



## 1.0 Overview

The Scottish Taxi Federation (STF) is pleased to make this submission to the Scottish Expert Advisory Panel (the panel). The STF represents major taxi companies across Scotland, and has a direct interest in the operation of the 'Gig Economy', to which we have contributed as a direct participant for decades, if not centuries.

As our opening sentences suggest we do not consider that the Gig Economy is new, but rather that the terminology has changed, in no small part to reflect an influx of new technologies to which we will refer later in this document. A distinction does exist, however, between the definition of the 'gig' and the 'collaborative' economy, and this may be critical to this review. It is our view that definitions and their interpretation are a significant part of this process, and would respectfully submit that this be considered a precursor to detailed analysis.

In this document we use the term 'taxi company' to refer to any identifiable organization, cooperative or broker responsible for taxi bookings and dispatch. Examples include Central Taxis, Citycabs, Glasgow Taxis etc. The document distinguishes between tiers of vehicle for hire. At the time of writing these, in Scotland, are: Taxis (Hackney Carriages), and Private Hire Cars (PHCs) (vehicles for hire not defined as taxis)<sup>1</sup>. A third category: Transportation Network Company (TNC) is defined in some markets<sup>2</sup>.

### 1.1 Definitions - Gig Economy

The STF would submit that the Gig economy relates to the provision of a paid service on an individual supply basis. In our instance, the provision of a taxi trip, aka: 'ride'. In the gig economy this is typically undertaken by a self employed person, taxi driver, who has a relationship with, but is not employed by, an agent, consolidator, broker, or contracting body, e.g.: Central Taxis, Glasgow Taxis, Uber etc. In this instance we do not draw a distinction between app companies, aka: TNCs, e.g.: Uber<sup>3</sup>, and taxi companies as their function in dispatching rides is effectively the same.

It is our view that the operation of the Gig Economy, as defined above, is not new and, as such, is not the contributory factor impacting on workers rights. This said, the frequency at which services are provided within the Gig Economy has clearly increased significantly. This being a function of: enabling technologies; public acceptance of product, with or without an understanding of the underlying employment relationship; and the development of collaborative economic relationships. We would question whether TNCs are collaborative in nature to any greater an extent than a taxi company.

### 1.2 Definitions - Collaborative Economy

It is our contention that the Collaborative Economy refers to the sharing of resources to the economic benefit of all users of that resource. This would appear to exclude a commercial broker with a profit motive, particularly where that broker is not also the owner of the resource. It is also questionable as to whether a for profit driver can be defined as participating in the collaborative economy as the resource is, in this instance, a factor of production in exactly the same way as the taxi driver owning, or renting, their vehicle may also see it as a factor of production. It should be noted that members of the public using TNC or taxi vehicles do not receive any genuine collaborative benefit, beyond that of normal market competition.

It is also noted that the concept of a shared vehicle, as promoted by TNCs, eg: Uber Pool, Lyft Line or similar, sometimes defined as examples of collaboration, are also not new. Shared taxis have existed for decades under the guise of Taxibus, Jitney etc., including the Edinburgh Taxibus, Highland Council T2E Transport to Employment, Belfast Black Taxis, Paddington shared taxi schemes etc.

### 1.3 Definitions - App Economy

In addition to the definitions of gig and collaborative economies, we would propose an additional definition, that of an app economy. The app being an enabling technology that has had the most significant impact on the taxi industry, removing work from the traditional trade and displacing jobs. The app economy as operating in the TNC market also falls between legislative categories, making it difficult to define in terms of process, control and

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<sup>1</sup> As defined in the Civic Government (Scotland) Act (1982). Taxis are distinguished as the only vehicle able to ply for hire on street (accept hailed engagement).

<sup>2</sup> TNCs are typically defined in relation to the market sector making exclusive use of apps to accept bookings. A variety of other, interchangeable, terms including PTCs are applied in a smaller number of locations. In many locations TNCs are also associated with part time drivers supplying services as a second job or supplementary income, particularly associated with 'x' category services, including those being regulated separately as 'x-class' vehicles, e.g.: Windsor ON.

