

**Admin, LACO**

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**Subject:** FW: Submission to the Short Stay Accommodation inquiry- sub 101

**From:** Sunny Sardana  
**Sent:** Wednesday, 23 January 2019 12:57 PM  
**To:** Committee, Economics & Industry Standing  
**Subject:** Submission to the Short Stay Accommodation inquiry

Mr Paul Papalia, CSC MLA  
Minister for Tourism, Racing & Gaming; Small Business  
PO Box 7387  
Secret Harbour, WA 6173

Dear Mr Papalia,

Ref: Submission to the WA Parliament Enquiry into unregulated short-term accommodation

I write with reference to the continued damage to the Accommodation Industry being caused by Air BnB and similar companies.

Your comments in the past as reported in The West Australian newspaper would suggest that you, too, feel that Air BnB and other similar so-called providers of the "sharing economy" are having an adverse impact on legitimate accommodation providers in the State.

As you are no doubt aware, Perth went through a similar situation some years ago, where a number of unlicensed short-term accommodation providers tried to set up quasi-hotels. As a former resident of Busselton, WA, I can also confirm similar attempts in that city. In all those cases the relevant local governments took action to stop such unlicensed short-term accommodation providers.

However, over the past 3 or 4 years or so, it seems that local governments have taken the decision to turn a blind-eye to such operations. Consequently, there has been an explosion in the number of unlicensed short-term accommodation providers.

I have personally spoke to the relevant staff in Planning Depts of some local Govts who have informed me that they do not take any steps to regulate short-term accommodation providers (regardless of zoning by-law breaches) unless they receive a complaint (ie, they are only interested in the low-hanging fruit and do not want to make any effort to stop illegal operators).

With tourist numbers already lower than expected in WA, the legitimate Accommodation Industry is facing further pressure due to the plethora of unlicensed short-term accommodation providers who simply have to take some photos of their apartment or house, and upload them on to the numerous websites which encourage such unregulated providers. Air BnB, of course, is perhaps the largest and most aggressive, but there are a number of other similar sites such as Stayz, Homeaway, etc.

If, as is claimed by Air BnB and others, their member operators are operating legally, why then are these Operators reluctant, in fact encouraged, by the websites (Air BnB, Stayz, etc.) to not show their addresses? Why do they have to hide themselves from the public? Perhaps it is because the operators and their Air BnB/Stayz/Homeaway etc. portals are fully aware that they do not have the legal right to offer their properties for rent in the manner shown on these websites.

The negative impact of Air BnB (and other similar platforms) has compelled various levels of government in the USA, Germany, France, and Japan to take action against the uncontrolled proliferation of such providers. WA needs to take a firm stand, and ensure that legitimate accommodation providers are not unduly and unfairly impacted.

I have not shown here the various laws in place in the other countries to prevent this unfettered proliferation but can advise some of the steps taken in other international cities as follows:

- In New York it is illegal for owners to rent their property for less than 30 days at a time
- San Francisco has similar restrictions
- In Toronto (Canada), short-term rentals (max 28 days per year) are now allowed but with the proviso that the owner stays in the property, registers with the City, pays an annual fee and remits a tourist tax (when implemented)

Please also see additional information via the web link below:

<https://www.investopedia.com/articles/investing/083115/top-cities-where-airbnb-legal-or-illegal.asp>

Air BnB, etc. commenced operations to enable member properties to “share” space within their home and earn some extra income. These websites were not supposed to allow short-term rentals of entire properties, or operate as “quasi-hotels” without any of the local Council requirements, etc. applicable to them.

It is, of course, a blatant furphy that Air BnB and its ilk, is part of the so-called “shared economy”. I could, perhaps, understand this being the case if only a part of a house or a room in an apartment was to be rented via such a platform. However, the majority of operators using such portals are renting whole homes.

Again, the WA media has reported many times on the rental income being derived by such operators (without of course mentioning that such operators are acting illegally).

The WA Govt has already thrown up their hands with regards to the so-called “ride-share” services now available in the State. The terms “ride-share” and “sharing economy” have become ubiquitous and, in my opinion, these widely used terms have given various entities an implied air of legitimacy, and has led to their acceptance on the part of the Govt which has, so far, been totally reluctant to take any real steps about the issue.

To my way of thinking, and I suppose any reasonably intelligent person’s, a ride-share is one where a person wanting a ride to somewhere stands on the side of the road with their thumb (or finger) out hoping that an altruistic person will stop and pick them up and take them in the direction the person wants to go.

Calling a ride, and/or booking one on an app is simply a taxi service by any other name, and must be regulated in a similar fashion as the legitimate taxi industry!

The very word “share” implies the division of something between parties, or giving a portion of something that a person has more of to someone who has less (or none). If a person is paying for something, it is not sharing but simply purchasing the good or service, regardless of the euphemism explicit in the term “shared economy”.

Air BnB and its ilk are exactly the same, just targeting a different industry.

By allowing the continued unfettered operation of Air BnB, Stayz, Homeaway and others, Governments are implicitly or explicitly allowing such changes to how businesses operate in the so-called “technology era”. Unless Govts take a firm and equitable stance now, similar applications of the so-called “sharing economy” could then very well apply to other industries.

For example, what is to stop a new website/portal setting up a method whereby:

- People can prepare extra meals at home and then “share” these with others who want to buy them? After all, this is exactly what the Air BnB premise is but targeting accommodation (at this stage). I can see the

health and safety issues arising from such a move. After all, if the Govt allows the Accommodation Industry to continue to take a hit due to these “quasi-hotels”, then it must also allow the development of “quasi-restaurants”. Anything less will be discrimination.

