Milton Keynes Council v Skyline Taxis and Private Hire Ltd and Gavin Sokhi

Judgement on 25 May, 2017 at High Wycombe Magistrates' Court

Parties in case

1. Ms Clover appeared to represent the prosecutor, Milton Keynes Council. Mr Sokhi was presented represented by Mr Oscroft. Skyline was represented by Mr Leigh. At the end of the prosecution case the defendants made submissions of no case to answer and this is my ruling on those submissions responded to by the prosecution.

Evidence before me

2. I heard live evidence from Alan Broomfield, Senior Enforcement Officer at MKC. I read agreed s9 statements provided by the prosecution, namely statements from a Mr Sutcliffe, a Mr Muhammad Sabeel and a Mr Simon Platts. I also considered a joint prosecution and defence bundles of exhibits. I was provided with a supplementary defence documentation bundle which contained s9 statements not accepted by the prosecution and various exhibits some of which were put to Mr Broomfield.

What led to the prosecutions

3. On 3 April, 2016 a Mr Platts phoned Skyline Taxis for a taxi to take him on 4 April, 2016 from his home to Milton Keynes Central Railway Station by ringing Skyline Taxis' Milton Keynes telephone number. Skyline Taxis has a private hire vehicle operator's licence granted by Milton Keynes Council (MKC). As set out below this allows Skyline to dispatch a driver and vehicle who are also licensed by MKC. Mr Platt spoke to an automated computer system (referred to as IVR or computer voice recognition system) which assigned him a driver and a pick up time. The taxi was late and he complained to Milton Keynes Council (MKC). When MKC investigated they found that the taxi driver, Mr Sabeel was a private taxi driver employed by a separate Skyline Taxi company with an operator's licence granted by South Northamptonshire County Council (SNCC). Skyline Taxis (albeit with a separate corporate identity) are also authorised to act in South Northamptonshire via an operator's licence. After investigation MKC decided that this contravened s46(1)(e)(i) of the Local Government (Miscellaneous Provisions) Act 1976 because there was no licence to cover that private hire vehicle or that driver. MKC then issued summons against Skyline Taxis and its directors issuing summonses against various manifestations of Skyline Taxis in terms of company names. Various summonses were then withdrawn leaving only those relating to Skyline Taxis and Mr Sokhi.

Agreed facts and evidence

4. The following facts and evidence are agreed:

   1. Skyline Taxis are licensed by SNCC under s55 LG(MP)A 1976 to act an operator of private hire vehicles with an operator's licence running from August, 2015 to August, 2018. Mr Sabeel and the vehicle MA60 WGK are licensed under ss51 and 48 of the Act by SNCC covering the date of the alleged offences.

2. Skyline Taxis are separately licensed by MKC under s55 LG(MP)A 1976 under an operator's licence which for the purposes of this case ran from September, 2015 to August, 2016

3. Mr Platts phoned for a taxi via a Milton Keynes number as already outlined and spoke to the computer system and it was Mr Sabeel in vehicle MA60 WGK who was assigned and picked him up and transported him albeit late.

4. Skyline taxis is a large company operating taxis and taxi drivers over a large area that crosses many local authority boundaries and having been doing so without for many years without any prosecutions being brought by MKC or SNCC.

5. As a result of proposed deregulation Skyline Taxis investigated and then installed a cloud based computer system to take over the booking of taxis using a system called iCabbi. It is accepted that this is a system adopted and installed by many taxi companies and has been in use without any apparent difficulty since deregulation in October, 2015. It is agreed that there was correspondence between Skyline and MKC whereby Skyline gave advance indication to MKC that it was introducing the iCabbi system and seeking the approval of MKC. This included an invitation to an opening ceremony for a new Skyline call centre in August, 2015. This demonstrated a responsible attitude by the defendants.

6. It is accepted that the iCabbi system can take bookings from customers without any human intervention and then assign the nearest available driver again without human intervention to fulfil the booking. The cloud based system limits the need for any operator's office to have anything other than a computer that can access the cloud based system since all that is required is a computer gateway to the cloud. The cloud based system can be based anywhere including outside the UK.

7. It is accepted that the iCabbi system records important details such as those of the customer, the journey, the private hire driver's details and those of the private hire vehicle and details of the private hire operator who took the booking and the private hire operator who accepts the booking if that is a different operator.

8. It is accepted that by 6 April, 2016 Mr Broomfield, on making enquiries about Mr Platt's taxi ride, was provided with the details of the private hire driver, the private hire vehicle and of the journey and documentation at B12 (better illustrated at p76 of the defence bundle) purporting to show a transfer of the booking from Skyline MK to Skyline SN.

Deregulation of taxis

5. Private hire taxis are regulated by a statutory framework set out in the LG(MP)A 1976. Section 46 requires that private taxi operators must have an operator's licence from a local authority (granted under s55) together with the vehicle having a private hire vehicle licence (granted by the same local authority under s48) and the driver having a private hire licence (granted by the same local authority under 51). Contravention of s46 is an offence (s46(2)).

