

**ACT DEPARTMENT OF URBAN SERVICES**

**FINAL REPORT**

**NATIONAL COMPETITION POLICY REVIEW OF  
ACT TAXI AND HIRE CAR LEGISLATION**

**March 2000**

**FRG  
FREEHILLS REGULATORY GROUP**



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## Executive Summary

Through a process of competitive tendering, the ACT Government appointed Freehills Regulatory Group to undertake the National Competition Policy (NCP) review of the taxi and hire car legislation (the review). The review covers Part III of the *Motor Traffic Act 1936* (MTA), the *Taxi and Hire Car Regulations* (Regulations) and the related administrative processes of, and subordinate instruments arising out of, this legislation.

The focus of the review was to assess the extent to which the legislation restricts competition and to recommend more efficient ways of achieving the legislative objectives in order to improve the outcome for the ACT community.

The review was public and submissions were invited. An Issues Paper was prepared to assist those wishing to make submissions and written and verbal submissions were received. A Steering Committee was set up to oversee the review, consisting of executive representatives from the Department of Urban Services (DUS) and the Chief Minister's Department. A draft report was prepared which was commented on by the Steering Committee. The views expressed in the final report are those of the reviewer and not those of the Steering Committee, the ACT Government or any ACT Government agency.

The review found that the principal market affected, the small commercial passenger vehicle (SCPV) transport market, appears to be segmented according to the two main modes of hiring a vehicle, by pre-booking a vehicle on the one hand and by hailing a vehicle from the street or at a rank on the other. These market segments are referred to as pre-booked SCPV services and cruising (ranking and plying for hire) SCPV services.

The legislation restricts competition in these market segments in a number of ways. The principal competitive restrictions are in the areas of constraints on supply of licences and fare regulation.

The taxi booking/network services market was also examined. The review considers that the legislation may contribute to Aerial Taxi Cabs Co-operative Society Limited's (Aerial) monopoly in this market.

Of greatest impact are the constraints on supply. The review found that the licence quota restrictions do not address legislative objectives and impose substantial costs on consumers and potentially on other participants in the industry such as drivers.

The analysis undertaken indicated that by creating transferable perpetual licences and concomitantly restricting the supply of licences, the legislation imposes a net cost on the community known as a deadweight loss. The provisions also create a transfer of wealth from consumers to licence owners and lessees. This deadweight loss and consumer to producer transfer are primarily attributable to licence quota constraints, which:

- inflate the value of licences;
- reduce potential total hirings; and
- raise fare levels.

The deadweight loss in respect of taxi licence quota constraints is estimated to be approximately \$407,000 per annum and the resultant transfer of wealth from consumers to taxi licence owners is estimated at around \$5.6 million per annum. The deadweight loss attributable to hire car

licence quota restrictions is estimated to be approximately \$55,000 per annum and the transfer of wealth from consumers to hire car licence owners to be approximately \$286,000 per annum.

The regulations which directly address driver, operator and vehicle standards are generally considered to have significant benefits in the form of higher consumer, driver and public safety and in improved quality of service.

Regulation of maximum taxi fares achieves important consumer protection objectives in the context of supply restrictions. However, the review found that in markets with relaxed supply controls and greater entry, a regime of fare approval is less restrictive. If maximum fare regulation is maintained, it is recommended the fare methodology should be examined to establish more efficient pricing.

The review found that the regulations further restrict competition by creating several licence categories with a range of conditions and constraints. A distinction between pre-booked services and cruising SCPV services was found to be warranted. However, some of the additional licence categories, such as restricted hire vehicle licences, were considered to impose net costs on the community.

There is often a range of approaches to achieving improved outcomes for the community. Accordingly, in respect of licence quota constraints, the review puts forward several options for consideration by Government. All licence quota reform options should be viewed in light of the other reforms recommended. These options include:

- Option A: removal of taxi and hire car licence quota restrictions;
- Option B: removal of hire car licence quota restrictions with a phased increase in taxi licences;
- Option C: removal of hire car licence quota restrictions with no reform to current taxi licence numbers;
- Option D: phased increase in taxi and hire car licences; and
- Option E: introduction of an additional category of licences to operate during peak times only.

The options have different implications for the issue of compensation. For instance, an immediate removal of all quota restrictions will create a strong case for compensation of the loss of the licence value. Under this option a government buy-back of the existing licences may be an appropriate mechanism by which to compensate licence owners. Based on an estimated taxi licence value of \$260,000 and an estimated hire car licence value of \$120,000, the amount of compensation deemed appropriate to pay, or the cost of the buy-back, could be approximately \$56 million for the 217 taxi licences and \$2.64 million for the 22 hire car licences. On the other hand, a transitional or incremental approach to reform is likely to reduce some of the imperatives for monetary compensation by allowing industry time to adjust to the conditions of a more open market.

Where compensation has been paid in other jurisdictions, there have been several approaches to funding its cost. For instance, additional licence fees could be levied over a limited number of years to recoup compensation costs. This approach would impose additional costs on SCPV consumers, who have already borne a large cost of the regulations. Compensation may also be funded from consolidated revenue, though the opportunity cost of these monies will be a significant factor influencing this policy. Should compensation be funded from tax revenues, a



standard efficient taxation policy should be followed in order to reduce the deadweight loss of taxation. The review found that there are few definitive rules relating to compensation in the context of industry reform and that governments tend to approach compensation issues on a case by case basis.

Generally, reform of taxi and hire car regulations has been approached differently in many jurisdictions with divergent results. Thus it is difficult to say unequivocally which approach will maximise community benefits. However, based on considered analysis, persuasive argument from available literature, and prior experience of several other jurisdictions, Option A is considered to be the preferred approach to licence quota reform. This option is likely to lead to the highest community benefits, at least in the short and medium term, in the form of some or all of the following:

- a decrease in average fares;
- a decrease in average waiting times for consumers;
- an increase in the quantity of SCPV services demanded;
- a greater variety of services likely to be offered;
- an increase in driver and operator employment opportunities as the industry expands; and
- a reduction in the regressive impact of the current arrangements.

However the options involve various trade-offs as between each other. For instance, Option B is unlikely to realise the full potential community benefits as quickly as under Option A, but it will give the industry greater time over which to adjust to the new environment. Figure 1 below broadly represents the comparative advantages and disadvantages of the licence quota reform options proposed.

**Figure 1: Comparative overview of licence quota reform options**

Options*	Highest consumer benefits	Highest potential compensation required	Greatest industry adjustment required	Most suitable to other recommended reforms	Options
A					A
B					B
C					C
D					D
E					E
Status Quo					Status Quo
	Lowest consumer benefits	Lowest potential compensation required	Least industry adjustment required	Least suitable to other recommended reforms	

\* It is unclear whether Option C or D would produce higher net benefits in the short to medium term, though Option D is likely to achieve higher net benefits in the long term.

In addition to reform of licence numbers, it was found that the Government's power to require a taxi network communications provider to obtain a Taxi Network Contract, or to meet taxi network accreditation, should be expressly provided for in the legislation. The principal network contract/accreditation requirements should include 24-hour 7-day a week booking services, complaints handling procedures, public liability insurance coverage and, at least during the first years of reform, a minimum of approximately 15 taxis per network. For non-dominant networks,

minimum response time standards should be removed or sufficiently reduced to facilitate new entry at the network level.

In order to provide an opportunity for an important source of competition to the Aerial network to emerge, consideration should be given to proposals, such as that put by Queanbeyan Taxi Co-operative Limited (Queanbeyan Taxis), to establish a new taxi network communications service in the ACT.

The recommendations put forward for consideration by the Government are summarised in Table 1 below.

**Table 1: Summary recommendations**

Para	Matter	Recommendations
4.7	Quota restrictions	The review team recommends that licence supply constraints be removed, or loosened through transitional adjustments, noting that the review team has a preference for removal of supply constraints as per Option A as detailed in the report. The review team recommends that should transitional adjustments to licence supply constraints be pursued by the ACT Government, a further review be conducted within 5 years.
5.2.1	Licence categories	The review team recommends that the number of licence categories should be limited to three: SCPV (taxi) licences for operators in the cruising and pre-booked market segments; SCPV (hire vehicle) licences for SCPV operators in the pre-booked market segments only; SCPV (WAT) licences for wheelchair accessible licences.
5.2.2	Wheelchair accessible licences	The review team recommends that the regulator should retain the power to set a minimum level of supply of WAT licences governed by minimum response times equivalent to standard taxis and that direct or explicit subsidies will need to be given to WAT licence holders/operators or consumers to achieve these levels of supply.
5.2.3	Issuing licences	The review team recommends that the role of the regulator in attempting to balance supply and demand should be removed and the regulator should issue licences on demand subject to the applicant satisfying the appropriate licence holder and operator accreditation provisions, vehicle safety requirements, and payment of an appropriately costed annual licence fee.
5.2.4	Licence fees	The review team recommends that licence fees should be set at full cost recovery to ensure proper administration and enforcement of the legislation.
5.2.5	Licence term and transferability	The review team recommends that licences should be issued for limited periods, such as for one, two or three year terms and should not be transferable, noting that if controls on supply of licences remain, licences should remain transferable subject to the appropriate transfer eligibility requirements.
5.2.6	Reserve Price	The review team recommends repeal of the provisions establishing a reserve price for taxi licence defined rights and the legislated payment of \$60,000 for hire car licences.
5.2.7	Limits on ownership	The review team recommends that the limitations on the number of taxi and hire car licences that a person may own, currently set at two, should be removed along with the prohibition on cross-ownership between taxi licences and hire car licences.
5.2.8	Seating capacity	The review team recommends that licences stipulate the seating capacity in accordance with the seatbelt laws contained within the Australian Design Rules. The review team recommends that the definition of "motor-omnibus" be amended to apply to vehicles carrying 9 or more passengers as opposed to the current definition of 6 or more.
5.2.9	Service constraints	The review team recommends that constraints on the permissible purpose of the SCPV transport provided, or similarly related service constraints, should be removed by merging RHV licences and hire car licences into one new licence category - SCPV (hire vehicle) licences - and permitting multiple hire if the initial hirer's approval is granted.
5.2.10	Constraints on mode of hiring	The review team recommends that constraints on the mode of hiring be retained so that SCPV (taxis) are allowed to operate in the cruising and pre-booked market segments and SCPV (hire vehicles) are restricted to operating in the pre-booked market segment only. SCPV (taxi) licences should require the vehicle to have appropriate external identification and metering requirements and to be affiliated with a contracted/accredited network.
5.2.11	Airport rank	The review team recommends that during the airport's redevelopment, there should be ongoing consultation between the Airport, ACT and Queanbeyan taxi and hire car companies and the Government on the approach to ranking at the airport, taking into account the objectives of NCP and the other recommendations of this review.
5.3	Leasing	The review team recommends that while market values of licences remain high, leasing should be permitted in order to facilitate entry to operators or drivers who cannot afford the high capital costs.

6.5	Fare regulation	<p>The review team recommends that accredited taxi networks should be subject to a fare approval regime, through which the regulator approves fares on a reasonable cost-recovery basis. SCPV (taxis) should still be required to post their approved fares inside the vehicle and to maintain taximeters and should not be prohibited from posting fares on the outside of the vehicle. Accredited taxi networks should be required to advertise their approved fare in a local paper. The review team recommends that in order to protect against price exploitation, the current maximum fare should remain the maximum until adequate new entry has occurred, with amendments to the current methodology to achieve more efficient pricing.</p> <p>The review team recommends that SCPV (hire vehicles) should not be subject to fare approval regulation, except possibly at the airport rank. Accordingly, during the initial years of open entry, consideration should be given to limiting the classes of vehicle permitted to be used under the SCPV (hire vehicle) licence.</p>
7.5	Vehicle standards	<p>The review team recommends that industry consultation should be pursued to assess the case for requiring additional driver protection features in vehicles, such as security cameras and/or other driver safety requirements.</p> <p>The review team recommends retaining existing taximeter requirements for SCPV (taxis) with greater flexibility for "approved" fare structures to be registered.</p> <p>The review team recommends that the vehicle age restrictions could be reduced or removed and replaced with requirements to have all licensed vehicles tested periodically, every six months or annually, to ensure that the relevant roadworthy, safety and quality standards are met.</p>
8.1	Licence holder and operator accreditation	<p>The review team recommends that the operator and licence-holder accreditation requirements should be retained and that the power of the Registrar to establish and amend a regime of operator and licence-holder accreditation should be expressly clarified in the legislation.</p>
9.6	Driver Authorisation	<p>The review team recommends that the legislation should be amended to clarify the powers of the Registrar to impose driver authorisation provisions and that the driver authorisation requirements should be made more rigorous in some respects, such as mandatory training and stricter assessment. The review team recommends that consideration could also be given to requiring drivers of SCPV (hire vehicles) to undertake mandatory training or at least to pass a driver's assessment. The review team recommends that mutual recognition should be established between ACT and Queanbeyan authorised drivers.</p>
10.6	Driver conduct	<p>The review team recommends that as entry at the accredited taxi network level increases, consumers should be made more aware of their right to choose any vehicle on the rank so as to facilitate effective competition at the rank. The review team recommends that the right to refuse hirings between the ACT and Queanbeyan should be removed.</p>
11.6	Taxi network contracts	<p>The review team recommends that the regulator's power to require a taxi network communications provider to obtain a taxi network contract or taxi network accreditation should be expressly provided for in the legislation. The review team recommends that the principal network contract requirements should include 24-hour 7-day a week booking services, complaints handling procedures, a vehicle safety and maintenance program, public liability insurance coverage, and at least during the first years of reform a minimum of 15 taxis per network. In order to facilitate entry, response time standards should be amended for non-dominant networks. Proposals to establish additional networks, such as Queanbeyan Taxi's, should be adopted if the contract/accreditation requirements are met.</p>
12	Cross-border issues	<p>The review team recommends that DUS and the NSW DoT should enter discussions with a view to establishing a single regime of taxi and hire vehicle regulations for the region. The review team recommends that, consistent with IPART's recommendations that the regulation of NSW regional taxi sectors be devolved to local councils, the ACT legislation should be regarded as the preferred governing legislation.</p>

The recommendations envisage a regulatory regime exhibiting the principal features and impacts of reform as set out in Table 2 below. The table does not include the impact of any compensation that is deemed appropriate to pay, the funding cost of which may fall on a broad sector of the community such as taxpayers or a narrower sector such as SCPV consumers.

**Table 2: Overview of preferred regulatory regime**

<b>Licence/participant</b>	<b>Principal features of proposed regime</b>	<b>Principal impact of reform</b>
SCPV (taxi) licences (Option A)	No quotas Pre-booked, rank and hail hirings Fare approval regulation Posting of fares and taximeter Network affiliation Annual licences	Greater competition amongst taxis
SCPV (hire vehicles) licences (Option A)	No quotas Pre-booked only (except airport rank and possible others) Annual licences In short term, constraints on types of vehicles as determined by regulator	Greater competition amongst hire vehicles Restricted hire vehicles compete with hire cars and allowed to service all purposes and events
SCPV (WAT) licences	Minimum prescribed level/number of licences Explicit subsidy given to network/operators/consumers to ensure appropriate supply is achieved	Greater competition amongst WATs Improved service provision to WAT consumers Transparent subsidies
Licence-holder	Licence-holder accreditation	Taxi and hire-vehicle licence holders lose licence value and will have a strong case for compensation Net impact on licence-holders from "open-entry" could be significant
Operators	Operator accreditation	Greater competition Net impact on operation unclear Increased employment opportunities
Drivers	More stringent driver authorisation eg. greater training requirements	Higher entry barriers leads to improved earnings Increased employment opportunities
Taxi booking networks/companies	Network contract/accreditation 24-hour 7-day booking service Fare approval regulation Advertising of approved fares Complaints handling Co-regulatory role eg. safety inspections Lower response time standards for non-dominant networks	Increased opportunities to enter market Greater competition
Regulator	Co-regulatory role Increased enforcement Streamlined/transparent regulation IPARC to approve fares as reasonable	Increased administrative costs, but should be fully recouped from licence fees Improved administration and enforcement of legislation
Consumers	Can expect high standards of safety, appropriate quality and a universal service	Greater choice of service and price mixes Lower average SCPV fares Shorter average waiting times

## 1. Introduction

### 1.1 Overview of National Competition Legislation Reviews

The Australian Capital Territory (ACT) is a party to the *Competition Principles Agreement* (CPA) which was signed in 1995 by the Council of Australian Governments. The CPA is one of three agreements to give effect to National Competition Policy (NCP). Under the CPA, the Australian Governments agreed to adopt the guiding legislative principle that:

*legislation (including Acts, enactments, Ordinances or regulations) should not restrict competition unless it can be demonstrated that:*

- *the benefits of the restriction to the community as a whole outweigh the costs; and*
- *the objectives of the legislation can only be achieved by restricting competition.*<sup>1</sup>

Under the CPA, each jurisdiction is free to determine its own agenda for reform. The ACT Government) has agreed to review and, where necessary, reform all existing legislative restrictions on competition against this principle consistent with public benefit considerations. As part of this process, the Minister for Urban Services has commissioned the NCP Review of the legislation governing the ACT taxi and hire car industries including relevant aspects of the:

- *Motor Traffic Act 1936;*
- *Taxi and Hire Car Regulations; and*
- *related administrative processes of, and subordinate instruments arising out of, the above legislation.*

In short, the review examines the legislation to assess whether it restricts competition in relevant markets, and if so, whether it is in the community's best interests to do so.

#### 1.1.1 Review process

The review has adhered to the principles set out in the CPA by performing the following tasks:

1. Clarifying the objectives of the legislation.
2. Identifying the nature of the restriction on competition.
3. Analysing the likely effects of the restriction on competition, and its effects on the economy generally.
4. Assessing and balancing the costs and benefits of the restriction.
5. Considering alternative means for achieving the objectives including non-legislative approaches.
6. Making recommendations.

The terms of reference required the reviewer to be independent from the government department and from the industry under review. The review was public and submissions were invited by advertisement. An Issues Paper was prepared to assist those wishing to make submissions, and written and verbal submissions were taken. A Steering Committee was set up to oversee the

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<sup>1</sup> *Competition Principles Agreement*, Clause 5(1).

review, consisting of executive representatives from the Department of Urban Services (DUS) and from the Department of Treasury and Infrastructure.

The terms of reference are set out in Annexure A.

### **1.1.2 The value of competition**

Unrestricted competition in perfectly competitive markets that have full information, even-handed bargaining and an absence of external effects, is generally regarded as an efficient method of allocating resources. Competitive markets generally deliver greater choice and benefits to consumers. Vigorous competition between service providers encourages them to attract consumers to their business with improved service provision and/or reduced prices.

More efficient markets are likely to result in:

- better allocation of the levels of resources to the industry in producing services for consumers;
- lower prices to consumers due to greater efficiency in production; and
- a wider range of services and choices offered to consumers due to greater innovation.

The conditions necessary to foster a competitive environment are not always present. Accordingly, unregulated markets do not always provide the best possible economic and social outcome, often with the result that regulatory intervention is required.

The NCP review process is designed to ensure that the community benefits from open and competitive markets wherever possible and that Governments should only intervene when the public benefits of intervention outweigh the costs.

### **1.1.3 Rationale for regulation**

When markets do not operate efficiently, there is said to be a market failure. The most common sources of market failure include the following:

- public goods;
- externalities;
- abuse of market power;
- information asymmetries; and
- transaction costs.

These market failures generally provide the main rationale for government intervention in a market economy. In addition, Governments often intervene in markets in order to achieve certain other social goals, besides economic efficiency, that are not achieved by the ordinary market mechanisms.

Accordingly, the early stages of the legislative review process involve understanding:

- the legislative objectives;
- what market failures they seek to address; and
- what other social goals, if any, they aim to achieve.

Annexure B provides a brief outline of the main sources of market failures and other social objectives often justifying regulatory intervention.

#### 1.1.4 Competition in a market

To determine the restrictions on competition resulting from the legislation, it is necessary to identify, assess and articulate the markets affected by the legislation.

A market is, broadly speaking, an arrangement in which units of a product or service are voluntarily exchanged between buyers and sellers. Effective competition in a market requires that prices should be flexible in terms of reflecting the forces of both demand and supply. It also requires that there should be independent rivalry in respect of the product's or service's price, technology, quality and consistency.

Markets have product, geographic, functional and temporal dimensions. A market has been defined as embracing:

*... the area of close competition between firms or... the field of rivalry between them... Within the bounds of a market there is substitution - substitution between one product and another, and between one source of supply and another, in response to changing prices. So a market is the field of actual and potential transactions between buyers and sellers amongst whom there can be strong competition, at least in the long run, if given a sufficient price incentive.<sup>2</sup>*

The first step in identifying the market, therefore, is to assess what product or service is involved. The ambit of the market will then be determined by identifying those participants between whom there is an area of close rivalry.

Having defined the relevant product market, we must consider the functional element of the market.<sup>3</sup> It is also necessary to consider the geographic area within which firms compete<sup>4</sup> and the period over which they effectively compete. The geographic element of the service market is determined by asking where the buyers and sellers are located and in what area the transactions do or could take place.

The temporal dimension of the market is generally determined by the period over which new products and firms can enter or leave the market in the event of price rises or falls. For instance, the time taken for a potential competitor to establish operations as a provider of taxi services gives a measure of the temporal dimension of the market.

The structure of a market is characterised by factors including the number and size of competitors, the barriers to entry into the market and the ability for different products to be substituted. The ease of entry by potential competitors establishes the likely market concentration over time.

The theory of contestability states that effective competition does not simply depend on the number of firms already operating in a market. Rather the threat of new participants entering the market also regulates competitive conduct. Accordingly, the presence of barriers to entry and the

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<sup>2</sup> Trade Practices Tribunal, *QCMA*, 1976.

<sup>3</sup> This could be determined by asking whether there is a significant sphere of influence as between two or more functional stages of a production and/or distribution sequence, such that it is impossible adequately to explain the competitive process at one stage without knowledge of the role or influence of individual firms who also operate at adjacent or other stages. Per Smith, R and Norman, N.R., (1996), "Functional Market Definition", pp. 1-4.

<sup>4</sup> *Queensland Wire Industries Pty Ltd v The Broken Hill Pty Co Ltd* (1989) ATPR para 40-925 at p. 50,008.



ease of entry are critical to an understanding of the level of competition in the market and the way in which the legislation affects competition.

Annexure C provides a detailed discussion of the nature of the markets affected by the legislation.

### **1.1.5 Restrictions on competition**

As mentioned earlier, the guiding NCP principle is that legislation should not restrict competition unless the benefits outweigh the costs, and the objectives of the legislation can only be achieved by that restriction.

Accordingly, where restrictions on competition do not address the legislative objectives, then generally they should be reformed. Where the restrictions do address the legislative objectives, then it is nevertheless necessary to undertake a cost-benefit analysis and a consideration of potential alternative mechanisms by which to address those objectives.

The restrictions generally imposed by taxi regulations include:

- licence requirements;
- restrictions on the number of licences;
- entry eligibility criteria;
- fare regulation; and
- conduct constraints.

Additional issues which need to be considered in the context of the ACT taxi and hire car industry include:

- different licence types and conditions for taxis, hire cars, restricted hire cars and motoromnibus;
- the monopoly held by Aerial over booking and dispatch services;
- taxi and hire car operator and licence-holder accreditation and driver authorisation standards, and
- different licence regimes for ACT taxis and for Queanbeyan taxis.

Chapters 4 to 12 discuss the restrictions on competition imposed by the taxi and hire car legislation.

### **1.1.6 Cost benefit analysis**

Having identified a restriction on competition imposed by the regulations, it is necessary to assess the costs and benefits to the community from the restrictive provision.

Regulatory intervention must be assessed for the costs it imposes by way of:

- costs associated with administration, compliance and enforcement; and
- costs associated with any detrimental effects of regulation on competition and hence on economic efficiency.

Benefits to the public result from, amongst other things, protection against risks such as:

- risks to health and safety;
- financial risks;

- risks arising from lack of adequate information; and
- risks of dishonest or inappropriate activity.

Benefits in the context of the taxi and hire car legislation generally arise in the form of improved standards of taxi and hire car services, higher levels of public safety and protection of the public through the point of entry requirements for operators and price and conduct controls.

The types of costs and benefits which may be taken into account are not limited. For instance, the level of employment in an affected sector, such as amongst taxi drivers, and the level of wages and earnings are relevant considerations.

Should the costs of a regulatory restriction outweigh the benefits, the relevant provisions should be reformed. If the restrictive provisions result in net benefits, they should nevertheless be assessed to determine whether there are alternatives which will provide higher net benefits.

### 1.1.7 Alternatives

Relevant alternatives to the existing regulations have been assessed to ascertain which, if any, provide the highest net benefit. These alternatives are further considered in our discussion of the restrictions on competition imposed by the legislation.

Numerous studies have examined a range of alternative forms of taxi industry regulation. Different approaches have been adopted in cities around the world. Each of the Australian States and Territories, for instance, has conducted or is conducting a review of its taxi and hire car legislation.

There are many ways in which an industry may be regulated. Some methods are more intrusive than others, and they can be distinguished by, for instance:

- the source of the controls, ie. whether they are output or input controls;
- the extent to which entry is restricted; and
- the extent to which the industry itself has regulatory roles and powers.

Less interventionist alternatives tend to reduce competitive restrictions, administrative costs and compliance costs that are levied on the community by more interventionist forms of regulation.

To assess whether alternatives will provide higher net benefits, the experience of interstate and international regimes can provide assistance. We outline some examples of reform in other cities in Appendix C.

In considering alternatives, equity considerations are as important as efficiency, as are workable solutions.

## 1.2 Outline of report

Chapter 2 provides an overview of the legislation and its objectives. Chapter 3 outlines the markets impacted by the legislation.

Chapter 4 examines the restrictions on competition arising from the taxi and hire car licence quota provisions. Chapter 5 examines the restrictions arising from the fact that there are a number of different licence categories with differing characteristics. Chapter 6 discusses the restrictions imposed by the fare regulation provisions. Chapter 7 discusses restrictions on competition imposed by the vehicle standards.

Chapter 8 discusses the operator and licence holder accreditation provisions. Chapter 9 discusses the taxi driver authorisation provisions. Chapter 10 examines the provisions constraining driver conduct. Chapter 11 discusses the network contracted requirements and related issues. Chapter 12 looks at cross-border issues.

### **1.3 Disclaimer**

Freehill Hollingdale and Page does not accept any responsibility for loss or damage to any person or property occurring from any aspect of this report, other than to the ACT DUS as per the engagement contract.

## 2. Legislative overview and objectives

### 2.1 Brief history of the Motor Traffic Act 1936

The ACT *Motor Traffic Act* (MTA) was introduced in 1936 and relates to the control of motor vehicles and the regulation of motor traffic.

However, it was not until 1956 that the legislation regulated taxis. Prior to 1956, only public hire cars operated, without metering, centralised co-ordination or radio communication. The public hire car system was abolished in May 1956 through changes to the Motor Traffic Ordinance (MTO). The owners of the public hire cars were given the opportunity to convert to taxis or private hire vehicles, and all converted to taxis. Through the changes to the MTO and the introduction of taximeters, the Government exercised control over the setting of maximum fares and regulated the number of licences available.

In 1993 the MTA was amended to reinstate sections 27A and 27B - which were inadvertently repealed by the *Motor Traffic (Amendment) Act* 1991. These provisions dealt with the auctioning of taxi licences and the limitation on the number of taxi licences that the Registrar of Motor Vehicles could grant.<sup>5</sup>

Further amendments which were made in 1993 included the introduction of a licensing regime for vehicles operating for hire or reward which did not fall within the then current taxi or private hire provisions.<sup>6</sup> The new category of public vehicles, known as special purpose public vehicles, covered taxis for the disabled, WATs and wedding cars. Previously these cars were not able to be registered and insured as public vehicles and so were not covered by third-party injury insurance. The amending Act also increased the required amount of third-party insurance for taxis and private hire cars from \$2,000 to \$5,000,000, the first increase in 25 years.

A Ministerial Statement on Taxis and Hire Cars was produced in 1996 and was to the effect that the Government intended to improve the competitiveness of the ACT taxi system, but that the industry should remain regulated.<sup>7</sup> The Minister provided that this would be achieved by defining the role of Government in regulating the taxi and hire car sector; introducing systems of plate release which respond to market signals; and ensuring that private operators have the flexibility to respond quickly to changing community demand.

It was stated that the role of Government is to monitor service delivery and to encourage industry itself to maintain the high level of quality that is expected. One of the main reasons why deregulation was rejected was that it would create difficult cross-border issues with NSW, where deregulation of the taxi industry had been rejected.<sup>8</sup>

### 2.2 Broad regulatory framework

As with most regulatory regimes governing taxis and hire cars, the ACT taxi and hire car regulatory framework involves both safety regulation and economic regulation.

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<sup>5</sup> Second Reading Speech of the *Motor Traffic (Amendment) Bill* 1993 [No 2], 1 April 1993, p. 1031.

<sup>6</sup> Second Reading Speech of the *Motor Traffic (Amendment) Bill* 1993 [No 4], 16 September 1993, p. 3161.

<sup>7</sup> Taxis and Hire Cars - Directions - Ministerial Statement, 18 April 1996, p. 1108.

<sup>8</sup> *Ibid.*

Safety regulation includes various controls over the skill and integrity of the taxi driver and the taxi operator, and taxi vehicle quality. Economic regulation includes various controls over taxi licence numbers and the setting of maximum fares.

The MTA makes provision for the issuing, variation, suspension, cancellation and assignment of taxi licences. A person is able to make an application to the Registrar of Motor Vehicles (Registrar) to obtain a taxi operator's licence. However, in the absence of a release of new licences, there must be a current licence holder who wishes to transfer the licence to the applicant.

- The Act confers Ministerial authority for the setting of reserve prices at auction, and for determining the maximum number of taxis permitted to operate in the ACT and the maximum fares chargeable for the hiring of a taxi-cab. The Act empowers the Registrar to determine the suitability of applicants, to renew and transfer licences, to specify licence conditions and to suspend, cancel or restrict licences.

The *Taxi and Private Hire Regulations* made under the Act provide for the good order of the taxi industry. The Regulations prescribe matters such as rules of conduct of drivers of taxis and hire cars, the requirements to fit and maintain taximeters, rules in relation to ranking, fares and use of signs, and rules of operation of taxis and hire cars.

The ACT Government has entered into a contract with Aerial for the conduct and delivery of taxi services in the ACT.

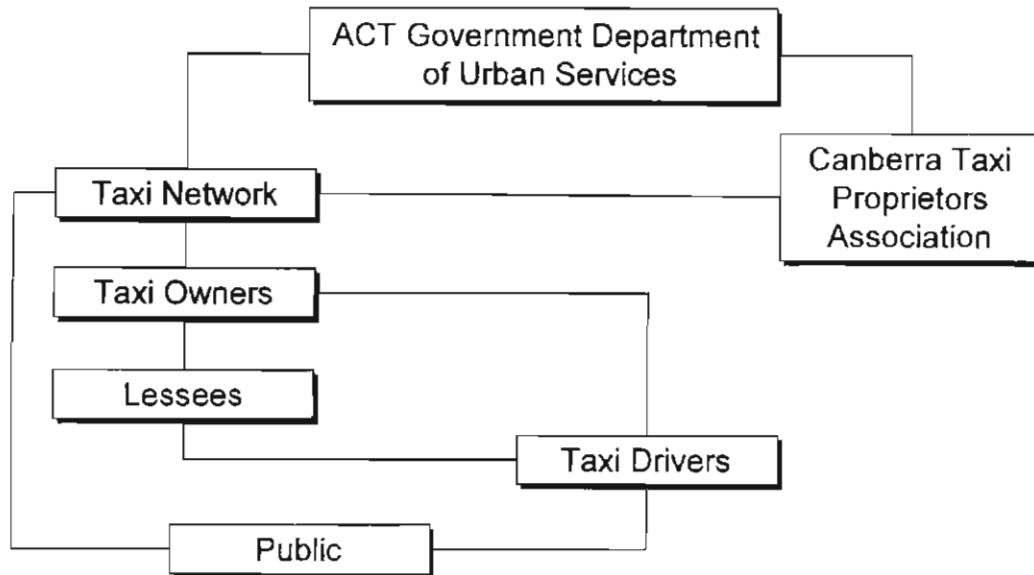
In essence this contract is a service agreement between the parties in order to:

- determine the level of taxi services to be provided to the ACT community; and
- define performance measures for the level of service provided, expressed in terms of quantity, quality and effectiveness, timeliness and cost.

Given Aerial's position in the ACT market for the provision of taxi booking and dispatch services, the Co-operative's rules, regulations, fees and administration are highly relevant to the industry. Aerial enforces the ACT Regulations via its by-laws. Aerial is also regulated by the *Co-operative Societies Act 1939* and constitutes a co-operative trading society for purposes of that Act.

Taxi and hire car operators must be accredited with the Registrar. Taxi and hire car licence holders must also be accredited with the Registrar. Drivers must be authorised by the Registrar. These requirements are set out in the *ACT Taxi Operator Accreditation and Driver Authorisation Standards*, which are issued and administered by the Registrar. These requirements are discussed further below.

The relationship between industry participants is broadly depicted in the following diagram.



### 2.3 Legislative objectives

Government intervention is generally aimed at addressing a market failure or to achieve another social objective. The general rationale for regulation is broadly outlined in Annexure B. These market failures can be grouped into public goods, externalities, transaction costs, information asymmetries and abuse of market power typically where there are economies of scale and/or scope.

More specifically, in respect of Government intervention in taxi industries, the rationale is generally one or more of the following:

- public safety - eg. protection of passengers, drivers and other road users;
- ensuring a **minimum** quality of service is met - vehicle, dispatch, owner, operator and driver standards;
- consumer protection - eg. **maximum** fares to **limit** monopoly rents;
- universal access; and/or
- public order.

There are no explicit objectives set out in the current legislation in respect of the taxi and hire car provisions. However, given the structure of the ACT regulation, we take the view that the regulation is aimed at addressing all of the above objectives.

**Public Safety:** The public safety objective of the legislation involves the protection of passengers and other road users by using, for instance, stricter controls than those which apply as part of the general road traffic laws. The public safety objective can also be inferred from those regulations which prescribe the physical safety and suitability of the vehicle, as well as driver and/or operator standards and training.

**Minimum Quality of Service:** Those regulations which relate to service quality standards aim to ensure a service that is provided at a level of quality acceptable to the community. These regulations include, for instance, uniform requirements, driver standards of conduct, customer service training requirements and vehicle standards.

**Consumer Protection:** The legislation is also aimed at preventing operators in a strong bargaining position from exploiting consumers. For example, a cab driver with a vacant cab and no other vehicle in sight has a situational monopoly and could charge more than when the consumer has a choice of cabs. Another possibility is the driver exploiting the consumer's lack of knowledge of the city by prolonging the journey or demanding a fare which is not reasonable. These objectives can be inferred from regulations such as compulsory metering and the setting of maximum fares.

**Universal Access:** The regulations prescribing maximum taxi fares, the issuing of wheelchair accessible taxi licences, as well as the requirement for the provision of a 24-hour booking service through the Taxi Network Contract, aim to grant all members of the community access to a similar level of taxi service.

**Public Order:** Public order can be seen to be an objective having regard to the possibility that price competition might result in unacceptable behaviour by drivers and customers at taxi ranks. These problems are caused in part by information asymmetries as consumers are unlikely to have full information about the cost and quality of the service in an unregulated market. A standard service and regulated fare is aimed at reducing information asymmetries and/or the conflict or negotiation process over fares which could be hazardous to consumers, drivers and other road users. The regulations may also aim to address other traffic management objectives, such as reduced traffic congestion, by specifying appropriate locations for ranks, for instance.

### 3. Market definition

To assess the impact of the legislation on competition, it is necessary to identify, and define the nature and scope of the market or markets that would exist in the absence of the legislation. In other words, it is necessary to include in the market definition those participants who would be competitors or potential entrants if the legislation was not in place.

As discussed in Chapter 1 above, when defining the relevant markets we are, in the first instance, guided by the principles of substitutability and rivalry. In addition, we take the view that the purpose for which the market is being defined can result in a broader or narrower view of the market. For instance, what may be considered two separate market segments or sub-markets in one context, could be considered to comprise one market in another context. Accordingly, we attempt a definition of the market bearing in mind the objectives and intended benefits of the legislation.<sup>9</sup>

Generally, the legislation affects the markets associated with the provision of SCPV transport services. These services typically include a range of on demand “door to door” or “pick up and drop off” road passenger transport services utilised by paying members of the general public. The SCPV sector of the road passenger transport industry is also typified by a “small” vehicle, ie. with a maximum seating capacity of between 4 and about 9 passengers, and is thus distinguishable from the bus transport sector of the industry.

We will identify the relevant markets within the following three principal service areas that are affected by the legislation:

- provision of SCPV transport services;
- provision of SCPV booking/dispatch services; and
- provision of SCPV driver services.

The above three services lie at different functional levels within the broader SCPV industry. Other sectors that may be affected by the legislation include, for example:

- broader public transport services such as ACTION buses and Comcar; and
- the ACT tourism industry.

These sectors do not need to be comprehensively defined for the purposes of this review. However, an overview of these sectors is also provided in order to understand their relevance to SCPV services and the extent to which the legislation may create costs or benefits associated with these sectors.

#### 3.1 Small commercial passenger vehicle transport services

The legislation currently recognises four categories of SCPV transport services, in accordance with the four principal licence types:

- taxi transport services (taxis);

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<sup>9</sup> As an example, though taxi services could be found to compete with bus services in some areas, a range of policy objectives currently mandates that these sectors be regulated (if at all) differently. Thus it would not be prudent for the purposes of this review to find that SCPV services and bus services fall within the same market and thus need to be treated identically.



- hire car transport services;
- restricted hire vehicle transport services (RHVs); and
- motoromnibus transport services (MOs).

We consider the two main distinguishing features of these categories as being:

- the purpose for which the services are provided and thus the type of vehicle; and
- the mode of hiring.

The purpose for which the service is provided influences the type and quality of vehicle used. For instance, consumers requiring transport for special occasions such as weddings and school formals generally seek vehicles such as Rolls Royces and Limousines. These vehicles, typically licensed as RHVs, have been said to fill a niche market that standard sedans, typically licensed as hire cars and taxis, are unable to supply.<sup>10</sup> It has also been argued that given that the capital, maintenance and running costs for luxury vehicles are higher than for standard vehicles, there is limited supply-side substitutability.

However, the submissions generally indicate that even under the existing licensing provisions, there is a degree of substitutability between the licence categories. For instance, it was submitted that hire car services compete with taxis for pre-booked hirings as well as for hirings acquired from the airport rank. Similarly, it appears that a range of RHVs compete with hire cars for a variety of luxury vehicle transport services, in addition to weddings and school formals. It was also submitted that there is competition between some MOs and hire car stretch limousines.

As a result, even if there is some market segmentation based on the purpose for which the vehicle is hired and thus the type of vehicle, there is substitution between vehicle types of a sufficient degree that a competitive restriction on one vehicle type also affects competition between other vehicle types. The correct market(s) to analyse the competitive effects of legislative restrictions should, as a result, broadly encompass all vehicle types.

For the purpose of analysing the competitive effects of legislative restrictions, there is a natural market segmentation based on the mode of hire. Market failures, such as information asymmetries, that give rise to competitive concerns, are greater in the cruising market segment than in the pre-booked market segment. However, there is clearly significant cross-elasticity of both supply and demand between these modes. For example consumers will generally have a choice of phoning for a taxi if they cannot hail a taxi, or walk to a rank. Similarly, the same taxi can operate in both of these market segments. But the differing nature of the competitive issues that arise between the cruising and pre-booked market segments means that this delineation is the most sensible way to analyse the existing restrictions.

Generally speaking, the pre-booked SCPV market segment does not suffer from the same constraints to effective competition as does the cruising market segment, for the following reasons:

- when pre-booking, consumers can seek price information from a range of companies or use a company which they know offers a price and quality combination which meets their requirements;
- pre-booked SCPV services offer a greater choice of services to customers;

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<sup>10</sup> Eg. Submission by BC Stewart, RHV Operator.

- it is easier for pre-booked SCPV service suppliers to advertise to customers as consumers plan their acquisition ahead of time;
- cruising SCPV services are generally acquired more spontaneously with less pre-planning;
- acquisition of cruising SCPV services is more opportunistic and those acquiring such services are less likely to turn down an available SCPV because it is the wrong brand; and
- there is less need in the pre-booked market than there is in the cruising market for signage to identify a vehicle for hire, as consumers generally do not need to distinguish the vehicle from other traffic.

There would appear to be greater substitutability between different categories of SCPV services when consumers can book them by phone, than there would be to engage them at ranks or by hailing the vehicle. As a result we segment the market according to the different modes of hiring ie. pre-booking an SCPV service, and engaging an SCPV service at a rank or by hailing down an SCPV.

### 3.1.1 Pre-booked SCPV market segment

Hire cars currently compete to some extent with taxis in the pre-booked market segment. This was supported by a number of submissions, for instance:

*The chauffeured hire car industry sees itself operating at the top end of the market providing a prestige, chauffeur driven limousine service for transfers, tours and weddings etc. However, it recognises that market component is small in Canberra and it is flexible enough to complement the taxi industry hence expanding freedom of choice available to the public.<sup>11</sup>*

*Taxis certainly provide an alternative to our services [the hire car industry] and are our biggest competitor.<sup>12</sup>*

*As business travellers tend to be convenience and not price sensitive, rental cars and hire cars are in direct competition with taxis for this market.<sup>13</sup>*

*Both taxis and hire cars operate within the same market - the passenger transport market - with the chauffeured hire car sector operating (together with Comcar) as the executive service component of that market - the taxis provide a passenger transport service to the general public.<sup>14</sup>*

The vehicles currently operating under RHV licences also fall within this market segment as their hirings are almost entirely pre-booked.

By virtue of their licence restrictions, RHV services are mainly engaged for weddings and school formals. However, it is understood that hire cars and RHVs do compete for a range of other services, such as meal transfers and special occasions. Submissions also indicated that there are a

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<sup>11</sup> Submission, EM & BM Costello.

<sup>12</sup> Submission, David Ruthven.

<sup>13</sup> Submission, Canberra Taxi Proprietors Association & Aerial Taxi Cabs Co-Operative Society Limited.

<sup>14</sup> Submission, Howard & Margaret Garnier.

number of unlicensed RHV-type vehicles that are currently providing SCPV services in competition to RHV and hire car licensed vehicles.

In addition, the allowable seating capacity of MO vehicles permits smaller MO vehicles, such as Taragos, to compete with stretch limousines in the current hire car fleet.

*These [Motor Omnibus] vehicles operate in direct competition with stretch limousines, the cream of the hire car fleet...*<sup>15</sup>

*Existing Legislation and Regulations allow non-Hire Car organisations (ie. RHVs and MOs) to compete directly against hire cars...*<sup>16</sup>

Accordingly, we take the view that the market for pre-booked SCPV services would include all SCPVs including those vehicles currently licensed as taxis, hire cars, restricted hire vehicles and motor omnibuses, and the currently unlicensed RHV-type vehicles being utilised for SCPV services.

Approximately 90% of hire car work is obtained from phone bookings.<sup>17</sup> The remainder would be from hirings obtained at the airport rank. In addition, it is estimated that in relation to hire cars about 80% of all booked worked is airport related.

The pre-booked market segment is particularly relevant in the ACT as pre-booked taxi hirings comprise approximately 60% of total taxi hirings. A significant component of pre-booked taxi hirings, approximately 10%, are bookings in relation to the airport.<sup>18</sup>

Another component of the affected markets is the provision of WAT services. Aerial receives and sends pre-bookings to WAT operators, who must give priority to disabled passengers. A recent review of the number of WAT licences in the ACT by the Standing Committee on Urban Services recommended that the Government immediately release an additional ten wheelchair-accessible taxi licences.<sup>19</sup> The Committee also recommended that the number of WATs should eventually total at least 10% of the taxi fleet following a further assessment of the level of service.

