger service vehicles that undertake a regular service (such as scheduled and contracted services), nor does it properly consider longer-term private hires such as charters. In reality the small PSV industry includes a continuum of service types – it is not as aggregated as suggested in the discussion paper.

2.4. For example, some school based transport is contracted to what would be considered “small passenger service vehicles”, but is running a very different service to what is envisaged in the Review. The service itself is more akin to a school bus, but is, by definition, governed by the regulations covering small PSVs.

2.5. Furthermore, a large number of businesses operate both small and large PSVs – including 92 BCA members. This creates further complications when changes to the regulatory environment for small PSVs are proposed in isolation.

2.6. The limited scope of the Review and lack of consideration for dual operators of small and large PSVs has led to significant issues in the proposals.

3. Bus operators with small PSVs

3.1. For bus companies every passenger service vehicle that leaves the depot will have some sort of service document. It may be a school run sheet, an urban duty card, or it may be a tour/charter waybill. In other words, every passenger service vehicle departs the yard to do a specific and traceable duty. No vehicle from a bus company, be it a large PSV or a small PSV, will pick up passengers on-demand from places not on a specified route in the way a taxi would.

3.2. Small PSV services operated by bus companies differ from a taxi, shuttle, or Uber in the following ways:

- The driver knows in advance where they are starting their run, the route it will take, and what the drop off point is.
- Drivers often know who they are picking up and where they are taking them before they leave the depot.
- All the vehicles are company owned and the drivers are employees of the bus company.
- The job has often been subject to a quotation so the price is fixed no matter what route the driver takes.
- Many of these services are contracted so there can be no duty to accept the first available fare.

3.3. With these service characteristics in mind we will consider the implications of each option.

4. Options Analysis

Options 1 and 2: Status Quo for the bus and coach industry

4.1. The BCA is not opposed to options 1 and 2, since these options essentially represent business as usual for most bus and coach operators. However, these options fail to remove some unnecessary regulations (see *Supported rule changes* below for details).

Options 3 and 4: One class for small PSVs

4.2. The BCA does not support the proposal to create a single class of small PSVs as detailed in Options 3 and 4. This proposal fails to recognise the diversity of services operated using these vehicles and risks creating unintended consequences for some service types. As currently defined the single class of small PSVs would apply taxi-type rules to services that are entirely different (see *“Problematic rule changes”* below for more details).

Option 3: Single class with drivers responsible

4.3. From an industry perspective Option 3 is unviable, since targeting compliance at drivers does not reflect the reality of how most of the bus and coach sector operates. As described above, for bus companies all the vehicles are company owned and the drivers are employed by the company. Option 3 would create a highly inefficient compliance framework. Vehicles and drivers are generally managed at the operator level, so these responsibilities should be held at the same level.

Option 4: Single class with operators responsible

4.4. The BCA does not support Option 4 in its current form. While we see benefits in some reform options included in Option 4, there are also significant issues. The proposals outlined in Option 4 (the MoTs preferred option) are the main focus of the remainder of the BCAs submission.

Option 5: Taxi requirements for all small PSV operators

4.5. The BCA strongly opposes Option 5, since the application of taxi industry regulations to all small PSVs would impose major costs and unnecessary regulatory burdens on the bus and coach industry. As demonstrated above, the services provided by bus companies are very different to taxis, so should not be subject to the same regulatory regime.

5. Supported rule changes – Options 3 and 4

Removing the requirement for a certificate of knowledge of law and practice

5.1. The BCA strongly supports the removal of the requirement for a certificate of knowledge of law and practice. In our view the certificate is an unnecessary regulatory hurdle for operators of both small and large PSVs. As indicated in the discussion document, a focus on simplifying regulation will make this requirement redundant.

Recommendation 1: Remove the requirement for a certificate of knowledge of law and practice for operators of both small and large PSVs.

Removing the requirement that drivers have passed a practical driving test in the last 5 years

5.2. The BCA strongly supports the removal of the requirement that drivers have passed a practical driving test in the last 5 years. This requirement creates an unnecessary cost for hiring drivers with little or no benefit. This requirement applies to drivers of both small and large PSVs and should be removed.

Recommendation 2: Remove the requirement that drivers of small and large PSVs have passed a practical driving test in the last 5 years.

6. Problematic rule changes – Options 3 and 4 – Single class of small PSV

Passenger transport operator licensing

6.1. Options 3 and 4 in the discussion paper propose a change from the requirement for small PSV operators to have a passenger service licence to a new requirement to be an approved transport operator. While there might be advantages to the approved transport operator model, the change could have unintended consequences for businesses that operate both small and large PSVs.

6.2. There are at least 92 businesses currently operating both small and large PSVs in New Zealand. Depending on how the changes are made, all these businesses with existing passenger service licences could be required to become approved transport operators. Furthermore, new businesses that wish to operate both small and large PSVs could be subject to dual regulatory regimes.