- As our Police and Courts have such a poor record of effectively combatting crime, perhaps someone could set up a website portal inviting vigilantes to set up shop and offer their services for people who feel they have been victimised but have had no justice from the current legal system. The various Outlaw Motorcycle Gangs would have a field day earning legitimate income by offering themselves as a “quasi-police” service! Do you remember the TV show from the 1980s called “The Equalizer”?
- How about a portal where electricians, plumbers and other tradies from overseas (ie, without local recognised accreditation) could visit WA on a holiday and list their services on a website where people looking for cheap trades/services could then hire an electrician for \$10/hour as opposed to the usual \$90 - \$140/hour charged by locally accredited tradespeople? That would be a win-win for all – the overseas tradie could finance their holiday in WA (whilst also paying cheap rates by staying at an Air BnB property), and the locals in WA get the benefits of a cheap electrician, or plumber, or other tradesperson!! Of course, the various Govts would not get their share of taxes, but then it seems that Govts don’t need them (if Air BnB and similar are cases in point)
- And although the list of industries which could be affected can be expanded upon, I will only offer one last suggested example of a “quasi-bar” website which would encourage members to purchase liquor and then on-sell via “sharing”. I know there are many communities in WA’s north which would love such an initiative, approved (or at least one where the Govt turns a blind-eye to).

And, as all these new potential websites/portals would not provide contact details, licence details, etc., the potential users would have no way of knowing whether these were legitimate companies/tradies or not.

I realize I am being a bit tongue-in-cheek above, but.....!!!!

The Govt cannot have a bet each way – either the “shared-economy” is a furphy and portals such as Air BnB, Uber etc. are to be restricted effectively and compelled to operate on a level playing field, or the Govt opens the floodgates to allow similar disruptors free reign in other industries.

As the Owner of a legitimate short-term accommodation business which has been operating in South Perth since 1990, I can confirm that we have definitely been adversely impacted by the growth of Air BnB and similar portals. Please note:

- We used to employ 15 staff as recently as 3 years ago and now have between 10 and 11.
- Our occupancy has declined from approx. 75% in 2016 to around 62% now, and accommodation revenues have declined by approximately \$175K each year as people have much cheaper, illegal properties to choose from.
- The decline in revenues (and consequently profits) also means that we now pay less income tax, less Superannuation, etc. Our intention was that we would be self-funded retirees but now that just looks like a lost opportunity and we will be relying on the Govt’s Pension scheme to live on in future. This is not something we expected to do (even though it is our right to expect the Pension as we have paid our taxes for all our working lives)
- In addition to our employees, we have external contractors such as an electrician, plumber, locksmith, and carpet cleaner who rely on us for work that we are unable to do ourselves (because there are legal restrictions applicable to many trades).

- Companies such as linen-hire services, supplies of cleaning items, paper products, guest amenities etc. also rely on us and can confirm that our purchase volumes have gone down significantly over the last couple of years or so.
- In the past 2 or so years we have heard when interviewing potential housekeeping staff that their recent work history includes cleaning homes for Air BnB operators. These potential employees informed us that they had been paid (when cleaning Air BnB and similar rentals) as either an independent contractor, or cash without records. None of them has paid any PAYG tax to the Govt, nor have they received any Superannuation or other benefits.
- Are the Air BnB operators paying their fair share of income tax, employee benefits, insurances, etc.? I believe the ATO has recently announced that they feel they have lost billions in uncollected tax from the “shared-economy”. Is it then fair that legitimate operators like us do the right thing and pay our way, yet are subjected to what can only be considered as discrimination by the WA Govt by its continued refusal (or perhaps slow-as-molasses approach) to rectifying a major negative impact to our industry).

I have been informed numerous times by potential guests that they can find cheaper accommodation on Air BnB, etc., even though my room rates have dropped considerably after 2016 (and without any blatant price-gouging like that carried out by other hoteliers, mainly in the CBD).

I am also aware that there have been numerous stories in the WA and other States’ media about the shortage of accommodation in Perth during the mining boom. In fact that has been “fake news” as the so-called shortage was only really on some days of the year. The majority of dates in any year showed available accommodation (in legitimate short-term accommodation providers).

Unlike numerous properties in the CBD and elsewhere which blatantly inflated their room rates during the height of the recent mining boom, we made the decision to not do so (and my statement can be proven via my records if anyone wishes to examine them). Now, I face a double-whammy with the decline in the economy and decline in tourism growth, combined with competition from illegal operators.

I am aware that the Australian Hotels Association (AHA) has been actively involved in trying to bring about a level playing field for all and that the AHA has a Five Point Plan to combat Air BnB and similar.

Whilst I generally agree with the AHA’s 5 PP, I believe the Govt needs to also include a restriction on maximum number of nights that these “quasi-hotels” are allowed to “share” their properties. I believe the following additional items must be included:

- In addition to the host’s primary residence being listed for sharing (as per the AHA), the host must be in residence (ie, no whole-home or whole-property rentals allowed, as in that case the hosts aren’t “sharing” are they?)
- And, if the Govt deems that whole properties are allowed, then they must only be occupied for a maximum of 28 nights per year (with compliance confirmation available via the Air BnB or other websites’ data being made available). Naturally whole-house instances must still comply with all local laws, including zoning, employment, taxation, insurances, etc.

I had a brief conversation with then-Premier Colin Barnett (approx. Oct/Nov 2016) about Air BnB, and was assured by him that his Govt was taking steps to fix the issue effecting so many of us in the accommodation industry.

Of course, we are all aware that the Liberal Govt of the day did nothing constructive about the matter.

Can we dare hope that the current Labor Govt has the courage to take definite steps to ensure our survival?

My wife and I, as partners in our small (now even smaller) business, are only too happy to assist the Govt in any way we can to level the playing field in the Accommodation Industry.

Warm regards,

**Sunny Sardana**

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