### **3.1.2 Rank and hail (cruising) SCPV market segment**

Kerb-side areas, designated as taxi ranks, are generally located in areas of relatively high demand for taxis. Under the current arrangements of largely undifferentiated supply, consumers select the first taxi from a queue or wait in line at the rank until a taxi arrives. Currently, only SCPVs licensed as taxis are entitled to rank (except for hire cars at the airport) or ply the streets for hire.

It is often argued that the nature of the transaction required to hire a taxi at a rank or to hail a taxi in the street makes it difficult for consumers to make informed choices in the absence of regulation. For instance, it is very difficult for consumers arriving at a rank or hailing a taxi to assess readily the quality of the service they are buying. It is also difficult for consumers to know the driver's geographical knowledge or ability to communicate effectively. Nor do consumers

<sup>15</sup> Submission, EM & BM Costello.

<sup>16</sup> Submission, David Ruthven.

<sup>17</sup> Discussions with Hire Car owners.

<sup>18</sup> Discussions with Aerial.

<sup>19</sup> ACT Legislative Assembly - Standing Committee on Urban Services, (1999), *The Need to Increase the Number of Restricted Taxi (Multicab) Plates*, August. [Report No.28].

generally have the time or technical knowledge to inspect and make judgements about the cleanliness or roadworthiness of a cab before engaging it.

It is also argued that if unfettered price competition in the cruising markets was allowed, undesirable outcomes could result. For instance, during off-peak period, this could involve overly aggressive price competition with drivers arguing over fares amongst themselves and with passengers.<sup>20</sup> In peak periods, when taxis are scarce, consumers are in a weak bargaining position and could be subject to excessive pricing, termed 'price gouging'. The ability to price gouge arises from a taxi having temporary market power because potentially high search costs in locating another taxi, in the form of delays and effort, substantially reduce consumers' capacity to negotiate.

At ranks where demand can be very high, such as at Canberra airport, it is particularly important to the efficient movement of large numbers of people that the time taken for each consumer to engage a taxi is minimised. The airport rank is an important component, around 10%, of total taxi hirings.<sup>21</sup>

Within the current regulatory structure, hire cars are restricted to competing with taxis for the provision of booked services and for hirings at the airport. In the absence of the legislation we take the view that some hire cars would compete with taxis at specific ranks. It has been submitted that, were they permitted to, hire cars would rank in competition with taxis at other strategically located ranks such as at the Casino, certain hotels and other "corporate" locations.<sup>22</sup>

It was submitted that it would be difficult for hire cars to compete with taxis by plying for hire, for two main reasons:

- to keep the executive look of the vehicle, hire cars would not be able to be fitted with external features appropriate to identify a vehicle as an SCPV for hire, such as door or rooftop signage; and
- higher capital and operating costs decrease the viability of seeking fares by plying the streets while vacant.

As was submitted:

*It is less than likely that hire cars would actively seek out work in the lower end of the taxi market...*<sup>23</sup>

On this basis, even in the absence of the prohibition on plying for hire, it is not clear that all hire car type vehicles would elect to compete for hirings in the hail segment of the market. The same reasons might preclude other exclusive vehicles, currently licensed as RHVs, from viably competing in this segment of the market.

Accordingly, we take the view that the appropriate market for cruising SCPV services would include all those SCPV vehicles that have an appropriate level of recognisable identification in

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<sup>20</sup> There is some evidence that this occurred in the United States when fares were fully deregulated. See for instance Price Waterhouse (1993), *Analysis of Taxicab Deregulation and Reregulation*, International Taxicab Foundation.

<sup>21</sup> Discussions with Aerial.

<sup>22</sup> Oral submissions received from HC owners.

<sup>23</sup> Submission, Canberra Taxi Proprietors Association & Aerial Taxi Cabs Co-Operative Society Limited.

order to ensure orderly and efficient hiring can occur at ranks and when plying the streets for hire.

It is understood that there is ranking capacity in the ACT for approximately 70 standard vehicles. This includes 6 taxis and 4 hire cars at the airport and 59 at other ranks. There is also queuing capacity for another 50 taxis and 14 hire cars at the airport. An additional 4 taxi ranks will be made available at the airport. The airport currently charges SCPV companies around \$5,000 rental per annum per car space.

**Table 3: Current rank capacity**

	Airport	Other	Queuing at Airport
Taxis	6	59	+ 50
Hire cars	4	0	+ 14
Total	10	59	+ 64

Source: Discussions with Aerial

Aerial has arranged a zoning system. Most zones have at least one rank, except peripheral suburbs, which have a ratio of about one rank to three zones.<sup>24</sup> Canberra Airport has two rank areas, one for Canberra Cabs and the other for the Limousine Association (hire cars). Queanbeyan Cabs are not able to rank at Canberra Airport, however they do pick up NSW bookings from the airport, in a manner similar to pre-booked limousines.

Given the significant volume of hirings from the airport, and its importance as a key entry and exit point for tourists and commercial travellers to Canberra, the airport rank has characteristics which in our view may warrant a different treatment to other ranks.

### 3.1.3 Geographical element

There are a large number of journeys by Queanbeyan taxis that are generated between Queanbeyan and the ACT. These include commuter travel, transfers to the airport, transport to specialist appointments and shopping trips.<sup>25</sup>

*[Queanbeyan] provide[s] a measure of competition within the industry and assist[s] in servicing key nodal points such as Canberra airport.*<sup>26</sup>

In support of this the ACT Taxi Drivers Association stated:

*Anecdotal evidence indicates that the Queanbeyan cab company are taking bookings that originate and terminate within the ACT... Hence, it can be deemed that taxis from Canberra are competing with taxis from Queanbeyan.*<sup>27</sup>

It is also understood that ACT WATs provide services to persons with disabilities residing in Queanbeyan.<sup>28</sup>

Further evidence in support of the argument that Queanbeyan SCPVs fall within the same market as ACT SCPVs is the fact that Queanbeyan Cabs has not implemented recent NSW taxi fare

<sup>24</sup> Discussions with Aerial.

<sup>25</sup> Submission, Queanbeyan Taxi Co-operative.

<sup>26</sup> *Ibid.*

<sup>27</sup> Submission, ACT Taxi Drivers Association.

<sup>28</sup> Discussions with the ACT WAT operator.

increases and instead sets fares in accordance with the ACT regulated fares. In addition, the ACT Government has recognised the three Queanbeyan Hire Cars in order to permit them to operate from within the ACT.

We take the view that the geographical element of the SCPV market, in respect of both the pre-booked and the cruising segments, includes the ACT and Queanbeyan.

#### **3.1.4 Summary**

Though the different purposes for which an SCPV service is sought can limit substitutability between different types of SCPV vehicles, it is our view that evidence of sufficient competition between different types of vehicles reduces the importance of this distinction. The mode of hiring providers more significant distinctions. Accordingly, it is our view that the relevant SCPV markets are segmented according to pre-booked SCPV services and cruising (rank or hail) SCPV services.

We take the view that the market for pre-booked SCPV services would include all SCPVs including those vehicles currently licensed as taxis, hire cars, RHVs and some smaller MOs, as well as any unlicensed RHV-type vehicles currently being utilised for SCPV services.

It is our view that the market segment for cruising SCPV services would include SCPV vehicles that, as a minimum, have an appropriate level of external identification to make them sufficiently recognisable as SCPVs for hire.

### **3.2 SCPV booking & dispatch network services**

The provision of SCPV booking and dispatch network services is considered to be upstream of the provision of SCPV transport services to consumers. In other words, it is separated functionally from the driver and vehicle service. However, the vertical links between these functional levels can be so strong as to blur the distinctions between them. Accordingly, it has been argued that the provision of SCPV booking and dispatch services is not a separate market from the provision of the SCPV service itself. This argument appears particularly relevant in relation to the use of mobile telephones by taxi drivers, as mobiles are so closely integrated with the taxi service itself that it is difficult to consider them as constituting a separate functional level.

We take the view that there is a separate market for the provision of booking and dispatch network services - while the two services can be vertically integrated they need not be. Mobile telephones are considered to be a source of competition to the larger more formal network services. Accordingly, it is necessary to consider whether the regulatory regime constrains effective competition in this market.

In respect of hire cars, Canberra Hire Cars and Hughes Hire Cars each offer a booking service for their 13 and 9 cars respectively.

In the ACT, Aerial is currently the only booking and dispatch network service provider for taxis. It has been submitted that taxi booking and dispatch network services in the ACT are a natural monopoly.<sup>29</sup> We consider this issue further in Chapter 11 below.

Aerial uses data dispatch technology to lodge bookings and dispatch vehicles, and GPS technology for safety purposes. Aerial's network fees are \$450 per month. For non Aerial Co-

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<sup>29</sup> Submission, Canberra Taxi Proprietors Association & Aerial Taxi Cabs Co-Operative Society Limited.

operative members the fees are set at \$877 per month. There is also a voice dispatch or two-way "trunk" radio network provided to the 6 WATs. This service is provided by the operator of the 6 WATs, who sub-licences the WATs from Aerial. The WATs are also part of the Aerial booking network.

In addition, it is understood that many drivers have mobile telephones through which they receive bookings and some have informal arrangements with other drivers or operators in respect of calls received by mobiles. It is not clear to what extent bookings are received through mobiles, though anecdotal evidence suggests that mobiles are not a significant component of total bookings.

Having defined the relevant geographical element of the ACT SCPV market to comprise Queanbeyan, it is also relevant to consider the network services in Queanbeyan. The Queanbeyan Taxi Co-Operative Society is an accredited operation with the NSW Department of Transport. It provides network services to the 16 taxis licensed under the NSW legislation. Of these 1 is a wheelchair accessible taxi, 3 are leased and the remaining 12 are all owner-drivers. Base fees are currently charged at about \$580 per month. Queanbeyan Co-Operative has proposed that if it was able to enter into a network service agreement with the ACT Government, it would offer viable network services in competition with Aerial.<sup>30</sup> This is discussed further in Chapter 11 below.

### **3.3 SCPV driver services**

In order to be a driver of a taxi, a person must meet the ACT driver authorisation standards. These requirements are discussed at Chapter 9 below. To drive with Aerial, it is also necessary to purchase and wear a uniform. Drivers may be full or part-time drivers.

A hire car or RHV driver does not need to meet any formal legislative requirements other than to hold a current driver's licence. Individual companies, such as the two main hire car companies, may have their own internal driver standard or training requirements.

Taxi drivers earn approximately \$8-10 per hour depending largely on the particular shift and the driver's experience. On average they work 10 hours per shift and a full time driver will work about five shifts per week.

Under current working arrangements drivers receive a 50% commission on the fare charged. However, discussions with drivers indicated that it is often necessary for less experienced drivers to overstate their total fares for a shift, in order to ensure that the operator continues to utilise their services.

### **3.4 ACTION buses**

The scope of this review does not include the provisions which regulate bus services. However, it is relevant to consider the role that bus services play in relation to SCPV services.

ACTION is currently the sole provider of bus services in the ACT until 14 January 2002.<sup>31</sup> From around July 2000 ACTION will operate as a statutory authority.

ACTION's revenues only cover approximately 25% of its costs. Hence, the bus service is subsidised. ACTION has been allocated around \$64m in the 1999/2000 ACT budget.<sup>32</sup>

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<sup>30</sup> Submission, Queanbeyan Taxi Co-operative.

<sup>31</sup> Discussions with DUS.

Approximately 75% of ACTION users receive concessionary fares, which are significantly lower than current taxi prices. As such, it is argued that the majority of ACTION's regular users would not substitute bus services for taxis at the existing taxi prices. ACTION provides a Night Rider bus service for 2 to 3 weeks prior to Christmas. It appears that this service does compete with taxi services more closely than ACTION's regular services.

### 3.5 Comcar

As with buses, the scope of this review does not include Comcar. However, it is also relevant to consider the role that Comcar plays in relation to SCPV services.

Comcar provides a car-with-driver service. Though Comcar operates along commercial lines, it is restricted to providing services to Commonwealth government departments for the use by Members of the Federal Judiciary, the Governor General and "other entitlees" including former Prime Ministers, former Governors General and former members of Parliament that are entitled to a Life Gold Pass. On behalf of Federal Parliament, Comcar also provides services to "official" guests of Government such as visiting Prime Ministers and other dignitaries. Comcar cannot offer services to the general public. In addition, Comcar cannot be used by Senators or Members for private use.

When Comcar's vehicles are all occupied, Comcar utilises hire cars to supply the shortfall. Occasionally, even when Comcar has additional capacity, it will utilise hire car services if the use of the hire car is more cost-effective. For instance, Comcar's casual drivers work on a minimum four hour shift, so that if the particular journey is for less than that period, it is likely to be cheaper to engage a hire car. Once a booking is made with Comcar, then whether or not the Senator or Member is given the use of a Comcar vehicle or hire car vehicle, the Comcar rates are charged.

Comcar leases parking bays at Canberra airport but otherwise has no ranks in the ACT. It is also relevant to note that though Comcar has significantly downsized its fleet in the ACT over the past several years, the number of hire car licences has remained fixed over that period.

On one view, Comcar does not compete in the true sense with hire cars, as consumers of Comcar services are not themselves making purchasing decisions as between Comcar and hire cars. Rather, it is Comcar itself which makes the decision so that Comcar is more akin to a consumer's agent of hire cars than a competitor. However, another view is that Comcar does compete with hire car services. This is supported by anecdotal evidence:

*... the more commercial nature of Comcar effectively makes the chauffeured hire car industry and Comcar competitors for parliamentary work.<sup>33</sup>*

Even if the latter view is correct, Comcar only competes with hire cars in a very limited segment of the market as it is effectively restricted to Commonwealth parliamentary work and is not available to the general public.

Whether they are competitors in the strict sense or not, it can be said that to the extent legislative reform enhances the competitiveness of the private hire car industry, it is likely that the current demand serviced by Comcar may in fact be taken up by the private hire car industry.

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<sup>32</sup> Submission, Canberra Taxi Proprietors Association & Aerial Taxi Cabs Co-Operative Society Limited, p. 10.

<sup>33</sup> Submission, EM & BM Costello.



### **3.6 Tourism**

A taxi or hire car is often the first and last service that a tourist encounters in a city. A large number of visitors to the ACT are tourists as Canberra is the nation's capital city and contains a large number of parliamentary and judicial buildings of national interest.

The efficiency and quality of the taxi and hire car industry are important to tourism in the ACT and can impact the value of tourism. For instance, the SCPV industry will play an important role in transporting some of the many thousands of people, including official guests, who will visit the ACT and NSW during the 2000 Olympic Games.

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## 4. Taxi and hire car licence quota restrictions

### 4.1 Overview

Currently, in order to operate a taxi, a hire car, an RHV or a MO, which we term, collectively, SCPVs, it is necessary to obtain a relevant licence issued by the Registrar.

The legislation grants the Minister power to limit the number of taxi and hire car licences that are issued. The legislation provides that the number of taxi licences can not exceed the number determined by the Minister as published in the Gazette.<sup>34</sup> The legislation also limits the number of hire car licences to 22 or to a higher number as determined by the Minister.<sup>35</sup>

The current quotas are:

- 217 taxi licences; and
- 22 hire car licences.

The Minister is also granted power to determine the number of WAT licences in issue.<sup>36</sup> Currently, the number of WAT licences total 16, including ten new 6 year licences that were issued in December 1999.

*Until 1997, taxi licence numbers in the ACT were determined by a licence/employed population ratio with a further ratio of hirings per taxi featuring in the process. A Government-appointed Committee, The Taxi Industry Advisory Committee (TIAC), advised the Minister on both licence numbers and maximum fare levels... Since 1997, Government accreditation has more closely linked licence numbers to service provision. Government accreditation brought with it benchmarks against which industry performance is now measured in the form of response times.<sup>37</sup>*

The taxi and hire car licences are perpetual transferable licences. The owner of a taxi or hire car licence may lease the licence to another person who then becomes the operator of the licence. Currently, around half of the licences are leased.

The analysis of the quota restrictions for both taxi and hire car licences rests on broadly the same principles. Accordingly, we address taxi and hire car licence quota restrictions in the same chapter. Though the following discussion on quota restrictions is partly applicable to WAT licences, some pertinent differences make it appropriate to further discuss WATs separately in Chapter 5 below.<sup>38</sup>

There are no provisions in the legislation which permit the Registrar to set a limit on the number of RHV licences. For clarity of analysis, we assess the quota restrictions separately from the

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<sup>34</sup> Section 27B MTA.

<sup>35</sup> Section 28(2A) MTA.

<sup>36</sup> Section 27E MTA.

<sup>37</sup> Submission, Canberra Taxi Proprietors Association & Aerial Taxi Cabs Co-Operative Society Limited, pp. 8-9.

<sup>38</sup> For instance, WAT licences are non-transferable, are issued for six year terms rather than in perpetuity, do not have a realisable market value, and provide some services considered akin to a community service obligation.

impact of different licence categories and associated conditions,<sup>39</sup> and separately again from the impact of fare regulation.

Licensing restricts entry to the cruising segment of the SCPV market, to those who acquire or lease a taxi licence, or in respect of the airport rank, to those who acquire or lease a taxi or a hire car licence.

It also restricts entry into the vast majority of the pre-booked SCPV market, to those who acquire or lease a taxi licence or a hire car licence. A small portion of the pre-booked SCPV market segment is accessible through the acquisition of a RHV or MO licence. However, as this segment involves predominantly weddings, school formals and/or touring type services, the availability of these licences does not significantly reduce the competitive restrictions of licensing on the pre-booked SCPV market.

Because there is a quota on the number of licences issued and as the licences are transferable, the legislation has created a scarce resource with a significant market value. This relationship between quota restrictions and high market values has long been recognised by the ACT Government:

*The cost of ACT taxi licences is largely a function of the policies relating to release of plates, which have been determined by the Government largely on the advice of the TIAC. Balancing of supply with demand has not always been successful, leading to significant increases in licence payments.*<sup>40</sup>

The market values have been estimated at around \$260,000 - \$280,000 for taxi licences, and around \$120,000 - \$130,000 for hire car licences.<sup>41</sup> The high market values of the licences impose a significant barrier to entering the relevant market segments.

Accordingly, we find that the quota provisions significantly restrict competition in the market segments by limiting supply and thus potentially also limiting the range of services provided.

## 4.2 Objectives

Licensing is a mechanism which enables conditions to be imposed, and controls to be exercised, to achieve safety and service standards. However, it is not clear what objectives the quota restrictions serve. We examine three objectives that are commonly asserted as the reason behind quota restrictions.<sup>42</sup>

### 4.2.1 Viability of the industry

It is often argued that it is necessary to limit the number of taxis in order to raise capacity utilisation, and thus productive efficiency, enough to ensure the viability of operating a taxi. This rationale is sometimes described as a need to ensure balancing of supply and demand.

*As Teal (1989) points out, in the United States experience:*

<sup>39</sup> For instance, as noted above, hire cars cannot cruise the street for hire and are restricted to the phone booking market segment and to ranking at the airport only. Similarly, RHVs are limited to servicing weddings and school formals unless a variation is obtained. A limit of ten variations applies. MOs are also limited to certain touring routes and/or other operational conditions.

<sup>40</sup> Quoted in Industry Commission, *Urban Transport*, Volume 1, p. 390.

<sup>41</sup> Based on submissions of recent sale prices and weekly lease fees.

<sup>42</sup> These objectives are discussed in the Productivity Commission (1999), *Taxi Regulation*.

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*the quality of drivers has declined markedly and turnover rates are as high as 200 per cent per year.*

*For the public to benefit, the taxi market needs controlled entry. Controlled entry matches quantity and quality of service with demand. Open entry saturates the most profitable areas of the market leaving other areas with constantly diminishing services.<sup>43</sup>*

*The controlled release of plates based on this type of benchmark allows for a balanced market that in turn allows for an operator/network commitment to capital investment and the introduction of state-of-the-art technology.<sup>44</sup>*

The argument rests largely on the presumption that limiting the number of taxis in circulation ensures that demand increases force higher utilisation rates and thereby increases taxi productivity. Alternatively, it is argued that supply controls are necessary to ensure that taxis can realise critical economies of scope.

*Saturation of the lucrative segment of the market by new entrants leaves the existing participant to service the remaining market. It has been the experience throughout those areas where open entry has been introduced that existing participants leave the industry because they no longer have the cross-subsidy of a full spectrum of hirings to allow them to maintain their level of service. Teal (1989) referred to this as a loss of economies of scope...<sup>45</sup>*

Contrary to these arguments, there are viable taxi industries in which supply is not controlled. In jurisdictions where quota restrictions have been removed whilst retaining appropriate safety regulations, such as in New Zealand, the number of taxis increased sharply without compromising the viability of the industry.<sup>46</sup> It is our view that there remains no conclusive evidence that licensing restrictions increase productivity or are necessary to the viability of the industry.

The counterargument is that by increasing the supply of taxis, fares will decrease, particularly in “off peak” periods, which will in turn increase demand for taxis relative to their supply. If this rise in demand is substantial, capacity utilisation may actually *increase* as a result of reducing licensing restrictions. At peak times, when waiting periods are longest, increasing the supply of taxis tends to reduce waiting times before it decreases the utilisation rates. During off-peak times, the increase in demand induced by lower fares, may directly result in higher utilisation.

Even if an increase in taxi numbers reduces utilisation rates, it is nevertheless unlikely to cause capacity utilisation to drop to such a low where it begins to compromise industry viability, as some taxis will elect not to operate during particular times or not to enter the market in the first place, unless they cover marginal costs. If it appears that removing quota restrictions results in excess entry, this is more likely to be because fares are set too high and there is no effective price competition. Accordingly, a more prudent way ensuring that excess entry does not occur, is by encouraging price competition. This will allow fares to be set at an efficient level to ensure they do not attract excess entry.

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<sup>43</sup> Submission - ACT Taxi Proprietors Association and Aerial, p. 7.

<sup>44</sup> Submission, Canberra Taxi Proprietors Association & Aerial Taxi Cabs Co-Operative Society Limited, p. 10.

<sup>45</sup> *Ibid.*, p. 11.

<sup>46</sup> For an overview of the New Zealand reforms, refer to Annexure E.

Where there is a concern that insufficient taxis will operate during off-peak times, more appropriate regulations, such as mandatory 24 hour booking services, as opposed to quota restrictions can be used to ensure off-peak demand is adequately met. Again, the New Zealand experience exhibited a fall in real fares, a drop in waiting times and an ongoing viability of the industry.

We have not found convincing evidence or arguments in support of the view that quota restrictions on licences ensure industry viability.

#### 4.2.2 Constraining fares

Some commentators argue that restricting entry is necessary to ensure that fare increases are constrained.<sup>47</sup> Their argument is based on the notion that the nature of taxi markets does not provide for efficient competition, due to the market power a taxi has in a particular location at a particular point in time. It is argued therefore, that at the point of hiring, there is little incentive for such a taxi to decrease prices as this would not correspond with an increase in demand for that particular taxi's services.

The argument follows that by removing quota restrictions, an increase in supply would result, without a corresponding increase in demand. Consequently, prices would rise because taxis would need to cover additional costs incurred as a result of increased down-time or vacant periods.

However, it is our view that quota restrictions enhance the level of market power of taxis, increasing the opportunities to raise fares. Indeed, there are existing provisions regulating taxi fares, which supports the view that restrictive licensing in and of itself does not effectively constrain fare increases.

Even if a relaxation of entry restrictions did not allow fares to fall, a more appropriate regulatory response is to encourage price competition. For instance, in New Zealand posted prices and branding of taxi companies has fostered price competition and aided in reducing prices in real terms.

In any event, we agree with the view that the fare constraining argument, if applicable, is only relevant to the hail segment of the market. Participants in the hail market segment, at particular times and in particular locations, experience limited competition.<sup>48</sup> The argument is not relevant to the rank and telephone booking market segments where there are far fewer constraints on competition. As discussed in Chapter 3 above, these latter market segments are significant in the ACT where telephone bookings for taxis amount to approximately 60% of total hirings and rank makes up a significant component of the remaining 40%. Hirings accepted by hail are a very small component of total ACT hirings.<sup>49</sup>

Hire cars do not operate in the hail market segment and, based on submissions, appear unlikely to do so in the ACT, thus reducing the relevance of this argument to hire cars.

We take the view that restricting licence numbers is not necessary in order to constrain fare rises in the ACT market.

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<sup>47</sup> See for instance, Shreiber (1975) and Teal and Berglund (1987).

<sup>48</sup> See for instance the view expressed by the Productivity Commission (1999), *Taxi Regulation*.

<sup>49</sup> Discussions with Aerial.

### 4.2.3 Addressing safety and/or consumer protection

It has also been argued that limiting the number of taxis addresses safety and consumer protection objectives. This argument asserts that restricting the number of taxis on the road enables taxi operators and drivers to achieve a level of income sufficient to ensure that vehicles meet the prescribed safety standards. Increasing taxi numbers, it is argued, would result in falling incomes and a corresponding decline in maintenance and safety levels. Aerial cites the 1993 Price Waterhouse study<sup>50</sup> in support of this argument:

*This study... found that: "... a large influx of new entrants causes all operators to defer investment until market conditions allow a greater return on investment." Lack of investment and a dynamic plan for the future will quickly see a decline in service to the public... When the industry provides an unacceptable service in an open entry environment, future demand for taxi services will diminish and continue in a downward spiral until regulated entry is re-introduced.*

*The diminishing demand and lower returns for drivers and operators brings about abnormal driver turnover and a self perpetuating reduced level of experienced service provider in the industry. The Price Waterhouse study emphasises the problems associated with an open entry environment. It states: "trip refusals, a decline in vehicle age and condition, and aggressive passenger solicitation associated with oversupply of taxis, are a characteristic of a worsening in service quality following deregulation."<sup>51</sup>*

It was further submitted that licence quota restrictions contribute to increasing returns to drivers:

*The operator/driver of the taxi is looking for job satisfaction, a fair return for the effort he expands in operating the taxi and a job that offers safety and security. In a deregulated ACT market there will be an inevitable increase in the number of taxis competing for customers for which there will have been no significant expected increase in demand. From the point of view of the driver, productivity will drop and he/she will have to work longer hours to earn the same wage. As returns to the driver are reduced, over time the quality of driver would be expected to decline, leading to customer dissatisfaction. The impact of deregulation in the taxi industry from the point of view of the operator/driver is well documented, see for example, Hooper (1999) who has presented a detailed discussion of the impact of deregulation in many overseas cities.<sup>52</sup>*

It is our view that licence quota restrictions do not increase driver returns. In fact, reduced licence number places licence owners and operators in a better bargaining position vis a vis drivers. Anecdotal evidence suggests this is the case in the ACT, as it was stated that some drivers have to overstate earnings to ensure they obtain sufficient shifts from the operator/owner. Constraints on licence numbers also tend to reduce employment opportunities for drivers.

A greater determinant of driver earnings is the scarcity of drivers relative to licence numbers. On this basis, strict driver authorisation requirements will raise the barriers to entry into the driver services market, increasing the skill level of drivers, and thereby increasing the opportunity cost of driver services. This will put upward pressure on driver earnings and in the context of maximum fare regulation or fare approval regulation, should do so at the expense of returns to

<sup>50</sup> Price Waterhouse, *op cit* n 23.

<sup>51</sup> Submission, Canberra Taxi Proprietors Association & Aerial Taxi Cabs Co-Operative Society Limited, p. 11.

<sup>52</sup> *Op cit*, p. 12.

owners rather than at the expense of consumers. The impact on driver earnings is discussed further at 4.6.1 and Chapter 9 below.

Moreover, licence quota restrictions reduce competitive pressures to increase service standards and thereby are likely to cause average service quality to drop. Increased competition, which results in more diverse quality-price mixes, may in fact increase demand and productive efficiency, thereby increasing operator and driver income.

A related argument is that over zealous competition between taxi cabs can significantly compromise public safety on the roads. Practices such as challenging other taxis for a passenger, driving in a reckless fashion to obtain the fare of a potential customer and bartering on fares in the street can all increase the risk of damage to persons or property. In relation to this Aerial submitted that:

*Price Waterhouse (1993) found that: "... at major cab stands and airports... oversupply of taxis was consistently reported to result in aggressive solicitation of passengers and confrontation among drivers."*<sup>53</sup>

However, many of the cities examined in the Price Waterhouse report had pursued full deregulation and not merely reforms to supply controls. In the ACT existing provisions already directly regulate this behaviour, such as rules prohibiting touting. Other safety regulations such as driver authorisation, operator accreditation standards, and vehicle safety standards, coupled with proper monitoring and enforcement, are direct mechanisms by which to address safety objectives.<sup>54</sup> Restricting entry through licence quotas is not considered to directly address safety objectives.

We agree with the following view adopted by the Productivity Commission:

*[T]he most efficient way to pursue safety objectives is by targeting them directly — not indirectly through income support measures. These latter measures provide no guarantee that safety will be improved. This is most evident in the case of leased plates where the higher income is appropriated by the owner of the plate, not the taxi [or hire car] operator — the person responsible for vehicle safety.*<sup>55</sup>

However, it may be argued that restrictions on licence numbers are an indirect way of addressing safety objectives by facilitating monitoring and enforcement of other standards. Accordingly, we nevertheless consider the costs and benefits of the quota restrictions and the alternatives.

### 4.3 Benefits

Licensing obtains benefits by facilitating the monitoring and enforcement of SCPV safety and quality standards. However, consistent with our findings that licence quota restrictions do not appear to address legislative objectives, it is our view that licence quota restrictions do not create significant benefits in and of themselves. Licensing, rather than quota restrictions, facilitates regulation of SCPV safety and quality standards. Quota restrictions may decrease administration and enforcement costs of SCPV safety and quality standards, but in our view these cost savings

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<sup>53</sup> *Ibid.*

<sup>54</sup> These safety regulations, enforced by Government as well as by authorised taxi companies, are discussed further in Chapters 7, 8 and 9 below.

<sup>55</sup> Productivity Commission (1999), *Taxi Regulation*.

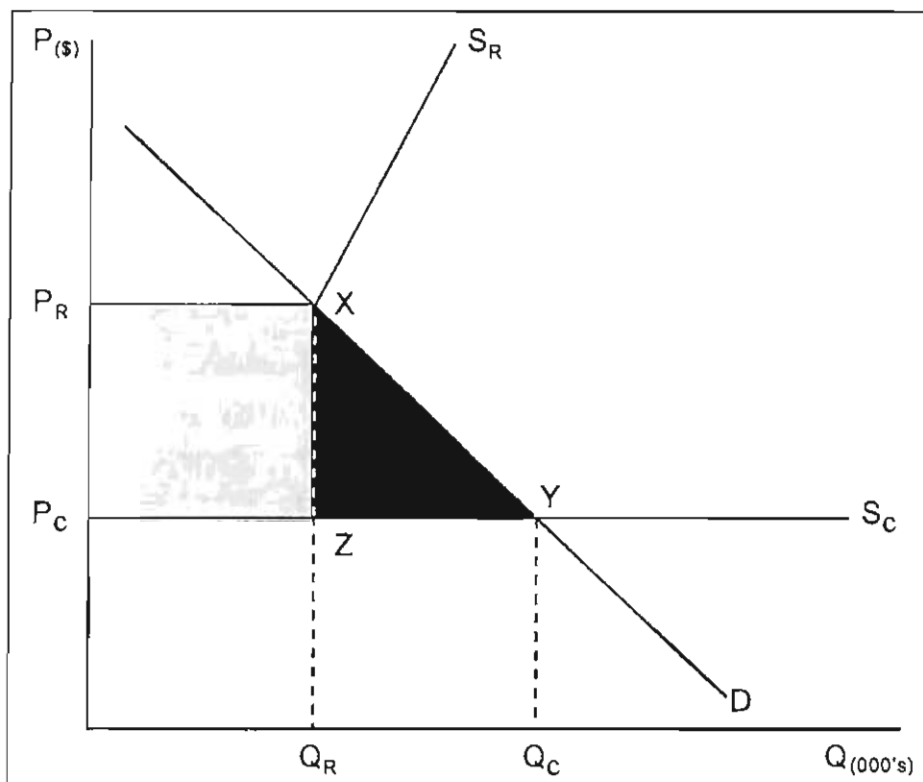
are not significant. In any event, if removal of quota restrictions did increase administrative and enforcement costs, adequate funding can be raised from properly costed licence fees.

#### 4.4 Costs

The detriment occasioned by restricting numbers of licences can be measured by calculating the value of the deadweight or welfare loss to society resulting from such a restriction. From the analysis presented below (set out in further detail in Annexure D) it is clear that restricting the number of licences available in SCPV markets causes a significant deadweight loss to society.

Figure 1 below is a diagrammatic representation of the deadweight loss incurred by placing restrictions on the number of taxi licences. The deadweight loss is indicated by the shaded triangle XYZ.

**Figure 2: Costs of quota restrictions**



$Q$  represents the total annual quantity of taxi hirings for all ACT taxis (in thousands) while  $P$  represents the price of an average hiring, given the flag fall rate per km and average length of hiring.

The regulated supply curve  $S_R$  is initially horizontal at  $P$ , as taxi fares are currently regulated. However at the quantity  $Q_R$ , the supply curve kinks. At this point, supply becomes highly inelastic as the total number of hirings reaches a point where further demand cannot be met without the addition of new licence holders (which does not readily happen in the current regulated market). The supply curve under restricted licence numbers is, therefore, kinked along  $P_RXS_R$ . Formally, the supply curve could kink to the right of point  $X$ , taking into account existing capacity of vehicles waiting on ranks or plying for hire while vacant, though this does not effect the calculations.



Under deregulated conditions, the supply of hirings is highly elastic at competitive price  $P_C$ . Hence the de-regulated supply curve  $S_C$ , is a straight line because new taxis will freely enter the market to absorb excess demand at the competitive price  $P_C$ .

By restricting taxi licence numbers, the equilibrium quantity of hirings is reduced from the competitive equilibrium quantity,  $Q_C$ , to  $Q_R$ . On our calculations, this reduction results in a deadweight loss of around \$407,000 per annum (represented by the area XYZ) and a transfer in wealth from consumers to taxi licence owners of about \$5,642,000 per annum (represented by the area  $P_R X Z P_C$ ). Utilising sensitivity analysis, the deadweight loss for a licence valued at around \$260,000 and returning \$26,000 per annum in lease fees, is estimated to be between approximately \$387,000 and \$892,000 per annum for a range of assumed demand elasticities.

The model indicates that, by creating transferable perpetual licences whilst concomitantly restricting the supply of taxi licences, the legislation has caused:

- an inflation in the value of the licences;
- a corresponding reduction in total hirings below the competitive level; and
- a fare level above that which would prevail in a competitive market.

This causes a significant wealth transfer from consumers to taxi licence owners and a reduction in efficiency represented by the deadweight loss.

Aerial submits that quota constraints do not cause a reduction in hirings:

*The theory that latent demand will absorb whatever increase in taxi operator numbers open entry may produce, is also not supported by historical evidence in other jurisdictions. In San Diego for example, where open entry was introduced, Chernow (1983) wrote:*

*the increase in taxi permits was not warranted by an increase in demand for taxi service. In fact demand decreased...*

*In the Seattle experience, Chernow states:*

*... the total demand for taxi cab services declined as the industry expanded... little or no service innovation occurred.<sup>56</sup>*

It is our view that so long as other safety and quality regulations maintain adequate standards, the reduction in prices and waiting times would stimulate demand.

Our calculation focuses on the costs resulting from the restriction of the number of taxi licences. As the information on the number of hire car hirings, (ie. average fares and average distances) is not as readily available as the information on taxis, it is more problematic attempting to calculate the costs of quota restrictions on hire car licences. However, a similar analysis applies so that it can be said with certainty that the quota restrictions on hire car licences imposes proportionately significant costs on the community. A broad estimate of the deadweight loss caused by the quota restrictions on hire car licences, set out in further detail in Annexure D, is \$54,221 per annum and a transfer from consumers to producers of \$286,000 per annum.

Studies of the use of taxis show that, while use increases with income, low income earners who are unable to afford a car spend the greatest proportion of their incomes on taxis.<sup>57</sup> For instance,

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<sup>56</sup> Submission - ACT Taxi Proprietors Association and Aerial, p. 6.

it has been found that people in the lowest 20th percentile of household incomes spend 0.68 per cent of their income on taxis, while those in the highest 20th percentile spend 0.17 per cent.<sup>58</sup> Thus, the costs of entry restrictions are borne most heavily by those who are less well off.

In our opinion, the costs imposed on the ACT community by the taxi and hire car quota restrictions substantially outweigh any benefits which might occur as a result of the quota restrictions.

#### 4.5 Compensation issues

Alternatives to the current licence quota restrictions are discussed below. The removal of quota restrictions will result in a decrease in the value of taxi and hire car licences. If the transferable perpetual licences are replaced with say, annual licences that are readily available, the original licence values will in fact be worth nil. Accordingly, before considering the reform options, it is necessary to understand the issues relating to compensation of licence holders for losses in the value of their licences.

Our discussion of compensation draws heavily from the recent Productivity Commission report into taxi regulation, the general analysis and views of which we found to be compelling.<sup>59</sup> The issue of compensation is not a straightforward one. There is no clear rule on whether governments should compensate for loss of value in property rights due to a change in government policy.<sup>60</sup>

In Australia, governments have not reacted in a consistent fashion to situations in which they have created 'property rights' and then subsequently eroded their value or removed them.<sup>61</sup> As with other property rights, there are no rules on the treatment of policy changes affecting licences. Differing approaches have been adopted by governments in relation to taxi deregulation. For example, in the Northern Territory, a compensation package was introduced at a cost of around \$27 million. On the other hand, in New Zealand, sweeping taxi industry reform was introduced without compensation.<sup>62</sup>

The case for and against compensation is discussed below.

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<sup>57</sup> See for instance, Industry Commission (1994), *Urban Transport*, Volume 1 [Report No. 37].

<sup>58</sup> Soon, J. (1999), "Taxi!! - Reinvigorating competition in the taxi market" in *The Centre for Independent Studies' Issue Analysis* 5 May, No. 7: 1-12.

<sup>59</sup> *Ibid.*

<sup>60</sup> For example, as discussed in the Productivity Commission report (*ibid*), landowners have a right of just compensation under the Australian Constitution for loss of land compulsorily acquired. However, other government actions can also affect land values, including changes in zoning and land use regulations, without attracting compensation.

<sup>61</sup> For instance, when the egg industry was deregulated in New South Wales, compensation for the loss of value of egg quota holdings was paid to egg producers. However, in contrast, when the Commonwealth Government removed the licences of importers of quota protected manufacturing goods, no compensation was offered to the affected parties.

<sup>62</sup> It should be noted, however, that the value of taxi licence plates in New Zealand was much lower (around A\$20,000-\$25,000), as compared to Australia.

#### **4.5.1 Case for compensation**

NCP legislation reviews encompass considerations that extend beyond efficiency criteria to include notions of equity. Clause 1(3)(e) of the Competition Principles Agreement expressly states that when considering the costs and benefits of a particular policy or course of action, or when assessing the most effective means of achieving a policy objective, equity considerations should be taken into account along with other matters such as efficiency.

A policy change may be deemed inequitable if it imposes substantial uncompensated losses on relatively few individuals, even though the change may bring about net benefits for the wider community. A failure to compensate for major policy changes can undermine investor confidence. It may also lead to intensified efforts by those with vested interests to seek to have reforms stopped.

Where individuals incur substantial losses as a result of policy changes, then on grounds of equity and pragmatism, we find that the case for compensation is a strong one.

#### **4.5.2 Case against compensation**

One view is that the property rights attaching to licences contain an implied condition that the licence conditions can be varied. On this view, there is no obligation in law or equity for the Government to compensate owners. Indeed many government policy changes that cause a loss in value of a private property right are not compensated.<sup>63</sup>

A further argument against compensation is that when an individual acquires a licence, it is understood that the return they can expect covers the potential regulatory risk associated with such an investment, ie. the risk that regulatory changes may alter the value of the licence. Licence owners have invested in licences knowing that the Government may at any time decide to issue more licences, with consequences on their investment value. Thus the return on the investment can be seen to have already provided compensation, at least in respect of longer term licence holders.

In addition, compensation, even if paid out of consolidated revenue, is indirectly funded in whole or in part by consumers, who have already borne the cost of restrictive licensing. Finally, studies indicate that taxi industry regulation is regressive, so that poor consumers are the most disadvantaged from the regulation and thus should not be made to bear additional costs of reform.

Despite these arguments, we take the view that where substantial losses occur as a result of policy changes, then the case against compensation is not compelling, primarily because it fails to adequately address issues of equity as required by the CPA. In addition, it is also not considered pragmatic to allow policy changes to levy significant losses on discrete sectors of the community without some compensation.

#### **4.5.3 Amount of just compensation**

A critical question is the appropriate amount of any compensation package. The licence value is generally regarded as the appropriate amount of just compensation if open entry reduces licence values to nil. The licence value is essentially a reflection of scarcity created by the entry restrictions to the industry, the so-called 'quota rent'. We adopt the Productivity Commission's

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<sup>63</sup> For instance, removal of licences held by importers for a range of quota protected manufacturing goods has not generally been accompanied by compensation.

view that the best proxy for compensation is the annual return attributable to the licence. This is indicated by its lease value.<sup>64</sup>

With current lease rates being approximately \$500 per week for ACT taxis, and around \$250-\$300 per week for ACT hire cars, this translates into annual returns of \$26,000 per annum for taxi licences and between \$13,000-\$15,600 for hire cars.<sup>65</sup> Utilising an approximate market rate of return for a comparable investment of around 10%, this would translate into a market value of \$260,000 for taxi licences and \$130,000-\$156,000 for hire car licences. Recent sale prices of licences were approximately \$280,000 for taxi licences and \$120,000 for hire-car licences. This could reflect expectations of increasing returns for taxi licences and falling returns for hire cars.

However, the amount of just compensation could be seen to vary significantly between participants according to the amount of their capital investment. Owners who purchased licences many years ago might have invested significantly lower amounts than recent investors. Indeed, long term incumbents may have already recouped some, or all, of their capital cost. To grant these licence holders the current market value of a licence would be to grant them the capital gain inherent in their investment. Some may argue that this would exceed the amount necessary for just compensation. This approach is further complicated by the fact that over the 1993-1998 period, taxi licences decreased by approximately 11%.<sup>66</sup>

Again, there do not appear to be established rules in Australian Government policy on the appropriate valuation for compensation.

If the preferred approach is to compensate based on amounts invested, one method could be to calculate compensation on the original purchase price paid by the licence holder, indexed to the consumer price index. This would tend to result in larger sums being paid to shorter-term licence holders. However, the difficulties associated with obtaining the information on each purchase, in order to calculate the compensation value for each licence, may render this method logistically unworkable.<sup>67</sup> If this is the case, it may be more prudent to compensate a uniform amount for all licences.

Compensation in the Northern Territory was based on a current market value approach with the current market value being calculated as the last tendered price of a taxi licence in a particular area plus CPI. It may be argued that a better indicator of the market value is that of a recent private sale, rather than of the most recent tender. This could be because the value of licences achieved at tender are affected by the speculation and uncertainty about likely impact on returns. Alternatively, it could be said that as licence values are not frequently traded like publicly listed shares for example, individual sales do not necessarily provide an accurate approximation of the market value of licences.

The discrepancy between ACT taxi licence auction prices and private sale prices are highlighted in the following table:

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<sup>64</sup> Productivity Commission (1999), *Taxi Regulation*. If the market price contained a significant component of goodwill, that amount of goodwill would remain after entry had been deregulated, which would reduce the amount of compensation.

<sup>65</sup> Discussions with industry participants.

<sup>66</sup> Submission - ACT Taxi Proprietors Association and Aerial, p 13.

<sup>67</sup> Some may argue that compensation should also be means-tested. Given the practical difficulties with means-testing, we do not consider means testing to be critical to a sound compensation package.

**Table 4: Taxi licence sale and auction prices**

Year	1994	1995	1996	1997	1998	1999
Sale price (\$)	280,000	240,000	240,000	250,000	260,000	280,000
Auction price (\$)	241,000	162,000	No auction	No auction	No auction	No auction

Source: Canberra Taxi Proprietors Association and Aerial Taxi Cabs Co-operative Society Limited submission, p. 19.