6.3. It is crucial that any change to operator licensing does not create additional regulatory hurdles for existing or future operators. If the new operator licensing regime is adopted, all existing passenger service licence holders should automatically be deemed to be approved transport operators. New businesses

that wish to (or may in future) operate both small and large PSVs should only be required to hold either a passenger service licence or be an approved transport operator.

Recommendation 3: If small PSV operators are required to be approved transport operators then:

- All existing passenger service licence holders should automatically be deemed to be approved transport operators.
- New businesses that wish to operate both small and large PSVs should only be required to hold either a passenger service licence or be an approved transport operator.

Extending to all small PSVs the duty for the driver to accept the first hire offered

6.4. The duty for a driver to accept the first hire offered makes sense for taxis and other on-demand service types such as Uber. However, this rule is not appropriate and could have unintended consequences for charter operators, pre-booked private hire services, scheduled services, and school transport services operated in small PSVs. This requirement should not be extended to all small PSV service types.

Recommendation 4: The duty for a driver to accept the first hire offered should not be extended to all small PSV service types.

Mandating in-vehicle security cameras for all small PSVs

6.5. Mandated in-vehicle security cameras will create either a capital cost or a regulatory hurdle for charter services, school transport services, and pre-booked private hire services. While the intention might be to make taxi and Uber type services operate on the same playing field, this change will create major issues

for a large number of businesses and operators that provide very different service types.

6.6. BCA members alone are operating approximately 860 small PSVs, with this number expected to grow to approximately 1000 during 2016. Few, if any, of these vehicles are operating in the same market place as taxis.

6.7. In fact a large and growing proportion of these small PSVs are being used for school transport on a contract basis. For these vehicles any requirement for cameras can be more appropriately dealt with at the contractual level. This will ensure any particular needs in the operating environment are met (e.g. multiple cameras or camera placement) and enables the associated costs to be factored into tender prices.

Recommendation 5: In-vehicle security cameras should not be made mandatory for all small PSVs.

Changes to work-time limits

6.8. The proposed shift to a single class of small PSV would see all drivers of these vehicles able to drive up to 7 hours without a break. While this might be appropriate for taxi-style services that generally operate with regular unplanned breaks, it may not be appropriate for long distance services in small PSVs. For example, under this change the driver of a charter service operated in a small PSV could legally drive for 7 hours without a rest. The BCA does not support the extension of taxi work-time limits to all small PSVs.

Recommendation 6: Taxi work-time limits of upto 7 hours before a rest break should not be applied to all small PSVs.

7. Consistency of passenger endorsement requirements for drivers of small and large PSVs

7.1. The proposed changes to rules for drivers of small PSVs could create a dual system with different requirements for drivers of small PSVs and large PSVs. This would create a confusing environment for operators with both small and large PSVs. As suggested in other parts of this submission, it is crucial that passenger endorsement requirements are consistent for drivers of both small and large PSVs.

Recommendation 7: Passenger endorsement requirements should be consistent for drivers of small and large PSVs.

8. Safeguarding scheduled public transport services

8.1. As previously discussed, the Review failed to consider both scheduled and contracted public transport services operated in small PSVs. It is critical to note that such services are subject to separate regulation in the Land Transport Management Act (LTMA).

8.2. Notably, Section 116(1) of the LTMA specifies that “Any public transport service operated in a region must be provided under contract with a regional council as part of a unit unless it is an exempt service”. Exempt services include school based transport, tourism services, event-based transport, and other services not operated on a schedule.

8.3. The BCA is aware of attempts internationally by car share platforms and unlicensed companies to operate scheduled services that resemble public transport. It is crucial that the distinctions between scheduled public transport services contracted by councils and other forms of passenger transport remain

clear. Any changes to the regulation of small PSVs must not create a loophole for uncontracted scheduled public transport services.

Recommendation 8: Any changes to the regulations for small PSVs must not create a loophole for uncontracted scheduled public transport services.

9. Conclusion

9.1. The BCA recognises the motivations for reviewing the regulation of small PSVs.

However, we are disappointed by the limited scope and significant oversights in the Review. Most notably the impacts of regulatory changes on contracted school based transport, scheduled services, and charter operations in small PSVs are not adequately considered in the Review. The MoT's preferred approach of establishing a single class of small PSVs risks creating a regulatory environment that is inappropriate for these service operators.

9.2. Of the options proposed in the discussion paper, the BCA sees limited impacts from Options 1 and 2, and considers Option 3 unviable. Option 4 includes some changes that would be of benefit to BCA members, but also contains regulatory changes that result from the 'single class of small PSVs' that are both impractical and unacceptable. The BCA strongly opposes Option 5.

9.3. The BCA urges the government to reconsider elements of its proposed regulatory changes with greater regard for the use of small PSVs by the bus and coach sector.



Barry Kidd

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