<sup>3</sup> Uber Technologies Inc., its subsidiaries and partner companies provide an app based booking system for transportation. This market sector is commonly referred to as Transportation Network Companies (TNCs) across a number of markets. Reference to a single TNC reflects the predominance of that company in a market, and is not intended to be exclusive to that company.

enforcement. Evidence from other locations and countries suggest negative impacts beyond those observed in the Scottish economy, discussed in more detail below.

It is our contention that a number of TNC working practices impact, in the short term, on driver rights, and in the long term on the industry survival. Many of these practices appear anti-competitive in their long term impact. In subsequent sections we will discuss impacts arising from the operation of the app economy, as defined. This will address, in part, themes reflected in the Gig and Collaborative economies.

## **2.0 Workers Rights Themes**

The taxi industry has been most significantly impacted by the emergence of TNCs into the vehicle for hire market. We recognize that the technology itself is not at issue, but rather its commercial exploitation. This may also reflect an inability of some suppliers to embrace the opportunities of the technology, but this should not detract from the negatives that it has produced.

### **2.1 Labour Market**

The STF has evidence that app services have reduced the numbers of traditional taxi trips at a rate between 8% and 15% per annum in locations where TNCs have commenced operations. The loss has continued on an annual basis since the entry of apps to the market and is likely to continue to impact as TNCs introduce further price incentives and loss leading services.

It is also noted that the taxi market is limited in the number of responses in that the supply of taxis is subject to greater levels of regulatory cost (regulatory burden) when compared to TNCs. This does not argue that regulation is unnecessary nor that regulation is excessive, but rather that the impact is exponentially greater given that a loss of income through taxi fares (fare box) does not reduce the cost of production associated with sunk and regulatory costs. In effect, the impact of a lower number of trips is increased where regulation is applied.

### **2.2 Displacement of Jobs**

The development of the app economy, including some of the elements of the collaborative economy, has had the effect of displacing jobs from the traditional industry to the app based industry, currently the PHC fleet. In cities where TNCs have begun service, such as Uber in Edinburgh, Glasgow etc., the numbers of PHC vehicles has increased significantly, resulting in a displacement of demand from taxis to TNCs.

The market effect of growth in TNC trips on employment displacement can be observed in relation to the numbers of driver shift hours supplied, and in relation to the numbers of vehicles operating. Effectively that the amount of trips being made available by the taxi trade has fallen at the same time that the numbers of trips being made available by the TNC industry has increased. The extent to which this relates to the same drivers i.e.: that the drivers have moved from the taxi to the TNC industry is somewhat more opaque as both PHC and particularly TNC companies do not release driver information. The displacement of jobs has, at best, resulted in a lower income per trip to the same drivers<sup>4</sup>, while evidence from other locations suggests that existing drivers are being replaced by (different) part time drivers.

The issue of part time versus full time drivers has a real impact on the taxi industry, and is likely to affect the safety of passengers, particularly where remaining full time drivers feel compelled to work longer shifts to maintain a living wage. It is also questionable whether part time drivers working taxi and TNC shifts after a full day in a different job will provide any safer a service.

Evidence exists that the industry is likely to move from a full time profession to a part time hobby as has been seen in the Republic of Ireland following deregulation of the taxi industry in 2000<sup>5</sup>; and is used as evidence by a large TNC based in the USA for arguing that existing taxi regulations do not apply to their drivers as the TNC business model is dependent on part time labour for the majority of trips provided<sup>6</sup>.

### **2.3 Workers classification and status**

Workers classification in the taxi and TNC industry relates to a split between self employed workers and company employees. In the majority of instances both taxi and TNC drivers are classified as self employed, aka: independent contractors. The effective difference between the two classifications relates to the amount of control influenced by a company, and can have an impact on the rights of the driver in terms of statutory benefits, sick pay and company pensions.

The STF recognizes that both the taxi driver and PHC drivers fall within the same classification and that this has not changed within the industry with the rapid advance of TNC companies. It is also noted that a number of locations

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<sup>4</sup> Loss of per trip income may be fully or partially offset by an increased number of trips, but will also be balanced by increasing vehicle costs and the extent to which TNC work remains a full time or moves to a part time occupation.