The last auctions of taxi licences in the ACT were in 1995 where the average auction price was \$162,000 whilst average sales prices during that year were recorded at virtually \$80,000 higher. However, the previous year the average auction price was \$241,000 and the average sales price was approximately \$40,000 higher. The sales price recorded in 1999 has been quoted at around \$280,000.

As the last tender in the ACT was in 1995, it is our view that tender prices would not be a highly relevant proxy for current values. Similarly, the last auction of hire car licences was in 1995 and thus hire car sale prices would provide a preferred proxy than auction prices. If the private sale price is used, then to ensure that an atypical sale price is not used as the benchmark, we consider that the median sale price of licences privately sold over the 24 month period preceding announcement of reform, would provide a reasonable benchmark for compensation.

A further issue is the implication of the announcement of a compensation package on the licence values. For instance, if a full compensation package is announced, licence values may stay artificially inflated until payment, merely due to investors' expectations of the forthcoming compensation. Accordingly, the licence values in the intervening period between announcement and payment could provide an overvalued proxy for just compensation.

#### **4.5.4 Phasing reforms as a means of compensation**

Incrementally phasing in quota reforms reduces the deadweight loss and the transfer of costs from consumers to producers, but defers the full gains to consumers. Compensation can be provided in the form of a steady phasing of reforms rather than immediate reform, though this tends to extend the duration of consumer losses.

Phasing in reforms can be seen to be a form of adjustment assistance as it gives industry participants time to adjust to the new competitive pressures. As the taxi industry has over many decades become accustomed to operating within a tightly regulated environment, a phased implementation of reforms could facilitate the orderly transition to a deregulated environment.

The Productivity Commission states that there is an inverse relationship between phasing and compensation ie. the longer the period over which reforms are phased in, the lower the compensation required. Phasing without additional monetary compensation also derives support from the argument that investors purchased licences with the knowledge that additional licences were likely to be issued in future. Furthermore, the appropriate amount of additional monetary compensation is difficult to ascertain, particularly because the impact of an announcement of compensation during phased reforms, could artificially inflate market values.

The Industry Commission proposed two variations of phased reforms. One involved an annual sale of new licences by public tender, equivalent to 10-15% of the licences on issue, with the net tender proceeds being distributed in equal shares to all original licence holders. The tender program continues until no bids are received after which the Government issues any new licences on demand at no more than their administrative cost. The second variation was similar to the

first, except that it involved an annual public tender of 5% of the licences in existence, with the proceeds being retained by the Government rather than being distributed.

As stated by the Industry Commission:

*The precise rate of release needs to be determined by Governments - but should be fast enough to allow the taxi industry to expand and diversify, and to bring the consequent benefits to the community as soon as possible.*<sup>68</sup>

In addition to deferring the full gains to consumers, the drawback of a sale of licences as a basis for funding compensation is that it may entrench current licence arrangements eg. perpetual licences. It is our view that if phasing rather than immediate quota removal is pursued, it is important to issue sufficient licences at the outset to foster real opportunities for new entry at the taxi company level. The appropriate amount of additional compensation would depend on the rate of release of new licences.

#### **4.5.5 Funding the cost of monetary compensation**

We have considered the following four methods by which to fund the cost of any monetary compensation that may be deemed necessary to pay:

- auctioning new licences and paying auction proceeds to existing licence holders in equal shares;
- imposing annual licence fees to recoup the costs within a limited time frame;
- raising monies through additional taxes; and
- funding the costs from existing monies in consolidated revenue.

As discussed, one approach involves the tendering of licences each year, with tender proceeds going to licence holders in partial compensation. This involves a combination of adjustment assistance by phasing reforms and monetary compensation. This approach does not realise full cost savings immediately nor does it provide full monetary compensation. Furthermore, it may entrench transferable, perpetual licences and thereby slow the reduction in licence values. However, it is considered to provide a relatively balanced approach.

The Northern Territory approach has been to recoup the costs of funding from SCPV users by levying licence fees equal to the annualised value of the market price of the licence over a nine year period. Assuming the supply of taxis increased, some benefits such as reduced queuing, more product innovation and consumer choice would commence immediately. However, the licence fees would keep upward pressure on fares. This approach retains the costs to welfare of regulation, during the period over which the licence fee surcharge is levied. In any event, there is no apparent reason why the costs of compensation should be borne by SCPV consumers, particularly as it has been shown that they have borne a large cost of the regulations to date.

Compensation costs could also be funded from consolidated revenue. The opportunity cost of monies in consolidated revenue would be a significant factor in determining whether those monies should be used to fund compensation. However, other distortions arise due to the deadweight costs of taxation.<sup>69</sup> In fact, State and Territory tax bases such as payroll tax, stamp

<sup>68</sup> Industry Commission, *Urban Transport*, op cit n 45, p. 406.

<sup>69</sup> The Productivity Commission cites several studies illustrating the distortive effects of taxation. Eg: Albon (1997) estimates that this 'efficiency' cost, from combined Commonwealth and State taxes, ranges from a low of

duties and taxes on financial transactions, have been shown to be particularly inefficient.<sup>70</sup> This would make the funding of compensation from taxes even more distortionary. Should compensation be funded from tax revenues, a standard efficient taxation policy should be followed, such as raising revenues slowly over time rather than rapidly, in order to reduce the deadweight loss of taxation.

#### 4.5.6 Conclusion

It is our view that pragmatism and equity make a powerful case for compensation. Accordingly, reform of the quota restrictions that leads to substantial losses imposed on individuals, should be accompanied by some form of compensation.

However, assessing the appropriate amount of compensation is difficult. A range of options could be pursued such as: the median sale price of licences privately sold over the 24 month period preceding announcement of reform; the value achieved at the most recent tender plus CPI; or to the extent that data is available, the initial investments of existing licence-holders plus CPI. The introduction of reforms in an incremental fashion is seen to reduce the need for monetary compensation. More rapid phasing, which achieves community benefits more expediently, could be supplemented by compensation funded through auction proceeds.

Rather than imposing the costs of compensation on consumers for example through higher annual licence fees, compensation could for instance be funded from consolidated revenue or a one-off issue of debt to licence holders. Where compensation is paid, it should generally not be funded from additional taxes as this creates further counter-productive distortions. Generally, an approach to funding compensation should aim to minimise further deadweight losses.

#### 4.6 Alternatives

As we find that there are significant costs associated with the taxi and hire car licence quota restrictions, and no significant benefits, it is necessary to consider several alternatives to the quota restrictions. We outline below five alternative reform options in respect of the taxi and hire car licence quotas.

The objectives of the reform options are to secure community benefits from increased competition that will arise from the removal of licence quotas. These benefits are likely to take the form of some or all the following:

- average fares are likely to decrease;
- average waiting times for consumers are likely to decrease;
- quantity of SCPV services demanded is likely to increase;
- a greater variety of services is likely to be offered;
- increased employment opportunities as the industry expands; and
- a reduction in the regressive impact of the current arrangements.

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10 cents per dollar of revenue raised for wine, to over \$1.30 for spirits. Gabbitas and Eldridge (1998) provide a summary of estimates for several State taxes — for example, payroll tax (3–12 cents per dollar of revenue raised), petrol (40 cents) and tobacco (34 cents). Cited in Productivity Commission (1999), *Taxi Regulation*.

<sup>70</sup> See for instance, Gabbitas and Eldridge (1998) and the Industry Commission (1994); cited in Productivity Commission (1999), *Taxi Regulation*.

The options focus specifically on the reform of quota restrictions. However, the reform of quota restrictions should be seen in the context of the other recommended reforms summarised in Chapter 13.

#### **4.6.1 Option A - Removal of taxi and hire car licence quotas**

The rationale for immediate removal of taxi and hire car licence quotas rests on the premise that the costs imposed by the above restrictions should be mitigated as soon as possible, so that the community does not incur further costs from the quota restrictions. The different treatment of taxis and hire cars is based on the finding that information asymmetries pertaining to cruising markets are much higher than information asymmetries in the pre-booked markets.

A removal of licence quotas would lead to increased entry and greater competition. Enhanced competition is likely to lead to downward pressure on fares to the competitive price, estimated in Appendix D to be an average of \$9.62 per taxi hiring which is around \$2.12 lower than the current average taxi fare price. Similarly, hire car fares are likely to move toward their estimated competitive level estimated to be around \$4.33 lower than current average fares. Increased competition is also likely to lead to other community benefits as outlined in paragraph 4.6 above.

Under Option A the Government could buy-back the existing taxi and hire car licences, and could issue new, non-transferable, annual SCPV licences to those operators who comply with relevant operator accreditation, driver authorisation and vehicle safety standards. These standards will generally be strengthened. As discussed below, there would be three categories of SCPV licences instead of the existing five. Based on an estimated taxi licence value of \$260,000 and an estimated hire car licence value of \$120,000, the amount of compensation deemed appropriate to pay, or the cost of the buy-back, could be approximately \$56 million for the 217 taxi licences and \$2.64 million for the 22 hire car licences.

SCPV (taxi) licences would effectively replace the current taxi licences and would entitle licensees to operate in the pre-booked as well as the cruising market. Vehicles would need to carry sufficient identification as taxis and be fitted with a taxi-meter. Licence-holders will be required to be a member of an accredited taxi networks. Taxi network accreditation will require a booking network, an appropriate complaints handling mechanism, and companies will have to report on response time performance and meet prescribed standards.

SCPV (taxi) licence-holders would, during the first several years of reform, be required to charge fares which have been approved for reasonableness by the price regulator, in order to protect against exorbitant pricing until adequate new entry has occurred. In the short to medium term, or at least until new entry has adequately increased price competition, the current maximum regulated fare will remain the maximum (with adjustments for CPI and reasonable operating cost increases) for standard vehicles. In the longer term, fare regulation may be relaxed further by requiring registration of fares with the regulator rather than approval. Fares would need to be clearly posted on the inside of the vehicle.

Accordingly, if operators of the current hire cars wish to operate in the cruising market, their vehicles would need to be fitted with appropriate signage, taxi-meters, appropriately posted fares and their hire car company would need to get network accreditation with fare approval.

SCPV (wheelchair accessible taxi) licence holders/operators or consumers would need to be given an express subsidy in order to ensure adequate demand for these licences to ensure at least an adequate level of WAT services.



SCPV (hire-vehicle) licences would be obtainable for prescribed types of vehicles and which would not be entitled to cruise. During the period that taxi fares still require approval, in order to prevent existing SCPV (taxis) electing to operate in the pre-booked market segment only as SCPV (hire vehicles) with unregulated fares, there should be a prescription of classes of vehicle permitted to be used under an SCPV (hire-vehicle) licence. The current hire car, RHV and smaller MO vehicles could be the initial types of prescribed vehicles. The regulator should however be given discretion to alter the classes of prescribed vehicles where it is deemed appropriate to do so, in order to allow innovation and variety in services. To assist with enforcement of the prohibition against cruising, SCPV (hire-vehicles) would be prohibited from carrying signage or identification that in any way resembles a taxi for hire.

Taxi and hire car licence holders would have a strong case to be compensated for the loss of the value of their investment. As discussed above, the amount of compensation would depend on a number of factors such as the availability of information on original purchase prices etc. An amount of reasonable compensation could be approximated by calculating the average licence value of traded licences during the most recent twelve month period. In order to minimise further regulatory distortions, the buy-back could be funded from consolidated revenue or recouped over, say, 10 years from annual licence fees levied on all SCPV licences, but should not be recouped immediately from higher taxes.

From the perspective of drivers, an increase in the number of taxi licences issued will generally lead to an increase in earnings. The reason for this is because as the number of taxis increases, so too will the demand for drivers. This will tend to place upward pressure on drivers' payments. Put simply, competition for drivers will mean that any operator that wishes to employ a driver will need to offer a payment scheme that is attractive to drivers. Conditions for drivers will need to improve to attract more drivers into the industry.

With increased competition for driver services, there might be a temptation to employ lower qualified or unsuitable drivers, in the absence of strict driver authorisation. As discussed in Chapter 9 below, we recommend that driver accreditation should remain in place and, if anything, should be strengthened. This will prevent operators from employing unsuitable drivers, to the detriment of customers.

In the very short term, an increase in the number of taxis, and a fall in fares, may lead to a fall in driver earnings. This reflects the current system of driver payments based on a percentage of taxi earnings. But, the current sharing formula used to compensate drivers will come under significant pressure due to competition for drivers. Similarly, current operators might try and force down driver earnings so as to maintain their own return on their taxi licence. Such attempts might be successful for a brief transitional period, but will fail as entry increases the need for authorised drivers and current operators find that they either need to improve the conditions for drivers or they will lose those drivers to other operators.

There is clearly a potential for some conflict between operators and drivers during a transitional period. DUS should be aware of this possibility and ensure that flexibility can be achieved in negotiations between operators and their drivers, to minimise disputes.

The overall increase in driver earnings in the long term will depend on the ability for new drivers to come into the industry. To the degree that taxi driving is a relatively low skilled profession with easy entry subject to authorisation, the long term increase in driver earnings might be relatively small. Increasing authorisation requirements will tend to further increase driver earnings. In part, this will simply be compensation for the higher authorisation costs. However to

the degree that strengthened authorisation increases the quality of taxi services and leads to greater demand for taxi services, competition for good drivers will increase driver earnings by more than the cost of authorisation.

Generally, deregulation of licence quotas together with the maintenance and strengthening of driver authorisation requirements, is likely to lead to an increase in driver earnings, except for a short transitional period.

Overall, we consider that a buy-back of taxi and hire car licences, coupled with other general reforms and ongoing maintenance of high safety standards, will derive high net benefits to the community as a whole.

#### **4.6.2 Option B - Removal of hire car quotas and phased release of additional taxi licences**

Option B proposes a removal of hire car quotas and a phased release of additional taxi licences. As with Option A, this approach would result in three classes of licences, SCPV (taxi) licences, to replace the existing taxi licences, SCPV (hire vehicle) licences to replace the existing hire car and RHV licences and SCPV (WAT) licences.

The approach under Option B could be to buy-back the 22 hire car licences and to phase in additional SCPV (taxi) licences and SCPV (WAT) licences, so as to increase the number of taxis above the current 223. We discuss the two aspects of the approach below.

##### ***Removal of hire car licence quotas***

Removal of hire car quotas could be achieved through a Government buy-back of hire car licences. Existing hire car licence holders would have a strong case for compensation of the market value of their licence and would then be given the choice of:

- applying for an SCPV (hire vehicle) licence; or
- applying for an SCPV (taxi) licence subject to meeting the relevant conditions of signage, fare posting, membership of an authorised taxi network etc.

SCPV (taxi) licences acquired under the second option would be made available to existing hire car licence owners in addition to the phased release of new SCPV (taxi) licences discussed below.

As with Option A, the different treatment of taxis and hire vehicles lies in the differences in information asymmetries pertaining to cruising markets and pre-booked markets.

A similar approach to reform was outlined in the Industry Commission Report:

*As suggested by Dr Radbone, another option would be to divide the taxi industry into two parts: taxis standing at ranks and hailed in the street, and taxis booked by phone. He noted that "practically all the problems of deregulation relate to the former, even though it is a relatively small part of the total taxi industry. Perhaps licences to occupy stands and ply for hire in the streets should remain restricted, while open entry [would] apply to the rest".<sup>71</sup>*

However, the Industry Commission then proceeded to suggest that the hire car industry should be closely aligned with the taxi industry.

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<sup>71</sup> Industry Commission, Urban Transport, *op cit* n 45, p. 405.

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*This option could be implemented by allowing open entry into the hire car industry and relaxing the conditions under which hire cars operate, so as to blur the distinction between hire cars and taxis booked by phone. Hire car would still not be allowed to ply for hire in the street nor stand on taxi ranks. But they could establish radio networks and develop new fare packages.<sup>72</sup>*

We consider that there are several problems with removing hire car quota restrictions, in conjunction with relaxing conditions under which hire cars operate, whilst maintaining quota controls on taxi licences:

- Open entry into the pre-booked market in the ACT, which comprises around 60% of taxi hirings, is likely to substantially erode market share currently enjoyed by taxis. This could significantly devalue taxi licences and in turn raise the need for large compensation payments. Accordingly, any difficulties associated with implementation of Option A due to compensation would arise with this approach.
- SCPV (taxis) would need to be members of accredited taxi networks and subject to fare authorisation and a maximum fare in the short to medium term. With these additional conditions on taxis, there could be a desire on behalf of some taxi licence owners or operators to move into the booked-only market, and this could in turn put downward pressure on taxi licence values.
- This approach could make enforcement of the regulations difficult by having two largely competing regimes, with one regime regulated, and the other not.

Accordingly, we take the view that if taxi licence quota restrictions are not removed simultaneously with the removal of hire car licence quota restrictions, certain distinctions between hire vehicles and taxis should be retained.

The experience in Adelaide suggests that open entry into the pre-booked market segment will not significantly erode taxi licence values if sufficient distinctions are imposed between hire vehicles and taxis.<sup>73</sup> In Adelaide, for instance, hire cars are required to have six cylinders or more, and a wheelbase of at least 2.8 metres. They must also be a "higher class of vehicle".

It is our view that a similar approach could be taken in the ACT at least during the first years of reform while SCPV (taxi) fares are required to be approved. It is during these years when only certain classes of vehicle should be permitted to be used under the SCPV (hire vehicle) licence. At the outset, the current hire car, RHV and MO vehicles could be the type of vehicles permitted to obtain an SCPV (hire vehicle) licence. The broad classes of vehicles should be prescribed by the regulator, but the regulator should be given discretion to either issue licences for other vehicles that might not fit the prescription, or to alter the prescription, where it is deemed appropriate.

To the extent that open entry in the hire vehicle market significantly affects taxi-cab licence values, despite the constraints on eligible vehicle types, it is considered necessary to address taxi licence owner compensation issues as outlined above.

### ***Phased release of additional taxi licences***

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<sup>72</sup> *Ibid.*

<sup>73</sup> Since quota restrictions were removed from the South Australian hire car industry, taxi-cab licence values continued to rise, from \$120,000 to \$155,000 at the end of 1998.

With a view to ultimately removing the taxi licence quotas and replacing transferable perpetual licences with non-transferable annual licences, the Government could phase out taxi quota restrictions. This could be achieved by issuing additional SCPV (taxi) licences each year for the next several years.

The Independent Pricing and Regulatory Tribunal (IPART) recommendations into the NSW taxi and hire car industry recommended a phased increase in licence numbers. The rationale appears to be to give industry participants and the Department of Transport the experience of operating in a less restrictive environment before the complete removal of licence number restrictions is considered.

IPART recommended that the number of taxi licences in Sydney be increased by 5% per annum between 2000 and 2005, with a Government review of the outcomes to be conducted in 2003.<sup>74</sup> This increase was recommended based on an increase in the number of radio bookings of around 5% on average per annum, between 1994 and 1998, as well as the number of passenger movements at Sydney Airport during this period. IPART did not recommend that compensation be paid to cover any loss in market value that might result from this release.

It is very difficult to ascertain an appropriate number of new licences that should be released, and the appropriate rate of release. Various benchmarks have been used such as increase in hirings or licence-values, or population ratios. Aerial supports the use of network performance measurement in the form of response times:

*When performance standards are less than the appropriate benchmarks, this is seen as an indicator for the need to release more taxi licences. This is considered an appropriate mechanism to respond to any increase in demand demonstrated by the community. Benchmarking is a much more realistic measure of demand than considering the number of taxis per 1,000 or per 10,000 of population.<sup>75</sup>*

Arbitrary rates of release could be used, such as figures of 5% or 15% as outlined by the Industry Commission. This approach is likely to receive criticism from the industry as not being commensurate with demand. For instance, hire car owners cite figures of the hire car sector operating at 60% capacity whereas taxi licence holders could potentially cite the decreasing number of hirings over recent years. The problem with phasing is that it appears to imply that regulations should manage the supply of SCPVs to match demand. As discussed earlier in this chapter, this is not the role of taxi and hire car legislation. Indeed, as mentioned, quota restrictions are likely to be stifling demand.

However, if phasing is to be pursued, a reasonable quantum and rate should be attempted. If a similar measure to that used by IPART is followed, being one based on an increase in hirings, there would be no case for additional licences in the ACT as booked taxi hirings decreased from 1995 to 1998 by about 3.2% and total hirings have decreased from 1996 to 1998 by about 5.2%.<sup>76</sup> On the other hand, increasing market values of taxi licences from \$240,000 in 1995 to \$280,000 in 1999 could suggest increasing scarcity values, though inflation may account for most of this increase. A further measure often used is the number of taxis per capita. The ACT has the lowest per capita ratio of taxis in Australia. However, we agree with submissions that contend that these

<sup>74</sup> IPART Review of the Taxi Cab and Hire Car Industries, Final Report, p. 85.

<sup>75</sup> Submission, Canberra Taxi Proprietors Association & Aerial Taxi Cabs Co-Operative Society Limited, p. 9.

<sup>76</sup> Sourced from Aerial hiring figures.

measures must be viewed in light of other differing demographic factors, such as a high level of two-car ownership in the ACT.

We take the view that the best measure of scarcity, or undersupply, are leasing values. As there are higher leasing rates in the ACT compared to NSW, indicating greater scarcity of taxi licences in the ACT than in NSW, it is our view that phasing in additional ACT taxi licences should at least occur at a higher rate than that recommended by IPART for NSW. In particular, there should at least be sufficient new licences to accommodate the entry of a new taxi network/booking service provider into the ACT market.

Based on discussions with some industry participants, it is our understanding that a viable competitor to the incumbent taxi company could establish with between 30 to 60 vehicles. Some of these operators could potentially come from the existing fleet. However, the costs to exit Aerial membership amount to exit barriers which may prevent existing licence-holders from moving to a new network. Accordingly, in order to give a meaningful opportunity for new entry into, and increased competition at, the network level, it is our view that additional licences equal to 15-20% of the current number (approximately 30 to 40 licences), would need to be issued in the first year of reform. In the following four years, licences could be issued at 5-10% of the number of licences at the time of issue per annum.

This is similar to the approach recommended by IPART. However, Option B differs to IPART in the initial and ongoing quantum of release and also because the IPART approach did not recommend additional compensation. Although an incremental approach to reform affords industry greater opportunity to adjust to a more open market thereby reducing some of the imperatives for compensation, the rate and quantum of licence devaluation may still warrant compensation. Where compensation is deemed appropriate, it could for instance be in accordance with the Industry Commission's first reform variation which suggested that the additional licences could be issued by auction with the auction proceeds going to proportionately compensate existing licence holders for losses in licence value.

A further point of distinction is that IPART recommended that the new licences be issued as 6 year annual licences. It is our view that the new licences should not comprise a different category to existing licences, as this would result in more cumbersome regulations and would complicate reform at later stages. On the other hand, if the new licences are also transferable perpetual licences, there is the risk of entrenching this type of licence instrument in the regulations. In order to reduce this risk, industry could be informed at the outset of the benefits of limited-term, non-transferable licences and the likelihood that these will replace perpetual transferable licences in the future. Converting perpetual transferable licences to limited-term, non-transferable licences is likely to have significant impacts on taxi licence values and thus should only be undertaken with appropriate compensation or once licence values are sufficiently low.

Performance reviews at the end of years 1, 3 and 5 should be conducted to ascertain whether reform objectives are being met, to assess the outcome of the reforms and whether there is the need for further reform.

### *Summary*

Option B envisages a buy-back of hire car licences and a phased increase of taxi licences at a rate of approximately 15-20% in year 1 and 5-10% annually in years 2 to 5. Generally, the need for additional compensation would diminish with the pace of the introduction of new licences. Restrictions on SCPV (hire vehicle) vehicle types in the short term should ensure that taxi

licence values are not rapidly eroded. The new taxi licences should be the same type of instrument as the existing taxi licences. Converting perpetual transferable licences to limited-term, non-transferable licences is likely to have significant impacts on taxi licence values and thus should only be undertaken with appropriate compensation or once licence values are sufficiently low.

Phasing in reforms does not achieve the benefits as quickly as does immediate quota reform. It also does not comprehensively address the restrictions, thereby continuing to pose the need for further reform at a later stage. In the meantime, this could create further uncertainty in the market which could hamper innovation and investment.

On the other hand, phasing in reforms could be regarded as beneficial in that it gives industry participants an opportunity to adjust to a more competitive environment. Furthermore, in the short term, Option B is likely to be regarded as less expensive, and thus easier, to implement than Option A as there are only 22 hire car licences with a market value of approximately \$2,640,000, as opposed to approximately \$50-60 million for the 217 taxi licences. Thus any amount deemed appropriate for compensation is likely to be much lower.

In our view, Option B would not achieve as high benefits as would Option A, but would still achieve significant net benefits compared to the status quo.

#### **4.6.3 Option C - Removal of hire car quotas and no reform of taxi licence quotas**

Option C proposes a removal of hire car quotas with no reform of taxi licence quotas. Again, the removal of hire car quotas could be achieved with a Government buy-back of licences. As with Option B, this option would achieve increased entry into the pre-booked market segment and thus community benefits in this arena. As with Option B, in the short term at least some restrictions on SCPV (hire vehicle) vehicle types will need to be imposed in order to should ensure that taxi licence values are not rapidly eroded.

The major difference between Option C and Option B is that the community will not benefit from increased competition within the cruising market segment. Accordingly, there will be a lower reduction in waiting times during peak periods, and less pressure to differentiate taxi services in terms of service or price.

For these reasons, we do not consider that Option C would realise as high benefits as Options A and B.

#### **4.6.4 Option D - Phased release of additional taxi and hire car licences**

Option D proposes to incrementally phase in additional taxi and hire car licences. It is similar to Option B above except with respect to the treatment of hire car licences and the retention of the RHV licence category intended to avoid rapid devaluation of hire car licence values.

The phase-in of additional taxi licences could be along the lines of those discussed in Option B above ie. 15-20% in year 1 and 5-10% in subsequent years with appropriate compensation where necessary and performance reviews at the end of years 1, 3 and 5. Additional hire car licences could be phased in at a similar rate. If deemed appropriate, compensation could be paid, for instance, from proceeds should licences be issued by auction, or from annual licence fees set above the administrative cost of the licence. Licences should only be converted to limited-term, non-transferable licences with appropriate compensation or once licence values are sufficiently low.

The major drawback of this approach is that it continues to impede competition in both the pre-booked and cruising market segments. Consequently, were this approach to be adopted, the objective of significantly reducing waiting times, particularly during peak periods, could not be realised. Another difficulty with this approach is that it retains a number of competitive restrictions between RHVs and hire cars associated with retaining the additional RHV licence category, as well as the difficulties with administering and enforcing RHV licences.

It is our view that Option D would not obtain as appreciable a benefit as Option A or Option B. Whether Option D would achieve higher net benefits in the short to medium term than Option C would depend on the magnitude and rate of the phased increase in additional licences in Option D. However, Option D would achieve higher net benefits in the long term than Option C.

#### **4.6.5 Option E - Issue additional licences to operate during peak times only**

Option E proposes that an additional category of licence be created which entitles holders to operate a vehicle as a taxi during pre-determined peak times, such as between 7.00 am - 9.00 am and 5.00 pm - 8.00 pm during weekdays, in addition to Friday and Saturday nights.

This approach will reduce waiting times during peak times and thereby reduce some of the costs of the current regime. However, the creation of an additional licence category will add complexity to the regulatory regime and will create further restrictions between the various licence categories. It has also been submitted that this option could exacerbate non-compliance with the legislation.

*Operators of restricted plates invariably find that the period of operation is not lucrative enough to meet expectations and they, therefore, operate outside of the restrictions. Considerable enforcement costs will ensue where the authority has the capacity and the desire to so enforce.<sup>77</sup>*

This option would alleviate some of the costs in the short term, but because it imposes additional administrative costs and inter-licence restrictions, it is unlikely to ensure high net benefits in the long term. Option E is unlikely to obtain as high benefits, in the long term, as the other options considered.

## **4.7 Recommendations**

*The review team recommends that licence supply constraints be removed, or loosened through transitional adjustments, noting that the review team has a preference for removal of supply constraints as per Option A as detailed in the report. The review team recommends that should transitional adjustments to licence supply constraints be pursued by the ACT Government, a further review be conducted within 5 years. Table 5 summarises our view of the likely impact on various industry participants from the above options.*

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<sup>77</sup> Submission - ACT Taxi Proprietors Association and Aerial, p. 35.

**Table 5: Comparison of licence quota reform options' likely impact on participants**

Industry participants	Option A Removal of taxi and hire car licence quotas	Option B Removal of hire car quotas and phased release of additional taxi licences	Option C Removal of hire car quotas and no reform of taxi licence quotas	Option D Phased release of additional taxi and hire car licences	Option E Issue additional licences to operate during peak time only
Consumers	Reduced SCPV fares (up to \$2.11 lower for an average taxi fare and up to \$4.33 lower for an average hire car fare), likely lower average waiting times, greater choice of service providers, levels of service and price options.	As with option A for hire vehicle consumers. Taxi consumers will receive fewer benefits in the short to medium term than under option A.	As with option A for hire vehicle consumers. Few or no benefits for taxi consumers. Extent of benefits depend on rate of release of additional licences.	Consumers will realise fewer benefits in the short to medium term than under option A. Extent of benefits depend on rate of release of additional licences.	Consumers will benefit during peak times principally through lower waiting times.
Taxi and hire car licence owners	Loss of licence asset. The net change depends on any compensation package deemed appropriate.	Similar to option A for hire car owners. The likely reduction of taxi licence values, and the case for/against additional compensation, depends on the rate of release of additional taxi licences.	Similar to option A for hire car owners. Impact on taxi licence values is likely to be small.	The likely reduction of licence values, and the case for/against additional compensation, depends on the rate of release of additional taxi licences.	Impact on taxi and hire car licence owners is likely to be small.
Taxi and hire car operators	Lower licence fees than current lease fees but increased competition. Competitive and innovative operators will gain. Those operators unable to adapt to competition will lose.	Similar to option A for hire car operators. Some increased competition for taxi operators from hire car operators, but slower rate of increased competition between taxi operators.	Similar to option A for hire car operators. Little change for taxi operators except for some increase in competition from additional hire car operators.	Increased competition between taxi and hire car operators depending on rate of release of additional licences.	Increased competition during peak times.
Taxi and hire car drivers	Greater demand for drivers, greater choice of "employer" and terms. If driver authorisation is made more stringent, then higher income is a likelihood. Likely net impact is positive for most drivers. Drivers who are unable to meet new authorisation requirements will lose.	Similar to option A for hire car drivers. Similar but slower impact on taxi drivers and rate of impact depends on rate of release of additional licences.	Similar to option A for hire car drivers. Little impact on taxi drivers except to the extent that driver authorisation is made more stringent.	Similar to, but slower impact than, option A and rate of impact depends on rate of release of additional licences.	Possibly reduced earnings during peak times, but more stringent driver authorisation will put upward pressure on driver earnings.



RHV participants	Open entry into the hire vehicle market segment will increase competition in this sector. Increased business opportunities through broader service offerings, a more streamlined licence application process, higher licence fees, increased compliance costs but improved compliance. Likely net impact is positive for most industry participants, but negative for less competitive RHV operators.	Similar impact to option A.	Similar impact to option A.	RHV sector will remain separate from hire cars. Some increased competition from additional hire car and taxi licences, and possibly increased levels of compliance. Generally little impact.	Similar impact to option D.
Taxi and hire vehicle co-operatives/companies	Taxi network contracting or accreditation and the removal of licence quotas will increase opportunities to enter the market. There will be increased competition. New entrants clearly gain. Existing companies that adapt to competition with price and service innovation will gain. Uncompetitive companies will lose.	Similar to option A for hire vehicle companies. Less opportunity for new taxi companies/co-operatives to establish.	Similar to option A for hire vehicle companies. Limited opportunity for new taxi companies/co-operatives to establish.	Similar to option A but opportunity for entry depends on rate of release of new licences.	Some opportunity for new entry at this level, but less so than with other options.
Regulator	The regulator is likely to incur higher administration and enforcement costs but these can be recouped from properly costed licence fees. There will be improved enforcement capability. The role of a price regulator (likely to be DUS) will increase.	Similar to option A.	Similar to option A except price regulator may remain IPARC if taxi sector is still a regulated industry.	Similar to option A except price regulator may remain IPARC if taxi sector is still a regulated industry. Likely higher administration and enforcement costs than option A due to more licence categories.	Similar to option D.
Airport	Improved movement of passengers from airport ranks during peak times. Likely net impact is positive.	Positive impact, but not as high as option A.	Positive impact, but not as high as option A.	Positive impact, but not as high as option A.	Positive impact, but not as high as option A.

Queanbeyan taxi and hire car operators, owners and drivers	Appropriate recognition of Queanbeyan participants in accordance with the geographic market, but would need to be subject to the same regulatory regime as ACT licences and thus the same reform impacts as outlined above. Likely net impact is positive for more competitive participants, negative for others.	Similar to option A.	Similar to option A.	Similar to option A.	Similar to option A.
Likely cost of reform to Government	Any compensation package deemed necessary should not exceed approximately \$60.5m total for taxi licences and \$2.9m total for hire car licences.	Any compensation package deemed necessary should not exceed approximately \$2.9m for hire car licences. Compensation for additional taxi licences will depend on the rate of release.	Any compensation package deemed necessary should not exceed approximately \$2.9m for hire car licences. Potentially no case for compensation for taxi licences if licence value is unaffected.	Any compensation package deemed necessary will partly depend on the rate of release of additional licences and the consequent impact on licence values.	Any compensation package deemed necessary will partly depend on the impact of peak-only licences on existing licence values.
Implications for other recommendations	Option A allows all other recommendations to be implemented.	Option B allows for implementation of all other recommendations, but slows new entry and the associated reforms at the taxi network level. This, in turn, stifles reforms to fare regulation.	Similar to option B but option C further stifles new entry and reforms at taxi company level and thus stifles reforms to fare regulation.	Option D does not permit licence category and service restriction reforms as RHV and hire car licences will remain separate. Slows reforms at company level.	Similar to option D.
Net impact on community	Lower price, improved competition and better SCPV services with greater innovation and choice and the maintenance of higher safety standards. In economic terms, lower deadweight loss and an improved distribution of resources with increased gains from trade. The likely net impact is highly positive.	Similar types of benefits as option A, but a smaller net benefit than option A is likely in the short to medium term. The faster that new taxi licences are released, the greater the community benefit in the short to medium term, but the greater the likely need for adequate compensation of existing owners.	Similar types of benefits as option A, but the size of these benefits will be greatly reduced relative to options A and B, both in the medium and the long term.	Similar types of benefits as option A but the size of these benefits will be lower than under options A and B in the short to medium term. It is difficult to conclusively assess whether option C or D will ensure higher net benefits in the short term, but option D will result in higher benefits than option C in the longer term.	Some similar benefits as outlined in option A, but a smaller net benefit than options A, B, C and D.

## 5. Licence categories and service restrictions

### 5.1 Overview

There are currently six main licence categories issued under the relevant legislation.<sup>78</sup> These are:

- taxi licences;
- restricted taxi licences ie. WAT licences;
- hire car licences;
- RHV licences, including long term RHVs, specific occasion RHVs and replacement hire car licences;
- motoromnibus licences; and
- sightseeing licences.

RHV licences comprise several sub-categories including long term RHV licences, specific occasion RHV licences and replacement hire car licences. These sub-categories are set out in a DUS document entitled *Terms and Conditions for Restricted or Replacement Hire Vehicles (RHVs)*. Long term RHV licences were intended for vehicles that are regularly made available for hire or reward, but are specifically restricted to weddings and school formals. Specific occasion RHV licences were intended for vehicles that are rarely made available for hire or reward but are only issued to a fully registered vehicle or a Veteran, Vintage or Historic registered vehicle. Replacement hire car licences enable hire car owners to use a replacement vehicle as a hire car while the original vehicle is undergoing repairs.

Though MO licences are not strictly the subject of this review, as discussed elsewhere there are MO licences issued that impact on the taxi and hire car industry. In particular, it is estimated that approximately 18 MO touring licences have been issued in respect of smaller MOs that effectively compete with hire cars. For this reason we discuss aspects of MO licences which we consider to be relevant to this review.

In addition there is a visiting MO licence which is granted to the owner of a MO, for which the vehicle is registered elsewhere in Australia.<sup>79</sup>

All licences are issued by the Registrar. However, there are differences in their principal characteristics and conditions. For instance, some licence types may be issued for limited terms whilst others are issued in perpetuity. Similarly, the various licence categories carry different conditions relating to a range of operational restrictions.

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<sup>78</sup> The Minister may, by virtue of section 8 of the MTA, declare that a specified class of licence entitles the licensee to drive a specified class of motor vehicles.

<sup>79</sup> Section 34 MTA.

Table 6 below compares the main characteristics of taxi, hire car, WAT, RHV, MO and sightseeing licences. Table 7 compares the principal licence conditions attaching to taxi, hire car, WAT, RHV, MO and sightseeing licences.

**Table 6: Principal characteristics of licences**

Licence Type	Manner of issuing	Eligible applicants	Term of licence	Transferability of licence
<b>Taxi licence</b>	Registrar grants licence or auctions a defined right, on payment of determined fee, subject to payment of any reserved price for the defined right as determined by the Minister (\$100,000 in 1995), and maximum number of licences determined by Minister (ss27, 27A and 27B MTA).	Can own a max of 2 taxi licences (s27(2)).  Not hire car licence owners.	Licences have been issued in perpetuity but practice has been to renew licences annually, subject to suspension or cancellation. <sup>80</sup>	Transferable, subject to the determined fee (s27(1B) MTA). <sup>81</sup>  Assignment of defined right allowed, subject to Registrar's approval <sup>82</sup> (s27C MTA).
<b>Restricted taxi licence (WAT)</b>	Registrar grants licence, on payment of determined fee, if satisfied of community need, subject to maximum determined by Minister (ss 27D(1) and 27E MTA).  Additional 10 issued on payment of \$6,000 in 6 annual instalments of \$1,000.	Initial six granted to Aerial who sub-licensed these to a single operator.  Additional 10 issued by ballot.	Initial 6 were issued to Aerial in perpetuity.  Additional 10 are issued for 6 years.	Not transferable (s27D(6) MTA).
<b>Private Hire-Car Licence</b>	Registrar may grant licence on payment of \$60,000, subject to maximum of 22 hire cars or higher number as determined by the Minister (s28 MTA).	Can own a max of 2 hire car licences (s28(2)).  Cannot own a taxi licence (s28(2)).	As with taxis.	Transferable (ss28(1A), (2) & (8) MTA) subject to strict conditions such as being held for 3 years unless licensee is deceased, medically unfit or other exceptional circumstances.

<sup>80</sup> The Act does not expressly state that the licences are issued in perpetuity, but this has been the practice of DUS to date. The Act also states that the Registrar "may from time to time" renew a taxi licence or motor omnibus licence, but it is understood that the practice generally has been to renew licences annually and concurrently with vehicle registration.

<sup>81</sup> Section 27(2A) of the MTA provides that an application for transfer prior to 6 January 1990 must be accompanied by \$37,500.

<sup>82</sup> Auctioning of taxi licences involves the auction of a "defined right" (s27A(1) MTA). A purchaser of a "defined right" has the right to be granted a licence to use a motor vehicle as a taxi (s26T MTA). This right lasts for a period of 28 days and is assignable.

<b>RHV licence</b>	Registrar may grant licence, on payment of determined fee, having regard to whether a private hire car could adequately provide the service (s28A MTA).	Three specific purpose vehicle licences can be issued per calendar year. For more than three hirings, must obtain a long term RHV.  Can hold more than 1 RHV and can hold a taxi and/or hire car licence. Interstate vehicles are not eligible for long term RHVs but are for specific occasion RHVs.	Long term RHVs as with taxis.  Specific occasion RHV issued for a maximum of two days and is restricted to the date of the specific occasion.	Not transferable.
<b>Motor Omnibus licence</b>	Registrar may grant licence, on payment of determined fee, subject to declaration of the proposed route, charges, type of vehicle, departure and arrival times etc (ss27(1)(b) and 33 MTA).	A person must apply in writing stating the proposed route, charges, type of vehicle, maximum speed, proposed times of departure and arrival etc. (s33(2)).	As with taxis, except that suspension or cancellation is subject to the approval of the Minister.	Transferable (s27(1B) MTA).
<b>Sightseeing licence</b>	Subject to conditions determined by the Minister, and subject to payment of the determined fee, the Registrar may grant a licence for the use of a taxi or private hire car for sightseeing (s29(1) and 29(5)).	Licence may be granted to a person for the use of taxi or hire car for the carriage of persons on a sightseeing tour.	Depends on particular licence conditions	No express right to transfer licence.

**Table 7: Principal licence conditions**

Licence Type	Seating Capacity	Permissible purpose of service	Right to cruise (ply for hire or rank)	Fare Regulation*	Vehicle Specifications
<b>Taxi licence</b>	Section 31A provides that the licence shall specify the number of passengers entitled to be carried. However, the current licences do not so specify. Currently, the seatbelt rules under ACT Inspection Manual for Light Vehicles and the Australian Design Rules are applicable.	All occasions. Multiple hiring permitted.	Yes. First car has right of hire at taxi rank unless the hirer selects a particular vehicle (Reg 32).	Maximum rates determined by Minister (s36(1) MTA).	Must meet basic requirements for vehicles under the ACT Inspection Manual for Light Vehicles and the Australian Design Rules. Fire extinguisher (s32 MTA) Specific provisions relating to taxis include "taxi" signage, metering, age of vehicle, quality, capacity signage and radio requirements.
<b>Restricted Taxi licence</b>	As with taxis, except the initial 6 licences were required to carry at least one wheelchair and the 10 new licences to carry two.	As above except priority given to consumers requiring WATs.	As above.	As above.	As above.
<b>Private Hire Car Licence</b>	As with taxis, except the existing hire cars seat four passengers or eight passengers for stretch limousines.	All occasions. Multiple hiring prohibited.	Ranking at airport only <sup>83</sup> No plying for hire.	Not regulated but driver must notify hirer before journey (Reg 25).	Must meet basic requirements for vehicles under the ACT Inspection Manual for Light Vehicles and the Australian Design Rules. Fire extinguisher (s32 MTA).

<sup>83</sup> As per discussion with DUS, 26 November 1999.

<b>RHV licence</b>	As with taxis, except no requirement to display capacity on vehicle.	May be restricted to certain hours, routes and types of functions or events (s28A(5)). Long term RHVs currently restricted to weddings and formals during November and December only, unless "variation" granted, up to ten per year. Variations of conditions are generally subject to the variation not impacting hire car business (ss28B & 28C). Specific occasion RHVs restricted to the relevant specific occasion.	No ranking. No plying for hire.	Fares are not regulated.	Must meet basic requirements for vehicles under the ACT Inspection Manual for Light Vehicles and the Australian Design Rules. Fire extinguisher (s32 MTA). Specific Occasion RHV will only be issued to a fully registered vehicle or a Veteran, Vintage or Historic registered vehicle.
<b>Motor Omnibus licence</b>	Must seat more than six passengers (s4 MTA). However, for the purpose of the vehicle standards, a bus is regarded as having more than nine seats; while for licensing, a bus is regarded as having more than 12 seats. MOs must display the capacity on exterior of vehicle.	May be restricted to certain routes, fares, types of vehicle, speed, pick-up and departure times etc (s33(2)). Tours and Charters (only for vehicles with > 16 seats).	No ranking. No plying for hire.	Maximum rates can be determined by Minister (s37 MTA).	Must meet basic requirements for vehicles under the ACT Inspection Manual for Heavy Vehicles and the Australian Design Rules.
<b>Sightseeing licence</b>	Capacity depends on eligible taxi or hire car.	Licence to use taxi or hire car for sightseers on a sightseeing tour.	Sightseeing tours only, no additional right to rank or ply for hire.	Can charge separate fares to regulated fares.	Applicable taxi or hire car requirements.

\* Though fare regulation could be considered a condition of licences, we discuss fare regulation separately in Chapter 6 above.



## 5.2 Restrictions

There are a number of restrictions on competition that arise from some of the licence characteristics and conditions outlined above.