6. Before the Deregulation Act 2015 came into force private hire vehicle taxi companies had to operate in controlled districts (i.e. local authority areas) with the

operator, driver and vehicle being restricted to operating within that one area. This restricted the ability of taxi companies to work across borders.

7. The Deregulation Act 2015 has an introductory text: An Act to make provision for the reduction of burdens resulting from legislation for businesses or other organisations or for individuals; make provision for the repeal of legislation which no longer has practical use; make provision about the exercise of regulatory functions; and for connected purposes. For the purposes of this case the relevant parts of the 2015 Act came into force on 1 October, 2015 some 19 months ago. They allowed private hire vehicle taxi companies to operate across local authority borders in an attempt to de-regulate the administration of taxi services. Sections 55A and 55B allowed large private hire vehicle taxi firms such as Sky Line to operate across England and Wales without the old restriction of only being able to operate within a local authority area.

The trinity of requirements

8. It is agreed that there is a restriction on how the cross border system works in that the identifiable operator (i.e. the person taking the taxi booking), the private hire vehicle and the private hire driver must all still be licensed by the same local authority. This means that the operator taking the booking must assign a driver and vehicle who are authorised to act by the same local authority that licences the operator. For want of a better expression this is the 'trinity' of requirements.

9. Section 55A allows an operator (licensed under s55) taking the call to transfer the booking to another operator (in the words of s55A 'arrange for another person to provide a vehicle to carry out the booking') so that that operator can assign a driver and a vehicle authorised by the same local authority that authorises that other operator. That other person must either be licensed under s55 in the same controlled district or be licensed under s55 in respect of another controlled district and the sub-contracted booking is accepted in that district. There are provisions for London and Scotland which are not relevant.

10. Section 56(1) deems that every contract for the hire of a private hire vehicle shall be deemed to be made with the operator who accepted the booking for that vehicle whether or not he himself provided the vehicle.

The need for records

11. Section 56(2)-(4) goes on to provide for record keeping as specified by the local authority and to be produced as required. It is accepted that record keeping is important as stated in the Blue Line Taxi case in 2012 so that if anything goes wrong with a private hire driver or vehicle or passenger in such a vehicle the relevant details can be readily obtained in order to investigate what went wrong in the interests of public safety and whereby the relevant local authority can investigate and if necessary prosecute and/or revoke any licences.

The cloud based booking system

12. Skyline Taxis are part of a cloud based taxi booking system (called iCabbi) that links in a number of taxi operating companies and it is accepted many thousands of drivers. Skyline Taxis argues that when Mr Platts booked a Skyline Taxi using the MK phone number the taxi booking system (without any human input) worked out that no local taxis were available so booked the nearest available taxi which was a taxi operated and driven by Mr Sabeel with both him and his vehicle licensed by SNCC and with his operator being the SNCC Skyline company. Skyline Taxis argue that the taxi booking system automatically transferred the booking to its SN operator so preserving the trinity of requirements.

13. MKC argues that the iCabbi arrangements do not meet the trinity of requirements and that the taxi arrangements on 4 April, 2016 broke the law. It argues that the automated iCabbi system used by Skyline Taxis does not amount to arranging for another person to make the booking and does not provide the relevant paper trail and record keeping that is necessary to protect public safety. It argues that there must be a clear record chain of how a booked private hire journey has been processed and fulfilled. It argues that the word 'accepts' in s55 cannot be satisfied by an automatic reception of a booking by a cloud based computer booking system which then automatically contacts and dispatches the first available driver – in other words a computer cannot 'accept' a transfer of a booking for the purposes of s55A. It referred to there having to be a MK based system to request the transfer and a separate SN based system to accept the transfer and then arrange the driver and vehicle.

14. Skyline Taxis argues that to agree with MKC ignores modern technology and in particular the iCabbi cloud based system (the taxi booking system many taxi companies and drivers use) and frustrates the purpose of the Deregulation Act 2015 in deregulating taxi services to allow cross border arrangements as set up by Skyline Taxis and other large scale taxi operators.

Does the cloud based system comply with the law?

15. There is no authority directly on this point. In the Wilson case the High Court applied a common sense approach as to who accepted a telephone booking. All I can derive from that case is that I can apply a similar common sense view in this case.

16. I take into account that the iCabbi tool utilises cloud dispatch software and has been provided to many clients involving thousands of drivers and is specially configured for private hire vehicle taxi companies. I assume it has been designed to meet the legal requirements for private hire vehicles but I note that individual clients have to configure the system themselves to ensure legal compliance. I was not made aware of any concerns or other prosecutions raised elsewhere in England and Wales about this software which has been available and in use for some years and in the case of Skyline since 2014. I heard evidence from Mr Broomfield that he was not aware of other local authorities and in particular SNCC having the same concerns as MKC has.