<sup>5</sup> Goodbody Economic Review of the taxi industry, Commission for Taxi Regulation, Republic of Ireland

<sup>6</sup> Evidence given by TNC to the City of Windsor Licensing committee March 27, 2017.

have sought to question the employment status of TNC drivers suggesting that the control extended by the TNC may, in fact, relate to an employer/employee relationship, though this has not resulted in a significant shift by TNCs. The federation would not wish to argue that the TNC driver has a different relationship with the TNC company than that of the taxi driver and the taxi company, but do recognize that the current relationship has drawbacks, discussed below.

A distinct difference does exist, however, between part time and full time status, initially identified in section 2.2, above. This includes a relatively high number of vehicles for every vehicle shift available, effectively a reduction in the efficiency of each vehicle and an increase in both on the ground and vehicle life time emissions, discussed in section 3.3, below.

## 2.4 Workers rights

In framing this response we make reference to a disciplinary process applied to the control and enforcement of standards defined for driving within the taxi industry. It is our contention that the current systems applied by taxi companies in Scotland provide a framework under which drivers have recourse to a fair system supporting the method of dispatch, minimum standards of operation and avoidance of abusive and false allegations.

STF consider that an increase in the extent of TNC supply will have a detrimental impact on the overall rights of drivers within the industry by reducing levels of workers rights to a lowest common denominator. We base this analysis on the rapid spread of a points based active feedback system applied by some TNCs, without a detailed process by which drivers are able to respond to allegations made against them. We also highlight the lengths to which the taxi industry invest in their drivers through the provision of in service training, including support and additional guidance as appropriate. This is a service we consider benefits the driver, but also, and more importantly, results in benefits to our customers.

We do not consider that a passenger feedback option within an app that does not allow for evidence to be presented nor driver representations to be sought is appropriate to this process. It is our contention that App based automated exclusion and / or removal from system without process represents a clear violation of workers rights.

## 2.5 Equality and Accessibility

The STF is committed to the concepts of equality and accessibility. For the purpose of this response we assume both equality and accessibility to relate to the availability of transport to the public and their treatment when being transported, which we set out in detail in the next paragraph.

We note that all of the taxi licensing authorities in Scotland have addressed the issue of wheelchair accessibility within their taxi fleets, though it is noticeable that a number of differing approaches are visible across the country. Approaches can include the requirement for 100% taxi accessibility, or a mixed fleet with direct access to accessible vehicles as required by the user.

The STF would consider it appropriate that customers with accessibility requirements receive the same levels of service as any other taxi user. We are therefore committed to ensuring that an appropriate number of vehicles remain on the road to supply that service. The influx of TNCs to the market has resulted in a removal of some traditional taxi cab shifts, which effectively reduces the number of accessible vehicles available. We are concerned about this loss, and are even more concerned that the continued influx of TNCs without accessible vehicles will further denigrate the rights of passengers with access requirements.

We do not consider it a sufficient response to suggest that passengers can simply seek an alternate means of transport if the TNC fleet is not appropriate, when the act of increasing TNC supply reduces the viability of the accessible taxi fleet.

## 3. Peer to Peer (P2P) transportation and logistics

In order to fully explore the issues and opportunities of P2P transport, the STF consider it necessary to fully define and understand the concept.

We do not consider that TNCs operate a true P2P service to any greater an extent than existing taxi companies. Nor that it is possible for a commercial broker operating for profit to be defined as a P2P company. None of the taxi market, PHC nor TNC markets operate on a truly peer to peer basis, even where it is suggested that the broker simply provides a booking platform<sup>7</sup>.

We do, however, consider that some forms of shared transport services, reported by some as peer-to-peer (P2P) transportation can be an appropriate development of the market and can operate alongside existing use types without negative impact.

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<sup>7</sup> Where the definition of a TNC as a P2P platform is accepted it follows that taxi companies similarly provide the same service and would, in fairness, be defined using the same terminology. In reality each of the existing taxi, PHC and TNC companies exert controls on the driver, including the ability to remove a driver's access to the platform, that require the definition of a broker at minimum. In a truly P2P environment this decision would lie with the peers alone.