We discuss below the provisions which appear to constitute material restrictions on competition. Some of these provisions would be rendered redundant in the event that our recommendations of moving to two licence categories were adopted. For instance, the different treatment of RHVs and hire cars would be removed under our recommended options, rendering a discussion of the RHV variation process redundant. However, we discuss the provisions on the assumption that minimal reform might be pursued. In this way, if the preferred methods of reform are not adopted, there are other amendments that warrant consideration in order to reduce restrictions on competition.

### 5.2.1 Different licence categories

It is not the existence of different licence categories per se which restricts competition, but the different characteristics and conditions attaching to them. However, in the context of any reform to the legislation we note that the greater the number of licence categories regulating would-be competitors, the greater the likelihood that competitive restrictions will arise and administrative costs will increase.

For instance, submissions argued that MO tour licences, which can be issued for vehicles seating 6 or more, are being issued for luxury MOs, such as Taragos, which effectively compete with hire cars. This is regarded as anti-competitive as hire car operators have paid significant capital sums to purchase the licence to enter the market, whilst MO operators need only pay much lower annual licence fees.

Similarly, RHV operators argued that the complex and cumbersome variation process, whereby the hire car industry is first consulted to obtain approval for an RHV licence variation, prevents efficient RHV operation and often deters demand. Hire car operators contend that non-compliance by some RHV operators damages hire car businesses.

These examples highlight the competitive restrictions and administrative complexities that can arise as a result of a regime that draws distinctions between operators that compete, or would potentially compete, with each other. The restrictions do not, as was argued by some submissions, arise from insufficient constraints on the permissible types of services for particular licence categories. NCP principles suggest that the removal of competitive restrictions should first be approached by reducing provisions which limit freedom to conduct business, rather than imposing additional legislative constraints on participants.

Accordingly, it is our view that reform should generally aim to limit the number of licence categories. As discussed elsewhere in this report, we take the view that due to different information asymmetries pertaining to different modes of hiring, there are at least two distinguishable market segments. The information asymmetries pertain particularly to the cruising market where it is more difficult for consumers to assess prices and service quality. Accordingly, additional requirements are needed for cruising vehicles that are not required for purely pre-booked SCPV services. In particular, requirements of vehicle identification and of fare notification are appropriate for cruising SCPVs.

Accordingly, we take the view that there should only be two principal licence categories, namely SCPV (taxi) licences for operators in the cruising and pre-booked market segments and SCPV

(hire vehicle) licences for operators in the pre-booked market segments only. Because of the community service obligation aspects of WATs, there should remain a separate category of WAT which could be called SCPV (WAT) licences. SCPV (WAT) licences are discussed separately at paragraph 5.2.3 below.

Along the same principles, we recommend reducing the overlap between MOs and SCPVs by amending the MO definition so as to remove MOs as a licence category within the SCPV market.

The current MO definition allows MO licences to be granted in respect of vehicles that carry 6 or more passengers. Under a reformed regime, SCPVs with capacity to carry between 6 and 9 passengers, currently operating as MOs, would need to be licensed as SCPV (hire vehicles). MO licences would be granted in respect of vehicles that carry 9 or more passengers.

The proposed characteristics and conditions of these licence categories are discussed further below. Generally speaking, the move from five principal licence categories to three would reduce restrictions that arise between licence categories and streamline the legislation. The reduction in licence categories generally would generate higher net benefit outcomes from the legislation for the ACT community.

### **Recommendation**

*The review team recommends that the number of licence categories should be limited to three: SCPV (taxi) licences for operators in the cruising and pre-booked market segments; SCPV (hire vehicle) licences for SCPV operators in the pre-booked market segments only; SCPV (WAT) licences for wheelchair accessible licences. In addition, we recommend amending the definition of "motor-omnibus" to vehicles carrying 9 or more passengers as opposed to the current definition of 6 or more passengers.*

### **5.2.2 Wheelchair accessible taxis**

WAT licences are issued by the Registrar if the Registrar is satisfied that it will meet a community need, subject to the maximum limit as determined by the Minister after consultation with a representative of a taxi organisation.<sup>84</sup> The initial six were issued to Aerial at no fee and were subsequently sub-licensed to a single operator for 6-year terms. In December 1999 an additional 10 WAT licences were balloted. These were issued for a period of 6 years at \$1,000 per annum.

The regulated supply of WAT licences is different to the other licence categories as it addresses, in part, a community service obligation. There are higher capital and operating costs associated with WAT services and WAT operators are also mandated to give priority to customers requiring WATs.

*The provision of a wheelchair accessible taxi service is, as a stand-alone service economically not viable. The service must supplement its income with standard taxi hirings. The economic market forces dictate that in an open entry environment there is no incentive to provide wheelchair accessible services as they are at the extreme end of the unprofitable spectrum. Transient entrepreneurs will not invest in wheelchair accessible vehicles which are significantly more expensive than the standard vehicle. Transient*

<sup>84</sup> Sections 27D and 27E MTA.

*drivers will not provide a service at the lower end of the profit margin scale when more lucrative opportunities exist.*<sup>85</sup>

Accordingly, a regulated minimum level of supply is likely to be needed as the market would not adequately meet this minimum at prices equal to standard taxi service prices. The recent Standing Committee Inquiry into WATs held that the number of WATs should eventually equate 10% of the entire fleet. This is also in line with the IPART recommendations in respect of the NSW taxi industry. We support the Government's response to the Inquiry which stated that the number of appropriate WATs may need to be higher than 10% of the total fleet, and that the appropriate level should be based on minimum response times equivalent to those of standard taxis.

Setting the appropriate minimum number of WATs on minimum response times is, in our view, a reasonable approach to adopt. However, in the context of more open entry in respect of taxi licences and at the network level, it is difficult to stipulate that a network must maintain a minimum percentage of its fleet as WATs or meet minimum response times. This is because operators would opt for standard taxi licences unless granted incentives and smaller networks with say 20 taxis and two WATs, are unlikely to be able to adequately service WAT consumers unless they co-ordinate with sufficient numbers of the entire WAT fleet.

*Under the present system, the public benefits from the taxi network providing the contractor with the RTX licence at no cost and direct subsidies amount to \$29,160 per annum. The contractor has received the same rebate at \$405 per month per Multicab normally applicable to members only. Canberra Cabs further subsidises the contractor with interest free loans of another \$65,000 per annum to pay the up-front costs of registration, insurance and workers compensation. The public benefits directly from the taxi network's discounting of the Taxi Subsidy Scheme docketts. The network provides a 6.25% discount on these docketts amounting to a total of more than \$16,000 per annum when invoicing the ACT Government.*<sup>86</sup>

The preferred approach to WATs would need to be established from discussions with existing and prospective WAT operators, existing and prospective networks, consumers, Government, industry, and community groups. However, it is our view that an explicit subsidy may need to be given to WAT licence holders/operators or consumers in order to ensure sufficient demand for WAT licences to reach adequate service levels.

### **Recommendation**

***The review team recommends that the regulator should retain the power to set a minimum level of supply of WAT licences governed by minimum response times equivalent to standard taxis and that direct or explicit subsidies will need to be given to WAT licence holders/operators or consumers to achieve these levels of supply.***

### **5.2.3 Issuing of licences**

Taxi licences are effectively issued by auction, through the auction of a "defined right".<sup>87</sup> This is a right to be granted a licence to use a motor vehicle as a taxi, other than a restricted taxi.<sup>88</sup> The

<sup>85</sup> Submission - ACT Taxi Proprietors Association and Aerial, p. 15.

<sup>86</sup> Ibid.

<sup>87</sup> Section 27A(1) MTA.

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defined right lasts for 28 days, is assignable and can be extended, subject to the Registrar's approval.<sup>89</sup> The purchaser of the defined right then applies to the Registrar for a taxi licence who will grant the licence on payment of any balance of the purchase money.<sup>90</sup> The number of defined rights and taxi licences are limited to the number determined by the Minister.<sup>91</sup>

Hire car licences are issued by grant upon payment of \$60,000, but are subject to the legislative maximum number of 22 licences unless determined by the Minister.<sup>92</sup> This remains the current maximum. The first 6 hire car licences were issued in 1965, the following 2 in 1976, and an additional 14 were issued over a period of 9 months in 1977. Hence, all 22 hire car licences have been issued.

An operator can obtain a maximum of three specific occasion RHV licences per year. In order to conduct more than three per year, an operator must apply for a long term RHV licence. RHV licences are only issued if the Registrar determines that hire car vehicles would not be able to adequately provide that service to meet the demand.

MO licences are issued by the Registrar if the Registrar considers there is sufficient demand to warrant additional licences.

The controlled release of licences, based on the regulator's assessment of a demand and supply balance, is an interference with market forces in a manner that restricts competition. The cost of this restriction is illustrated in Chapter 4 which discusses the impact of taxi licence and hire car licence quota restrictions on the market. In that chapter we conclude that the control on supply does not address legislative objectives and imposes substantial costs on the community.

In respect of taxi and hire car licences, the costs imposed by controlled release of licences is exacerbated, as there are express quota limits. The impact on the market from the controlled release of taxi and hire car licences is thus the impact from the quota restrictions.

The impact of the control of supply of RHV licences is more difficult to quantify as the data on the number of hirings, fares and demand elasticities is not readily available. However, the broad principles of supply restrictions as discussed in Chapter 4 apply to these licence categories. These principles indicate that where there is a restriction in supply below the competitive level, causing prices to rise above the competitive level, there is a deadweight loss to the community.

In addition to empirical evidence, the difficulty with attempting to regulate the establishment of a balance between supply and demand is highlighted by anecdotal evidence. Submissions and discussions with industry generally indicate that long waiting periods occur during peak times, and particularly when parliament is sitting, as the number of taxis and hire cars cannot adequately service the large influx of parliamentarians which consequently drives up demand.

A recent survey into the ACT taxi industry indicated a generally high level of satisfaction by consumers. Approximately 80% of consumers expressed to be either satisfied or very satisfied

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<sup>88</sup> Section 26T(1) MTA.

<sup>89</sup> Section 27C(1) MTA. An application for assignment shall be in writing signed by the assignor and specify the assignee. It shall then be lodged with the Registrar with the determined fee pursuant to s27C(3) MTA. If these requirements are met, the Registrar shall approve the assignment of the defined right under s27C(2) MTA.

<sup>90</sup> Section 27A(6) MTA.

<sup>91</sup> Section 27B MTA.

<sup>92</sup> Sections 28 MTA.

with taxi response times. However, results from the telephone interviews indicated that out of eight different aspects of the service, consumer satisfaction levels were lowest for taxi response times.<sup>93</sup>

The data led the surveyor to make the following findings:

*Although the agreed response times for the whole of Canberra have been met, there are time periods and areas of Canberra where these times were not met.*

*We recommend that in order to ensure ongoing and improving levels of service to the public, monitoring be performed on a quarterly or biannual basis.<sup>94</sup>*

These findings highlight the difficulties associated with regulatory intervention whereby the regulator attempts to balance supply and demand. Furthermore, we have not found commensurate benefits from supply restrictions that would outweigh the deadweight loss. Accordingly, any constraint on supply not directly related to safety or quality objectives would levy net costs on the community.

It is also clear from submissions and discussions with industry that the procedure of issuing RHV licences with restricted services and granting RHV variations, restricts the ability of RHVs to compete in the pre-booked market and deters demand for RHV services in some cases. The process appears to have contributed to non-compliance by some RHV operators.

Anecdotal evidence suggests that non-compliance includes operators conducting more than three specific occasion hirings per year, RHVs providing broader services without obtaining variations as well as some operators operating without being licensed.

Discussions with participants indicated that non-compliance is exacerbated by the fact that DUS does not keep adequate records of the number of specific occasion licences that an owner has obtained during a year. Inadequate record-keeping compounds the difficulties associated with enforcing the RHV licensing regime.

Unlicensed SCPV service provision potentially creates higher safety risks to consumers where vehicles and/or drivers are not in fact complying with regulated safety requirements or insurance requirements.

Accordingly, we take the view that the role of the regulator in controlling the supply of taxi, hire car and RHV licences in an attempt to balance demand and supply, does not address legislative objectives, and imposes net costs on the community. In our view, the only viable reason for restricting entry should be to address safety objectives and this is appropriately addressed via safety regulations.

It is our view that market forces coupled with appropriate safety regulations would ensure adequate utilisation as well as greater innovation, a greater variety of services provided at a lower average price and ultimately a higher net benefit outcome than the current method of releasing licences.

### ***Recommendation***

***The review team recommends that the role of the regulator in attempting to balance supply and demand should be removed and the regulator should issue licences on demand subject to***

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<sup>93</sup> Taxi Industry Survey Report, October 1999, TTS Research, p. 12.

<sup>94</sup> *Ibid*, p. 16.

*the applicant satisfying the appropriate licence holder and operator accreditation provisions, vehicle safety requirements, and payment of an appropriately costed annual licence fee.*

#### 5.2.4 Licence fees

Licence fees are generally levied on the grant, renewal and/or transfer of a licence and on a few other minor transactions such as notification of leasing. Licence fees are determined by the Minister and paid to the Registrar in the first instance. The current licence fees are set out in Table 8 below.

**Table 8: Licence grant, renewal and transfer fees 1999/00**

Licence category	Section of the MTA	Transaction	Fee per annum
<b>Taxis</b>	Subsection 27(4) and Paragraph 27(1)(a)	Grant or renewal of a licence to use a vehicle as a taxi	\$496
	Subsection 27(8)	Transfer of a licence to use a vehicle as a taxi	\$49
	Paragraph 27A(5)(b)	Application to extend the term of a defined right to be granted a licence to use a vehicle as a taxi	\$241 per week
	Paragraph 27C(3)(c)	Application to assign a defined right to another person	\$50
<b>Private hire cars</b>	Subsection 28(4)	Renewal of a licence to use a vehicle as a private hire car	\$496
	Subsection 28(6)	Transfer of a licence to use a vehicle as a private hire car	\$49
<b>Motor omnibus</b>	Paragraph 27(1)(b)	Grant of a licence to use a vehicle as a motor omnibus	\$110
	Subsection 28(8)	Transfer of a licence to use a vehicle as a motor omnibus	\$49
	Subsection 33(4)	Licence to conduct a motor omnibus service: Grant Renewal Transfer	\$247
	Subsection 33(5)		\$123
	Subsection 33(11)		\$123
Subsection 34(2)	Grant or renewal of a visiting motor omnibus licence	\$38	
<b>Restricted taxis</b>	Paragraph 27D(1)(b)	Grant of a licence to use a vehicle as a restricted taxi	\$496
	Subsection 27D(2)	Renewal of a licence to use a vehicle as a restricted taxi	\$496
<b>Restricted hire vehicles</b>	Subsection 28A(1)	Grant of a licence to use a vehicle as a restricted hire vehicle Special occasion licence	\$142 \$11.30
	Subsection 28A(3)	Renewal of a licence to use a vehicle as a restricted hire vehicle	\$142
<b>Licence to carry tourists</b>	Subsection 29(5)	Grant or renewal of a licence for the carriage of tourists	\$50
<b>(Leasing)</b>	Paragraph 31(4)(b)	Notice to the Registrar of a person having use, control and management of a taxi, a private hire car, or restricted hire vehicle	\$50

No submissions argued that the licence fees are set too high. When compared to the capital and operating costs of SCPV services, the licence fees comprise a minor percentage of total costs and thereby are not considered to amount to an impediment to entry. It is our view that the quantum of licence fees in some instances may be too low to amount to full cost recovery of the administration and enforcement of the legislation.

It is our understanding that revenues from licence fees are paid into consolidated revenue and DUS then allocates funds to the administration of the legislation, from the general pool of funds provided to DUS in respect of its entire portfolio. However, from our discussions with DUS it appears that current funding is inadequate to allow DUS to adequately administer and enforce the legislation.

For instance, it is understood that there are no officers dedicated to enforcement of the provisions.<sup>95</sup> This reduces the efficacy of the legislation, particularly where there is non-compliance with the legislation.

Table 9 below sets out the quantum of 1998/99 licence fee revenues.

**Table 9: Estimates of 1998/99 licence fee revenue from grant or renewal of licences**

Category	Number	\$ pa	\$ Revenue
Taxis	223	496	\$110,608
Hire car	22	142	\$3,124
RHV	32	142	\$4,544
<b>Total</b>			<b>\$118,276</b>

Source: DUS. The annual licence fee revenue for grant or renewal of licences (including MO licences) in 1997/98 was \$129,921.

Estimates of 1998/99 licence fee revenue from the grant or renewal of SCPV licences totalled \$118,000. Road User Services estimated that the costs allocated for administering the legislation in 1999/00 will be approximately \$38,000.<sup>96</sup> These amounts comprise relatively small proportions of total industry turnover of around \$32 million.<sup>97</sup>

To the extent that excess licence fee revenue is going into consolidated revenue for purposes unrelated to the taxi and hire car legislation, this places an additional cost on consumers thereby creating further distortions in the markets. To the extent that licence fees are set too low to ensure full cost recovery of the administration and enforcement of the legislation, they should be appropriately increased. Administrators and/or regulators should be entitled to retain the revenues from licence fees to properly fund administration and enforcement of the legislation.

A related issue was raised in respect of the concessional registration of RHVs. Concessional registration applies to vehicles that are over 30 years old, are members of recognised car clubs and are used for hobby purposes only (Veteran, Vintage or Historic registered vehicles). Concessional registration is approximately 10% of the full vehicle registration fee. To be entitled to use the vehicles for paid hirings, a concessional registered vehicle can obtain up to three specific purpose hirings per year. However, in order to do more than three, an operator must obtain a long term RHV licence which will only be issued to a fully registered ACT vehicle.<sup>98</sup> Accordingly, for a Veteran, Vintage or Historic registered vehicles to do four or more hirings per year, the operator would need to incur approximately \$600 more in registration fees and higher RHV licence fees.

<sup>95</sup> Discussions with DUS.

<sup>96</sup> Information provided by DUS.

<sup>97</sup> Calculated from total taxi hirings 2,743,605 per annum multiplied by average fare of \$11.74.

<sup>98</sup> Terms and Conditions for Restricted or Replacement Hire Vehicles (RHVs), ACT DUS.

It is understood that the insurance requirements for concessional registration and full registration are the same and the insurance inspections in relation to specific occasion RHV licence applications and long term RHV licence applications are again, the same. Moreover, all cars under concessional registration must undergo a roadworthy certificate inspection every year which is a stricter requirement than for cars under full registration. Hence, it was submitted that the requirement for full registration in order to obtain an RHV licence prohibits the use of some vehicles without obvious benefits.

Vehicle registration fees are not within the scope of this review. However, when setting licence fees, it may be necessary to consider the rules in relation to the concessional treatment of vehicles and the relevance of the number of hirings that a concessional registered vehicle is, or should be, entitled to undertake.

### ***Recommendation***

***The review team recommends that licence fees should be set at full cost recovery to ensure proper administration and enforcement of the legislation.***

#### **5.2.5 Licence term and transferability**

This section examines the impact of the current licence terms and licence transferability. In particular, it examines the restrictive effect of issuing transferable licences in perpetuity.

The legislation does not stipulate the term over which the licences are valid. In respect of taxi, hire car and MO licences, the legislation provides that the Registrar, may, from time to time, renew or transfer such a licence.<sup>99</sup> The legislation stipulates that a RHV licence remains in force for the period specified in the licence.<sup>100</sup>

In practice, all licences apart from WAT licences are issued in perpetuity and renewed annually and concurrently with vehicle registration, though they may be cancelled or suspended. The initial 6 WAT licences were issued to Aerial in perpetuity and were sub-licensed to a single operator for 6 year terms. The additional 10 WAT licences were issued for 6 year terms.

All licences are transferable except for WAT and RHV licences. The legislation also imposes strict conditions on the transferability of hire car licences which have been held by the licensee for less than 3 years.<sup>101</sup>

The overall objective of licensing is to facilitate enforcement of safety and quality standards deemed to be in the public interest. However, the perpetual and transferable nature of licences combines with limited licence numbers to create a valuable asset with a high market price, which in turn creates a barrier to entry into the SCPV market. Potential participants are required to make a substantial initial investment before they can compete in the industry. The costs associated with these competitive restrictions are discussed in Chapter 4.

It has been said that investment incentives are the principal benefit of perpetual licences. Therefore it would follow investors would only incur the high capital costs to enter the market with an assurance of continuity of operation. However, this argument loses currency in the context of perpetual licences that are renewable annually and that are subject to appropriate

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<sup>99</sup> Sections 27(1B) and 28(1A) MTA.

<sup>100</sup> Section 28A(9) MTA.

<sup>101</sup> Section 28(8) MTA.



suspension or cancellation, as the licence-holders are expected to prove compliance at the time or renewal in any event.

The only other benefit which appears to arise from perpetual licensing is where the administrative costs associated with issuing perpetual licences are lower than those associated with limited term licences, such as annual licences, due to less frequent administrative activities. Again, this benefit would appear to be undermined where perpetual licences are required to be renewed annually.

It is our view that the use of limited-term licences can achieve the same objectives as annually renewable, perpetual licences, without contributing to barriers to entry in the way that perpetual licences do. Licence duration need not be consistent between licence categories, but should ideally last between one and three years. It is our view that for SCPV (hire vehicles) annual licences provide sufficient certainty for investment whilst concomitantly allowing sufficiently frequent inspections. SCPV (taxi) licences may require licence periods of up to three years due to the additional requirements to be a member of an accredited network.

On the other hand, if it is difficult to surrender a licence in order to exit the market, or if it is difficult for a new entrant to obtain a new licence, non-transferability may in fact exacerbate the restrictions imposed by licensing requirements. Accordingly, to the extent that supply is restricted, licences should remain transferable. However, in conjunction with the removal of quota restrictions and control over supply, licences should become non-transferable.

#### ***Recommendation***

***The review team recommends that licences should be issued for limited periods, such as for one, two or three year terms and should not be transferable, noting that if controls on supply of licences remain, licences should remain transferable subject to the appropriate transfer eligibility requirements.***

#### **5.2.6 Reserve price for hire car licences and potentially for taxi licences**

Section 27A(2) provides that the Minister shall determine a reserve price in respect of a defined right. It is understood that the reserve price stood at \$100,000 in 1995. Section 28 (1) provides that the Registrar may, on payment of the sum of \$60,000, grant a hire car licence. It is understood that these payments go into consolidated revenue.

These provisions inflate the barriers to entering the market. It is not clear what legislative objectives these provisions address. There is no evidence to support the view that the revenues from these reserve prices directly benefit the industries affected. Nor is there evidence to suggest that this is an efficient form of tax.

It is our view that the competitive restrictions imposed by these provisions outweigh any benefits they may achieve. The removal of these provisions would reduce the competitive restrictions and result in a higher net benefit outcome to the community.

#### ***Recommendation***

***The review team recommends repeal of the provisions establishing a reserve price for taxi licence defined rights and the legislated payment of \$60,000 for hire car licences.***

#### **5.2.7 Eligible recipients (eg. cross ownership restrictions)**

The legislation prohibits the owner of a taxi licence from owning a hire car licence and vice versa. It also limits the number of taxi licences and hire car licences a person may own, to two.

These prohibitions restrict competition by limiting the participants that may compete in the two market segments. These provisions restrict competition without addressing any legislative objective.

There are no cross-ownership restrictions on RHV participants.

### ***Recommendation***

***The review team recommends that the limitations on the number of taxi and hire car licences that a person may own, currently set at two, should be removed, along with the prohibition on cross-ownership between taxi licences and hire car licences.***

### **5.2.8 Seating capacity**

There are provisions in the legislation which require licences to stipulate the number of passengers that a vehicle may carry, though licences currently do not so stipulate. Though a restriction on seating capacity could limit revenue, there are clear public safety benefits arising therefrom. Licence conditions in relation to seating capacity should be stipulated and enforced.

A restriction on competition also arises in respect of the MO seating capacity provisions. The MO definition allows MO licences to be obtained for vehicles seating more than 6 passengers, thereby competing unfairly with hire cars. This restriction is discussed further in paragraph 5.2.1 above.

### ***Recommendation***

***The review team recommends that licences stipulate the seating capacity in accordance with the seatbelt laws contained within the Australian Design Rules. In addition, the review team recommends that the definition of "motor-omnibus" be amended to apply to vehicles carrying 9 or more passengers as opposed to the current definition of 6 or more passengers.***

### **5.2.9 Constraints on permissible purpose of passenger transport service**

Currently, taxis are not expressly prohibited from providing passenger transport services for a particular purpose. The definition of "taxi" in section 4 of the MTA supports this:

*taxi means a motor vehicle (other than a motor omnibus) which stands or plies in a public street for hire for the conveyance of passengers and includes a motor vehicle which is intended to so stand or ply for hire and a restricted taxi.*

The definition focuses on the mode of hiring and is silent about the purpose of hiring.

The definition of hire cars also does not focus on the purpose for which transport is required, though it does prohibit multiple hirings:

*private hire car means a motor vehicle (other than a taxi, motor omnibus or restricted hire vehicle) which -*

- (a) does not ply for hire in a public street for the conveyance of passengers; and*
- (b) is used, or is intended to be used, for the conveyance of passengers under a contract which gives the hirer the exclusive use of the vehicle.*

Implicitly, taxis are prevented from providing particular services by virtue of fare regulation. An exception to this are the provisions which allow sightseeing licences to be granted for taxis and hire cars without being subject to fare regulation. The discussion of fare regulation in Chapter 6 covers the implicit constraint on service restrictions. In this section we focus on those provisions

which expressly relate to the constraints on the legitimate purposes of passenger transport for which a licensed vehicle can provide a service.

RHVs are strictly limited to certain purposes. In respect of specific occasion RHVs, operators are restricted to the service in respect of which that licence was obtained and it is issued for a maximum of two days. In addition, an operator can only obtain three specific occasion RHV licences per calendar year. In respect of long term RHV licences, hirings are restricted to weddings year-round and school formals during November and December only. A long term RHV licence can be granted ten variations annually, entitling RHV operators to undertake hire car work under certain circumstances, such as major special events when the normal supply is inadequate.

RHV owners must apply in writing to the Vehicle Registry for a variation. The Registry will then forward the application to the industry bodies (both the taxi and hire car industry), to seek their approval. The application must be lodged at least seven working days prior to when it is requested, and approval is not guaranteed.<sup>102</sup>

A number of submissions have highlighted the fact that there is significant demand for RHVs to be able to perform the type of services which is generally prohibited for RHVs.<sup>103</sup> One RHV operator submitted that he receives on average 2-3 requests per month for special transfers, including for example, birthdays, anniversary dinners etc which must be refused. This demand may then be serviced by another segment of the industry or may merely be lost altogether.<sup>104</sup>

The constraints impose a competitive restriction by preventing RHVs from effectively competing with taxis and hire cars in the pre-booked market segment. The constraints contribute to the higher SCPV prices, lower consumer choice, and ultimately to the deadweight loss discussed in Chapter 4.

It was also submitted that there is a low level of compliance with the restriction on RHV operators, and that this is in part due to the competitive restrictions and the slow and cumbersome variation application process. There does not appear to be any benefit in restricting RHVs to limited services or events apart from protecting the investments of taxi and hire car licence owners. This is not a legitimate legislative objective.

Removal of the constraints on RHV services would blur the distinction between RHVs and hire cars. This would erode some of the business currently serviced by hire cars. Without compensation, hire car licence owners could suffer significant losses. Removal of the restriction could be achieved by merging the hire car and RHV licences into one category of SCPV (hire vehicle) licence. This would remove the costs of the competitive restriction currently imposed by the RHV licence provisions.

A licence may be granted to a person for the use of taxi or hire car for the carriage of persons on a sightseeing tour.

The requirement for WAT licences to give priority to consumers requiring wheelchair accessible taxi services addresses a clear legislative objective for which there is no preferred alternative.

### ***Recommendation***

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<sup>102</sup> Per written submission by Mr Ian Daley of Arrive in Style Classic Jaguar Hire Cars.

<sup>103</sup> *Ibid*, p. 2; Submission from Mr Bob Campbell-Stewart, p. 1.

<sup>104</sup> Submission from Mr Bob Campbell-Stewart, *ibid*.

*The review team recommends that constraints on the permissible purpose of the SCPV transport provided, or similarly related service constraints, should be removed by merging RHV licences and hire car licences into one new licence category - SCPV (hire vehicle) licences - and permitting multiple hire if the initial hirer's approval is granted.*

*If a separate licence category remains for RHVs, they should be entitled to provide services for all purposes, though hire car owners are likely to put a strong case for compensation for any loss of their licence values resulting therefrom. At the very least, to the extent that RHV licences remain in existence, the distinction between a specific occasion RHV licence for three or fewer RHV hirings per year, and a long term RHV licence for more than three hirings per year, should be removed, and an annual RHV licence should be required for any number of trips. The RHV licence application process should be streamlined and appropriate enforcement carried out.*

*The provisions in relation to a sightseeing licence would be made redundant if reforms to fare regulation are adopted to allow for SCPV (taxis) to set fares for different services, as long as they are approved by the price regulator.*

*The requirement for WATs to give priority to passengers with disabilities is to be maintained.*

#### **5.2.10 Right to ply for hire and rank**

Taxis are the only SCPV type which can ply the streets for hire and rank ie. to operate in the cruising market segment, with the exception of hire cars which can rank at the airport only. The airport rank is discussed separately below.

The prohibition on hire cars and RHVs to engage in the cruising market relates to the information asymmetry between drivers or operators and customers. Unlike the pre-booked market, customers hailing taxis or engaging them at a rank are not readily able to assess whether a vehicle and its driver are safe and of an adequate service quality. As customers cannot shop around it is necessary for additional requirements to apply to vehicles entitled to accept hirings in the cruising market, such as rooftop signage, metering and membership of an approved taxi network.

The constraints on cruising amounts to a restriction on competition as some SCPVs cannot compete with taxis in the cruising market segment. The provisions however primarily address consumer safety objectives.

The costs of the restriction includes the limitation of choice in determining the mode of transport which offers the preferred combination of price and quality. The benefits of restricting the cruising market to taxis includes improved information flow which leads to greater levels of customer safety and more efficient movement of passengers at ranks. We take the view that the prohibition on some vehicles operating in the cruising market obtains a net benefit for the community.

Though hire car owners have said they would not seek to ply for hire in competition with taxis, they did submit that they would seek to rank in competition to taxis at several strategic ranks around the city such as hotels and the casino. Hire cars which meet the identification, metering and network membership requirements should be permitted to apply for a licence to compete in the cruising market with existing taxis. For instance, they would need to have sufficient identification as SCPVs cruising for hire, they would need to be members of accredited SCPV companies and they would be subject to fare approval, metering and posting requirements, with the current fares serving as a maximum in early years.

Existing RHVs could also theoretically compete, however, it is unlikely that they would seek to obtain these licences as most of the RHVs are unique or classic vehicles which would not be able to sustain the rooftop signage requirements or the high operating costs of cruising unengaged.

### **Recommendation**

*The review team recommends that constraints on the mode of hiring be retained so that SCPV (taxis) are allowed to operate in the cruising and pre-booked market segments and SCPV (hire vehicles) are restricted to operating in the pre-booked market segment only. SCPV (taxi) licences should require the vehicle to have appropriate external identification and metering requirements and to be affiliated with a contracted/accredited network.*

#### **5.2.11 Airport rank**

For several reasons the airport rank requires different treatment to other ranks.

- Though hire cars are prohibited from cruising, currently they are permitted to rank at the airport and provide a valuable component of the service.
- The airport rank experiences particularly high peaks between 08h30 and 09h30 and between 15h30 and 16h30, when several planes land at once and especially when it is raining, as increased demand for taxis in the city takes supply away from the airport. During these peaks, the rank might be less suited to competitive shopping due to the need to load people and luggage into vehicles quickly and orderly.
- Canberra International Airport is privately owned and generally can, subject to third party access laws, deal according to its own private commercial objectives. These objectives include improved movement of passengers, but also include increased revenue from the carpark as well as from the ranks. Their objectives do not necessarily include increased SCPV choice for consumers or lower SCPV fares for consumers. In fact, these outcomes could reduce the demand for the Airport carpark.
- There are proposals to alter the format and capacity of the airport ranks and the preferred manner of loading and conveying passengers from those ranks.
- Currently, there are two ranks for the limousine association (hire cars) for approximately three vehicles, and two ranks for taxis for up to six vehicles. Proposals currently being prepared envisage two ranks with capacity for 10 vehicles in total - 6 taxis and 4 hire cars.
- Unlike other ranks, the Airport charges users, currently Aerial and the Limousine Association, for the use of their ranks.
- Currently, Aerial contributes to the costs of marshalling. In the event of increased competition, it may become necessary to consider who bears the costs of marshalling.

There is already some choice for consumers, as between hire cars and Aerial taxis. The critical question is whether, if new SCPV companies entered the market, the airport rank could adequately facilitate further competitive shopping, such as between competing SCPV (taxi) companies, without slowing passenger movement and creating disorderly conduct.

For instance, there may be sufficient ranking capacity for allowing several companies to rank in competition at the airport, with passengers coming through a central feeder and being presented with a choice of companies. Spaces could be auctioned to the highest bidder and clearly designated and vehicles of that company be given exclusive use of that rank.

The main logistical barrier to increased competition would appear to be feeding vehicles of the particular company from the waiting bay, which currently allows up to between fifty and seventy vehicles, but with the front vehicles queuing two abreast. For instance, if there were three exclusively designated ranks for three companies, and the first twenty vehicles at the waiting bay all belonged to one company, the other two ranks would be unutilised until these vehicles had all been dispatched. This would lead to slower loading of passengers and increased waiting times, without increased choice for that period.

Given the significant changes currently being proposed, it is unclear whether and to what extent increased competition could occur at the airport. The third party access provisions of the *Trade Practices Act 1974* (TPA) could assist in achieving competition at the ranks. However, it could be less costly to all parties to engage in consultation at this point of the airport's redevelopment to achieve an appropriate outcome.

### **Recommendation**

*The review team recommends that during the airport's redevelopment, there should be ongoing consultation between the Airport, ACT and Queanbeyan taxi and hire car companies and the Government on the approach to ranking at the airport, taking into account the objectives of NCP and the other recommendations of this review.*

### **5.3 Impact of taxi and hire car leasing**

There is no express provision in the MTA or Regulations which provides a power to lease vehicles. However, it is understood that DUS implies this right from section 31 of the MTA.

Approximately half of all taxi and hire car licences are leased. The high incidence of leasing could be attributed to a number of factors such as:

- the limitation to two hire car licences or two taxi licences which may be owned by any one person,
- the quota restrictions coupled with the fact that the licences are transferable perpetual instruments, together have created a very high market value which require capital investments that are prohibitively large for some operators; and
- the fact that the revenue earned comprises scarcity rents, due to the quota restrictions, that provide a return on the licence over and above that which goes to drivers and operators, creating viable returns for investors that may never operate or drive a vehicle.

The impact of leasing on the market is unclear. On the one hand, in the context of quota restrictions, leasing could be seen to mitigate some of the restrictions imposed by quota limits as it facilitates entry of operators who cannot afford the high market values of the licences.

On the other hand, it has been argued that leasing increases the value of licences on the basis that it allows owners to gain a return from licences without having to devote time and effort to operate the vehicle.<sup>105</sup> As one commentator puts it:

*The effect... has been to drive up the prices of taxi licences, far beyond the reach of engaged drivers, and has enabled the concentration of licence ownership in the hands of*

<sup>105</sup> *The leasing of Taxi Licences - A Discussion Paper*, Passenger Transport Board, Transport Systems Centre, University of South Australia, Dr Ian Radbone, 2 February 1998.

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*investors who have neither the interest nor involvement in day to day activities of drivers.*<sup>106</sup>

It is our view that the quota restrictions explain the majority of the licence value. A prohibition on leasing may decrease licence values but there would still be high scarcity values as licence owners would still be able to secure supernormal profits.

Thus, the principal costs of leasing can generally be seen to be part of, or factored in, the costs of the quota restrictions calculated in Chapter 4 above. These costs are the distortions to efficiency that result from a transfer from consumers to producers. That is, lease values generally exemplify the scarcity rents or supernormal profits that arise due to the quota restrictions.

Leasing does, however, potentially affect the distribution of normal profits. Depending on fares, operating costs, driver earnings and lease rates at a particular time in respect of a particular vehicle, leasing could effectively be channelling normal revenue away from the driver and/or operator to the owner, that they would otherwise receive, in the absence of leasing.

It has been shown that though leasing may increase employment opportunities in a market with high licence values, leasing has an indirect depressive effect on drivers' wages.<sup>107</sup> To the extent that leasing decreases normal returns to drivers, it could also be considered regressive as these participants have been shown to generally be in lower income brackets.

These redistributive effects may also have the distortionary effect of reducing the normal market incentives for operators and/or drivers to improve services in order to earn higher profits. Contrary to this argument is the view that leasing increases vehicle and fleet utilisation rates.<sup>108</sup>

It is not apparent that leasing is necessary to increase vehicle or fleet utilisation as the licence owners can, and do, allow drivers to use the licence without entering a lease. The driver is considered a bailee of the vehicle in law and generally takes a percentage of the revenues earned during that shift. Accordingly, in the absence of quota restrictions and limitations on the number of licences which a person must own, leasing does not appear to generate any benefits.

Overall, the depressive effect on driver's wages lead us to the conclusion that in the long term, the incidence of leasing should be reduced. However, if restrictions on supply remain in existence, causing licence market values to heighten, leasing should not be prohibited as this would merely contribute to barriers to entry and increase the legislative restrictions on competition.

If the incidence of leasing remains high, one approach to mitigate any depressive effect of leasing on driver income would be to increase the value of driver services. This could be achieved through stricter driver authorisation which would raise the bargaining power of drivers vis-a-vis owners. Their position would also be strengthened through an increase in the number of licensed vehicles.

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<sup>106</sup> *A reply to the Smith Committee: a preliminary analysis of the structure of the Melbourne metropolitan taxi industry and its effect on driver behaviour*, Centre for Labour Studies, University of Adelaide, J. Lanigan. (1994), p. 5.

<sup>107</sup> *The Leasing of Taxi Licences - A Discussion Paper*, Passenger Transport Board, Transport Systems Centre, University of South Australia, Dr Ian Radbone, 2 February 1998.

<sup>108</sup> See for instance the discussion in *The Leasing of Taxi Licences - A Discussion Paper*, *op cit* n 101.

***Recommendation***

*The review team recommends that while market values of licences remain high, leasing should be permitted in order to facilitate entry to operators or drivers who cannot afford the high capital costs.*

*A removal of the quota restrictions and a move to annual non-transferable licences is likely to be accompanied by a decrease in the incidence of leasing. If the incidence of leasing remains high, various measures to mitigate any depressive effect of leasing on driver income should be adopted, such as imposing stricter driver authorisation standards and increasing the number of vehicles for hire.*



## 6. Fare regulation

The legislation grants power to the Minister to fix the maximum fares chargeable for taxi services.<sup>109</sup> The current maximum regulated fare is set out in Annexure C below. Though the fare is a maximum only, the taximeter requirements and fare display requirements significantly reduce the likelihood of negotiation of lower fares.

For instance, subregulation 18(1) provides that the taximeter must be capable of registering the rates per km, flag fall, hire charges and waiting time fees as determined under section 36 of the Act. Subregulation 18(2) provides that the Registrar may exempt the holder of a taxi licence from compliance with subregulation 18(1) for such period and subject to such condition as the Registrar thinks fit.

These provisions, together with the uniform nature of services and the fact that all taxis are members of the same company, have resulted in the maximum fare effectively becoming the universal ACT taxi fare.

Fare regulation is thus a significant restriction on competition, as it has prevented participants competing with each other on price, one of the main variables on which participants generally compete. When maximum fares effectively become the only fare charged, there is also less imperative for drivers or operators to reduce costs in order to charge lower prices and differentiate from competitors. Fare regulation thus reduces the scope for competing companies to offer different price-service quality packages. The objectives, costs and benefits of fare regulation, and alternatives thereto, are considered below.

### 6.1 Objectives

One objective of fare regulation could be to address information asymmetries between operators and consumers so as to reduce transaction costs and thereby facilitate the orderly hiring of taxis. This objective is particularly relevant to hirings engaged by hailing taxis, as it is difficult for a consumer to “shop around” for a different price-service mix. Consumers hiring at a rank are in a better position to competitively shop when prices are known and the first-on-first-off cab-rank rule does not strictly apply.

It is easier for a consumer to assess the price when booking an SCPV by phone than it is when hailing a taxi or hiring at a rank, rendering the information asymmetry objective less applicable to the phone-booking market. In any event, though fare regulation does in part redress information asymmetries, it is not necessary to have maximum fare regulation to do so. For instance, a regime requiring prices to be posted in and/or outside vehicles, without being subject to a maximum price, will address information asymmetries.

Maximum fare regulation could also be seen to aim at reducing the price exploitation opportunities arising out of licence quota restrictions. Again, due to competitive shopping opportunities, this risk is highest in the market for hailing taxis, less so in respect of hiring at ranks and least apparent in the pre-booked market. However, this objective becomes much less relevant once an industry has effectively moved to a regime of unrestricted supply.

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<sup>109</sup> Section 36 MTA.

Accordingly, the objectives of maximum fare regulation have different degrees of relevance according to whether hirings are by hailing, at ranks or by pre-booking and according to the extent of entry restrictions.

## 6.2 Costs

The costs of regulating a maximum fare, which has effectively become the only available fare, could be in the form of:

- prices being set too high;
- reduced incentives to innovate and respond to the needs of consumers; and
- excessive averaging which could lead to higher waiting times.

Generally speaking, in order for price regulation to lead to an efficient outcome, the prices must reflect the marginal costs of production.<sup>110</sup> Importantly, the regulated price should not include super-normal profits or monopoly rents as this leads to a welfare loss and a consumer to producer transfer.

The current methodology underlying the fare regulation uses an index of average cost change to adjust fares. It attempts to measure change in the average costs that a taxi operator might incur over a period. The fare is adjusted periodically to reflect changes in a range of averaged fixed and operating costs. Fixed costs include items such as depreciation of the vehicle, uniform, taximeters, drivers licence amongst others. Operating costs include items such as fuel, tyres, repairs and maintenance, and other miscellaneous items based on the average annual distance travelled.

Aerial argues that the methodology does not include a return to the owner.

*Contrary to the argument that controlled entry generates a licence value which is then reflected in higher taxi fares, there is no investment return in the taxi fare formula. In the ACT it can be shown (Tables D & E), that taxi fares have moved independently of licence values and often in the opposite direction. The public benefit of regulated price control ensures that the fare level reflects true market costs for the provision of the service. It ensures that the public does not suffer the turbulent pricing associated with peak demand, weather, or location-specific services.<sup>111</sup>*

The regulated fare does not reflect “free market costs” as the licence owner earns a return on the asset made valuable by scarce supply. A fare approval regime will ensure that prices do not fluctuate unreasonably.

It has been argued that as the calculation does not include an item for the return to the licence holder, the regulated fare does not contain any amount of super-normal profits. This argument does not take into account the calculation of the original fare several decades ago, contained in a pricing agreement between the Government and industry. IPARC has been unable to ascertain how the original fare agreement was calculated prior to the commencement of the fare index developed by the Taxi Industry Advisory Council. However, it is our opinion that given the current licence values and existing returns on licence-owner investments, the original calculation is likely to have implicitly or expressly included a return to the licence holder.

<sup>110</sup> In respect of taxi services, this cost should include the cost of downtime, or cruising or waiting for the next hiring.

<sup>111</sup> Submission - ACT Taxi Proprietors Association and Aerial, p. 19.

As discussed in Chapter 4, the current taxi licence values are indicative of super-normal rents being earned, thereby leading us to the conclusion that the current fare regulation is not efficient. This is not particular to the ACT industry as it is generally regarded as very difficult for an industry regulator to set an efficient price for taxi services.

Price regulation also reduces the incentives to innovate and offer differentiated services. Operators are unlikely to offer improved services if the price regulation would cause them to forgo profits in doing so. In a market dominated by a single taxi company with livery requirements and making individual taxis indistinguishable, operators are also unlikely to offer lower prices as the lower prices would not be apparent to a potential consumer. Accordingly, there is also less incentive to reduce costs. These costs are difficult to quantify but evidence in New Zealand suggests that consumers value a range of taxi price-service options.