17. In my judgement I should construe statues in the context of modern technology and assume that Parliament has taken into account modern technology unless the clear language of the statute or statutory instrument precludes this.

18. I take account that in much of modern life arrangements and binding contracts are now made by customers using modern technology without any human intervention using digital and cloud based booking systems. For example I can arrange my car insurance on line without ever speaking to a human being and print out a valid and binding insurance certificate. The insurance company accepts the information and payment I offer and I accept the insurance contract and certificate thereby provided.

19. In relation to statutes that create criminal offences with criminal sanctions I should resolve reasonable doubts as to construction in favour of the defendant, namely if there are two possible meanings to a word or phrase I should adopt the more lenient meaning as far as the defendant is concerned.

20. Applying what I consider to be a common sense approach I find that the iCabbi system does comply with the law because:
- I assume that Parliament intended in the Deregulation Act to enable large companies to operate across local authority bodies using modern technology albeit with the trinity of requirements still in place
- iCabbi is a system in common used specifically designed for taxi firms and has been in widespread use for some years without prior complaint or prosecution that I am aware of
- I therefore make a reasonable assumption that the system has been designed to be legally compliant a view fortified by there being no evidence that any other local authority has found fault with the system in England and Wales in the last 19 months since deregulation has applied including SN who are aware of this case and its facts.
- I am satisfied that on the evidence before me in the form of the reports in B12 and p76 iCabbi provides specifically for a transfer of booking system in recognition of the trinity of requirements which remains in place after deregulation (in the format shown at B12 and better illustrated at p76 of the defence bundle).
- I appreciate that there was some doubt as to whether the better laid out complete booking transfer report at the bottom of p76 was available when Mr Broomfield asked for documentary proof of the transfer but I find that it contains the same information as in the table in the top of p76 but laid out in a better and more comprehensible way.
- I construe the words 'booking is accepted' in s55A and 'accepted' in s55B and 'accepted the booking' in s56 as including an automated acceptance via an cloud system which does not require human intervention in accordance with the way in which so much modern technology now works. In my judgement there is no need for a human being to answer a phone or provide some kind of written acceptance (e.g. by e-mail on a computer) for one private hire vehicle operator licensed in one local authority area to accept a transferred booking from another private hire vehicle operator licensed in another local authority area. I do not construe the word 'accepted' so narrowly that once a customer makes a phone call only the office to which that phone call is made 'accepts' the booking and that that booking cannot be automatically transferred to someone else (individual or company)
- I can find no requirement in the legislation that each private taxi vehicle operator needs to have separate and identifiable computer systems to take bookings, transfer bookings and accept transferred bookings and that a cloud

based system to which a number of different operators have access does not meet the legal requirements in the 1976 Act

- I am satisfied that should a customer make a booking with one firm licensed with one local authority which is transferred to another firm licensed by another local authority and something untoward occurs (e.g. the customer is assaulted by the taxi driver) the iCabbi system provides reports which show the transfer and provided the relevant details so that any untoward incident can be properly investigated by the relevant local authority

- I therefore find that when Mr Platts booked his taxi the iCabbi cloud system discovered that there was no driver available from the Skyline MK operator the system automatically transferred the booking to the Skyline SN operator so that a driver and vehicle licensed by SN could be dispatched to fulfil that booking

- I also find that a proper record of this transfer in B12 (also at the top of B76) was created by the iCabbi system which was made available to MKC and which met any concerns about record keeping and the need to properly investigate any untoward incident involving the customer and the private hire driver and/or private hire vehicle and making it clear which local authority was responsible for licensing the operator, driver and vehicle and investigating any untoward incident. In my judgement this satisfies the important public safety requirements which underpin the need to keep proper records.

- I also find that the lay out of B12 does not inevitably show that Mr Sobeel was booked by Skyline MK and then the booking transferred and that everything happened in the wrong and unlawful order. B12 can equally be construed as showing that the system identified Mr Sobeel as the best available driver, transferred the booking from Skyline K to Skyline SN and then assigned Mr Sobeel. The bottom version of the report on p76 makes this latter construction much more likely and better illustrates the correct sequential arrangements for making and accepting of transferred bookings.

I therefore do not find that any reasonable court could convict on the prosecution evidence and find no case to answer and the offences are dismissed. If I am wrong about finding no case I would then have dismissed the cases because I have more than reasonable doubts that the cloud system breaches any laws. There is no evidence in my judgement that the transfer did not lawfully happen and sufficient evidence that it did. I am particularly reassured by the format of the transfer report at the bottom of p76 which if not available at the time these offences were investigated in my judgement now clearly shows that the cloud based system complies with the law.

Malcolm Dodds
District Judge
25 May, 2017