### 3.1 Rural connectivity

The opportunities of shared transport are exemplified well in relation to the provision of services to the rural transport market, where individual car ownership can be lower, and levels of poverty higher than their urban equivalents. In these instances family cars may tend to be used by principal earners, leaving other family members with a lower level of access to transport, and sometimes none. At the same time public transport tends to be less available than in a city, and more expensive where it is.

Evidence dating back to the Highland Council Transport to Employment scheme (T2E), which provided planned shared transport by taxi at bus fare levels, suggest a significant gain to the individual, and a reduction in societal costs, resulting from its provision. The concept remains appropriate and may, in fact, be enhanced by the increased use of location based apps. We do not consider that the current range of TNC 'pooled' services fully fulfill this concept, and are generally not available to rural communities

### 3.2 Minimum fares / living wage

Where the definition of P2P services is extended to include current TNC services it is demonstrable that the emergence of and growth in use of TNC apps has had a severe and negative impact on taxi driver wages. An initial calculation is set out in the appendix of this document illustrating that the potential earnings of a city taxi driver have fallen below the living wage as a direct consequence of the entry of TNCs to the market.

We do not support a minimum fare at this time, however. The consequences of defining a minimum level represents an additional form of regulation without full exploration of its consequences. Bluntly put, the extent of regulation as defined in the Civic Government (Scotland) Act may already appear to be out of kilter with the emerging industry. We do not consider it appropriate to simply bolt on additional regulation without a more fundamental route and branch examination of the impacts of the act. We consider that the act needs to be reconsidered to address issues of the role of regulation, its application and its enforcement. We would suggest that an unenforced and/or unenforceable regulation is actually harmful. The federation would be eager to contribute to such a review.

### 3.3 Targets on emissions

The federation considers that emissions reductions should be a major part of joined-up regulation. The presence of a greater number of cars on the street will increase the amount of emissions, any action that increases the numbers of cars will, as a consequence, impact negatively on pollution and reduce the ability of the Scottish Government to meet its targets on emissions.

This said, the relationship between vehicle number and emissions is more complex, and may also relate to: the emissions standards of the vehicle itself, the construction method of the vehicle and its life time use patterns. Vehicles that are purchased and not used tend to have a higher per mile emissions cost compared to frequently used vehicles, as the production and scrapping emissions are spread over a higher number of miles. Areas of vehicle concentration, particular city centres, frequent stopping places where engines are not turned off, and cruising routes will be impacted to a greater extent compared to longer distance trips. The federation contends that the increasing supply of part time vehicles in the TNC sector is likely to impact negatively at a time when traditional taxis are becoming significantly more environmentally conscious, including the use of Euro6 vehicles in a fleet that is efficiently used.

## 4. Effective Regulation

Consistent with the above, it is our contention that regulation of the vehicle for hire market requires a route and branch review. The potential impacts arising from piece meal regulation are likely to result in harm to the public. This said, we applaud the Scottish Expert Advisory Panel for the Collaborative Economy for its efforts to fully understand and frame the discussion pertaining to the development of the collaborative economy. A major part of this will be the definition of the market to which any one participant in the collaborative economy adheres. The concept that a product is new simply because its system of engagement has been renovated appears spurious. More than this, the simple naming of a new supplier as part of a new economy on the basis that others have applied the term 'sharing' also appears inappropriate. A TNC no more shares a vehicle than does a taxi company. The avoidance of effective regulation as a result of terminological ambiguity appears, to us, to be a serious mistake.

The federation strongly supports the effort of the panel to define and understand the strands that may, or may not, contribute to new collaborative economies, or the pre-existing gig economy.

We further support the need for a review of regulations pertaining to the vehicle for hire industry, but would add that any and all regulation be fairly devised, effectively applied and enforceable. Public benefit must be considered in the long term as well as short term gains. We would support a transition from a historically appropriate form of regulation to a fair new system that supports the needs for effective transport, access and fair treatment.

In the following appendix we set out data in support of our above submission.

For and on behalf of the Scottish Taxi Federation  
July 20th, 2017

## APPENDIX