Another cost of fare regulation is the cost in higher waiting times that occurs due to excessive averaging or lack of differential pricing. This occurs because taxis are not able to charge higher prices during peak times, which would reduce demand so that waiting times are reduced. Currently, different rates apply as between the 6.00 am. to 9.00 pm. period and the period outside this time, and as between weekdays and weekends. However, the same rates apply during the day in which two major peaks are experienced, one in the morning and again in the evening.

Differential pricing sends signals to suppliers as to when it is most profitable to have their car on the road. A lack of differentiation reduces this effect and thereby reduces the responsiveness of supply to changes in demand. The costs of higher waiting times are difficult to quantify but are considered to be not insignificant. Regulated differential pricing could be achieved, for instance, with the use of a peak time surcharge or higher per km rates.

### 6.3 Benefits

The benefits of fare regulation may include:

- reduced price exploitation;
- reduced transaction costs; and
- preventing haggling on prices which could lead to disorder at ranks or on street curbs.

As discussed in Chapter 4, licence quota restrictions grant taxi operators/owners greater market power. In this context, maximum price regulation achieves significant benefits by reducing the opportunity for price exploitation. As mentioned above, the benefits of reduced price exploitation are mostly relevant to the hail market segment and to a lesser degree in the rank market segment. These benefits are also likely to be more apparent in the context of a market dominated by one taxi company. However, it is our view that the need for controls against price exploration, and thus the benefits of maximum fare regulation, are diminished as supply restrictions are removed and market power is reduced.

There is an argument that price regulation obtains benefits even in the context of open entry. Proponents of this argument cite the experience in the 1970s of some US cities where deregulation resulted in price rises and ultimately a need to re-regulate. However, there are two significant differences with those cases and the current market:

- Barriers to entry into the phone booking market are not nearly as high as they were in the 1970s, due to technological advances. Indeed, in the ACT, all taxis are members of a telephone booking network and many have access to mobile phones.

- Licence values were then not nearly as high in those cities as they are in the ACT, so that there was much less scope for cost reductions as there is in the ACT.

The results of deregulation in the US differ to the results in NZ and the UK minicab industry. In New Zealand, brand naming since deregulation in 1989 has been accompanied by reductions in fares. Similarly, there is workable price competition in the mini-cab sector of the UK market where entry is not restricted.

Fare regulation lowers transaction costs incurred if consumers wish to obtain information on the cost of a taxi service. These costs tend to be high in the cruising market segments. Related to these transaction costs are the risks of disorderly haggling and risks to safety that could arise in the context of total fare deregulation. This is particularly relevant at ranks such as the Canberra International Airport rank, where there is limited ranking space and the ranks experience significant peaks when several planes arrive within close intervals. It is critical in these circumstances that passengers be loaded into taxis efficiently in order to ensure limited queuing.

The benefits of these reduced risks are difficult to quantify but are considered to be weighty, as evidenced by those jurisdictions that had to re-regulate after total entry and price deregulation lead to disorderly hiring.

#### 6.4 Alternatives

Though there are significant benefits of maximum fare regulation in the context of restricted entry, generally it is not considered beneficial to effectively have a uniform fare. A regime similar to that of New Zealand's, whereby accredited taxi companies obtain approval of fares, taxis are required to post prices and companies undertake sufficient price advertising, will reduce transaction costs and the risk of disorderly hiring without imposing the same restrictions on price competition. The New Zealand experience resulted in prices falling in real terms and taxi operators offering a greater variety of fares to attract customers whilst ensuring a sufficient return to operators and drivers to operate during different times throughout the day and night.

In the event that new taxi companies enter the market, a fare approval regime should encourage greater price competition, differentiation of fare levels and fare structures, and greater innovation. In our view, this would achieve higher net benefits than the current regime. If supply restrictions remain, or during any transitional period during which new entry is occurring, fare approval should be subject to a maximum fare to prevent price exploitation. Removal of the entry restrictions and quota constraints makes the case for reform of the current fare regulation more compelling.

However, even in the context of more open entry, fares could be subject to a maximum at least in the short to medium term. This is because international evidence indicates that increased entry will not in all cases lead to fare competition. In respect of deregulation in some American cities it was found:

*The evidence that rate increases, on the average, were at least as high in the regulated as in the deregulated cities indicates rather convincingly that deregulation does not necessarily result in lower fares.<sup>112</sup>*

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<sup>112</sup> Teal, R.F. and M. Berglund (1987), "The impacts of taxi-cab deregulation in the United States" *Journal of Transport Economics and Policy* 21(1): 37-56, at p. 43.

If it is determined that a maximum rate be retained, it is our view that amendments to some of the features of the current pricing methodology could achieve more efficient pricing. It was not the mandate of the NCP review to undertake a comprehensive analysis of the current price setting methodology or formulae. In fact DUS recently commissioned IPARC to:

- investigate maximum taxi fares for taxi services provided within the ACT, for a period of between three to five years; and
- recommend a method or formula as appropriate which may be used to determine pricing.

The outcome of the investigation will form the basis of a report recommending to the Minister for Urban Services a method or formula, as appropriate, which will be used in the determination of maximum taxi fares. The reporting date of IPARC's investigation is 30 March 2000.

Although we have not conducted a comprehensive analysis of the methodology, we consider it appropriate to make some broad observations in light of the upcoming price review.

It has been argued that efficient price regulation would require information on, amongst other things:

- the elasticity of demand with respect to fares and with respect to hours of taxi-cab service supplied;
- the elasticity of supply of hours of taxi-cab service with respect to average revenue per period;
- the existing hours of taxi-cab service supplied and total distance travelled; and
- the existing number of paid hours and paid distance travelled.<sup>113</sup>

This information is difficult to record and has not been maintained by Aerial or ascertained by IPARC. However, it is our view that more efficient pricing is likely to be achieved if the methodology was amended to take into account benchmarks or changes in additional factors such as:

- response times;
- productivity;
- elasticities of demand;
- technology advancements;
- cost of capital; and
- driver earnings.

Though the current methodology does not expressly contain a return on capital, the original price setting factors are unknown but must have at least implicitly included a return on capital otherwise licences would not fetch such significant market values. Accordingly, the price review should bear in mind that the current prices already include a return to the licence holders on their investment in the licence, which contributes to a significant welfare cost and consumer to producer transfer.

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<sup>113</sup> M Arblaster, *An economic analysis of regulation of the Taxi Industry incorporating an empirical study of the Melbourne Taxi-cab Market*, M.Ec Thesis, Monash University (1979).

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Consideration could also be given to differentiating between peak and off-peak times, such as including in the price structure a surcharge for peak periods or a discount for off-peak periods, without raising the current average cost to consumers. It is also not clear why the current methodology is based on base fees paid by non-members of \$877 per month rather than the member fees of \$450 per month, given most or all owners are currently members.

In the context of our recommendations of open entry into the SCPV (hire vehicle) market, if significant new entry occurs and SCPV (hire vehicles) retain their rights to rank at the airport, price shopping and negotiation could lead to delays in loading passengers and long queues. Thus additional benefits could be gained from some level fare regulation in respect of SCPV (hire vehicles) ranking at the airport, bearing in mind that SCPV (hire vehicles) should not be permitted to advertise fares on the outside of vehicles as this would encourage unlicensed hirings in the broader cruising market.

One approach for instance, could be to grant powers to establish fare approval regulation for SCPV (hire vehicle) journeys from the airport. The current average airport fares of hire cars as posted at the airport, could be an appropriate approved fare for SCPV (hire vehicles) from the airport.

However, the most appropriate policy of fare regulation in relation to the airport rank depends in large part on the available ranking capacity and layout of the taxi and hire vehicle ranks, which are about to undergo redevelopment. Some formats may better facilitate competitive shopping as between hire vehicles and taxis than other formats. Accordingly, we recommend that the policy formation of fare regulation at the airport rank be informed by discussions between DUS, the airport and the taxi and hire vehicle industries.

In other respects SCPV (hire vehicle) fares should not be regulated. Because of this, and because the ACT contains a high proportion of pre-booked fares, it is conceivable that if open entry into the pre-booked market segment is pursued, a large number of existing operators would move out of cruising services into pre-booked services only, causing service levels in the taxi industry to drop. The experience in South Australia suggests that this is unlikely to happen if sufficient distinctions are imposed as between SCPV (taxis) and SCPV (hire car) licences.<sup>114</sup> For instance, in South Australia, hire cars are required to have six cylinders or more, and a wheelbase of at least 2.8 metres. They must also be a "higher class of vehicle".

It is our view that a similar approach could be pursued in the ACT at least during the first years of reform. It is during these years when only certain classes of vehicle should be permitted to be used under the SCPV (hire vehicle) licence such as the current hire car and RHV vehicles. This should ensure that the benefits from reform to the pre-booked market segment are not achieved at the expense of the cruising market segment.

## 6.5 Recommendations

*In the context of removing the legislative restrictions on supply, we recommend reforming the current fare regulation. The maximum fare setting powers should be replaced with a fare approval regime for accredited SCPV (taxi) companies.*

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<sup>114</sup> Since quota restrictions were removed from the South Australian hire car industry, taxi-cab licence values continued to rise.

*SCPV (taxis) will still be required to post their approved fares inside the vehicle, and to maintain taximeters which calculate and register the approved fare. SCPV (taxis) should not be prohibited from posting fares on the outside of the vehicle. Accredited taxi companies should be required to advertise their approved fare in a local paper.*

*In order to protect against price exploitation, the current maximum fare should remain the maximum until adequate new entry has occurred. Should ongoing maximum fare setting powers of taxis be retained, it is our view that consideration should be given to including additional factors in the methodology to attempt to achieve more efficient pricing. For instance, the methodology could include factors to account for benchmarking or change of interstate prices, technology, productivity, cost of capital, driver earnings and/or demand elasticities. In addition, consideration should be given to including differential pricing in the fare structure for peak vs off-peak services.*

*In the context of our recommendations of open entry into the SCPV (hire vehicle) market, with ongoing rights to rank at the airport, fare approval regulation could apply in respect of SCPV (hire vehicles) ranking at the airport. As a guide, the current average airport fares of hire cars as posted at the airport, could be an appropriate approved fare from the airport.*

*The appropriate policy, however, depends on the final capacity and format of the airport rank currently undergoing redevelopment. Accordingly, we recommend that the policy formation of fare regulation at the airport rank be informed by discussions between DUS, the airport and the taxi and hire vehicle industry groups.*

*In other respects, SCPV (hire vehicles) should not be subject to fare regulation. Accordingly, the review team recommends that during the initial years of opening entry into the SCPV (hire vehicle) industry, consideration be given to limiting the classes of vehicle permitted to be used under the SCPV (hire vehicle) licence.*

*At the outset, the current hire car and RHV vehicles could be the type of vehicles permitted to obtain an SCPV (hire vehicle) licence. The broad types of vehicles should be prescribed by the regulator, but the regulator should be given discretion to issue licences for other vehicles that might not fit the prescription, or to alter the prescription, where it is deemed appropriate.*

## **7. Vehicle standards**

### **7.1 Overview**

The legislation contains requirements relating to various features of the vehicle, related safety standards and advertising. These and several other relevant prescriptions contained in the ACT Inspection Manual for Light Vehicles (IMLV) and in the Australian Design Rules (ADR) are outlined below.

The vehicle prescriptions impose additional costs on operating a SCPV. Some of these costs are material and are considered to be restrictions on competition which impose net costs on the community. Table 10 below sets out the broad requirements and includes a brief assessment of relevant costs and benefits.

Those provisions which are considered to warrant some reform are briefly discussed thereafter.



**Table 10: Vehicle prescriptions**

Requirements	Address Objectives?	Costs	Benefits	Recommendations
<p><b>“Taxi” signage</b>  A sign displaying “TAXI” must be displayed on the roof or hood and must be capable of being illuminated (r34A Regs).</p>	<p>Addresses consumer protection and safety objectives in the cruising market by providing sufficient identification as a vehicle for hire and thereby reducing information asymmetries.</p>	<p>No submissions stated that the associated costs of signage were excessive.</p>	<p>Consumer protection benefits by reducing information asymmetries.</p>	<p>Retain existing requirements for SCPV vehicles operating in the cruising market ie. the propose SCPV (taxis).</p>
<p><b>Signage of seating capacity and fares</b>  Taxis to display the regulated fares inside the taxi (r 26 Reg). All licence holders shall display prominently the seating capacity in the vehicle (painted on the vehicle for MOs (s31A MTA). Signs displaying fees and charges, maximum number of passengers, and rights of hirers must be visible (r192.03 IMLV).</p>	<p>Fare signage facilitates fare regulation by informing consumers.  Capacity signage addresses consumer safety objectives by informing consumers and regulators of the safe number of passengers.</p>	<p>Costs are minor. Fare sticker estimated at \$2 per car per year.  Capacity sign estimated at \$1.25 per car per year.</p>	<p>Facilitates fare regulation and enforcement of seating capacity requirements. Higher benefits could be achieved if SCPV (taxis) required to display capacity on exterior.</p>	<p>Retain existing requirements and consider requiring SCPV (taxis) to display capacity on vehicle exterior. Under proposed fare approval regime, fare stickers to reflect approved fares.</p>
<p><b>Prohibition on display of fares or hiring on outside of hire car</b>  A private hire car is not able to display a device or sign which exhibits, to a person outside the vehicle, the rate of fare for hiring or that the vehicle is available for hire (s33(4) MTA).</p>	<p>Appears to be aimed at differentiating between cruising market vehicles and pre-booked only vehicles, and to deter the latter from offering unlicensed services in the cruising market segment.</p>	<p>Limits price competition between providers thereby reducing the benefits of lower cost services to consumers.  Limits commercial benefits of advertising.</p>	<p>It assists with reducing information asymmetries through segregation of the cruising and pre-booked market segments and deterring hire cars from offering unlicensed services in the cruising market.</p>	<p>Retain provisions. Thus the proposed SCPV (hire vehicles) should not be allowed to advertise as vehicles for hire.</p>
<p><b>Fire extinguisher</b>  Required for all vehicles (s32 MTA).</p>	<p>Addresses consumer and driver safety objectives.</p>	<p>No submissions stated that the fire extinguisher requirements were unreasonable.</p>	<p>Safety benefits for driver and passengers in situations of emergency.</p>	<p>Retain existing requirements.</p>

<p><b>Unauthorised signs, notices, stickers etc on taxis</b>          A person shall not display any word, letter, sign or label, on or near the windscreen or window of a taxi, without the authority of the Registrar or unless authorised by the Regulations (r35 Regs).</p>	<p>Does not appear to directly address safety, or public order at ranks objectives. Arguably assists with enforceability of registration requirements as registration labels are more visible if unobstructed.</p>	<p>May limit competition to some degree where advertising cannot be undertaken except on windscreen/windows. No submissions argued that these are material costs.</p>	<p>Benefits may be in the form of facilitating enforcement.</p>	<p>Retain provisions.</p>
<p><b>Taximeter fitted to taxis</b>          Taximeter must be affixed in accordance with Schedule 1 which specifies required features (r18(1) Regs). Must be capable of registering km rates, flag fall and hiring charges and any waiting time fee (r18(1)(c) Regs). An exemption may be granted whereby a fare card is used pending instalment of a taxi meter (r18(2) Regs). Taxi meter must be affixed to the vehicle in good order and condition and tested by testing authority at least once every year (r20 Regs). Fees for testing prescribed at \$1 and for re-sealing as 50 cents (r23 Regs).</p>	<p>Addresses consumer protection by facilitating fare regulation which minimises abuse of oligopoly power. Applies to taxis as only taxis are currently fare regulated.</p>	<p>Annual taximeter costs total approximately \$346 per taxi.<sup>115</sup> No submissions contended that these costs were significant.</p>	<p>Enhanced consumer protection through facilitation of fare regulation. Under proposed fare approval regime, higher benefits would be achieved by allowing taximeters to register a variety of fare structures. More flexible testing fees will allow for full cost recovery.</p>	<p>Retain existing taximeter requirements for SCPV (taxis) but under the proposed fare approval regime Regulation 18 should allow greater flexibility of "approved" fare structures to be registered on the taximeter. Flexible testing fees for full cost recovery.</p>

<sup>115</sup> Discussions with Aerial. This figure includes Schmidt installation, recalibration and repair.

<p><b>Age of taxi vehicle</b>          A vehicle registered as a taxi for the first time must not be more than 4 years old (r191.01(a) IMLV).          A vehicle used as a taxi must not be over 8 years of age (r191.01(b) IMLV).          A vehicle can only be registered as a taxi for 6 years.<sup>116</sup></p>	<p>Restrictions on vehicle age indirectly address consumer safety objectives, by reducing the risk that unsafe vehicles are engaged due to the information asymmetries. Also address driver safety objectives.</p>	<p>Costs to consumers in the form of higher fares derived from more expensive vehicles. Vehicles which are still safe, such as those that meet road worthy certificate requirements, may be forced prematurely out of operation.</p>	<p>Benefits in the form of lower monitoring costs to enforce vehicle safety. Higher benefits may be obtained by removing age restrictions and replacing with annual safety checks to ensure road worth compliance.</p>	<p>Replace with requirements for annual safety checks of all licensed vehicles. SCPV (taxis) could be checked annually by accredited taxi company and annual safety checks of SCPV (hire vehicles) checked by the regulator.</p>
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<sup>116</sup> ACT Government Department of Urban Services, *Taxi Operator Accreditation and Driver Authorisation Standards*, p. 9.

<p><b>Interior and exterior quality</b>          Seats, floor covering and trim must not be dirty, torn, stained, missing or insecure (r192.01 IMLV). Interior lights must operate (r192.02 IMLV). Fuel gauge must be operative (r192.04 IMLV).          Body panels must not be dirty, accident-damaged (dented) or corroded (r193.01(a) IMLV). Windows must not be dirty and must open (where applicable) (r193.01(b) IMLV). No rainwater leaking into the interior (r193.01(c) IMLV). Bumper bars must not be missing (s193.01(d) IMLV). Must not be hazardous external fittings such as a rigid metal bullbar not complying with ADR69, or projecting towbar which are not essential for the operation of the vehicle as a taxi (unless authorised in writing by the DUS) (r193.01(e) IMLV). Number plates or network identification labels must not be missing or deteriorated (r193.01(f) IMLV). The roof sign must not be missing or insecure and must be capable of being illuminated (s193.02 IMLV).          Luggage space must be available and must not be dirty (s193.01(g) IMLV).</p>	<p>Most quality restrictions address safety objectives. Others appear to address the objective of improved service quality, eg. ensuring that the car is not dirty.</p>	<p>Considered to be relatively minor. No submissions argued that they are material costs.</p>	<p>Consumer, driver and public safety benefits. Minimum quality standards also achieve industry and broader community benefits eg. benefits to tourism.</p>	<p>Retain requirements.</p>
<p><b>Driver Protection</b>          Two-way radio must be operative (r195.01 IMLV). Boot lid lock release device must be operative (r195.02 IMLV).          Where fitted, a driver protection screen must not obstruct a driver or passenger's view and must be securely mounted and must comply with the Roads and Traffic Authority Technical Specification (r195.03 IMLV).</p>	<p>Addresses driver safety objectives.</p>	<p>No submissions suggested that the driver protection provisions were unduly costly.</p>	<p>Provides drivers with a means of protecting themselves if attacked or locked in their boot, or if they crash. The taxi survey indicated that there is a notable level of demand by drivers for further protection in the form of security cameras in vehicles.</p>	<p>Maintain existing driver protection requirements. Consideration, through industry consultation and cost benefit analysis, should be given to the case for additional security camera and/or other driver safety requirements.</p>

## 7.2 Objectives

The provisions relating to vehicle standards for taxis have as their three main objectives, the improvement of:

- consumer protection and safety;
- driver safety; and
- vehicle quality.

The provisions address these objectives by aiming at a range of vehicle features and attributes, including exterior and interior quality, advertising on the vehicle, display of fares and seating capacity, display of taxi signage and requirements relating to taximeters.

## 7.3 Costs

Vehicle prescriptions impose additional costs on taxi owners/operators which are then passed on to consumers in the form of higher prices. However, in most cases submissions did not indicate that the costs of meeting the standards are excessive.

Quality standards impose a minimum standard of vehicle which also tends to become the maximum standard in a regime where few competitors operate. The result is generally a reduction in service and price differentiation, whereby consumers who would prefer to accept a lower (higher) quality SCPV service in return for a lower (higher) price are denied this choice. Accordingly, it is important that the vehicle prescriptions do not set onerous standards that remove service differentiation without addressing objectives.

## 7.4 Benefits

Consumers are generally unable to readily assess the safety level of a vehicle when engaging the service. The vehicle prescriptions reduce the information asymmetry by requiring vehicles to meet minimum standards. Consumers are relieved of the costs of attempting to acquire knowledge as to whether a particular vehicle meets the consumer's safety requirements.

This information asymmetry is relevant to all market segments - rank, hail and phone. However, it may be less of a problem for frequent users who have become familiar with the quality of a taxi company's vehicles and who are in a position to select the company which is generally through the use of phone bookings. On the other hand, with large numbers of individual taxi owners, significant variations in quality standards could potentially exist between taxis in the same fleet.<sup>117</sup>

The provisions relating to passenger safety also generally benefit the drivers, who are assured that the vehicle they agree to drive meets certain minimum standards. There are a number of provisions relating specifically to driver safety including the operation of the two-way radio and the boot lid release, which ensure driver safety benefits.

Some of the vehicle prescriptions relate to fare regulation and thereby facilitate consumer protection by mitigating oligopoly pricing. Additional consumer protection benefits are achieved through seating capacity provisions and notification of the rights of hirers.

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<sup>117</sup> Productivity Commission (1999), *Taxi Regulation*.

The benefits of a taxi industry with minimum quality standards are likely to flow not only to consumers and the industry, but also to tourism and business in the ACT. Tourists and visitors to Canberra usually possess very little information about the taxi industry and are therefore more reliant on minimum standards of vehicle safety and quality.

It is our view that the vehicle prescriptions generally procure net benefits for the community. However, below we recommend reform to those prescriptions to which we believe there are higher net benefit alternatives.

## **7.5 Recommendations**

### **7.5.1 Driver Protection**

The legislation specifies requirements that a two-way radio be operative, that there be a boot lid lock release device and also that a driver protection screen, if fitted, be properly labelled and not obstruct the driver's or passenger's view. These are designed to address driver safety objectives. There is, as yet, no requirement that driver protection screens be installed. The recent taxi survey indicated that there is a notable level of demand by drivers for greater driver protection features, in particular security cameras.

#### ***Recommendation***

*The review team recommends that industry consultation be pursued to assess the case for requiring additional driver protection features in vehicles, such as security cameras and/or other driver safety requirements.*

### **7.5.2 Advertising on private hire vehicles**

A hire car may not display any device, word, letter or sign which exhibits, to a person outside the vehicle, the rate of fare for the hiring of the vehicle or which indicates or implies that the vehicle is available for hire.<sup>118</sup> The purpose of this provision appears to be aimed at differentiating between cruising market vehicles and pre-booked only vehicles, and to deter the latter from offering unlicensed services in the cruising market segment.

The prohibition on fare notification limits price competition between providers thereby reducing the benefits of lower cost services to consumers. The prohibition on advertising of vehicle for hire limits the commercial benefits of advertising. However, it is our view that the benefits from differentiating taxis and hire cars, and from deterring hire vehicles from operating in the cruising market, outweigh the costs.

#### ***Recommendation***

*The review team recommends retaining advertising constraints on the proposed SCPV (hire vehicles).*

### **7.5.3 Signage on Taxis**

A taxi must have a "taxi" sign, capable of being illuminated, displayed on the roof or hood.<sup>119</sup> This requirement addresses consumer protection objectives by reducing information asymmetries, enabling consumers to distinguish between vehicles that are licensed taxis and those that are not.

<sup>118</sup> Regulation 33(4) Regs.

<sup>119</sup> Regulations 34A(1), 34A(2).

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### ***Recommendation***

***The review team recommends retaining existing "taxi" signage requirements for SCPV vehicles operating in the cruising market ie. the proposed SCPV (taxis).***

#### **7.5.4 Taximeter**

The taximeter requirements address consumer protection objectives by facilitating fare regulation. In the context of fare regulation, the benefits of requiring an operational taximeter are high.

Taximeters must be capable of registering km rates, flag fall and hiring charges and any waiting time fee.<sup>120</sup> They must be tested annually by a testing authority. The fees for testing prescribed at \$1 and for re-sealing as 50 cents.<sup>121</sup>

### ***Recommendation***

***The review team recommends retaining existing taximeter requirements for SCPV (taxis) but under the proposed fare approval regime, Regulation 18 should allow greater flexibility of "approved" fare structures to be registered on the taximeter.***

***Flexible testing fees should be introduced to allow for full cost recovery of testing.***

#### **7.5.5 Age of Vehicle**

A vehicle registered as a taxi for the first time must not be more than 4 years old.<sup>122</sup> A vehicle used as a taxi must not be over 8 years of age.<sup>123</sup> In addition, a vehicle can only be registered as a taxi for 6 years.

This age restriction is an indirect attempt to ensure safety and reliability amongst the taxi fleet. The requirements reduce the risk of unsafe vehicles being used and arguably reduce the costs associated with enforcing other vehicle safety requirements. However, the provisions may result in cars that are safe being forced out of service. This will mean higher costs to consumers due to the expense of vehicle turnover.

Subject to meeting relevant safety and quality standards, it is not considered necessary for vehicles older than the current maximum age limits to be disqualified from use as taxis. Regular vehicle checks would more directly address the issue of upholding the standards. Vehicle inspection costs would need to be recouped from licence holders, but could be mitigated if say, taxi companies are required to perform checks or if taximeter checks are undertaken concomitantly.

Hire cars and RHVs do not face legislated age restrictions. However, internal standards are maintained by hire car companies.<sup>124</sup> As Comcar is one of the hire car company's major customers, hire car companies will maintain their vehicles in accordance with Comcar's

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<sup>120</sup> Regulation 18(1)(c) Regs.

<sup>121</sup> Regulation 23 Regs.

<sup>122</sup> Regulation 191.01(a) IMLV.

<sup>123</sup> Regulation 191.01(b) IMLV.

<sup>124</sup> As per discussion with David Willets of Hughes it was noted that hire cars with Hughes must meet its Vehicle Standards Manual. As per discussion with Canberra Hire Cars it was noted that the company has its own by-laws relating to vehicle standards.

requirements. For example, Comcar will only accept Australian made cars (Ford or Holden) and will not use cars that are older than 6 years.<sup>125</sup> In addition, many RHVs are in demand because of the classic or high age attributes. Accordingly, so long as other minimum safety standards are retained, it does not appear prudent to impose age limitations on hire cars and RHVs.

***Recommendation***

***The review team recommends that there should be requirements for regular safety checks of all licensed vehicles. SCPV (taxis) could be checked annually by accredited taxi company and annual safety checks of SCPV (hire vehicles) checked by the regulator.***

***The review team recommends that the vehicle age restrictions should be removed subject to the establishment of stringent requirements to have all licensed vehicles tested periodically, every six months or annually, to ensure that the relevant road worthy, safety and quality standards are met.***

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<sup>125</sup> As per discussion with David Willets of Hughes. Note that as other hire cars, such as limousines, are not used by Comcar, these vehicles are likely to be kept until they are 12 years old.



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## 8. Operator and Licence Holder Accreditation

There are no express provisions in the Act or the Regulations which require operator or licence-holder accreditation, or which expressly empower the Registrar to require accreditation. However, by virtue of administrative practise, owners of licences and operators of licensed vehicles must be accredited by the Registrar of Motor Vehicles in the DUS.<sup>126</sup> The requirements for operator and licence holder accreditation are set out in the *ACT Taxi Operator Accreditation and Driver Authorisation Standards* (Accreditation and Authorisation Standards).

Licence owners who are involved in the operation of the vehicle (ie. an owner-operator) must be accredited as an operator and meet the accreditation standards set for operators (see paragraph 8.1 below).<sup>127</sup> An owner of a licence that is not involved in its operation, typically a lessor, must meet the standards of accreditation for licence holders who are not operators (see paragraph 8.2 below).

Operator accreditation requirements are the same for operators of taxis and hire cars. Requirements are less stringent for operators of long term RHVs. Operator accreditation does not apply to operators of specific occasion RHVs. Licence holder accreditation applies to taxi, hire car and long term RHV licence holders but does not apply to specific occasion RHVs.

The Registrar retains the right to change the accreditation standards to ensure that the community's expectations are met for vehicle safety and the quality of service to be provided. Before any changes are made to the accreditation standards, the Registrar will consult with the relevant industry group and ensure that operators are given sufficient time to comply with any new accreditation standards.<sup>128</sup>

### 8.1 Operator Accreditation

The Registrar accredits an operator subject to payment of the determined fee and compliance with the relevant Accreditation and Authorisation Standards. Accreditation is valid for a period of five years. Compliance with Operator accreditation is monitored by the Registrar or inspectors appointed under the *MTA*.

Both individual operators and those who operate a service under management agreements must seek accreditation. Corporations may nominate any number of their Directors and Managers to be holders of accreditation for the organisation.

The Registrar's approval for granting and maintaining operator accreditation is based on the considerations outlined in Table 11 below.<sup>129</sup> These standards must be met at application and must be maintained in order to continue acting as an operator. Some of these standards exclude certain persons from operating and therefore amount to restrictions on competition.

A breach of operator accreditation criteria may result in a fine or suspension or cancellation of the accreditation. Operation of a public vehicle whilst accreditation is suspended or cancelled carries a maximum fine of \$10,000 under the *MTA*. Operating without accreditation is also an

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<sup>126</sup> *Manual on the Accreditation of Taxi Licence Holders and Operators*, p. 2.

<sup>127</sup> *Ibid.*

<sup>128</sup> *Ibid.*, p. 3.

<sup>129</sup> *Taxi Operator Accreditation and Driver Authorisation Standards*, op cit n 110, p. 6.

offence, carrying a maximum penalty of \$5,000. Suspension or cancellation authorised by the Registrar may be appealed to the Administrative Appeals Tribunal. Offences resulting in fines imposed by the Registrar are criminal convictions conducted through the Courts.<sup>130</sup>

Principally, the objective of operator accreditation is protection of the community in the areas of vehicle safety, driver training and consumer safety and protection.<sup>131</sup> Passengers are unable to assess the characteristics of vehicle operators as operators are not readily able to indicate their relevant standards of safety and competency. The standards aim to ensure that all operators and drivers have met minimum standards of competency and good repute and are likely to maintain safe and viable operational standards.

Table 11 below summarises the principal requirements, their objectives, costs and benefits and the recommendations in respect thereof. The analysis of the principal requirements follows.

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<sup>130</sup> Operators who lose their accreditation in one transport industry sector will also lose their accreditation to operate any public passenger transport service.

<sup>131</sup> *Taxi Operator Accreditation and Driver Authorisation Standards*, *op cit* n 110, p. 3.

**Table 11: Operator accreditation standards**

Requirements <sup>132</sup>	Address Legislative Objectives?	Costs	Benefits	Recommendation
<b>Good repute</b> The applicant must provide two references.	Addresses consumer protection and safety objectives.	Costs to persons who don't meet good repute requirements. Additional costs due to requirement to know a referee from a limited group of persons, for five years. Costs are not significant.	Reduced likelihood that consumers will be harmed by substandard service provision.	Retain good repute requirements but reduce the reference requirements by removing categories of referees and/or reducing period of acquaintance.
<b>Financial viability standards</b> Applicant must provide Accountant's statement, bank opinion and network statement where applicable.	Addresses quality of service and safety objectives.	Excludes persons who don't meet good financial viability. Minimal costs.	Increases likelihood that operator is financially able to meet vehicle operating and maintenance standards.	Retain financial viability requirements.

<sup>132</sup> *Ibid*, p. 6.

<p><b>Network affiliation</b>          - Taxi affiliated with network and may only be a member of one network          - Ensure taxis operated in accordance with network's rules, eg. colour of car.</p>	<p>Attempts to ensure that a certain level of service provision is maintained in conjunction with network accreditation, and to shift some of the regulatory burden to networks. Also addresses consumer and driver protection where networks maintain GPS or similar for tracking.</p>	<p>Reduces competition between individual taxi operators.          Aerial membership costs - \$10 application fee; \$114 share purchase; \$20,000 share premium; Base fees \$450 per month (\$877 pcm for non-members)          Other costs of affiliation include:          Livery: \$47.50 pa<sup>133</sup>          Uniform costs: \$542 pa<sup>134</sup>          Air conditioning: \$263.70 pa<sup>135</sup>          Costs are considered to be high, in particular Aerial's \$20,000 share premium for members or \$877 pcm base fees for non-members.</p>	<p>Co-ordinated dispatch of vehicles increases service performance levels and reduces waiting times. Increased consumer and driver safety due to GPS network tracking. Reduced regulatory burden in respect of the enforcement of some standards. Encourages greater competition at taxi network/company level. Benefits are considered to be significant.</p>	<p>Retain network affiliation requirements for taxis. However, there are likely to be higher net benefits if competition at the network/dispatch service level is fostered.</p>
<p><b>Vehicle maintenance standards</b>          Various undertakings regarding cleanliness and vehicle maintenance.</p>	<p>Addresses consumer safety objectives and higher quality standards.</p>	<p>Difficult to make a quantitative assessment. No submissions have stated that the cost is excessive.</p>	<p>Increased likelihood that vehicles are safe and clean to travel in. Benefits to consumers and to repute of industry.</p>	<p>Retain existing requirements. Subject to a regime of regular stringent safety checks, vehicle age restrictions should be removed.</p>

<sup>133</sup> Aerial Taxi Cabs Co-operative Society Limited.

<sup>134</sup> *Ibid.*

<sup>135</sup> *Ibid.*

<p><b>Record keeping</b>          Operator must take steps to ensure drivers submit a daily record.          Operator must also ensure that records are kept for 2 years and are available for inspection.</p>	<p>Addresses safety objectives by monitoring hirings. Also assists with monitoring performance standards.</p>	<p>Difficult to make a quantitative assessment. No submissions have stated that the cost is excessive.</p>	<p>Reduces monitoring costs incurred by company and/or regulator.          Increases likelihood that drivers are adhering to network rules and thereby assists with achieving performance standards.</p>	<p>Retain existing requirements.</p>
<p><b>Ensuring driver qualified</b>          Operator must engage only licensed, authorised and, therefore, trained drivers.</p>	<p>Address consumer protection and safety objectives.</p>	<p>Reduces employment opportunities for some persons. No submissions have stated that the cost is excessive.</p>	<p>Facilitates compliance with, and enforcement of, the driver authorisation provisions which ensure benefits such as increased public safety and protection.</p>	<p>Retain existing requirements.</p>
<p><b>Third-party property damage insurance</b>          Operator must maintain policy with at least \$5m cover.</p>	<p>Address consumer protection and safety objectives.</p>	<p>Approximately \$1,250 per year.</p>	<p>Ensures that costs of accidents can adequately be met.</p>	<p>Retain existing requirements.</p>
<p><b>Advertising restrictions</b>          Advertising on taxis must be in line with the relevant network's regulations.</p>	<p>Arguably addresses consumer protection and network affiliation objectives by ensuring vehicle are readily identifiable with a network.</p>	<p>Reduces competition between individual taxi operators. Costs are difficult to quantify but no submissions suggested they were significant.</p>	<p>Facilitates network accreditation benefits as discussed above. Encourages greater competition at taxi network/company level.</p>	<p>Retain existing requirements.</p>

#### 8.1.1.1 Good repute requirements

An accredited person is required to be of good repute, and in all other respects fit and proper, to be eligible for the operation of a public passenger service.

The person seeking accreditation is required to provide references declaring the individual's good repute from two particular persons stating that the individual has been known to them for at least five years and is considered to be of good repute. The Accreditation Standards limits the groups of persons that are eligible to grant references.

Directors of corporations which have been wound up may be prohibited from accreditation, subject to the Registrar's discretion.<sup>136</sup>

The applicant must declare whether he or she has been convicted of any criminal offence in the last 5 years, or if there are any charges pending.<sup>137</sup> The results of a recent Police Character check provided by the applicant must be accepted by the Registrar.

The provisions deny entry to those persons who do not meet the good repute requirements. They are considered to be particularly restrictive by virtue of their requirements that two references be obtained, by persons of a specified class of profession who have known the applicant for five or more years. The reference requirements are considered to be onerous. It is difficult to assess the extent of the restriction on competition, but the costs would generally fall on the excluded persons rather than on the industry or consumers.

The good repute provisions address consumer protection objectives by reducing the risk that operators will run sub-standard, unsafe or enviable SCPV services.

#### **Recommendation**

***The review team recommends that the good-repute provisions should be retained but in part amended by removing the limitation of eligible classes of referees and/or reducing the number of years to two for which the applicant needs to have been known by the referee.***

#### 8.1.1.2 Financial viability standards

A person seeking accreditation is required to provide:

- A statement from the applicant's accountant reporting the applicant's financial capacity to operate the number of vehicles applied for under accreditation in such a way as to meet the required accreditation standards of passenger and public safety, and vehicle maintenance.
- A bank opinion from the applicant's principal banker stating the bank's credit assessment of the applicant or the applicant's relevant business.

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<sup>136</sup> Individual operators and designated directors and managers nominated by a corporation, may not be accredited if they fall within the categories of persons defined by sections 229, 230, 599 or 600 of the *Australian Corporations Act 1989*, relating to insolvency and civil convictions. If the applicant has been the director of a company which has gone into liquidation and is the subject of a court order prohibiting that person from taking part in the management of a company (maximum period - 5 years), then the applicant will not be accredited. The Registrar has the discretion to examine any factors which may mitigate against the attributes required of an accredited operator.

<sup>137</sup> Full details of any convictions or charges pending must be provided with the application. Criminal convictions may be examined by the Registrar and considered in relation to the potential of the specific offences, to mitigate against the attributes required of an accredited operator.

The provisions restrict competition by prohibiting those who do not meet the requirements from operating in the market. As with good reputation requirements, these provisions would appear to levy costs on applicants and only to a limited extent, if at all, on the industry or consumers.

The financial viability standards address consumer protection objectives by limiting the risk that the operator will not be able to viably operate a vehicle and thus reduce safety and quality standards. It is considered that the provisions secure net benefits to the community.

### ***Recommendation***

***The review team recommends retaining the financial viability standard requirements.***

#### **8.1.1.3 Network affiliation**

Operators are required to ensure that every taxi they operate is affiliated with a network. Each taxi must comply with the uniform vehicle colours of the fleet to which it is affiliated. A taxi may be a member of one taxi network at any point in time and a network may not accept a taxi when it is a member of another network.

Operators are required to take all reasonable steps to ensure that the taxi's radio unit is operated in accordance with the authorised network's rules and procedures. They are also required to take all reasonable steps to ensure that the taxis under their control are operated in a manner that is not detrimental to the efficient processing and allocation of network radio bookings and the provision of an efficient public passenger transport service.

The requirement that an operator must belong to an affiliated network and related requirements, appear to address the same objectives as network accreditation does. That is, the requirements aim at increasing the levels of service by encouraging taxis to be members of networks so as to improve response times and facilitate the provision of a 24-hour service. Network membership also increases the safety of customers and drivers as GPS systems provide tracking functions. They also aim to transfer some of the regulatory responsibilities to accredited companies, which are in a position to more efficiently monitor and enforce various safety and quality standards than the regulator is.

The requirements restrict competition by reducing the scope for individual operators to compete with each other. For instance, operators are generally not able to identify their vehicles differently, or are forced to accept hirings according to the rules of the network and to abide by other network rules and regulations. On the other hand, network affiliation requirements could be seen to shift some of the competition to the level of the networks. As discussed in Chapter 11 below, there may be other reasons which have mitigated against competition occurring at the network level in the ACT.

In addition to the costs of competitive restrictions, which are difficult to quantify, the requirements indirectly impose costs on operators by virtue of the network affiliation costs that are incurred. For instance, costs of affiliation with Aerial include the following:

- application fee;
- share purchase \$144 (72 shares at \$2 per share); and
- share premium \$20,000 (to gain full membership).
- Aerial's base fees \$450 per month (\$877 per month for non-members)

Other estimated costs of affiliation include:

- livery: \$47.50 pa;<sup>138</sup>
- uniform costs: \$542 pa;<sup>139</sup> and
- air conditioning requirements: \$263.70 pa.<sup>140</sup>

In addition, the purchase and installation of the original MDT unit is estimated at around \$3,000 per vehicle and approximately \$100 per vehicle for a GPS unit.

Generally these costs are considered to be significant.<sup>141</sup> However, most of the costs secure clear benefits such as base fees which grant access to, and cover the costs of, a booking service that provides a significant amount of work (around 60% of total taxis hirings) to taxi operators.

The costs would vary according to network providers. However, in the ACT Aerial maintains a monopoly on network/dispatch services. Accordingly, it is arguable that network affiliation requirements are particularly costly in the ACT.

It has been submitted by Queanbeyan Taxi Co-operative that their membership fees would be lower if they were able to enter into a network service agreement with the ACT Government, and were able to secure sufficient member numbers. It is our view that increased competition at the network/dispatch level will drive down member costs and thus network affiliation, and with proper safety regulation and network accreditation requirements, will not do so at the expense of safety and service levels.

In most jurisdictions taxis must belong to a dispatch service. One exception is Western Australia. As we found that network affiliation achieves net community benefits, we take the view that this requirement should be retained.

We found that regulation of networks achieves benefits primarily in the form of reduced regulatory costs and thus we do not consider that regulation of networks should be removed. However, amendments to the current network regulation could achieve higher net community benefits.

### 8.1.2 Network affiliation

Benefits of network affiliation requirements are difficult to quantify. Generally they include the passing on of some enforcement costs to the network and thereby reducing the enforcement costs imposed on the regulator. For instance, there is increased awareness amongst customers of the point of contact to make an inquiry or lodge a complaint and a network can more easily enforce the requirement for drivers to be authorised.

*... obligatory affiliation of taxi licensees with taxi networks, removes the problem of anonymity. The present system provides the public with an authority and point of contact with whom to register a complaint and with whom that complaint will be investigated*

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<sup>138</sup> Aerial Taxi Cabs Co-operative Society Limited.

<sup>139</sup> *Ibid.*

<sup>140</sup> *Ibid.*

<sup>141</sup> Even the costs of compliance with the uniform required by Aerial was noted as excessive by one confidential submission.



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*and, if necessary, acted upon... The identification of a taxi with a network, simply by the livery it carries, provides safety and accountability to the public.*<sup>142</sup>

Network affiliation facilitates improved enforcement of the driver authorisation and operator accreditation provisions. For instance, through Aerial's complaints procedure, drivers and/or operators may be referred by Aerial to the Motor Registrar through the disciplinary process, should that be appropriate. A repetitive breach of the by-laws and/or a criminal breach may be reasons for involving the Registrar. When the Registrar removes the driver's authorisation the Registrar notifies Canberra Cabs by facsimile, and Canberra Cabs suspends the driver's PIN.

Other benefits are in the form of increased consumer and driver safety, though the extent to which network affiliation is necessary to achieve driver safety benefits is difficult to ascertain. It is our view that overall, network affiliation achieves net community benefits.

However, it is considered that network affiliation would achieve higher net benefits if there was competition to Aerial in the ACT as an the network/dispatch service provider. This is further discussed in Chapter 11.

### ***Recommendation***

***The review team recommends that the network affiliation requirements be retained.***

#### **8.1.2.1 Vehicle maintenance standards**

The person seeking accreditation is required to undertake inspection, repair and maintenance of all vehicles under their control in accordance with the requirements of the Registrar. The applicant must also declare that for the specific number of vehicles applied for under accreditation:

- The applicant is able to provide adequate off-street parking where at least three vehicles are operated from the one address.
- The applicant is able to provide, or has contracted for the provision of, maintenance facilities and maintenance equipment in order to service and maintain that number of vehicles.
- The applicant is able to develop and undertake, or has contracted for the development and undertaking of, vehicle mechanical maintenance programs.<sup>143</sup>
- The applicant is to ensure that:
  1. they will undertake the regular exterior and interior cleaning of the vehicle;
  2. they will maintain their vehicle(s) as smoke-free zones at all times;
  3. the vehicle(s) used as a taxi will be fitted with fully functioning air-conditioning; and
  4. the vehicle will meet vehicle age standards.

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<sup>142</sup> Submission, Canberra Taxi Proprietors Association & Aerial Taxi Cabs Co-Operative Society Limited, p. 8.

<sup>143</sup> These programs must be in accordance with the vehicle manufacturer's specified maintenance standards, or a maintenance standard or schedule not disapproved by the Registrar, and the specific vehicle safety standards as recognised by the Registrar.

The vehicle maintenance standards address safety and quality objectives. No submissions stated that the standards were too onerous. As discussed in Chapter 8, we take the view that vehicle age requirements are not necessary in the context of regular stringent safety checks, as they can result in safe vehicles being removed from service.

***Recommendation***

***The review team recommends that the vehicle maintenance standards should be maintained, though the vehicle age requirements should be relaxed subject to regular stringent safety checks.***

**8.1.2.2 Record keeping**

An accredited operator must take all reasonable steps to ensure that each driver submits a daily record for the taxi at the completion of the driving shift.

An accredited operator must retain any records required for at least 2 years after the date of the last entry. Records must also be available for inspection by any police officer or other authorised officer on demand or at the request of the Registrar.<sup>144</sup>

The operator will maintain an up to date record of the name and address of its drivers and, to the extent known, the dates and times that the vehicle has been driven by the driver.

The provisions address safety objectives by facilitating the monitoring of hirings and of performance standards. Submissions did not contend that these provisions are unduly costly or onerous.

***Recommendation***

***The review team recommends retaining the record-keeping provisions.***

**8.1.2.3 Ensuring drivers are authorised**

An operator must only engage drivers who are authorised. Authorisation signifies, amongst other things, that the driver has received appropriate training. In Chapter 9 below we discuss the driver authorisation requirements and find that they achieve net benefits and should be retained. The requirements on operators to ensure drivers are authorised facilitates compliance with, and enforcement of, the driver authorisation provisions.

***Recommendation***

***The review team recommends retaining the requirements to ensure drivers are authorised.***

**8.1.2.4 Third party property damage insurance**

An accredited operator must maintain a policy of Third Party Property Damage Insurance providing cover of at least \$5,000,000 for every public passenger vehicle operated.

The costs of the compulsory insurance requirements are estimated to be around \$1,200 per annum. The requirements address safety objectives as they ensure adequately insurance coverage in the event of an accident. They are considered paramount for public protection.

***Recommendation***

***The review team recommends retaining the compulsory insurance requirements.***

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<sup>144</sup> The records must include driver records or equivalent (or the information contained on those worksheets), and evidence of vehicle maintenance and safety programs.

### 8.1.2.5 Advertising restrictions

Any advertising of a public passenger transport service is to relate exclusively to the service it is licensed to provide. Advertising on taxis is to be in accordance with the regulations of the network to which the taxi is affiliated.

All visual advertising of a public passenger service (electronic or print media) by an accredited operator is to include the operator's Operator Accreditation Number, in such a size and colour that it can reasonably be expected to be read by the target audience.

The advertising restrictions arguably address the same objectives as network affiliation objectives by ensuring vehicles are readily identifiable with a network. The provisions reduce competition between individual taxi operators, but encourages greater competition at the taxi network/company level. The costs of the advertising restrictions are difficult to quantify but no submissions contended they were significant. It is our view that the provisions facilitate network accreditation benefits as discussed above and are likely to result in net community benefits.

#### ***Recommendation***

***The review team recommends retaining the advertising constraints.***

### 8.1.2.6 Other

As noted, the legislation currently does not expressly empower DUS to issue licence-holder or operator accreditation standards.

#### ***Recommendation***

***The review team recommends that the power of the Registrar to establish and amend a regime of operator and licence-holder accreditation should be expressly clarified in the legislation. In addition, to the extent that the Registrar is given discretion, guidelines should be issued to clarify the issues the Registrar will take into account in exercising his/her discretion.***

## 8.2 Licence Holder Accreditation

Licence owners, who are not involved in the vehicle's operation (ie. owner only, or lessor), must meet the standards of accreditation for licence holders who are not operators.

Licence holder accreditation will be granted where the owner of a taxi, hire car or long term RHV can ensure, as far as possible, that the vehicle will be operated by an accredited operator. The owner must provide Road User Services with the name, address and place of operation of the accredited operator at all times. He or she must also declare that they have read and understood the Manual on Licence Holder Accreditation and Standards which outlines the obligations for accredited licence holders of public passenger vehicle licences.<sup>145</sup>

These requirements do not appear to impose significant costs on licence-holders. They may indirectly impose costs on operators where they ensure that operator accreditation provisions are complied with. However, as we have found that the operator accreditation provisions ensure net benefits to the public, the licence holder accreditation provisions are considered to foster those benefits.

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<sup>145</sup> *Manual on the Accreditation of Taxi Licence Holders and Operators*, op cit n 120, p. 8.

It is our view that the licence-holder accreditation provisions reduce enforcement costs by placing some responsibility on licence holders to ensure operator accreditation is complied with. Accordingly, it is our view that the provisions should be retained.

***Recommendation***

***The review team recommends retaining the licence-holder accreditation requirements.***

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## 9. Driver Authorisation

### 9.1 Overview

Subsection 10(17) of the MTA provides that the Registrar may refuse to grant a taxi or hire car licence to a person whom it does not consider “fit and proper” to hold the licence.<sup>146</sup> Driver authorisation is a procedure to certify that a driver is a fit and proper person to drive a public passenger vehicle. However, there are no specific powers contained in the legislation referring to driver authorisation. The requirements appear to have arisen by virtue of administrative practise to supplement the Registrar’s driver licensing and endorsement powers and are contained within the *ACT Taxi Operation and Driver Accreditation and Driver Authorisation Standards* (Authorisation Standards) issued by DUS.

Driver authorisation applies to every driver, who holds an ACT driver’s licence, of every public passenger vehicle registered in the ACT. Public vehicle drivers resident in Queanbeyan will have their driver authorisation issued by the NSW authority.

Authorisation is effected through licence endorsement. The Registrar, under section 9B of the MTA, is empowered to make a provisional endorsement on a driver’s licence that entitles the licensee to drive a specified class of vehicle. Public passenger vehicle driver licence endorsements are issued by the Registrar and remain valid for a period of five years, subject to compliance with all conditions of the endorsement. Having authorised the driver the Registrar may suspend or cancel the authorisation. This could be for a number of reasons including non-compliance with medical or police character checks or for having accumulated sufficient traffic infringement notice demerit points to have the licence cancelled.

To obtain a licence endorsement, drivers could be required to meet a number of requirements contained within the Authorisation Standards and the MTA. The principal requirements include:

- a driver training course conducted by a registered training provider;<sup>147</sup>
- a medical test;<sup>148</sup>
- a police character check;<sup>149</sup> and
- English language abilities.<sup>150</sup>

In practice however, drivers are only required to go through police character and medical checks and a driver’s assessment. A medical check is required every 12 months and a police character

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<sup>146</sup> Subsection 10(1) of the MTA provides that the Registrar may grant to a person a full licence to drive a specified class of motor vehicle and may renew that licence from time to time. Subsection 10(11) provides that the Registrar shall not grant or renew a full licence unless he or she is satisfied that the applicant is capable of driving, with safety to the public, a motor vehicle of the class specified in the licence.

<sup>147</sup> Subsection 10(11) MTA and *Taxi Operator Accreditation and Driver Authorisation Standards*, op cit n 110, p 19.

<sup>148</sup> Section 12 MTA.

<sup>149</sup> Implied by section 11 MTA.

<sup>150</sup> Subsection 10(17) MTA. While the MTA provides that drivers may be refused accreditation if they cannot speak, write or read the English language, in practice this is very difficult. Evaluating whether an applicant can speak English is very subjective and where a trainer from Transport Industry Skills makes this evaluation he may be subject to anti-discrimination litigation.

check is conducted every 5 years. Training is not required by DUS but the driver's assessment is mandatory and is outsourced to registered assessors. In respect of taxi drivers however, training is required by Aerial and in respect of hire car drivers training is currently required by the hire car companies.

The taxi driver training course lasts for ten hours and is outsourced by Aerial to Transport Industry Skills Centre (TISC). It principally covers:

- an introduction into how Aerial's systems work;
- taxi routes and knowledge of the ACT;
- use of computers in the cab; and
- customer service.<sup>151</sup>

The relevant hire car driver training course has been established by the Limousine Association. The cost of the course, involving one day of theoretical training and a oral, written and practical test, is \$150. This course covers:

- hire car etiquette;
- a location test; and
- general knowledge of Canberra.<sup>152</sup>

Hughes and Canberra Hire Cars also provide additional in-house training for all drivers. This training involves:

- vehicle operation;
- driver courtesy; and
- operation of the radio system.<sup>153</sup>

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<sup>151</sup> Per telephone discussion with Bob Waldron, Transport Industry Skills.

<sup>152</sup> The cost also covers the cost of a practical test by a qualified driving instructor. Per telephone discussion with Mr Alf Jones, Treasurer of the Limousine Association.

<sup>153</sup> Per telephone discussions with Mr David Willets of Hughes Hire Cars and Ms Dianne Donaldson of Canberra Hire Cars.

An assessment of the driver authorisation provisions is summarised in Table 12 below.

**Table 12: Driver authorisation requirements**

<b>Requirement</b>	<b>Address Objectives?</b>	<b>Costs</b>	<b>Benefits</b>	<b>Recommendations</b>
<b>Medical test</b> Must pass a medical test conducted by Health Services.	Addresses passenger safety objectives.	Denies entry to unfit applicants. Cost of test is \$45.	Reduces safety risk to passengers from unfit drivers.	Retain existing requirement.
<b>Police check</b>	Addresses passenger safety objectives.	Denies entry to persons who don't pass police check. Cost of police check is \$34.	Reduces risk of harm to, or exploitation of, passengers.	Retain existing requirement.
<b>English language requirements</b>	Addresses passenger safety and quality of service objectives.	Denies entry to applicants who don't have adequate English skills. Cost difficult to quantify - depends on applicant's initial competency.	Intended to ensure that drivers can communicate with passengers and follow road rules. However little practical benefit as cannot be enforced adequately.	Retain existing requirement.
<b>Driver assessment</b> Outsourced to TISC and registered assessors. <b>Training - taxis</b> Theoretical training is conducted by Transport Industry Skills over four nights, with a theoretical test upon completion. Drivers must also pass a practical training test. <b>Training - hire cars</b> Theoretical and practical training conducted by the Limousine Association over a day.	Address passenger safety and quality of service objectives.	<b>Taxis</b> Cost of theoretical training and test is \$135. Cost of practical training test is \$46. <b>Hire Cars</b> Cost of practical and theoretical training and testing is \$150.	Safety benefits and higher quality service as drivers are better able to meet passenger's requests.	Maintain mandatory assessments. In the context of relaxing licence controls, training requirements should be made mandatory. Examine options for increasing training requirements and/or assessment levels. Examine options for recognising more trainers.



## 9.2 Objectives

Generally speaking, consumers are not readily able to assess a driver's driving ability, knowledge of Canberra or other features of driver service quality. This information asymmetry is exacerbated by undifferentiated services and an absence of competition at the network level in the ACT, as there are few competitive pressures for the taxi company to increase driver standards.

Through the driver authorisation requirements, consumers can expect a certain minimum standard of driver quality and they will thus not need to incur the transaction costs in seeking out this information with each hiring. Accordingly, the driver authorisation requirements address passenger safety and service quality objectives, by setting minimum driver standards which reduce information asymmetries between drivers and consumers.

## 9.3 Costs

Driver authorisation can be considered to restrict competition by denying entry to those participants that don't meet the requisite standards and by imposing various compliance costs on drivers. The costs of the medical check \$45 and the police character check \$34<sup>154</sup> are not significant. The costs of the training requirement include the course costs of around \$180 for taxi drivers<sup>155</sup> and \$150 for hire car drivers,<sup>156</sup> as well as the opportunity cost of the trainee-driver's time.

It is difficult to assess the extent of the restriction on competition. However, given the availability of drivers and the relatively low earnings of drivers, it is our view that the barriers to entry are not significant. No submissions argued that the compliance costs were significant.

## 9.4 Benefits

The benefits of driver authorisation include higher levels of consumer safety service quality than would otherwise exist in the absence of driver authorisation. For instance, the police check reduces the risk of harm to, or exploitation of, the passenger committed by the driver. The rationale for a medical test is to ensure that the health of drivers will not pose a safety risk to passengers.

In addition, it has been shown that in addition to response times and price, customers value the following attributes of a taxi service:<sup>157</sup>

- driving ability;
- route taken;
- knowledge; and
- courtesy.

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<sup>154</sup> Per telephone discussion with Transport Industry Skills ACT.

<sup>155</sup> *Ibid.*

<sup>156</sup> Per telephone discussion with Mr Alf Jones, Treasurer of the Limousine Association.

<sup>157</sup> ACT Government Department of Urban Services, *Taxi Industry Survey Report*, October 1999, p12

The driver authorisation provisions set acceptable standards with respect to the above factors. The mandatory driver's assessment ensures that driving ability is of a suitable standard and this has public safety benefits.

The English language abilities test ensures that the majority of consumers can readily convey instructions to the driver.<sup>158</sup> The English language requirement is also important in the case of an emergency so the driver can communicate in English with Emergency Services or others if necessary. The English language requirements ensure that drivers can read and comprehend street signs and names. Together with the knowledge of Canberra test, these language requirements increase the driver's ability to transport the passenger via the most efficient route with little risk of getting lost.

The increased safety and quality standards are also likely to improve the reputation of the industry, with favourable flow-on benefits to tourism and related industries. It is our view that the driver authorisation provisions achieve net benefits for the community. We briefly consider some alternatives below.

## 9.5 Alternatives

The principal alternative to driver authorisation is self-regulation whereby the industry determines who is entitled to drive a SCPV. It is our view that self-regulation is unlikely to achieve higher benefits as there is a greater risk of lower standards in the RHV sector for instance, where the industry is not well-organised and thus unlikely to adequately self-regulate. Conversely, in the taxi sector there is market power given to licence-holders who are in a strong bargaining position vis-a-vis taxi drivers due to the limited number of taxi licences, as well as concentration at the taxi network level, so that the appropriate level of self-regulation might not be reached.

In addition, the risks to consumer safety are high where untrained drivers with poor English language skills, no sound knowledge of Canberra, poor health and/or prior criminal records are allowed to enter the industry. Accordingly, we take the view that occupational regulation enshrined in the driver authorisation scheme will achieve higher net benefits than industry self-regulation. Some specific components of the authorisation scheme are discussed below.

It is our view that the driver assessment requirements achieve net community benefits. However, there is an argument that the training requirements are not sufficiently stringent or extensive. Driver training is currently not required by the Government, though it is required by Aerial and the hire car companies. Generally, taxi driver training in the ACT is less rigorous than in most other states. For instance, in Western Australia the cost of driver training is approximately \$750 and may take between 8 days and one month to complete. Similarly, in Victoria the driver's certificate requires 40 hours training and costs approximately \$900 whilst in NSW the relevant course takes about 10 to 16 weeks to complete and costs around \$800.

Where training of drivers is increased, the availability of drivers relative to taxi numbers decreases. This positively impacts driver income due to authorised drivers becoming a scarcer resource. Accordingly, more stringent training and assessment requirements will have consumer safety and service quality benefits, while placing upward pressure on driver earnings. As discussed in paragraph 4.6.1 above, to the degree that strengthened authorisation increases the

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<sup>158</sup> In practice, there can be difficulties in refusing accreditation on this ground with regard to anti-discrimination legislation.

quality of taxi services and leads to greater demand for taxi services, competition for good drivers will increase driver earnings by more than the cost of authorisation. In the context of relaxed licence supply controls and a fare approval regime, improved driver earnings would replace licence holder scarcity rents rather than put upward pressure on fares.

Currently TISC is the only registered taxi driver training provider. Additional registered training providers could facilitate competition in the training market and may be particularly beneficial if new companies enter the taxi network/booking service market, as they may require training tailored to their networks.

In NSW, hire car drivers are not required to undergo specific training, but they must hold a current driver's licence, have an acceptable driving history and have no criminal record. In any event, it is our view that prescribed hire car training requirements would achieve important consumer safety benefits and facilitate enforcement particularly in the context of relaxed licence supply controls. In practise, there are currently no training requirements for restricted hire vehicle drivers. As we recommend elsewhere that hire cars and RHVs should form part of the same category of SCPV (hire vehicle) licence, similarly we recommend that drivers of these vehicles should be subject at least to driver assessment.

As discussed elsewhere, Queanbeyan and ACT SCPV industries fall within the same geographic markets. Accordingly, mutual recognition of drivers would reduce restrictions between the driver services.

## **9.6 Recommendations**

*The review team recommends that the legislation should be amended to clarify the powers of the Registrar to impose driver authorisation provisions.*

*The review team recommends that driver authorisation should be retained and the requirements made more rigorous in some respects. The review team recommends that DUS review the effectiveness of the current taxi, hire car and RHV driver training and assessment requirements and amend the requirements as appropriate. For instance, consideration should be given to making taxi driver training mandatory and implementing a stricter assessment. Consideration could also be given to requiring drivers of SCPV (hire vehicles) to undertake mandatory training or at least to pass a driver's assessment, which may be tailored to the specific hire vehicle service.*

*The review team recommends that mutual recognition should be pursued between ACT and Queanbeyan authorised drivers.*

*The review team recommends that additional training providers and assessors should be recognised where appropriate, in order to facilitate competition at these levels.*

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## 10. Driver Conduct

### 10.1 Overview

The *Taxi and Private Hire Car Regulations* impose constraints on the conduct, operational procedures and appearance of taxi and hire car drivers. They are designed to ensure that there is a high standard of service and that public safety is not jeopardised. The regime is practicable and sensible but does not extend to Motor Omnibuses or to Restricted Hire Vehicles. Table 13 below sets out the operating conduct constraints on taxis and hire cars.

**Table 13: Summary of driver conduct constraints**

<b>Restriction</b>	<b>Legislative Objective</b>	<b>Cost</b>	<b>Benefit</b>	<b>Recommendation</b>
<b>Touting</b> A taxi or hire car driver shall not tout for passengers (r5 Regs).	Addresses public safety requirements.	Limits price competition between providers thereby reducing the benefits of lower costs to consumers.	Benefits include the reduction in risk to public safety and loading delays caused by touting at ranks or on the road-side.	Maintain restrictions on touting.
<b>Ranking</b> Behaviour at taxi ranks is regulated, so that the first arrived is the first to have right of hiring (r31(1)(a) Regs).	Addresses public safety requirements.	Reduces competition at ranks and thereby reducing the incentives to innovate to attract consumers.	Benefits of practicality, efficiency and safety through an orderly process of ranking.	Maintain existing requirements of ranking, but increase awareness that consumers are allowed to elect any taxi on the rank.
<b>Cleanliness and Civility</b> The driver shall be clean and wear respectable clothes, and shall not smoke without obtaining permission from hirer (r6 and r7(b) Regs).	Addresses quality of service objectives.	Minimal	Improved quality of service will have benefits for tourism and business.	Maintain existing requirements.
<b>Multiple hirings</b> A taxi driver must not accept a multiple-hiring without the consent of the hirer (r10 Regs).	Addresses passenger safety objectives and quality of service objectives.	Minimal.	Improved quality of service will have benefits for tourism and business.	Maintain existing requirements.
<b>Refusal of hiring</b> A taxi driver must not refuse to accept a hiring except in limited circumstances. A driver may refuse a hiring to a point outside the ACT (r11 Regs).	Addresses the objective of a universal service, as potential passengers may not be discriminated because of location. Addresses driver safety objectives by allowing refusal in certain circumstances.	Restricts driver's right to select hirings and thereby a driver may have to accept unprofitable hirings. Potentially denies services to interstate passengers.	Improves reliability and reputation of taxi service. Benefits for consumers, the industry and tourism etc.	Maintain existing requirements but consistent with cross-border reform recommendations, remove the right to refuse interstate hirings.
<b>Shortest Route</b> The driver shall take the shortest practicable route (r15 Regs).	Addresses consumer protection objectives.	Minimal.	Reduced risk of exploitation of consumers and enhanced reputation of industry.	Maintain existing requirements.

## 10.2 Touting for passengers

Drivers of taxis and hire cars are not allowed to tout for passengers. Touting is given a broad definition in the MTA<sup>159</sup> and includes:

- leaving the vehicle to tout for passengers or for a hiring;
- importuning any person to hire the vehicle to the annoyance of that person or any other person;
- endeavouring to attract notice by whistling, shouting or calling;
- permitting the vehicle to loiter; or
- wrongfully or forcibly preventing the driver of another taxi from obtaining a hiring, or the driver of a private hire car from carrying out a contract for hire.

The provisions relating to touting address public and driver safety objectives, by preventing taxis from engaging in overzealous attempts to win customers which could be hazardous on kerbs and ranks. They also ensure that drivers do not annoy or harass potential customers and passers-by by engaging in any of the above conduct. This has important benefits for the reputation of the industry, and flow-on benefits for tourism and business in the ACT.

The provision limits price competition though the extent of the restriction is difficult to quantify. The vast majority of jurisdictions prohibit touting, supporting the view that the safety benefits outweigh the restriction. Adequate price competition could be achieved through the use of a fare approval process and adequate advertising of a company's fares. This is discussed further in Chapter 6 above.

## 10.3 Cab-rank (first on, first off) rule

The cab-rank principle, or first on first off rule, partly applies to taxis in the ACT. Specifically, the first car in the rank always has the right of hiring unless the hirer selects another vehicle on the rank.<sup>160</sup> Currently, hire cars are only allowed to rank at airports at which they are not subject to the first on first off rule.

Though hirers have the choice of vehicle, in practice hirers take the first cab on the rank due to several factors:

- customary practice;
- lack of awareness of the right of the hirer to elect any vehicle on the rank; and
- undifferentiated taxi services as there is only one taxi company and thus little benefit to selecting any taxi other than the first.

The provisions relating to ranking appear to address public safety and efficient service objectives by discouraging touting at ranks, ensuring unprofitable or short trips are not refused, and

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<sup>159</sup> Regulation 5 Regs.

<sup>160</sup> Regulation 32 Regs sets out the rule. In addition, regulation 31 of the Regs provides that when a taxi driver arrives at a rank on which there are no other vehicles, it shall take up the position nearest to the head of the rank. If there is another vehicle on the rank it shall take up a position immediately at the rear of that other vehicle. Where a position on a taxi rank nearer to the head of the rank is vacated, the driver of the taxi next to the position vacated shall move up to that position.

providing an orderly and efficient method of moving taxis on and off ranks. On the other hand, allowing hirers to select any vehicle on the rank could arguably undermine some of these objectives. It is our view that this right of the hirer would facilitate competition at the rank if new companies entered the market, bringing significant benefits of competition including service innovation and price competition, whilst adherence to the rules prohibiting touting and hiring refusals should ensure that sufficient order is maintained.

Accordingly, we take the view that the first on first off rule should be retained together with the right of the hirer to choose the vehicle. As entry at the company level increases, consumers should be made more aware of their right to choose any vehicle on the rank so as to facilitate effective competition at the rank. As discussed in Chapter 6, different rules may apply at the airport rank, depending on the outcome of its redevelopment and discussions between relevant bodies.

#### **10.4 Refusal of Hiring**

A taxi driver shall not, without reasonable excuse, refuse to accept a hiring, other than a multiple hiring when offered.<sup>161</sup> The driver may refuse to accept a hiring where the person offering the hiring:

- is to the driver's knowledge, suffering from an infectious or contagious disease or illness;
- is drunk, dirty or attired so as to be likely to soil or damage the vehicle; and
- requests the driver to proceed to a place outside the territory.<sup>162</sup>

Where a driver of a taxi or hire car has agreed to take a hiring, they may not refuse or fail to carry out punctually that hiring.<sup>163</sup> The objective of the prohibition on refusal is to promote a universal taxi service, available to all consumers regardless of their location, so that consumers are not denied a journey on the basis of distance. It also promotes a more efficient service as the rule reduces waiting times that might otherwise result if taxis were allowed to refuse hirings and shop around for more profitable fares.

The exception to the prohibition on refusal addresses driver protection objectives. The right to refuse interstate hirings restricts competition between ACT and Queanbeyan taxis. This right should be amended to allow for ubiquitous services between Canberra and Queanbeyan, consistent with our recommendations to remove cross-border restrictions.

#### **10.5 Other**

A driver of a taxi or a hire car must be clean and tidy, wear clean and respectable clothes and conduct himself or herself in an orderly manner, and with civility and propriety.<sup>164</sup> A driver shall not sleep, lounge or eat any food inside the vehicle.<sup>165</sup> Nor may the driver smoke without obtaining the permission of the person who has hired the vehicle.<sup>166</sup> When a taxi is already hired,

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<sup>161</sup> Regulation 11(1) Regs.

<sup>162</sup> Regulation 11(2) Regs.

<sup>163</sup> Regulation 13 Regs.

<sup>164</sup> Regulation 6 Regs.

<sup>165</sup> Regulation 7(a) Regs.

<sup>166</sup> Regulation 7(b) Regs.

the driver may not permit another person to ride or be carried in or upon the vehicle without the consent of the hirer.<sup>167</sup> In conveying a person who has hired a taxi, the driver of the taxi shall travel by the shortest practicable route to the place which the person specifies unless the person requests that the vehicle be driven by another route.<sup>168</sup>

These provisions address consumer protection and service quality objectives and no submission argued that they impose unwarranted costs. Accordingly, it is recommended that they be retained.

## **10.6 Recommendations**

*The review team recommends that as entry at the company level increases, consumers should be made more aware of their right to choose any vehicle on the rank so as to facilitate effective competition at the rank.*

*Consistent with cross-border reform recommendations, the review team recommends removing the right to refuse interstate hirings.*

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<sup>167</sup> Regulation 10 Regs.

<sup>168</sup> Regulation 15 Regs.



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## 11. Taxi network contract requirements

### 11.1 Overview

As discussed in Chapter 8 above, the operator accreditation provisions require operators to ensure that every taxi they operate is affiliated with a network. The provisions do not define network, but it is understood to mean a network that has a Taxi Network Contract with the ACT Government for the right to operate a taxi radio network within the ACT and surrounding region.

The legislation does not expressly require a taxi network to hold a taxi network contract and does not specifically grant a power to the Minister to enter into such a contract. It is not clear under what power, if any, the Government, can require a network to hold a contract. We nonetheless consider the network taxi contract requirement to be in effect a part of the ACT taxi regulations.

Currently, the ACT Government has only entered into one Taxi Network Contract (Contract). This is between the Registrar and Aerial Taxi Cabs Co-operative Society Limited (Aerial). Because Aerial is the only contracted network in the ACT, it holds a monopoly in the ACT taxi booking service market, except to the extent that mobile phones compete with Aerial's bookings. The extent of mobile phone bookings has not been assessed, but anecdotal evidence suggests that it is not a significant component of total bookings. Queanbeyan Taxi Co-operative Society Limited (Queanbeyan Taxis) has put a proposal to DUS to establish a taxi communication network for ACT licensed taxis. Queanbeyan's proposal, and the extent to which the legislation has contributed to Aerial's monopoly, are discussed further below.

The Contract stipulates that it covers the Registrar's interest and responsibilities as the regulator of taxi services and Aerial's interests and responsibilities as the provider of taxi services.

The Registrar's interests covered by the Contract expressly include:

- the level of service to be provided to the ACT community; and
- performance measures relating to:
  - quantity;
  - quality/effectiveness;
  - timeliness; and
  - cost.

The minimum service levels effectively relate to a series of maximum waiting times within which a taxi service must be provided. Aerial is required to present quarterly reports to the Registrar on the level of service as set out in Schedule 3 of the Contract (ie. data on response times according to length of time spent waiting and percentage of hirers).

A network must meet certain performance standards, principally related to waiting times by those wanting to hire a taxi. A network must also offer a 24-hour booking and dispatch service and meet certain other requirements as set out in Schedule 1 to the contract. The additional requirements relate to:

- implementing a marketing strategy as provided for in a business plan;
- access for the public to make inquiries by phone, in person, by fax or other means;
- maintaining a register of complaints;

- establishing procedures for dealing with lost property;
- acting as an agent for the Taxi Subsidy Scheme;
- maintaining and auditing accurate records;
- establishing a set of regulations/rules/by-laws the object of which is to provide an efficient and equitable service; and
- maintenance of a Public Liability Insurance Policy of at least \$5 million per occurrence.

It is our view that the network contract requirements restrict competition in the market for the provision of taxi booking and dispatch services, the effect of which is to raise the prices consumers ultimately pay for taxi services.

A monopoly network services provider is also in a position to wield market power against taxi depots. A depot in this sense, is a taxi company or co-operative providing the range of services to its taxi owner/operator members, but not operating the booking or dispatch function. Though Aerial is also the only depot in the ACT, in other jurisdictions, such as Sydney and Melbourne, there is competition at the depot level with depots outsourcing or combining their booking and communication services. A monopoly in the network services market potentially restricts competition in the depot services market which could have the effect of high depot prices and sub-optimal service standards.

Hire cars and RHVs are not required to belong to a network and hire car networks do not have to have a contract with the Government.

## 11.2 Objectives

The objectives of regulating taxi booking services are to raise service standards and to address driver and consumer safety issues. Aerial cited several objectives of the network regulations:

*Regulating a taxi booking or dispatch service is of benefit to the Government. The provision of a service within boundaries by a licensed provider allows for service accountability. This promotes the use of benchmarks and service level standards against which a provider can be measured..*

*Regulating the booking/dispatch service benefits the public in that it can ensure that all requests are acted upon.*

*For drivers and operators, regulation of the booking/dispatch service provides the driver with certainty about the bona fide nature of the network in the knowledge that only authorised drivers form part of the fleet.<sup>169</sup>*

It appears that network contract requirements together with network affiliation requirements, address legislative objectives.

Aerial also submitted that regulation of the network:

*... further allows for a decision based on empirical data that is useful in determining suitable levels of supply.<sup>170</sup>*

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<sup>169</sup> Submission, Canberra Taxi Proprietors Association & Aerial Taxi Cabs Co-Operative Society Limited.

<sup>170</sup> *Ibid.*

As discussed in Chapter 4 above, we do not consider that the regulations should be attempting to control levels of supply and accordingly do not consider this to be an objective or benefit of network regulation.

Though we find that network regulation does address legislative objectives, it is necessary to assess the costs and benefits of the current network regulations and whether there are alternatives which can achieve higher net benefits.

### 11.3 Costs

The current regulations are a form of co-regulation whereby the regulation of the industry is shared between the Government and the network. The risk of co-regulation is that the regulations will be captured by the industry with negative impacts on some market participants, usually consumers.

It is arguable that in the case of the ACT industry, the monopoly network services have resulted in costs not only to consumers, but also to drivers. The ACT Taxi Driver's Association indicated a number of costs of Aerial's monopoly:

*Prior to the present computerised system, dispatchers were able to link bookings together, that is, to multiple hire. However, the present computerised system only provides individual taxis for individual bookings.*<sup>171</sup>

*The Association feels that Canberra Cabs has the ability to abuse the monopoly it has, by coercing drivers into signing agreements that require them to abide by a set of By-laws and a Supervisory Committee that are considered to be harsh, unfair, archaic and questionably illegal.*<sup>172</sup>

We have not been able to benchmark the level of services Aerial supplies to drivers or to assess the impact of Aerial's monopoly on drivers. However, it is not unusual for sectors of an industry to be detrimentally affected by virtue of the power exercised by upstream or downstream monopoly providers. Accordingly, these views of the Driver's Association are considered to be weighty anecdotal evidence of the additional costs imposed by the monopoly. The importance of competition at the network level is also supported by the ACCC's rejection in 1995 of a proposed merger between Silver Top and North Suburban Taxis because of high industry concentration and high barriers to entry.<sup>173</sup>

It is arguable that the requirement for minimum response times is important in the context of a monopoly network services market with restricted licence numbers. However, we consider that in the context of a market with no, or lower, licence supply restrictions and a more competitive network services market, this competition will put pressure on network providers to achieve high response times. In the interim, the minimum response time requirements impose very significant barriers to entry which prohibit the realisation of significant benefits of competition. This is highlighted in Queanbeyan Taxis' proposal to establish a competing network in the ACT:

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<sup>171</sup> Submission, ACT Taxi Drivers Association.

<sup>172</sup> *Ibid.*

<sup>173</sup> A depot's main function is to dispatch telephone booked hirings to drivers, though there is some distinction between a depot and a network as some depots in Victoria have contracted out use of their networks to other depots. Other depot functions include garage services, driver training, voucher processing and management of licence transfers. In Victoria, there are seven depots. Three of these operate major computer booking networks.

*It would not be reasonable, we feel, to apply at the outset a response time regime of that equal to a very large network. It would not initially be achievable and would inhibit the establishment of a new network, thus cementing the existing monopolistic practice in the ACT.*<sup>174</sup>

We accept this submission and take the view that the minimum response time requirements should be removed or amended particularly for non-dominant networks, to reduce the barriers to entry in the network services market.

The apparent requirement for a network to be a contracted network is a restriction on competition as it imposes a barrier to entering the ACT network services market. The current network contract requirements impose material costs on the provision of network services. In particular, as submitted by Queanbeyan, the response time requirements make the entry of a small network extremely difficult. The costs associated with the additional requirements set out in Schedule 1, such as those relating to a marketing strategy, regulations/rules/by-laws and public liability insurance, have not been quantified. Some of these costs are likely to be significant, but generally they are seen as ensuring high benefits.

There is an argument that in a market with greater competition, there would be less imperative for these requirements to be regulated, as competition pressure and reputation would ensure that minimum standards in these areas are maintained. Accordingly, if the market for the provision of network services becomes more competitive, it is our view that consideration should be given to removing some of these additional requirements.

## **11.4 Benefits**

### **11.4.1 Network contract requirements**

Community benefits are obtained from some of the network contract requirements. For instance, as with network affiliation, the requirement to maintain a register of complaints and of action taken, facilitates enforcement of the legislation by increasing the network's role in enforcing driver, operator and vehicle standards.

Though there are costs associated with providing a 7-day a week, 24-hour service, there are likely to be significant benefits in the form of maintaining a universal service, so that taxis are available at all times of the day or night. Though these costs and benefits are difficult to quantify, it is our view that they achieve net community benefits.

As mentioned above, the minimum response time requirements are considered to be significant given restricted licence supply and a monopoly network service. However, the extent of the benefits is unclear. The taxi survey indicates generally high levels of customer satisfaction with waiting times. On the other hand, submissions from consumers as well as general discussions with sectors of the public indicated numerous instances of long delays in obtaining a taxi, particularly during peak times.

Anecdotal evidence also supports the view that there are often difficulties in obtaining timely taxi transport to the airport as Aerial inquires about the aircraft's departure time in an attempt to ensure that consumers catch their flights rather than that taxis arrive within prescribed time frames. Finally, anecdotal evidence supports the view that telephone waiting time can be lengthy.

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<sup>174</sup> Queanbeyan Taxi Co-operative Proposal to establish a taxi communication network for ACT licensed taxi-cabs, letter to DUS dated 22 December 1999.

Studies sometimes cite the economies of scale and scope that are present in taxi network services. Aerial made the following argument about the economies of scale benefits of having a single network provider:

*The existence of a sole network provider in a small market, such as the ACT, provides cost benefits to the industry and the community. If more than one network existed in the ACT and those networks experienced the capital costs of comparable technology, they would each need to recover that cost from their membership. The industry would pay more for the extravagance of duplicated services and this cost would be passed on to the community. Economies of scale and of scope allow the ACT community to enjoy state-of-the-art technology from a sole network provider.*<sup>175</sup>

There are some economies of scale in network booking services as evidenced by interstate taxi industry experience. In NSW there are 12 taxi companies and 3 booking services. Victoria has seven depots with two main computer booking networks in Melbourne.

It is difficult to assess the magnitude of the scale and scope economies. Whether the economies are so significant as to render network services in the ACT a natural monopoly is unclear. We discuss the natural monopoly argument further in our discussion of alternatives below and adopt the view that, as far as possible, it should be left to the market to determine the appropriate structure.

It was submitted that additional benefits arise in the form of co-ordinated operating schedules, such as a recent ruling by Aerial which prohibits change over during the peak period of 3.00 pm and 5.00 pm.

*Initiatives, such as self-imposed quarterly fleet inspections, prohibition of shift change over in peaks, and fully funded Commissionaire services at the airport, are examples of significant public benefit achieved in the ACT but unachievable in multiple network markets.*<sup>176</sup>

Subsequent to Aerial's ruling, waiting times were markedly reduced during peak times. On the other hand, the ACT Taxi Drivers Association submission suggests that the benefits were not significant:

*This was a band-aid fix because it has only further exacerbated the problem, with the situation now being that the peak period has been extended because drivers are now refuelling vehicles at 2:30 pm and 4:30 pm, thus pushing the cars out into the suburbs during these periods. This leaves a shortage of cars in the busier areas. This means that the peak period that previously lasted between 3.00 pm and 5.00 pm is now lasting until 6.00 pm. Drivers feel that this does not provide good customer service.*<sup>177</sup>

Regardless of the overall impact of this particular ruling, it is our view that competition between networks is likely to encourage new networks to seek improved response times and thus will encourage networks to overcome artificial peaks created by change-over timing. Companies may even seek to co-ordinate their change-over times to maximise profit. If this does not occur, the Government could give consideration to prescribing mandatory charge-over times. If this does

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<sup>175</sup> Submission, Canberra Taxi Proprietors Association & Aerial Taxi Cabs Co-Operative Society Limited, p. 31.

<sup>176</sup> *Ibid.*

<sup>177</sup> Submission, ACT Taxi Drivers Association.

not occur, then it should still be possible for the regulator to prescribe/prohibit performance-enhancing change over times.

It is our view that requiring a network contract achieves net community benefits. However, it is difficult to make a comprehensive assessment of the overall costs and benefits of having only one network contract in the ACT. It is our view that the market should as far as possible be left to optimal the appropriate number of network providers in the ACT.

## 11.5 Alternatives

It is not clear why, in the past, other booking service companies have not successfully been established in competition with Aerial. One argument is that the nature of booking services, the technology required, and the nature and size of the ACT pre-booked market segment means that even in an unregulated market, the most efficient outcome would be a monopoly booking service provider. As noted above, this argument is made by Aerial which submitted that the booking services are a natural monopoly.

In support of this argument, the several previous unsuccessful attempts at setting up competing services was cited.

*Indeed in 1989 representatives of the Yellow Cabs company visited Canberra with the intention of establishing a second network. After both private and open forums with taxi operators, Yellow Cabs determined that it was not economically viable to continue with its proposal.*

*Aerial did not purchase or merge with other networks but simply accepted applications for membership of its own network. In 1965, Aerial closed its books to new members at the request of the Department of the Interior to allow the formation of a new network. Within nine months, the Department accepted that service efficiencies and clear public benefit was to be gained by allowing ABC, the new network, to join with Aerial taxis.<sup>178</sup>*

Another argument is that current network contract requirements in conjunction with licence quota restrictions and the infrequent release of new licences in small numbers, are factors which together have prevented a competing booking service from setting up. It is our view that these are likely to have been at least a contributing factor in preventing other booking services from effectively competing with Aerial.

A possible difference between past attempts at setting up in competition and the current potential, is the significant improvement in technology. State of the art GPS technology and other computer-based dispatch technologies allow companies to enter the network dispatch service market at much lower costs, and with much greater levels of efficiency, than previously was the case.<sup>179</sup>

Generally speaking, the Government's contract allocation powers pursuant to the legislation should be exercised in a manner that does not restrict competition unless it is deemed clearly

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<sup>178</sup> Submission, Canberra Taxi Proprietors Association & Aerial Taxi Cabs Co-Operative Society Limited, p. 30.

<sup>179</sup> Queanbeyan Co-Operative has stated that technology for a competing network would cost approximately \$120,000 to establish, plus approximately \$4,000 per car for those cars already fitted with a two-way radio, and approximately \$8,000 per car for those cars not currently fitted with a two-way radio. Queanbeyan Co-Operative submitted that its proposed GPS system is more efficient than the existing Aerial technology, mainly because the GPS system does not require the best placed vehicle to be vacant before being allocated a job.

necessary. In this regard, we discuss the alternative of awarding additional network contracts as applied for by Queanbeyan Taxis.

In December 1999 Queanbeyan Taxi Co-operative Limited (Queanbeyan Taxis) made a proposal to DUS to establish a taxi communication network for ACT licensed taxi-cabs.<sup>180</sup> In its proposal, Queanbeyan Taxi agreed in principle to install a computer dispatch system subject to the Co-operative being granted a network contract, and operating a taxi booking service and communication network, in the ACT.

The new system is intended to replace the existing Queanbeyan communication system so that both Queanbeyan and ACT taxis would be operating on the same booking service and communication system. The new system would provide a computer, rather than voice, dispatch system for driver and passenger safety and a management information system based on real-time information transmitted from taxi-cabs.

The proposal sets out information on the network including its technology, financial viability, service performance standards, operational concept, WATs, accreditation and authorisation standards. In relation to service performance levels, the proposal highlights that at the outset a new entrant could not reasonably be expected to meet the required response time performance levels.

*We believe that if more than one taxi network is permitted to operate in the ACT, market forces will be exercised through customer choice. Market share will be determined by the service provider's capacity to satisfy customer demand. If customer demand is not satisfied, the network will be rejected in favour of competitors who can satisfy their need.*

*Ultimately therefore, in a competitive environment, as market forces replace regulatory controls, there will be less need for qualitative service performance indicators to be imposed by the regulator.*

*Notwithstanding this philosophical approach, Queanbeyan Taxis currently has in place management information systems to satisfy the NSW requirement for monitoring service delivery performance.<sup>181</sup>*

The view expressed by Queanbeyan Taxis that market forces provide incentives to maintain high performance standards is supported by interstate and international experience. For instance, in New Zealand the approved taxi companies do not have to meet response times yet waiting times have been documented to have decreased since entry was deregulated and additional companies entered the market. In Victoria there are currently no minimum response time requirements.

Acceptance and implementation of Queanbeyan Taxis proposal would, in our view, provide an important source of competition to Aerial with potentially significant benefits. Should the proposal fail however (thus confirming the natural monopoly nature of the network service market) consideration should be given to regulation of the service provider to guard against the abuse by it of its monopoly power.

As discussed above, it is difficult to measure the extent of economies of scale and scope associated with booking network services. However, in order to provide a 24-hour a day, 7-day a

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<sup>180</sup> Proposal by Queanbeyan Taxi Co-operative Limited to DUS, dated 20 December 1999.

<sup>181</sup> Queanbeyan Taxi Co-operative Proposal to establish a taxi communication network for ACT licensed taxi-cabs, letter to DUS dated 22 December 1999.

week service, there is a critical minimum number of vehicles required. Accordingly, in NZ there is a requirement for a minimum of 5 taxis on the network, whilst in Seattle the requirement is for 15 taxis. In our view, during the initial stages of reform whilst the industry is moving toward a more open market environment, a requirement similar to that of Seattle's minimum of 15 vehicles is considered appropriate.

The success of this proposal and of additional new entry is likely to be greatly facilitated by reform of licence quota restrictions. Without additional licences, there is concern that Aerial's share premium membership rules which appear to penalise members for leaving Aerial unless they transfer their licence to another Aerial member, may create too high exit barriers for licence holders wishing to join a new network. These rules may constitute a breach of one or more provisions of Part IV of the *Trade Practices Act 1974* (TPA).<sup>182</sup>

Though it is not within the terms of reference of this review to assess whether Aerial's rules breach the TPA, it is important in this context to note that where the regulations support a monopoly or duopoly structure, there is greater risk of breaches of the TPA occurring. For instance, in July 1998 Lismore Taxis Co-operative Ltd provided an undertaking, pursuant to section 87B of the TPA, over by-laws which the ACCC believed were in breach of ss. 45 and 46 of the TPA. Similarly, in December 1998 the ACCC obtained a section 87B undertaking from Radio Cabs (Wagga) Co-operative Society Ltd in relation to its by-laws.

In relation to these undertakings, it is useful to note here that the ACCC was particularly concerned with the cooperatives' bans on privately arranged taxi bookings and the roster systems which rationed work available to drivers. Both cooperatives gave undertakings to the ACCC that:

- no taxi operator will be penalised for making a private booking;
- they will not introduce any system which prevents taxi cabs from competing for out of town jobs; and
- they will not introduce a roster system which keeps cabs off the road at any particular time.

Whether or not one or more of Aerial's rules or by-laws constitute a breach of the TPA, it is our view that when exercising its powers to issue Network Contracts, the Government should as far as possible encourage efficient competition in the taxi industry. Furthermore, the regulator should encourage the relevant companies operating in the various SCPV market segments, to be mindful of the increased risk of TPA breaches.

## 11.6 Recommendations

*The review team recommends that the Government's power to require a taxi network communications provider to obtain a Taxi Network Contract be expressly provided for in the legislation. This power could, alternatively, be one of network accreditation. The objectives and elements of network contract/accreditation requirements should be clarified.*

*One of the objectives of taxi network contract requirements should be to shift some responsibility for enforcing adequate operator accreditation, driver authorisation and vehicle standards onto the networks.*

<sup>182</sup> For instance, subsection 45(2) which prohibits a corporation from making a contract or an arrangement or arriving at an understanding, or giving effect to a provision of a contract, arrangement or understanding, which has or is likely to have the effect of substantially lessening competition.



*The principal network contract requirements should include 24-hour 7-day a week booking services, complaints handling procedures, public liability insurance coverage, and at least during the initial years of reform a minimum of 15 taxis per network. For non-dominant networks, minimum response time standards should be removed or reduced sufficiently to permit new entry at the network level.*

*The review team recommends that consideration be given to proposals, such as that put by Queanbeyan Taxis, to establish a competing network in the ACT in order to that an important source of competition to the Aerial network to emerge. The proposals should be considered according to clearly developed network contracting standards and should be adopted if the eligibility requirements are met. To facilitate entry, the response time standards should be removed or reduced for non-dominant networks. Subject to the network contract standards being met, the market, not the regulator, will best determine what is the efficient level of competition at the network/dispatch level.*

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## 12. Cross-border restrictions

As discussed elsewhere, cross-border issues arise by virtue of the fact that Queanbeyan and Canberra SCPV services are considered to fall within the same market segments yet are subject to different regulatory regimes.

A large number of taxi journeys are generated between Queanbeyan and the ACT. These include commuter travel, transfers to the airport, transport to specialist appointments and shopping trips. The Queanbeyan taxi and hire car industry is governed by the *NSW Passenger Transport Act 1990* and the relevant Regulations and prescribed standards.

Though Queanbeyan taxis operate into the ACT and likewise Canberra taxis provide journeys into Queanbeyan, the current legislation of both NSW and the ACT would appear to preclude this arrangement. Accordingly, the legislation potentially restricts competition between Queanbeyan taxis and Canberra taxis.

*As taxi numbers in the ACT are determined by the ability of the taxi network to meet response times and service standards, there is a balance between supply and demand. The inability of ACT taxis to operate in New South Wales ensures that 100% of the licensed resource in the ACT is available for the ACT public. The same could be said of Queanbeyan Taxis in relation to its public. The licensing regime does not restrict competition within boundaries. To argue that the removal of a boundary introduces competition must then be taken to its next boundary. If, for example, the ACT/Queanbeyan boundary was to be removed, ACT taxis could operate in Sydney. If this were not the case, the boundary argument would need to commence at Bungendore, Braidwood, Yass, Goulburn, etc.<sup>183</sup>*

This argument rests on the view that regulation should be balancing supply and demand. As previously stated, this is not the proper role of legislation.

The IPART report did not specifically consider the Queanbeyan market. Its findings were mainly in relation to the Sydney market. IPART made the following observations about the role of the regulations in relation to taxis in rural and regional NSW:

*A major area of annoyance for rural and regional taxi licence owners and operators is the imposition of regulations that are primarily designed for taxis operating in Sydney. The nature of the taxi industry and the need for regulation in Sydney is significantly different from the situation in regional and rural NSW. There are also major differences in markets within the regional and country NSW taxi markets.<sup>184</sup>*

IPART cited with favour the South Australia approach which allows local rural councils to regulate taxis in rural and regional areas. IPART then recommended:

*that the DoT in conjunction with industry and local councils, investigate options for delegating the regulation of taxis in NSW rural and regional areas to local councils.<sup>185</sup>*

Consistent with the IPART recommendations, it is our view that there are obvious benefits in granting the regulation of the ACT and Queanbeyan taxi services to one body. Given the

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<sup>183</sup> Submission - ACT Taxi Proprietors Association and Aerial, pp. 28-29.

<sup>184</sup> IPART Report, *op cit* n 72, p. 90.

<sup>185</sup> *Ibid.*

existence of a regulator in DUS, the obvious regulator for the region is DUS given its existing role of regulator of the ACT and given the limited relevance of the NSW regime to the Queanbeyan industry.

It is relevant to note that taxi services in Queanbeyan must comply with NSW driver, owner and operation or base accreditation. The IPART Report recommended that the NSW DoT, in conjunction with the industry and local councils, investigate options for delegating the regulation of taxis in NSW rural and regional areas to local councils.<sup>186</sup> It is our opinion, that this recommendation is consistent with the case for the DoT allowing regulation of Queanbeyan SCPVs to be subsumed by the ACT DUS.

***Recommendation***

***The review team recommends that the DUS and the NSW DoT enter discussions with a view to establishing a single taxi and hire vehicle regulatory regime for the region. Consistent with IPART's recommendations that the regulation of NSW regional taxi sectors be devolved to local councils, the ACT legislation would be regarded as the preferred governing legislation. In the interim, the two regimes should give full mutual recognition to the respective licence-holders.***

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<sup>186</sup> *Ibid.*

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## Annexure A<sub>[opt1]</sub> - Terms of Reference<sub>[opt2]</sub>

The Service Brief defines the contracted services as follows:

- 3.1.3 *The independent reviewer will examine and review those provisions of the Motor Traffic Act 1936 and all associated subordinate legislation which relate to the regulation of the taxi and hire car industries in the ACT. The review will be conducted pursuant to the ACT Government's commitments under National Competition Policy, in particular, clause 5(1) of the Competition Principles Agreement, which states that legislation should not restrict competition unless it can be demonstrated that:*
- (1) the benefits of the restriction to the community as a whole outweigh the costs; and*
  - (2) the objectives of the legislation can only be achieved by restricting competition.*
- 3.1.4 *Without limitation the matters which can be taken into account, the Reviewer shall examine the following:*
- (1) community demand for taxi and hire car services;*
  - (2) the impact on market entry controls on the supply of services and responsiveness to current and future demand;*
  - (3) price controls;*
  - (4) performance standards (including licence conditions, network standards, vehicle standards, customer services and driver safety);*
  - (5) compliance mechanisms;*
  - (6) the needs of persons with disabilities;*
  - (7) reform directions in other Australian jurisdictions; and*
  - (8) cross-border arrangements with NSW.*
- 3.1.5 *As a result of this examination, the Reviewer shall prepare a report which:*
- (1) describes and clarifies the objectives of the (ACT) legislation in relation to the taxi and hire car industries;*
  - (2) describes the industries regulated by the legislation;*
  - (3) identifies the nature of restrictions on competition including any potential inconsistencies with the Trade Practices Act 1974 in relation to specific provisions of the Motor Traffic Act 1936 and all associated subordinate legislation*
  - (4) analyses the likely effect of the restrictions on competition and on the ACT and sub-region generally;*
  - (5) assesses costs and benefits of the restrictions taking into account, where relevant, the matter set out in clause 1(3) of the Competition Principles Agreement;*

(6) *considers alternative means for achieving the same result including non-legislative approaches; and*

(7) *makes recommendations for regulatory reform options.*

3.1.6 *The Reviewer shall consult with and call for submissions from all interested persons and organisations. These will include industry and consumer representatives, and owners, drivers, users of taxi and hire car services and disabled persons or groups.*

3.1.7 *The Reviewer would be responsible for the preparation of an issues paper, interim report and final report and for all consultation processes including;*

(1) *public notices as appropriate including the publication of terms of reference and call for submissions from interested parties and the details of public meetings;*

(2) *meetings with key ACT industry and consumer representatives;*

(3) *meetings as appropriate with industry and consumer representatives from other jurisdictions and, in particular, NSW in regard to cross-border issues;*

(4) *meetings as appropriate with reviewers of similar legislation in other jurisdictions;*

(5) *meetings as appropriate with regulators of taxi and hire car services in other jurisdictions; and*

(6) *formal documentation of consultations and submissions.*

Accordingly, the review examined the case for reform of legislative restrictions on competition which arise by virtue of the:

- *Motor Traffic Act 1936 (the Act);*
- *Taxi and Hire Car Regulations (the Regulations); and*
- *related administrative processes of, and subordinate instruments and arrangements arising out of, the above legislation, such as the ACT Taxi Operator Accreditation and Driver Authorisation Standards and the Aerial Taxi Network Contract.*

The provisions which apply to restricted hire vehicles were also included in the review. Although the review did not strictly include motor omnibuses, which are also partly governed by Part III of the Act, some aspects of the motor omnibus provisions were examined and commented on as they impact the taxi and hire car markets.

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## **Annexure B - Overview of general rationale for Government intervention**

### **Public goods**

Public goods occur when the supplier is unable to economically exclude or technically prevent those who do not pay for the good, from enjoying its benefit. It is unlikely that public goods would be provided at the socially desired level if Governments did not intervene in the market to secure their provision.

By providing a universal service, ie. taxis are required to accept hirings within the area they service, and by providing transport when other public transport modes are not available, taxi services contain an element of public good.

Cross subsidies occur under fare regulation as an average distance based price is charged for all trips notwithstanding that the costs of similar distance trips may vary considerably. For instance, a taxi accepting a fare to an outer suburb has a high chance of returning empty whilst a fare to the city centre has a high chance of receiving a subsequent fare within a short time. Thus the cost of dead heading is subsidised where those trips with idle time or dead heading is reduced.

It might also be argued that a public good being provided is public safety and protection. However, the provision of public safety is more readily understood in terms of a Government's intervention to address externalities or to achieve other social objectives, discussed further at subparagraphs (b) and (f) below.

### **Externalities**

Externalities arise where benefits or costs accrue ("spill-over") to third parties to the transaction.

There are very few market incentives for parties to reduce the level of activity which generate negative externalities. Criminal laws, consumer protection laws and negligence laws are designed to minimise the risk of spill-over costs, and/or to transfer the spill-over costs onto those issuing or causing the damage, so as to create disincentives for engaging in those harmful activities.

Regulation may impose entry criteria and conduct constraints in order to reduce the incidence of externalities.

Negative externalities in the taxi industry may include traffic congestion, though these are not limited to the taxi industry. Of greater relevance perhaps is the impact that the taxi industry has on the tourist industry and business community.

### **Abuse of market power**

Economies of scale and scope can lead to monopoly power in a market. Competitive markets may be inhibited by the abuse of market power on the part of an individual firm or an industry group or sector. Abuse of market power typically results in lower levels and/or lower quality of a good or service being provided at higher prices than would be otherwise the case under competitive market conditions.

In some instances, where regulation limits the number of firms providing a particular service or product, the regulation can enhance the market power of those permitted to supply the service or product.

In the cruising and rank taxi market, barriers to entry are relatively low, that is, in the absence of regulation. In an unregulated market, a driver need only a vehicle and fuel in order to seek hiring on the streets and to wait at ranks.

The prebooked market is more efficiently served by a larger fleet of vehicles because the costs of advertising and booking/dispatch technology are shared by more vehicles. Furthermore, the response time between telephone call and taxi pick up generally declines as fleet become larger. Since deregulation in New Zealand, the taxi industry has seen a large increase in a number of authorised taxi companies. Many of the new companies operate smaller fleets than those offered by incumbent taxi companies prior to deregulation. Some of the smaller companies have begun to combine to capture economies of scale.

Economies of scope exist in servicing demand for taxis sourced from telephone bookings, ranks and street hails. Vacant taxis working at ranks or cruising in search of work can monitor the radio for work, whilst engaged taxis can avoid dead heading (being unable to obtain a return journey from a destination) by seeking a radio booking from the destination of their current passenger.

### **Information asymmetries**

In perfectly competitive markets, buyers and sellers have the same knowledge about the product or services involved. In some markets, however, one party to the transaction will have more information about product or service quality than the other party. This may arise due to the high costs for consumers to acquire quality information prior to purchase (discussed further below), or because quality can only be assessed after purchase and consumption. The difficulty of obtaining information about the service is exacerbated when users acquire the particular type of service infrequently.

One consequence of information asymmetries is that lower quality products may drive higher quality products out of the market. Alternatively, firms which are able to establish a reputation as producers of high quality products may be able to extract a premium price over the additional cost of producing the higher quality. In both cases, community welfare is reduced because quality is lower or prices higher than would otherwise occur where no information failures exist.

Market solutions to problems of information failure may emerge spontaneously to reduce the risk created by those failures.

Regulation can provide consumers with additional confidence in the service provider, reducing their risk of inappropriate selection of service and the possibility of exploitation by the provider. By setting standards of technical competence for providers wishing to enter the market, regulation can provide conveniently accessible information to consumers.

Information asymmetries are particularly relevant to the taxi industry as passengers do not know the full price of the journey, or the standard of the driver, beforehand. For instance, where the first cab off the rank rule is removed, shopping along a rank can be difficult. This is particularly the case where, for example, there is limited time to load a passenger. Canberra airport provides a good example during peak airport periods.

Removal of fare regulation and permitting competitive shopping can result in aggressive soliciting of passengers and conflict between drivers, as was seen to occur with deregulation in US cities. These cities exhibited high fares when few other vehicles were available, otherwise known as price gouging, though taxis were generally more readily available. By contrast, New Zealand had more success with competition at ranks as price fell in real terms while conflict between drivers was minimised with the reintroduction of regulation of driver behaviour.

The related issue of hidden transaction costs is discussed below.

### **Transaction costs**

Transaction costs are costs incurred in doing business with a service provider including the costs of:

- locating a service provider;
- switching between service providers;
- reaching agreement on the price and other aspects of the exchange; and
- ensuring that the terms of the agreement are fulfilled, such as legal advice and court action.

Significant levels of transaction costs will impede competition and reduce the effectiveness of markets. For example, if consumers experience significant search costs in a market with which they are unfamiliar they might limit their search for a service provider and make a less than optimal decision. Consumers will only search out and utilise information so long as the costs of their search are lower than the savings that they expect to make.

By providing information about service providers, regulation seeks to reduce transaction costs faced by consumers and thereby to foster informed decision-making.

Transaction costs also occur if there is a chance that the provider will not satisfactorily service the customer. For example, if some providers are dishonest and customers can only claim damages through expensive legal proceedings, then this will make customers reluctant to contract with all providers.

### **Other social objectives**

Objectives, that are not strictly market failures, often provide the rationale for Government intervention. In particular, Governments may intervene to raise service standards beyond those levels that would occur in a perfectly competitive market. Government might also prohibit certain conduct even though this conduct might occur in a perfect market. In these circumstances, a provider might satisfy the norms and standards dictated by the market, but these might be less than the standards of probity or conduct that are generally socially acceptable.

In addition to entry requirements, regulation aimed at reducing these risks may also control the way a licensee conducts business operations.

In some instances, unregulated markets may not fail but may still result in work that is considered substandard from a broader social perspective. Where there is sufficient community concern about the implications of substandard work, Governments may intervene to improve the standards. This may be done by imposing training requirements for entry into the occupation, or by mandating certain work practices or standards.

An unintended result from this intervention could be to remove from the market the availability of cheaper, lower quality services that some consumers would otherwise choose. Whether or not this occurs and if so, the implications thereof, varies between markets.

Importantly, particular risks imposed may change over time. Regulation should be reviewed at appropriate periods in order to assess whether regulatory intervention is still necessary or appropriate in the current environment.



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## Annexure C<sub>[opt3]</sub> - <sub>[opt4]</sub> Overview of ACT Taxi and Hire Car Industry

The following discussion outlines some of the characteristics of the ACT taxi and hire car industry.

### Brief history of the industry

Prior to the introduction of the legislation in 1956 the ACT had no taxi service.<sup>187</sup> Only private hire cars operated in the area and these were unmetered, without centralised co-ordination or radio communication. Fares were charged on the basis of mileage and were inclusive of a charge for returning to the nearest rank.

The public hire car system was abolished in May 1956 through changes to the *Motor Traffic Ordinance* (MTO). The owners of the 26 public hire cars were given the opportunity to convert to taxis or private hire vehicles, and all 26 converted to taxis. Through the changes to the MTO and the introduction of taximeters, the Government exercised control over the setting of maximum fares and regulated the number of taxi plates available

The 1960s saw an increase in the number of taxi licences and, importantly, the introduction of competing taxi companies. However, by 1966 Aerial Taxi Cabs Co-operative had acquired both the Deluxe Taxi Company and the ABC Taxi Company, thus creating an operating monopoly. As recently as 1993, a private sector proposal to establish a second company was unsuccessful.

By the early 1970s the Canberra taxi fleet had increased to 73 cars. An increase in fleet size to 96 in 1974 and 105 in 1975 followed. Fleet numbers then remained static for nearly a decade. However, by the end of the 1980s, taxi numbers had increased to 167. The increase in numbers over this first 30 years was achieved in several ways.

The first public auction of new taxi licences commenced in 1990. Auctions were also conducted in 1991, 1993, 1994 and 1995. There are now 233 taxis in the ACT. This includes sixteen wheelchair accessible WATs, which were first introduced in the 1980s.

The initial six hire car licences, as they are known today, were first issued in 1965. An additional two were issued in 1976, followed by the remaining 14 during 1977 over a period of nine months.

### Taxi licences

In order to operate a taxi service in the ACT, it is necessary to obtain a taxi licence under Part III of the Act.

Various conditions attach to taxi licences such as restricting underage drivers (under-21-year-olds holding driver's licences) to driving only on weekends. Court-imposed conditions could, for instance, prevent those with previous drink-driving offences from driving at certain times.

Taxi licences are transferable and, subject to the current legislative maximum of two per person, may be traded on the open market for whatever value may be negotiated. Anecdotal evidence indicates that the present market value of a taxi licence in the ACT is approximately \$260 000 - \$280 000. This is for the licence only and would not include the vehicle or ancillary equipment.

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<sup>187</sup> The discussion on the industry's history was taken from the ACT Department of Urban Services *Working Paper to the Canberra Taxi Industry Inquiry by the Standing Committee on Economic Development and Tourism*, September 1995.

The Canberra taxi licence value is similar to that in both Sydney and Melbourne where the average cost of licences is around \$260 000. The value of taxi plates in neighbouring Queanbeyan is slightly higher.

Taxi licence values fluctuate markedly from place to place. For example, the value of a taxi licence in Newcastle is around \$150 000 whereas on the NSW Central Coast the cost is around \$350 000. Both these areas have populations similar to that of the ACT.

The ACT MTA prescribes that no person shall own more than two taxi licences. It does not prescribe limits on the number of licences that may be leased by a single operator. Consequently, there are taxi owners in the ACT that operate relatively large fleets. Leasing introduces an additional complexity in the delivery of taxi services and necessitates an extra layer of regulation.

It is understood that the largest fleet operator leases some 22 licences (10% of the total), with two others operating approximately 15 and 12 taxis respectively. It was submitted that approximately 16 extra cabs entered the industry in 1996.<sup>188</sup> Many lessees sub-contract operation of the taxi to a driver which means that the owner, lessee and driver of one taxi may actually be different people. The leasing of taxi licences is also common practice in other jurisdictions. Taxi plates in the ACT are understood to currently lease for approximately \$500 per week.

As lessees usually only lease the taxi licence, they generally incur all the same fixed and operating expenses as the owner/operator.

Table 14 below sets out a broad estimate of the number of taxi licences per capita and Table 15 sets out the value of the licences in each of the Australian States and Territories.<sup>189</sup>

**Table 14: Number of taxis per 10,000 people**

State/Terr.	NSW	VIC	QLD	SA	WA	TAS	NT	ACT
1991	9.2	9.9	8.2	4.1	7.4	12.1	7.8	6.3
1995	8.6	8.5	7.9	7.4	7.2	12.9	6.9	6.9

Source: Australian Bureau of Statistics (1997)

**Table 15: Real cost of taxi licences by State**

State	1991	1992	1993	1994	1995	1997	1998
NSW	199,161	224,418	222,648	218,508	234,925	284,197	260,000
VIC	133,918	145,079	133,589	161,696	187,940	263,897	265,000
QLD	171,690	195,318	195,931	192,287	185,852	258,822	267,000
SA	104,159	125,810	140,268	152,955	148,264	157,323	158,000
WA	165,967	156,866	155,854	158,418	182,719	233,447	210,000
TAS	66,387	64,605	74,587	71,015	75,176	101,499	100,000
ACT	234,643	260,688	317,274	311,374	250,587	243,597	280,000
NT	148,798	168,881	189,251	185,732	229,704	248,672	230,000

Sources: Australian Taxi Industry Association (1999); *Consumer Price Index Australia* 1991 to 1998, 6401.0

A number of factors, not only regulation, influence concentration numbers of taxis and licence values between different markets. However, other markets can highlight some of the peculiarities of the ACT markets under consideration. The ACT market is unique, with many differences to other capital cities and large towns. In particular, the ACT is geographically spread, and relies far

<sup>188</sup> Per submission received from Mr Phil McAppion at the oral hearing.

<sup>189</sup> Soon, "Taxi!! - Reinvigorating competition in the taxi market", p. 5.

more on the private motor vehicle, resulting in a lessor demand for passenger and passenger transport services. The spread of the city is larger than cities three times its size in population. The demand pattern is driven primarily by parliamentary tables and the public service requirements.

### **Wheelchair accessible taxi services**

Initially, six wheelchair accessible taxi licences, "WATs", had been issued to Aerial. The licences are non-transferable and have been issued, at no cost, specifically for the provision of taxi services for people with disabilities. WATs are required to give priority of service to people with disabilities above all other persons.

Aerial has subsequently sub-licensed all six WAT licences to a single person to operate on a day by day basis. Under this arrangement, profit generated by the operation of the WATs is returned to the co-operative, and therefore to the benefit of shareholders. Aerial receives and sends pre-bookings to sub-licensees, to ensure they are spread around Canberra, and give priority to disabled use. It is understood that four of the six cars are used for disabled pre-bookings.

In 1998 it was recommended that a Standing Committee on Urban Services inquire into and report on the need to increase the number of restricted taxi (WAT) plates.<sup>190</sup> It was argued that the lack of such vehicles in operation provides an unacceptable problem for the disabled community in the ACT. The Committee recommended that an additional 10 WAT licences be released, and that WATs eventually comprise 10% of the total taxicab fleet. In November 1999, an additional 10 WAT licences were announced by DUS.

As with ordinary taxis, WATs have a peak demand period. The time of highest demand is between 8.00 am and 9.00 am on school days when the service has the dual tasks of providing transport for both commuters and school children with disabilities. Aerial provides taxis for up to 80 school children with disabilities. Of these, around 20 children are confined to a wheelchair and may require transport by WAT.

In addition, WATs contribute to providing public access to a range of other client groups. These include:

- Approximately 2600 people served by the Taxi Subsidy Scheme. This Scheme, funded by the Department of Health & Community Care, provides subsidised travel to people who cannot generally access other forms of public transport.
- Patients attending rehabilitation programs at the Canberra Hospital.
- Older citizens attending day care at the Belconnen and Tuggeranong Health Centres.

### **Hire car licences**

Currently within Canberra there is a small, regulated hire car industry. These vehicles differ from taxis in that they are not allowed to ply for hire and are used in a manner which gives the hirer exclusive use of the vehicle for the duration of the booking.

Hire cars have generally competed in the upper end of the market, using "luxury vehicles" which include stretch limousines. There is no regulation as such which limits the number of passengers which a hire car can carry. Current practice in Canberra is that most hire cars carry up to 5

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<sup>190</sup> Urban Services Standing Committee, 24 September 1998, p. 2146.

passengers, except for stretch limos which can carry up to 8 passengers. A hire car licence is issued on the basis of the intended use of the vehicle rather than seating capacity.

There are presently 22 hire cars operating in the ACT which are run by two groups and some individuals. No hire car licences have been issued since 1980. Licences are issued for a determined fee of \$60,000 and legislation dictates the number of plates available. Hire car licences were advertised in *The Canberra Times* in September 1995 for \$170,000. It is understood that a more recent market price would be around \$120,000.

The ACT/Queanbeyan Hire car industry at present is divided between two major companies, Hughes Cars and Limousines and Canberra Limousines, and also two small independent operators. In addition to the 22 ACT hire car plates, there are three NSW Queanbeyan based plates. These plates have been authorised by the ACT Government to operate unrestricted in the ACT as though they were ACT plates.

Submissions estimated that when responding to booked calls, hire cars generally have a 10 minute response time.<sup>191</sup> It was submitted orally, that the rate of hire of a hire car is approximately \$1.70 per km, with a minimum charge of \$25. However, there is a flat rate charge of \$20 from the airport to the CBD.<sup>192</sup>

**Table 16: Example of Canberra hire car rates**

	LTD SEDAN	STRETCH LIMOUSINE
Metro - per hour	50.00	85.00
Country per km	1.40	1.80
<b>Transfer rates</b>		
Airport to/from CBD	33.00	55.00
Airport to/from outside CBD	38.00	65.00
Within same zone	33.00	55.00
Zone to zone	38.00	65.00
Return dinner transfer	75.00	125.00
After midnight - hourly charge applies		
<b>Tour rates</b>		
3 hour tour	150.00	255.00
8 hour tour	400.00	650.00
12 hour tour	550.00	950.00
Night tour (2 hour)	100.00	170.00
Chauffeur only charge \$35.00 per hour		

Source: Hughes Chauffeured Limousines Pty Ltd.

Hughes Chauffeured Limousines Pty Ltd have a fleet of 10 cars and four MOs. Between August 1997 and November 1999, they received approximately 46,400 bookings (including MOs which accounted for about 30% of bookings).<sup>193</sup> The yearly breakdown is as follows:

- 1998 - 20,000 bookings; and

<sup>191</sup> Per submission received from the ACT Council of Car Clubs at the oral hearing.

<sup>192</sup> Per submission received from Mr Bert Trenery of Canberra Hire Cars.

<sup>193</sup> Per telephone discussion with Mr David Willets of Hughes Hire Cars.

- 1999 - 18,000 bookings.<sup>194</sup>

The cars and MOs are mainly owned and leased by Hughes, although three of the cars are subcontracted.<sup>195</sup>

Canberra Hire Cars have a fleet of 13 cars. Almost all cars are owned by the drivers.<sup>196</sup> Table 17 estimates the number of hirings undertaken by Canberra Cabs over the past few years.

**Table 17: Hirings by Canberra Hire Cars 1995-1998**

Year	Number of Cars	Jobs
1998	13	39,000
1997	14	42,000
1996	18	54,000
1995	19	57,000

Source: Canberra Hire Cars Ltd, 17/11/99

These figures differ markedly with Hughes as hirings per car average around 3,000 per annum whilst for Hughes they average around 1,300 per annum.

Table 18 below sets out a broad estimate of the average annual return to a hire car operator.

**Table 18: Estimated average annual return to a hire car operator**

	<b>\$ per annum</b>
<b>Gross Income</b>	\$70,000 - \$80,000
<b>Costs</b>	
Company fees for communications, advertising, infrastructure etc	\$22,000
Fuel	\$5,000
Vehicle upkeep	\$3,000
Relief chauffeur	\$6,000
Insurance, registration etc	\$2,000
Paying for or leasing plate	\$12,000
Paying for or leasing a car	<u>\$9,600</u>
Total Costs	\$59,600
<b>Net Return</b>	\$10,400 - \$20,400

Source: Limousine Association Task Force, Sep 1999

### Restricted hire vehicle licences

Restricted Hire Vehicles (RHVs) operate in the pre-booked market segment. These vehicles primarily operate at weddings and formals, but they are entitled to undertake broader services under certain circumstances such as major special events when the normal supply of hire vehicles is inadequate.

The RHV licensing process is complex and cumbersome. There are effectively two main types of licence in the RHV category:

- a special purpose vehicle licence which entitles the licence-holder to conduct a particular hiring and which can be sought up to three times per year; and

<sup>194</sup> *Ibid.*

<sup>195</sup> *Ibid.*

<sup>196</sup> Per telephone discussion with Ms Dianne Donaldson of Canberra Hire Cars.

- a restricted hire vehicle licence which permits owners to conduct hirings for weddings and school formals and up to ten “variations” per year.

A person can apply in writing to the Vehicle Registry for an “application to use/vary a special purpose vehicle licence”. The Registry will then forward the application to the industry bodies (both the taxi and hire car industry), to seek their approval. The application must be lodged at least seven working days prior to when it is requested. Approval is not guaranteed.<sup>197</sup> A maximum of three special occasion licences per year may be granted in respect of a vehicle that does not have an RHV. The cost of the special purpose licence is approximately \$20.<sup>198</sup>

The number of RHV licences quoted during the course of the review has ranged from 18 to 40. An RHV licence costs \$142.<sup>199</sup> The licences associated with these vehicles are non-transferable. Up to ten hire car variations a year can be granted in respect of each RHV by Road User Services (RUS) in consultation with the hire car and taxi industry. These variations enable an RHV to operate as a hire car for a specific event or function which demands more hire cars than are ordinarily available. Operators are required to hold Compulsory Third Party (CTP) insurance appropriate for a public vehicle, and Third Party Property Damage insurance to a minimum of \$5 million.

RHV operators are not permitted to rank or ply for hire. Hire charges are by private negotiation. Table 19 below provides an example of some RHV rates.

**Table 19: Examples of RHV rates**

	<b>LTD</b>	<b>JAGUAR</b>
Metro - per hour	49.00	59.00
Country - per km	1.40	1.50
<b>Transfer rates</b>		
Airport to/from CBD	30.00	39.00
Airport outside CBD	35.00	46.00
Within same zone	30.00	39.00
Zone to zone	35.00	46.00
Return dinner transfer	70.00	92.00
A surcharge applies from 0000-0500 hours		
<b>Tour rates</b>		
3 hour tour	147.00	177.00
7 hour tour	322.00	402.00
8 hour charter	370.00	460.00
Night tour (2 hours)	98.00	118.00
Direct transfer to Sydney	420.00	450.00

Source: Chauffeur Drive, 1 April 1989.

### Motor omnibus licences

Although the review is in relation to the legislative provisions which regulate the taxi and hire car industries, there are provisions governing motor omnibuses (MOs) which are relevant as they

<sup>197</sup> Per submission by Mr Ian Daley of Arrive in Style Classic Jaguar Hire Cars.

<sup>198</sup> Per submission by Mr Bob Alexander, Vintage Car Rentals, at the oral hearing.

<sup>199</sup> Per DUS.

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impact the above industries. Section 33 of the Act grants the Registrar power to issue and grant a MO licence.

It is important to note at the outset the distinction between motor omnibuses and motor omnibus services. Motor omnibus is a broad category of vehicle defined in section 3 of the Act as:

*motor omnibus means any motor vehicle fitted, or equipped, or constructed, so as to seat more than 6 adult persons, and in respect of which payment is received for the conveyance of any passengers along a public street and includes any vehicle declared by the Minister, by notice in the Gazette, to be a motor omnibus.*

MOs are licensed to seat more than six adult persons and primarily operate charter and/or tour services. All vehicles issued with MO licences are licensed to operate tours. Charters may be operated by MOs with over 16 seats. Licences may also be granted to MOs to undertake route services.

“Motor omnibus services” are established by the Minister under section 3 of the *Motor Omnibus Services Act 1955 (MOS Act)*. Section 3 provides:

The Minister may establish, maintain and conduct such motor omnibus services within the Territory as he or she deems necessary.

The MOS Act regulates matters such as motor omnibus service fares and ticketing procedures. The Act is also supported by the *Motor Omnibus Services Regulations* which deals with matters such as safety and offensive behaviour on a bus. These motor omnibus services will be referred to as “bus services”. ACTION is the primary provider of bus services in the ACT until 14 January 2002.<sup>200</sup> It is the only bus operator permitted to pick up and drop off in the ACT.<sup>201</sup>

ACTION services could be considered a competitor to taxi services in respect of those routes, and during those times, in which it operates. However, the discrepancy in the mode of hiring, whereby passengers wait at a bus stop and follow a designated route during which the bus stops to pick-up other passengers, is considered to make the demand for bus services not sufficiently substitutable for the demand for taxi and/or hire car services. In addition, approximately 75% of ACTION’s customers receive concessionary fares. Accordingly it was submitted that the majority of ACTION’s regular users would not substitute bus services for taxis at existing taxi prices.

ACTION provides a Night Rider bus service 2 to 3 weeks prior to Christmas. It is arguable that this service competes more closely with taxi services than ACTION’s regular services as they operate during times when consumer demand is more inelastic, due to the hazards and laws of drink-driving.

Supply side substitution is also generally considered too weak to render these services in the same market as taxis or hire cars, given the far greater set-up costs associated with bus services than are required for a taxi or hire car licence (not including the cost of licences). To the extent that ACTION bus services are considered to fall within the same markets as taxi and hire cars, it

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<sup>200</sup> Discussions with DUS. From around July 2000 Action will operate as a statutory authority. After January 2002, Action may be privatised, though minimum service standards are likely to continue to be regulated.

<sup>201</sup> ACTION’s revenues only cover approximately 25% of its costs. Hence, approximately \$33 million per year is spent on ACTION buses by the ACT Government in the form of a Service Purchase Payment, which is effectively a subsidy or community service obligation. An additional \$4 million is paid by the Department of Education and Human Services for pensioner concessions.

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is our view that different policy objectives justify separate regulation for bus services and for taxi and hire car services.

On the other hand, MO licences which have been granted to smaller buses which seat only six or seven people have generated concern throughout the hire car industry. Licences for MOs seating less than around 10 passengers are considered to fall within the pre-booked market segment of SCPV services. In particular, MOs are capable of seating the same number of passengers as limousines yet limousine operators are unable to obtain an MO licence and when licensed as hire cars, have had to pay significant entry fees to obtain a licence. For this reason, we consider the provisions of MO licences insofar as they impact on taxi and hire car markets, but we do not consider the provisions in relation to bus services.

MOs operating as tour/charter vehicles operate under the same contractual arrangements as hire cars, in that the whole vehicle is hired to a single hirer. MOs operating under a route-service licence operate under different contractual arrangements from hire cars. MO's are not permitted to accept casual "off street" hirings.<sup>202</sup>

By virtue of section 37 of the Act, the Minister may by notice published in the Gazette, fix the maximum fares chargeable for the conveyance of passengers in a motor omnibus. Hire charges are otherwise by private treaty.<sup>203</sup>

### **Comcar**

Though the legislation under review does not regulate the Commonwealth car fleet, known as Comcar, it is necessary to understand all aspects of the affected markets, which may involve participants and/or competitors that are not regulated in the same manner. It is understood that Comcar provides a service that would otherwise be provided by taxis and hire cars. At peak times, when Comcar cannot meet demand for its services, Comcar directs work to the hire car sector.

Comcar is similar to the concept of a company car that is used by a variety of different employees during working hours. The difference is that the employee does not drive him or herself.

Comcar operates approximately 42 cars which are provided with drivers. These are used primarily by parliamentarians, visiting dignitaries and, at times, senior members of the Federal public service. When parliament is not sitting, Comcar does not operate.<sup>204</sup> A significant amount of transport work for public servants is carried out by DASFLEET issuing self-drive vehicles or taxi vouchers.

The current legislation under review does regulate Comcar. However, it is relevant to consider the role that Comcar plays in relation to SCPV services.

Comcar provides a car-with-driver service. Though Comcar operates along commercial lines, it is restricted to providing services to the Commonwealth Parliament, Members of the Federal Judiciary, the Governor General and "other entitlees" including former Prime Ministers, former Governor Generals and former members of Parliament that are entitled to a Life Gold Pass. On

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<sup>202</sup> Under section 34, the Registrar may grant to the owner of a motor omnibus which is registered in a part of the Commonwealth other than the ACT, referred to as a "visiting motor omnibus", a licence to use the vehicle as a MO in the Territory.

<sup>203</sup> Per submission by National Capital Limousines.

<sup>204</sup> Per submission received from Mr Bert Trenery of Canberra Hire Cars during oral hearings.



behalf of Federal Parliament, Comcar also provides services to “official” guests of Government such as visiting Prime Ministers and other dignitaries. Accordingly, Comcar cannot offer services to the general public. In addition, Comcar cannot be used by Senators or Members for private use.

Comcar charges an hourly rate of around \$80 per hour at any time of the day, calculated on a pick-up-and-drop-up basis. The minimum charge is currently \$26.60 based on a 20 minute minimum. Comcar uses Australian made Ford Fairlane or Holden Statesman vehicles, up to a maximum of 2 years or 40,000kms. The Comcar rates and vehicle standards are comparable to current hire car services. Rates are charged to the relevant Senator’s or Member’s account with their respective Department.

Currently Comcar has approximately 22 full-time drivers in the ACT and about 75 cars. This is a significant reduction from about 18 months ago when Comcar had approximately 40 full-time drivers. Comcar drivers do an internal driver training course accredited in the ACT.

When Comcar’s vehicles are all occupied, Comcar often refers government departments to hire cars. Occasionally, even when Comcar has additional capacity, it will utilise hire car services if the use of the hire car is more cost-effective. For instance, Comcar’s casual driver’s work on a minimum four hour shift, so that if the particular journey is for less than that period, it is likely to be cheaper to engage a hire car. Once a booking is made with Comcar, then whether or not the Senator or Member is given the use of a Comcar vehicle or Hire Car vehicle, the Comcar rates are charged to the relevant Senator’s or Member’s account.

Comcar leases parking bays at Canberra airport but otherwise has no ranks in the ACT. We take the view that Comcar does compete with hire car services. This is supported by anecdotal evidence.

*... the more commercial nature of Comcar effectively makes the chauffeured hire car industry and Comcar competitors for parliamentary work.*<sup>205</sup>

However, Comcar only competes with hire cars in a very limited segment of the market as it is effectively restricted to parliamentary work and is not available to the general public. Hence, to the extent legislative reform could enhance the competitiveness of the private hire car industry, it is arguable that the current demand serviced by Comcar could in fact be serviced by the private hire car industry. It is also relevant to note that though Comcar has significantly downsized its fleet in the ACT over the past several years, the number of hire car licences have remained fixed over that period.

Comcar leases all its vehicles from DASFLEET. DASFLEET is the Commonwealth Government’s fleet manager. DASFLEET currently manages approximately 3000 vehicles in the ACT. DASFLEET leases vehicles under its five year tied-contract whereby the Commonwealth must lease all its long term vehicles from DASFLEET. The current contract runs until August 2002. DASFLEET is not considered to be a competitor in the SCPV market as it provides self-drive, long term leasing ie. for a minimum of three months, which is a different service to that provided by SCPVs.

### **Queanbeyan taxis and hire cars**

<sup>205</sup> Submission, EM & BM Costello.

Taxi licences are issued by State and Territory Governments for the operation of a taxi service within geographic boundaries. Service providers cross boundaries only when a passenger from the service area in which the operator is licensed requests to be taken outside of the service area. In the ACT such a request may be refused by the driver. It is not permissible for the operator who finds himself outside his service area to ply for hire in another service area. An ACT taxi, for example, cannot rank or ply for hire in Queanbeyan and vice versa.

Queanbeyan, with a population of approximately 22,000, borders the ACT and is just 9 km from Canberra City. Queanbeyan is nearer to Civic than many ACT suburbs and closer to Canberra airport than most of the ACT.

There are fifteen taxis and three hire cars located in Queanbeyan. These are regulated by the NSW Department of Transport through the NSW *Passenger Transport Act* 1990. Though this Act is not subject to the review, Queanbeyan taxis operate into the ACT and similarly Canberra taxis operate into Queanbeyan.<sup>206</sup> As a result, it appears that Queanbeyan taxis operate within part of the market for ACT taxis.

With regard to taxis, the present practice of operating across the border for the pick-up and set down of passengers is informally tolerated by both regimes. With regard to hire cars, there are three Queanbeyan hire plates which have been authorised by the ACT Government to operate unfettered in the ACT. Both Queanbeyan taxis and hire cars have for some time been pushing for a formalisation of these arrangements.

Lease fees for a Queanbeyan taxi licence are approximately \$400 per week and radio base fees \$580 per month. These costs are similar to those incurred by ACT taxis. Operating expenses are marginally lower, due mainly to Queanbeyan taxis travelling only 75% of the annual distance of an ACT taxi.

The NSW Passenger Transport Act prescribes that any person who carries on a public passenger service by bus or other motor vehicle wholly or partly within NSW is guilty of an offence unless that person is an accredited operator. Similarly, any vehicle used in the provision of a taxi service, wholly or partly, within NSW must be licensed by the NSW Department of Transport. Furthermore, no person can operate a taxi-cab in the ACT unless they are the holder of a licence issued by the Registrar. It is understood that no ACT taxi licensee is an accredited taxi-cab operator in NSW, and vice versa.

### **Consumers**

A wide range of consumers utilise taxi and hire care services. Some consumers may be regular users of taxis and/or hire car services, such as regular visitors to Canberra, whilst others may be infrequent users. Demand may be for trips to/from the airport, work, home, shopping, places of entertainment, etc.

Potential market users include a broad section of the community including:

- *school children to retirees;*
- *business executives to unemployed youth;*
- *sophisticated patrons of the arts to economically/socially disadvantaged persons;*
- *fit and healthy sport participants to frail aged residents of health care facilities; and*

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<sup>206</sup> Per submission by Queanbeyan Taxi Co-operative Limited, p. 7.

- *people with meticulously planned travel schedules, to spontaneously required travel imperatives resulting from vehicle breakdown, urgent medical needs or non-arrival of a bus, friend, hire car etc.*<sup>207</sup>

Demand varies during the day, during the week and during the year. For instance, peaks are generally experienced between 8.00 am. and 9.00 am. and between 3.30 pm and 4.30 pm on weekdays, and on Friday and Saturday nights. Peaks may also occur when Parliament is sitting. Peak demand at the airport would also coincide with the arrival of several planes within a short time-frame.

It was submitted that the accelerated reduction in the size of the APS over the last five years has resulted in a parallel decrease in hire car demand, with the hire car industry operating at about 60% of its comfortable capacity.<sup>208</sup>

Depending on the type of consumer, substitutes for taxi and hire car services vary. For instance, for the one-car modest income family, taxis compete with subsidised transport such as buses, Health and Community Care vehicles, and the motor vehicles of friends and relatives. On the other hand, for the patronage of interstate visitors, including politicians, taxis, hire cars, rental vehicles and Comcar providers are in direct competition.

#### **Taxi fares and costs**

Section 36(1) of the *Motor Traffic Act 1936* grants the Minister power to declare maximum fares for taxi services. The Minister determines fares on advice from the Department, who in turn receives advice from the Independent Pricing and Regulatory Commission (IPARC).

DUS recently commissioned IPARC to:

- investigate maximum taxi fares for taxi services provided within the ACT, for a period of between three to five years; and
- recommend a method or formula as appropriate which may be used.

The investigation will also consider submissions from the public or any other persons or groups as required, including a submission for increased taxi fares prepared by Aerial. The outcome of the investigation will form the basis of a report recommending to the Minister for Urban Services a method or formula, as appropriate, which will be used in the determination of maximum taxi fares. The reporting date of IPARC's investigation is 30 March 2000.

In the interim, IPARC undertook an informal review of the appropriateness of the taxi fare formula currently used to make recommendations for fares to apply to taxi services in Canberra. The outcome of this review formed the basis of recommendations to the Minister regarding maximum taxi fares applying from 1 July 1999.

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<sup>207</sup> Per submission by Aerial, p. 3.

<sup>208</sup> Per submission by the Limousine Association Task Force, p. 2.

Table 20 below sets out the fare structure for taxi services as of July 1999.

**Table 20: Current regulated taxi fare structure**

Matter in respect of which fare is payable	\$
<b>Flagfall</b>	
for a journey when the taxi is not the subject of a multiple hiring	2.90
for a journey when the taxi is the subject of a multiple hiring	2.25
<b>Radio Bookings</b>	0.60
<b>Kilometre Rates</b>	
Between 6.00 am and 9.00 pm on a day other than a Saturday, Sunday or public holiday	
• single hiring	1.005
• multiple hiring	0.751
Commencing before 6.00 am or after 9.00 pm on a day other than a Saturday, Sunday or public holiday	
• single hiring	1.16
• multiple hiring	0.751
Commencing on a Saturday, Sunday or public holiday	
• single hiring	1.16
• multiple hiring	0.863
<b>Waiting time (per hour)</b>	24.00
<b>High Occupancy Surcharge:</b> for the carriage of 6 or more passengers that is not the subject of a multiple hiring, the maximum fare is the single hiring rate plus 50% of that rate	

Source: Schedule to Determination No. 164 of 1999, ACT Government Gazette, No. 27, 7 July 1999

For all electronic payments, there is a 10% surcharge. For Cabcharge payments, Cabcharge takes 10% and deposits the remaining funds into Aerial with instructions as to which taxi the funds are to be allocated to. Aerial then pays the taxi owners/lessees.

For other electronic payments, Cabcharge and the card issuing authority splits the 10% surcharge. The money is then sent back through Cabcharge to Aerial, which allocates it to owners/lessees.

Table 21 below sets out the estimate average operating costs of a taxi-cab licence holder, which were estimated by Canberra Taxi Proprietor's Association Limited, in its submission to the June 1999 price determination.

**Table 21: Estimated taxi operating costs**

Item	Annual \$ (1999)
<b>Fixed Costs</b>	
• Depreciation	6,636
• Registration Costs	5,169
• Driver's licence	22
• Comprehensive insurance	6,539
• Illness and accident insurance	1,803
• Workers' compensation insurance	1,190
• Superannuation	3,528
• Base fees	10,524
• <b>Sub total</b>	35,411
<b>Variable Costs (Non-labour)</b>	
• Fuel	12,204
• Tyres	1,952
• Repairs and maintenance	14,279
• Miscellaneous	2,618
• <b>Sub total</b>	31,053
<b>Variable Costs (Labour)*</b>	88,884
<b>Total Costs</b>	<b>155,348</b>

Source: Canberra Taxi Proprietors Association Limited - Submission to the Minister for Urban Services, 10 May 1999.

\* Labour costs are based on wages for drivers (\$484.65 per 40 hour week) for 52 weeks per year, for 120 hours per week, the first 80 hours at full time and the third 40 hours calculated at time and a half.

The returns to an owner of an ACT taxi licence who leases the licence to an operator, are estimated, very broadly, at approximately \$26,000 per annum.<sup>209</sup>

Estimates of comparative taxi fares by State and Territory are provided in Table 22 below.

**Table 22: Estimated average taxi fares by State/Territory for a 5km journey**

State/Territory	\$
New South Wales	7.85
Victoria	7.40
Queensland	6.86
South Australia	6.80
Western Australia	7.50
Tasmania	7.39
Australian Capital Territory	7.77
Northern Territory (Darwin)	6.25

Note: The above fares are based on a 5km taxi fare, no detention time, and no telephone booking fee. Source: Tasmanian NCP Review Taxi and Luxury Hire-Car Industry, Draft Discussion Paper, August 1999, p. 14.

### **Aerial Taxi Cab Co-Operative**

The Aerial Taxi Cabs Co-operative (Aerial), now trading as Canberra Cabs, has held a monopoly of taxi booking service operations in the ACT since 1966. All taxi licensees are members of the co-operative and it is the co-operative which exerts control over many aspects of the taxi industry in the ACT. Aerial is regulated under the *Co-operative Societies Act 1939*.

Aerial provides a range of services to taxi operators. The main facility is a 24-hour computer-based radio communication system. The base radio room is a fundamental component of the taxi

<sup>209</sup> Discussions with Aerial.

service. This is particularly so in an environment such as the ACT where the level of telephone bookings is high.

Other services provided by the co-operative include access to discounted fuel, industry training, fleet inspections, financial services and industry representation. The co-operative also has the power to discipline operators and drivers for breaches of co-operative and radio network rules.

Membership of the co-operative is only open to the owners of taxi licences and then only with approval of Aerial's Board. There is no formal requirement imposed by Aerial to obtain membership, but members are eligible to discounted access to the radio network. In any event, the ACT Taxi Operator Accreditation Standards require operators to ensure that every taxi is affiliated with a network. It was submitted that without such access, a taxi in the ACT cannot be viably operated. A separate membership is required in respect of each taxi owned by a member. A lessee of a taxi licence is treated by Aerial as if he/she were the owner for day-to-day purposes but only the owner has voting rights in Aerial.

Under Aerial's Rules, the Board can reject the application if the person is not "fit and proper". According to Aerial, "fit and proper" issues are already covered by the DUS accreditation requirements, so that an applicant who has satisfied the DUS accreditation requirements will also satisfy Aerial's "fit and proper" requirements. It is understood that only one person has ever been barred by the Board, but was ultimately allowed to join Aerial once the board took advice on its position. When a licensed owner sells his/her licence, the Board vets the prospective purchaser.

The application fee is \$10. On joining a member must also purchase 57 \$2 shares (total \$114). When purchasing an existing taxi licence from a current member of Aerial, the 57 shares will be transferred to the new member. The value of the shares include a \$20,000 premium because when a person is purchasing a new taxi licence (ie. from the Government by auction), Aerial imposes a share premium of \$20,000 on application for membership. It is understood that if a member leaves Aerial, but keeps the licence rather than transferring it to a new member with approval of the Board, the member effectively loses the \$20,000 share premium.

Drivers must have an association with Aerial to be able to access the radio network. Before Aerial will give them a personal identification number (PIN) to access the computer system authorisation, they must have satisfied the requirements some of which include:

- 30 minutes training in the dispatch room;
- 21 hours jockeying in a taxi of a licensed driver;
- driver theory and practical testing (these are run independently of Aerial and the driver pays the training company directly); and
- agreement to abide by Aerial's Rules and by-laws as well as the ACT Regulations.

A number of other rules and regulations are imposed by Aerial. For instance, a recent change to Aerial's by-laws prevents drivers changing shifts between 3.00 pm and 5.00 pm during work days in an attempt to manage peak demand. This resulted in improved response times during these periods. The principal source of income of Aerial is the radio base fees paid by all taxis for access to the radio communication network. These network fees are currently set at \$877 per month. This fee is discounted to \$450 per month for Co-operative members. If a shareholder leases his/her plate, the discounted fee is apparently passed on to the lessee. The income generated from radio base fees is estimated to be in excess of \$1.2m annually.

In addition, Aerial imposes a driver safety levy of \$35 per month on owners. It is used to fund the global position system (GPS) in cars, which is used for safety purposes only.

### **Taxi-cab drivers**

Taxi drivers are not strictly employees. Rather, they are deemed to be self-employed sub-contractors. The relationship between themselves and the owner of the taxi-cab which they drive is one of bailee and bailor of the vehicle in accordance with a finding of the Australian High Court in relation to a taxation matter.

Taxi operators do not deduct income tax instalments on behalf of their drivers. The taxi operator is however responsible for the worker's compensation payments required for each driver. The driver works on a commission basis. This is usually expressed as 50% of the gross takings during the shift, less any gratuities, all of which are retained by the driver. The operator of the taxi-cab retains the other 50% out of which he/she meets all operating expenses.

The usual shift period for a taxi driver is up to 12 hours. There are quiet shifts during the week when the driver works long hours for little return. This is usually compensated for at weekends. Experienced taxi drivers anticipate earning in the vicinity of \$500 per week for five shifts, which equates to around \$8 per hour. It was submitted that taxi drivers earn between \$4-5 per hour on public holidays or in the low season.<sup>210</sup>

Many taxi operators drive the vehicle themselves. When this occurs, they retain the driver's commission. It is estimated that approximately 50% of taxis are leased.<sup>211</sup>

The taxi industry is not heavily unionised. It is understood that a small percentage of taxi drivers are members of the Transport Workers Union. Drivers may also become members of the Taxi Drivers Association.

### **Hirings by booking, rank and cruising**

In respect of pre-booked taxi services, taxis either obtain bookings through Aerial or through other booking mechanisms such as through mobile phones or other radio devices. It is understood that a large number of taxis currently use mobile phones, but it is not clear to what extent bookings are taken through mobiles.

Aerial operates using a zones system, arranged so that a taxi can drive from one corner to the other corner (ie. the most distant part of a zone) within ten minutes. A car is therefore no more than ten minutes away from a call if in that zone.

A zone is an electronic rank. The first car to log into a zone is the first to be allocated a job in that zone. There is no compulsion on a driver to be in any zone, or to book into a zone at any stage. In reality, it is common for drivers to wait at ranks and also to book in electronically, so they can pick up on passing trade and bookings.

Drivers do not know the destination of a job until after they have accepted the job.

For instance, if a passenger is in, say zone 1 and rings in:

- the computer looks for a taxi in zone 1;
- if there are no taxis in the zone, the computer looks in adjoining zones for taxis; and

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<sup>210</sup> Per submission received by Mr Phil McAppion, during oral hearing.

<sup>211</sup> *Ibid.*

- if, for pre-booked hirings, there are no taxis anywhere about five minutes before the time of the booking, it comes up on the supervisor's screen as an "exception". The supervisor then messages the fleet to find a taxi to take the job.

Drivers can interrogate the computer constantly, to see where the jobs are, and the number of taxis in each zone. It enables them to pre-position to zones with upcoming work. Drivers can also do "en route book-in", to say he/she is dropping passengers and will shortly be in a particular zone.

There are priority jobs (for example trips to the airport). If, for example, there are four jobs available in a zone, one of which is a priority job, the first taxi that books into that zone will be given the priority job. If there are no priority jobs, the jobs will be allocated to taxis in order of receipt.

The taxi survey indicated that a number of drivers regard the current Aerial dispatch technology to be inefficient and outdated. It is understood that Aerial is working on a new system to replace the current system. There will be a combination of the current zone system and a GPS system.

Telephone bookings comprise approximately 60% of total taxi hirings. Anecdotal evidence indicates that a significant majority of the remaining 40% of hirings are rank hirings followed by mobile phone and then street hails.

Rank work is important late at night on Friday and Saturday in the City. The work lasts until about 3-3.00 am to 4.00 am. in the morning. Rank work is also important in the major shopping centres. Table 23 provides some figures on the break-up of telephone bookings and other hirings (walk-ups).

**Table 23: Taxi hiring statistics 1998/99**

Month	Telephone Hirings	Telephone Hirings/day	Walk-ups	Walk-ups per day	Tel: Walk-ups	Total Hirings	Hirings per day
Jun 98	139,374	4,646	88,219	2,941	61:39	227,593	7,586
Jul	140,673	4,538	87,856	2,834	61:39	228,529	7,372
Aug	141,410	4,562	95,884	3,093	60:40	237,294	7,655
Sep	137,247	4,575	90,283	3,009	60:40	227,530	7,584
Oct	143,270	4,622	99,449	3,208	59:41	242,719	7,830
Nov	144,688	4,823	93,992	3,133	61:39	238,680	7,956
Dec	144,214	4,652	88,275	2,847	62:38	232,489	7,500
Jan 99	97,510	3,145	76,741	2,476	56:44	174,251	5,621
Feb	124,123	4,433	50,128	1,790	71:29	174,251	6,223
Mar	149,766	4,831	98,097	3,164	60:40	247,863	7,996
Apr	135,049	4,502	88,282	2,943	60:40	223,331	7,444
May	146,805	4,736	92,030	2,969	61:39	238,835	7,704
<b>TOTAL</b>	<b>1,644,129</b>	<b>4,505</b>	<b>1,049,236</b>	<b>2,867</b>	<b>61:39</b>	<b>2,693,365</b>	<b>7,373</b>
	7373/car	20/car/day	4705/car	13/car/day		12078/car	33/car/day

Source: Aerial. A walk-up could be on a taxi rank or at a common pick-up or set-down point such as a hotel. It could also be a street hail or a mobile phone booking. Anecdotal evidence indicates that a significant majority of walk-ups are rank hirings followed by mobile phone and then street hails.

Accordingly, the proportion of taxi services engaged by consumers hailing a taxi, ie. from taxis cruising or plying for hire, appears to be relatively low in the ACT.

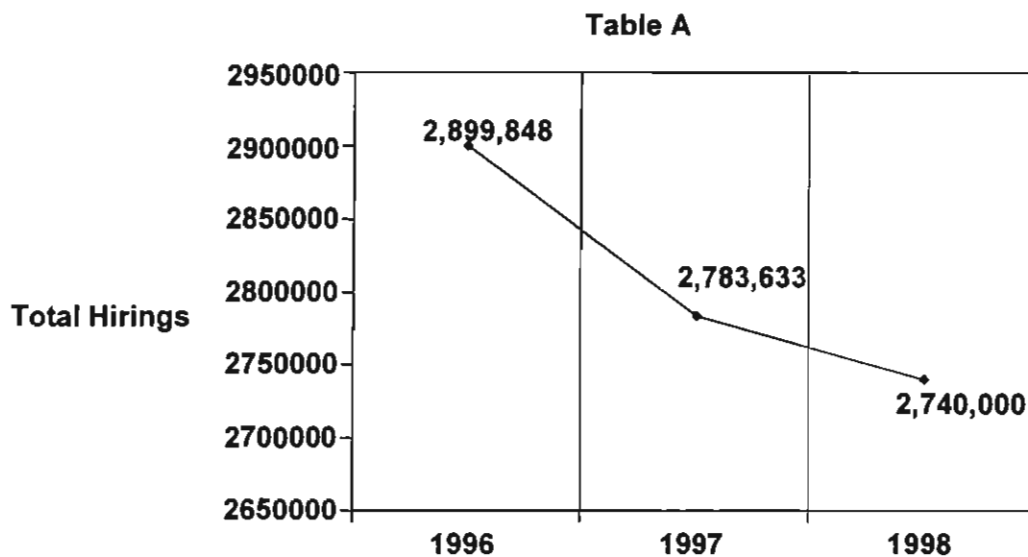
*Taxis in the ACT spend the majority of their time waiting for a hiring. Taxis are idle for 70% of their available time. In financial year 1998/99, the total number of hirings in an*



*ACT fleet of 223 taxis was 2,733,457 or 12,257 per taxi. Based on the average fare duration of ten minutes, this produced a total engaged time of 2,043 hours per year. Allowing for vehicle down time and, therefore, a 48 week year, a seven day week and a twenty hour day, the taxi meter is engaged for only 30% of its available time. In addition, approximately 50% of the distance travelled is non-chargeable (empty) running.<sup>212</sup>*

The following graph indicates that taxi hirings in the ACT has fallen by about 7.5% over the last three years.

**Figure 3: Number of taxi hirings 1996/98**



Anecdotal evidence suggests that a major cause for this fall was due to the Prime Minister basing himself in Sydney and the consequent reduction in demand from Federal Government business sources.

### **Canberra Airport**

Canberra Airport is a major regional facility and generates significant demand for taxis. An economic study for the Australian Capital Region Development Council, prepared by ACIL Consulting revealed that the Airport's impact on the passenger industry includes the following:<sup>213</sup>

- creation of 62 jobs in the taxi industry;
- generation of \$11.42 million in fares for the taxi industry;
- around 55% of passengers arriving or departing Canberra International Airport do so by taxi, noting that this is high compared to other Australian airports; and
- the Airport's passenger demand results in some 2,000 taxi fares to or from the Airport on an average day.

Passenger growth at Canberra International Airport in the 10 year period between 1988-1998, occurred at an average of 5.3% per annum.<sup>214</sup>

<sup>212</sup> Submission - ACT Taxi Proprietors Association and Aerial, p. 6.

<sup>213</sup> Per submission by N McCann, Airport and Freight Development Manager, Canberra International Airport.

Forecasted passenger growth has been estimated as follows:<sup>215</sup>

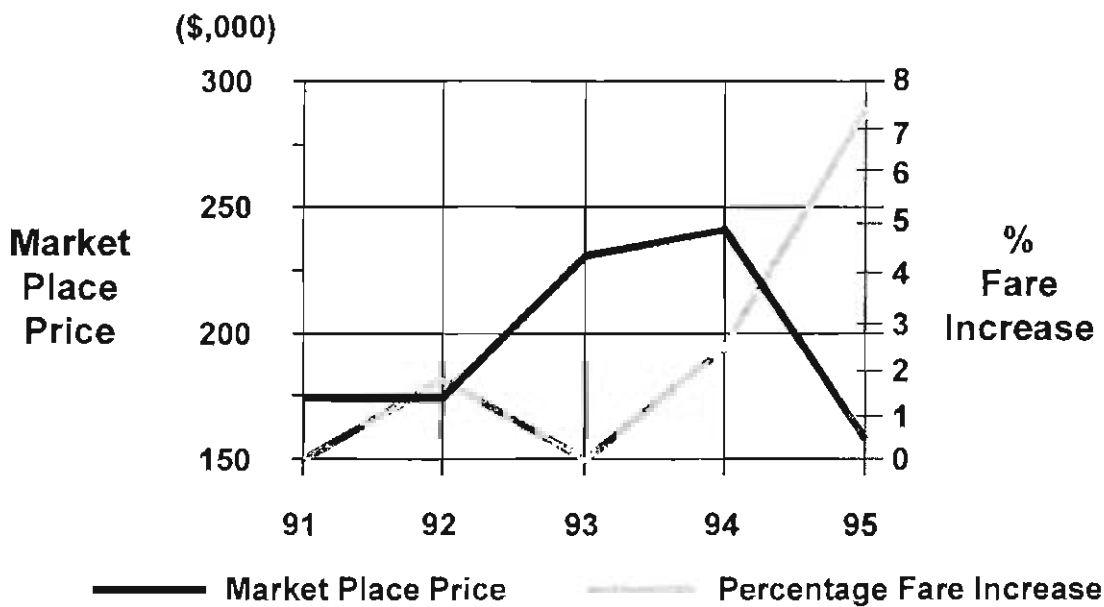
- No train - 4,384,982 passengers by the year 2020, which is an average growth of 4% per annum and would mean daily passengers of 12,014 (compared to the 1997/8 average of 5,007 passengers per day).
- With the train - 4,145,914 passengers by the year 2020, which is an average growth of 3.8% per annum and would mean daily passengers of 11,359.

Currently, Canberra International Airport has two ranks, one for Canberra Cabs, the other for the Limousine Association (hire cars). An airport to city transfer in a hire car varies from between \$25 to \$30 per trip in the ACT.<sup>216</sup>

Queanbeyan Cabs are not able to rank passengers from the Airport, due to the practicality that they are unable to deliver passengers from the Airport to Canberra. Queanbeyan Cabs do pick up NSW bookings from the Canberra Airport, however they do this in a manner that is similar to pre-booked limousines.

### Relationship between Taxi Fares and Licence Values

In the ACT it can be shown that taxi fares have moved independently of licence values and often in the opposite direction.<sup>217</sup>



Source: Aerial submission, October 1999, p 20.

<sup>214</sup> *Ibid.*

<sup>215</sup> *Ibid.*

<sup>216</sup> Per submission by David Ruthven.

<sup>217</sup> Per submission by Canberra Taxi Proprietors Association & Aerial Taxi Cabs Co-Operative Society Limited, p. 19.

## Annexure D<sub>[opt5]</sub> - Calculation of deadweight loss

The analysis presented in Chapter 4 is based on the following model. This model is a partial equilibrium analysis of the market for taxi cab services and is based on similar models derived by Swan<sup>218</sup> and Gaunt and Black<sup>219</sup>.

The model relies on several assumptions:

- that there is a fixed relationship between taxi licences and the number of hirings taken by taxis;
- the existing limit on the number of taxi licences restricts the total number of taxi hirings below the level which would prevail in the absence of regulation;
- by restricting licence numbers below the competitive level, higher fares can be maintained and that the Government is influenced by this inflationary pressure to set fares above the competitive price to clear the market given the restricted number of fares;
- there are no significant externalities; and
- the cost of waiting time is constant (and does not impact on the variation between the current market fare and the competitive market fare and can thus be ignored).

The following variables are used to calculate the deadweight loss of taxi licence restrictions:

Variable	Value
Total hirings / annum ( $Q_R$ )	2,659,769 <sup>220</sup>
Total number of licences	217 <sup>221</sup>
Average licence value	\$260,000
Return on licence per hiring (annual lease fees / annual hirings per car)	\$2.12
Elasticity of demand for taxi-cabs	-0.8 <sup>222</sup>
Current average fare price ( $P_R$ ) (flag/fall + (rate/km x average trip length))	\$11.74 <sup>223</sup>

If we assume that in a competitive market the value of a licence would tend towards zero (as there would be relatively free entry into the market) then a proxy for the competitive fare price would be the current average fare price minus the return on licence per fare:

$$P_C = \$11.74 - \$2.12 = \$9.62 \quad - (1)$$

<sup>218</sup> Swan, P L, *On Buying a Job. The Regulation of Taxi Cabs in Canberra.*

<sup>219</sup> Gaunt, C and Black T, "The economic cost of taxi-cab regulation: the case of Brisbane".

<sup>220</sup> Based on an average of 12,257 hirings per taxi for the financial year 1998/99, per the submission by Canberra Taxi Proprietors Association & Aerial Taxi Cabs Co-Operative Society Limited, p. 6.

<sup>221</sup> Multicab licences are not included in this equation due to some critical difference, such as the fact that WATs are not transferable so that the return on licences is not readily ascertainable and the demand elasticities are likely to differ from standard taxi demand elasticities.

<sup>222</sup> This elasticity is an assumption made by several studies into a range of city types. See for instance, Beesley (1992), and Frankena and Paulter (1984).

<sup>223</sup> We have assumed that the rate/km is the single hiring rate between 6am and 9pm on a day other than a Saturday, Sunday or public holiday. The average trip length is assumed to be 8.8km from discussions with Aerial.

In order to estimate the deadweight loss we need to estimate the demand curve for taxi cab services. If we use a (local) linear approximation for demand then the (local) demand for taxi cab services can be estimated from:

$$P = \alpha + \beta Q \quad - (2)$$

The values of  $\alpha$  and  $\beta$  can be calculated using the total hirings per annum, the current average fare price and the elasticity of demand for taxi-cab services.

The effect of a given change in price on the demand for taxi cab services can be estimated using the elasticity of demand:

$$E = \frac{\Delta Q / Q}{\Delta P / P} \quad - (3)$$

Equation (3) can be rearranged:

$$E = \frac{\Delta Q}{\Delta P} \cdot \frac{P}{Q} \quad - (4)$$

If we assume that the value of  $E$  at the point denoted  $(P_R, Q_R)$  in figure [x] is -0.8 then we can calculate the slope of the demand curve ( $\beta$ ) at that point. If we rearrange (4):

$$\frac{dQ}{dP} = \frac{E \cdot Q}{P} \quad - (5)$$

and substitute the values of  $P$  (11.74),  $Q$  (2,659,769) and  $E$  (-0.8) from the variables above then:

$$\frac{dQ}{dP} = -181,245$$

The slope of the demand curve is equal to  $dP / dQ$  (the inverse of  $dQ / dP$ ) and  $\beta = -0.00005517$ .

The intercept of the demand curve ( $\alpha$ ) can be calculated using the value of  $\beta$ , the point  $(P_R, Q_R)$  and equation (2). The value of  $\alpha$  is \$26.42. The demand curve can be represented by:

$$P = 26.42 - 0.00005517Q \quad - (6)$$

Using equation (6) and the competitive price (equation (1)) we can calculate the competitive quantity ( $Q_c$ ).

$$Q_c = 3,044,232$$

Consequently the competitive number of hirings per annum would be 3,044,232 hirings.

The deadweight loss can be estimated by calculating the area of the triangle XYZ in figure [x]:

$$Area_{XYZ} = 1/2 \times (Q_c - Q_r) \times (P_r - P_c) \quad - (7)$$

Substituting the values of  $Q_c$ ,  $Q_r$ ,  $P_r$ , and  $P_c$  derived above we can calculate the value of the annual deadweight loss:

$$Area_{XYZ} = 407,769$$

The deadweight loss is equal to \$407,769 per annum.

Similarly we can calculate the annual transfer of wealth from consumers to taxi service suppliers by:

$Area Pr XZPc = 5,642,000$

The transfer of wealth from consumers to taxi service suppliers (given by area  $P_R XZP_C$ ) is equal to \$5,642,000 per annum.

### Sensitivity Analysis

The following sensitivity analysis assumes that:

- licence holders set annual lease fees at 10% of the total licence value; and
- each cab made approximately 12,257 trips in the previous year.

Table 24 presents the value of deadweight loss and wealth transfer for various taxi licence values.

**Table 24: Taxi licence value sensitivity analysis**

Licence Value	Competitive Price per trip	Competitive Quantity	Dead-weight Loss	Transfer of wealth
\$260,000	\$9.62	3,044,232	\$407,769	\$5,642,000
\$200,000	\$10.11	2,955,510	\$241,283	\$4,340,000
\$300,000	\$9.29	3,103,381	\$542,888	\$6,510,000

The elasticity for taxi services is assumed to be -0.8 in the above analysis. We have also compared the deadweight loss utilising assumptions calculated for an international study, which differentiate between the elasticity of demand for business trips (-0.76) and the elasticity of demand for social trips (-1.75).<sup>224</sup> Table 25 sets out the impact on deadweight loss of different elasticity levels, assuming a licence value of \$260,000. The amount of wealth transfer remains the same (\$5,642,000) regardless of the elasticity level.

**Table 25: Taxi licence elasticity sensitivity analysis**

Licence Value	Elasticity	Competitive Quantity	Dead Weight Loss
\$260,000	-0.76	3,025,009	\$387,380
\$260,000	-1.75 <sup>225</sup>	3,500,783	\$891,995
\$260,000	-0.76 (50% business) and -1.75 (50% social) <sup>226</sup>	3,262,896	\$639,688

Accordingly, on the above assumptions we calculate the deadweight loss to be between approximately \$387,000 and \$892,000 per annum.

### Hire Cars

The analysis for hire car licence quota restrictions is similar to that of taxis. However, hire car fares are not regulated though currently all hire cars charge a minimum fare of \$20.00. For the purposes of this calculation, we assume that the average fare approximates the minimum fare. Other assumptions used to estimate the cost of hire car licence quota restrictions are set out below.

<sup>224</sup> Rouwenal J, Muers H & Jorritsman P (1998) *Deregulation of the Dutch taxi sector*.

<sup>225</sup> Assuming all trips were business related.

<sup>226</sup> Assuming 50% of all trips were socially related and 50% were business related.

Variable	Value
Total hirings per car / annum ( $Q_R$ )	3,000 <sup>227</sup>
Average licence value	\$130,000
Return on licence per hiring (annual lease fees / annual hirings per car)	\$4.33
Elasticity of demand for hire cars	-1.75 <sup>228</sup>
Current average fare price ( $P_R$ )	\$20.00 <sup>229</sup>

Assuming the current 22 hire cars take approximately 3,000 hirings per year at an average of \$20 per hiring, and assuming an elasticity of -1.75, we estimate the deadweight loss to be approximately \$54,221 per annum and a consumer to producer transfer of approximately \$286,000 per annum.

<sup>227</sup> Sourced from Canberra Hire Cars, based on 1998 bookings of around 39,000 for 13 vehicles.

<sup>228</sup> We have assumed a demand elasticity similar to that estimated for taxis in relation to business trips, see footnote 227 above.

<sup>229</sup> We have assumed that the vast majority of fares incur the \$20 minimum.

## **Annexure E - Examples of taxi industry reform**

There is a range of alternatives to the current regulatory regime that have been pursued in other jurisdictions. Reform around the world has been greatly varied. We set out below brief examples of reform in several jurisdictions with a closer examination of the New Zealand reforms which provided significant guidance to our findings. It is important to note that each taxi and hire car industry has its particular characteristics, so that what may be appropriate in one market may not necessarily be appropriate in other markets.

Though relaxing entry to the taxi industry increases the number of taxis and the level of competition for passengers, the impact of deregulation on price and quality generally varies. An increase in fares and a decrease in customer service and vehicle quality was evidenced in US cities, while some UK cities experienced improved services. In New Zealand, the experience has been more successful with fares falling in real terms and waiting times decreasing while service quality appears to have been maintained.

### **Northern Territory**

So far, the most comprehensive attempt at taxi deregulation in Australia has been undertaken by the Northern Territory. Restrictions on the number of taxi licences were removed in legislation passed in December 1998. Instead, annual licence fees are charged to all eligible applicants. Existing licence owners are compensated in a lump sum by funds generated from the issue of annual licences which amount to about \$27 million. Operators still have to belong to a booking network and fares are still regulated.

### **The Seattle experience**

In 1979 the taxi industry in both the City of Seattle and King County were fully deregulated. The desired benefits from deregulation did not eventuate. Rather, the increased supply of taxis was accompanied by an increase in fares. Quality of service appeared to deteriorate as untrained and inexperienced new drivers entered the industry. This arguably contributed to the fall in demand for taxi services.

By the mid-1980s both Seattle and King County began to impose moratoriums on taxi entries and to set maximum fare rates. During the 1990s, both cities have been reintroducing further regulation into the industry. To redress declining standards and the negative impact on tourism, business and the industry itself, the cities opted to increase the levels of self-enforcement in the industry. All taxis must now belong to associations, and those associations exercise responsibility for their members.

### **Survey of de-regulation in American cities**

In 1993, the International Taxi Cab Foundation in the United States commissioned a study of the results of taxi industry deregulation during the 1980's in a number of United States cities.<sup>230</sup> The study reported that while the supply of taxis expanded dramatically with deregulation, there were only marginal improvements in availability and prices rose in every instance. Whilst service quality and vehicle condition declined, trip refusals increased and the over-supply of taxis resulted in aggressive passenger solicitation.

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<sup>230</sup> Price Waterhouse, *op cit* n 23.

By 1993, after deregulation of the industries in 21 cities, only four continued to employ a fully deregulated system. Those four were among the smaller cities in the group where the impact was less serious. Cities that had a relatively large population, a high level of airport activity, and conditions conducive to low-cost market entry tended to have a negative experience. As a result these cities either fully regulated or partially re-regulated taxi services.

## **New Zealand experience**

### ***Summary***

Deregulation of the New Zealand taxi industry commenced in November 1989, when all those holding a licence on that date were automatically issued with a passenger service licence.<sup>231</sup> Issue of licences for new applicants was conditional on passing a “fit and proper person” test of knowledge and understanding of laws and safety requirements. Licence holders were still required to belong to an approved taxi organisation, one which provides a 24 hour, seven-day-a-week service with a radio booking and communications system.

The difficulties with competitive shopping are reduced to some extent by the use of taxi brand names. The authorised taxi company is responsible for regulating service quality. New Zealand taxi companies actively market their services and must advertise their prices on the outside of their vehicle.

New Zealand has partially deregulated fares, by allowing taxi companies to set their own fares, but one fare scale must be used by all vehicles in that company. All fare scales must be notified to the industry regulated and posted inside and outside each vehicle.

New Zealand now has a taxi industry exhibiting a great diversity of prices, quality and nature of taxi services offered by various taxis. Some companies provide lesser services using older vehicles, whilst others provide premium services with more expensive fares and higher quality vehicles.

Drivers also have to be licensed and are subject to checks on their criminal and driving record, passing a map reading test and first aid certificate test and an annual medical exam.

The New Zealand system of taxi-cab regulation relies on phone bookings comprising the majority of hirings. Competition is generated amongst operators by customers possessing the ability to choose from a range of quality/price combinations which are readily accessible over the phone.

The model breaks down somewhat if the majority of hirings are via hailing or at a cab-rank. The ability of a customer to discriminate between taxi cab operators while hailing or at a rank is limited and competition would be correspondingly diminished. In New Zealand this problem is minimal as the majority of hirings are via telephone bookings.

Overall the New Zealand experience appears to have been a success with large increases in the number of taxi cabs and taxi companies, improvements in waiting times, customer choice and a reduction in real fares (apart from certain premium cab services). One of the determinants of the success of the deregulation is the large level of demand which was not being met prior to deregulation.

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<sup>231</sup> Soon, J. (1999), “Taxi!! - Reinvigorating competition in the taxi market”, *op cit* n 183, p. 5



In the 5 years post deregulation, the number of taxi-cabs in the Wellington region grew from 1.49 to 2.43 cabs per thousand people. In the same period, operators reported normal levels of profit and the real level of fares reduced. Improved services levels contributed to a significant demand increase necessary to sustain the growth in the cab market.

### ***Pre-deregulation in NZ***

Immediately before deregulation there were 2,762 taxicabs nationwide of which 454 vehicles were operated by 9 taxicab companies in Wellington metropolitan. In the major population centres of Wellington, Auckland and Christchurch there were approximately 1.49, 1.15 and 1.03 taxicabs / thousand people respectively.<sup>232</sup>

Taxi operator licences were controlled by 4 geographically based Transport Licensing Authorities. Applicants for licences were required to attend a public hearing where the need for and public good of the proposed service were evaluated.

The Transport Licensing Authorities possessed the right to issue additional licences, however new licences were rarely issued and the number of taxi licences declined from 3,245 in 1975 to 2,762 in 1989. Operator licences could be traded and in 1989 were trading at approximately NZ\$25,000/licence.<sup>233</sup>

The Secretary for Transport controlled the fare fixing system. In December 1987 there were 78 different fare levels with fares being set on a cost-plus basis, taking into account running costs, standing costs, wages and a 10% profit. Taxi organisations could apply for a review of fare levels however they also provided the data on which these reviews were based.

A national indexation system was introduced in 1986 to regulate increases in the level of fares every 6 months.

Taxi cabs were required to meet various requirements relating to fitness, age and carrying capacity. Taxi drivers had to be at least 20 years old and have held a drivers licence for at least two years. In addition drivers had to pass written, oral and practical tests and drivers had to keep a logbook detailing minimum periods of rest as prescribed. Advertising and multiple hiring was very restricted.

### ***How was de-regulation in NZ effected?***

The *Transport Services Licensing Act* 1989 (effective 1 November 1989) (TSLA) removed the quantitative controls over entry and fares within the taxi-cab market.

The TSLA defines taxis and limousines as Small Passenger Service Vehicles (carrying a maximum of 12 people) and requires owners of such vehicles to have a passenger service licence. Existing taxi licences were exchanged for new passenger service licences, in addition there is no restriction on the number of passenger service licences issued so that a licence holder may operate any number of vehicles under their licence.

Fares are set by individual taxi organisations and the maximum fare for a given organisation must be registered with the Secretary for Transport, calibrated on the taximeter and displayed on the inside and outside of the taxicab.<sup>234</sup>

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<sup>232</sup> Choong-Ho Kang (1998), *Taxi Deregulation: International Comparison*, p. 22.

<sup>233</sup> Not including annual fees and incidentals; *Ibid*.

<sup>234</sup> Gaunt C, "Taxicab Deregulation in New Zealand", p. 104.

Quality controls on vehicles were maintained. Each taxi cab must possess a certificate of fitness issued by a testing station and the taximeter must be tested, sealed and certified every 6 months.

Applicants for a passenger service licence must publish a notice in an approved newspaper before an application can be processed. Applicants must pass various tests relating to safety, applicable laws, knowledge of the local area, map reading and must hold a first aid certificate.

Licence holders must belong to an approved taxi organisation which offers a 24-hour/7-day a week telephone booking service and must maintain a register of complaints (there are certain exceptions for non-urban areas). An approved taxi organisation can be made up of any number of vehicles however the Transport Licensing Division of the Land Transport Safety Authority has made it a prerequisite that there be more than 5 cars in an organisation before it will be approved.<sup>235</sup>

Drivers and taxi operators are subject to a demerit point system where a licence-holder will be disqualified for 5 years should 200 or more points be incurred within 2 years.<sup>236</sup> Demerit points are incurred when licence holders are convicted of criminal offences and illegal operating practices.<sup>237</sup>

In addition to taxis, the NZ SCPV transport industry is comprised of limousines and shuttles. Limousines include luxury cars and old cars. There are no signage requirements for these vehicles, nor is a meter required. Shuttles are used primarily for travel to and from airports and usually carry nine passengers. Passengers pay per head. Limousines and shuttles may only be hired on booking and are not allowed to ply the streets for hire or to rank.

In order to drive any of these vehicles, a driver must obtain a passenger transport licence. Passenger transport licences will only be granted where the applicant passes a certificate of fitness, which will be checked every 6 months. The requirements are the same for taxis, limousines and shuttles and include presentation of a medical certificate and police clearance report, and undertaking a defensive driving course.

### *Effects of de-regulation in NZ*

The New Zealand deregulation model has resulted in a highly available taxi service which offers different combinations of price, vehicle quality and waiting time. At present there are more than three times as many taxis per 1000 people in New Zealand as compared to Australia.

The number of taxi companies has increased markedly since deregulation. In the Wellington region cab numbers more than doubled in the period from 1989 until 1994.<sup>238</sup> The number of cabs per thousand people has gone from 1.49 to 2.43. Clearly, there has been a significant increase in demand for cabs post-deregulation. Some commentators suggest this is a result of the deregulation itself with reliability, waiting times and quality improving.<sup>239</sup>

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<sup>235</sup> Choong-Ho Kang, *op cit* n 224, p. 23.

<sup>236</sup> *Ibid.*

<sup>237</sup> See Schedule 2 of the *Transport Services Licensing Act 1989* (NZ).

<sup>238</sup> Morrison PS, "Restructuring effects of deregulation: the case of the New Zealand Taxi Industry", p. 917.

<sup>239</sup> *Ibid.*, p. 926.

The New Zealand model relies on the regulation of the quality of service provided by taxi operators with the taxi operators free to set fare and service levels (which must be displayed on the inside and outside of the taxi-cab and calibrated on the taximeter).

Since deregulation in Wellington, the numbers of taxis per 10,000 increased from 14.9 to 24.3. In addition, many new specialised taxi-type services have been introduced, including taxi vans and executive cabs. There is also a new taxi charge credit system and more advertising on taxis. Anecdotal evidence suggests customers have benefited from the expanded market through reduced waiting times and the increased range of services available.

There was also evidence of voluntary industry standard-setting and differentiation. The New Zealand Taxi Federation, representing about 50 per cent of the taxi industry, set higher standards for its members. The experience also appeared to open up new employment opportunities for those without formal qualifications.

*In contrast to evidence assembled from taxi-deregulation experience overseas prior to the New Zealand Act of 1989, this country's experience would appear to support what the theorists would have had us believe: that ... the removal of quantity and price controls with appropriate (re)introduction of quality standards can bring about a restructuring of the industry in a way that benefits both consumers and suppliers alike.<sup>240</sup>*

Deregulation has had a significant effect on the number of companies, taxis and drivers operating in the market. However, a number of holders of pre-deregulation licences have lost considerable equity. Customers have benefited via reduced waiting times and an increased number of choices with respect to taxi services.

In addition, a range of fare structures exist for customers with the general trend being a reduction in the real cost of taxi hire (apart from the premium cab services).<sup>241</sup> The New Zealand Transport Department found that taxi fares for the majority of companies decreased by as much as 10 per cent from 1989 to 1995. In the major metropolitan areas of Auckland, Wellington, Christchurch and Dunedin, 71 per cent of taxi companies reduced their flagfall and 77 per cent reduced other fares. Morrison notes that the most significant effect on pricing arising from deregulation was the introduction of differential pricing components.

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<sup>240</sup> *Ibid*, generally.

<sup>241</sup> *Ibid*, p. 921.

## Annexure F<sub>(opt6)</sub> - List of submissions

Written submissions	Author	Date
1.	ACT Taxi Drivers Association.	undated
2.	Des Kennedy, Southern Cross Chauffeured Limousines.	undated
3.	EM & BM Costello, Owners of hire car plates H12 & H18.	undated
4.	Roman Ulanowicz, Former taxi owner, operator and driver.	undated
5.	Noel Baxendell, consumer and member of the public.	01/09/99
6.	Peter Murdoch, President, Queanbeyan Taxi Co-Operative Limited.	Sept 1999
7.	Brian Hatch.	06/09/99
8.	Dr Janice Baker, Department of Education, Training and Youth Affairs	06/09/99
9.	Dr Rob Floyd, CSIRO, Customer of Aerial Taxis in the ACT.	14/09/99
10.	David Clarkson, Director of Bloodstock Management Pty Ltd, owner of ACT Hire Car Plate H6.	20/09/99
11.	G & N Stewart, Owner of hire car plate 14.	27/09/99
12.	Howard & Margaret Garnier, Hire Car Plate Owners (H3).	27/09/99
13.	G Poutalio, on behalf of an industry task force convened by the Limousine Association	29/09/99
14.	Kenneth Tucker, Car hire business owner	29/09/99
15.	David Willetts, Snr, Business Manager, Hughes Chauffeured Cars & Limousines, ACT Branch	30/09/99
16.	Ray Daltrey, Chairman, Board of Directors, Canberra Hire Cars Ltd	30/09/99
17.	The Canberra Taxi Proprietors Association and Aerial Taxi Cabs Co-Operative Society Limited, in consultation with Professor Des Nicholls, Department of Statistics & Econometrics, Faculty of Economics & Commerce, ANU.	October 1999
18.	Marie Gordon, Beaumont Chauffeur Drive.	02/10/99
19.	David Ruthven, Member of the hire car industry and holder of a hire car plate with Canberra Hire Cars.	03/10/99
20.	Alfred J Jones, Queanbeyan Hire Cars.	04/10/99
21.	Laraine Stephenson, Hire car plate owner.	04/10/99
22.	Damien Brown, Full time taxi driver, Darwin.	05/10/99
23.	Denis Moulen, National Capital Limousines.	05/10/99
24.	Tourism Council of Australia	05/10/99
25.	R Macaulay, Member of the hire car industry and holder of a hire car plate with Canberra Hire Cars.	07/10/99
26.	R Ridley, Managing Director, Limousines of Canberra Pty Ltd	11/10/99
27.	Noel McCann, Airport & Freight Development Manager, Canberra International Airport	14/10/99
28.	Peter Toscan, Chair, Transport Reform Advisory Group	14/10/99
29.	Denis O'Brien, Member of the ACT Taxi Industry Advisory Committee, Director and Board Member of Aerial Taxis.	04/11/99
30.	Ian Daley, Owner and operator of Arrive in Style Classic Jaguar Hire Cars.	04/11/99
31.	RJ Alexander, Vintage Car Rentals.	25/11/99

Oral submissions	Participant
1.	Mr David Willets, Hughes Chauffeured Hire Cars
2.	Ms Nora Stewart, HC owner
3.	Mr Bert Trenery, Chairman of the Board of Directors of Canberra Hire Cars
4.	Mr David Ruthven, Member of Canberra Hire Cars (Independent submission)
5.	Ms Diana Ferry
6.	Mr Richard Filewood & Mr Peter Murdoch, Queanbeyan Taxi Co-operative
7.	Mr Phil McAppion, driver and former owner
8.	Mr Noel Baxendell, consumer
9.	Mr Bob Alexander, Vintage Car Rentals
10.	Dr Janice Baker, consumer
11.	Ms Lorraine Stephenson, HC owner, former manager of Canberra Hire Cars
12.	Mr Alf Jones, Limousine Association of ACT & Queanbeyan
13.	Ms Marie Gordon, HC and RHV licence owner
14.	Mr Tony Schultz, Vice Chairman of Canberra & Queanbeyan Limousine Association; subcontractor, Hughes Cars.
15.	Mr Denis Moulen, National Capital Limousines
16.	Mr Ian Daley, Arrive in Style Classic Jaguar Hire Cars

## Annexure G - Bibliography

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